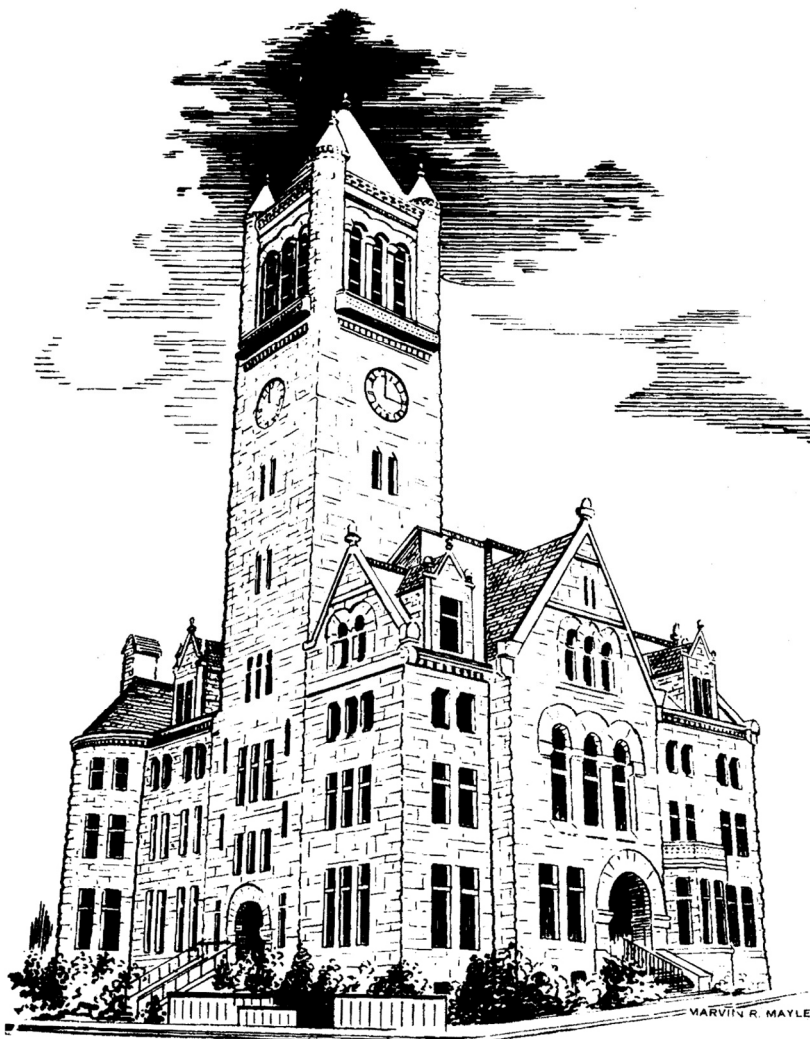


FAYETTE LEGAL JOURNAL

VOL. 85

APRIL 9, 2022

NO. 15



FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 45 East Main Street, Suite 100, Uniontown, Pennsylvania 15401, 724-437-7994. Legal advertisements should be submitted online at www.fcbar.org no later than 12:00 noon on Friday for publication the following Saturday. No date of publication is promised, however. Legal notices are published exactly as submitted by the advertiser. Copyright 2001 Fayette County Bar Association. All rights reserved.

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ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

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Executrices: Joyce Mayermik,
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Attorney: Howard Murphy

TONI RUTH THOMAS, late of Farmington,
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Attorney: William M. Radcliffe

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SAM STEWART WYLIE**, late of Wharton
Township, Fayette County, PA (1)

Administratrix: Afton Wylie
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Uniontown, Pa 15401
Attorney: Gary N. Altman

LEGAL NOTICES

NOTICE

The Masontown Municipal Authority, with registered office at 1 East Church Avenue, Masontown, Pennsylvania 15461, per the Municipality Authorities Act (53 Pa.C.S.A. §5601 *et seq.*) states that Articles of Amendment are to be filed with the Secretary of the Commonwealth of Pennsylvania, extending the existence of the Authority for a period of time not exceeding 50 years from the date of approval of the Articles of Amendment by the Pennsylvania Department of State, said Articles to be filed with the Secretary of the Commonwealth on or before April 14, 2022.

SHERIFF'S SALE

By virtue of the below stated writs out of the Court of Common Pleas of Fayette County, Pennsylvania, the following described properties will be exposed to sale by James Custer, Sheriff of Fayette County, Pennsylvania on Thursday, May 19, 2022, at 2:00 p.m. in Courtroom Number Three at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (1 of 3)

James Custer
Sheriff Of Fayette County

PINCUS LAW GROUP, PLLC
By: Alicia Sandoval (311874)
Jonathan M. Etkowicz (208786) 2929 Arch
Street, Suite 1700
Philadelphia, PA 19104
Telephone: 484-575-2201
Facsimile: 516-279-6990
E-mail: asandoval@pincuslaw.com
jetkowicz@incuslaw.com

No. 586 of 2020, G.D.

No. 121 of 2020 E.D.

LEGACY MORTGAGE ASSET TRUST

2019- GS7,

Plaintiff,

v.

MONTY LILLEY,

Defendant.

ALL THAT CERTAIN lot or piece of ground situate in MENALLEN TOWNSHIP, County of Fayette and Commonwealth of Pennsylvania, being Lot No. 2 in the Carbonara & Chico Plan of Lots, as recorded in said county Recorder's Office in Plan Book Volume 68, at page 68.

ADDRESS: 7409 NATIONAL PIKE
ROAD, A/K/A 7409 NATIONAL PIKE,
UNIONTOWN, PA 15401

TAX PARCEL 22-17-0019-01

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JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

COMMERCIAL/RESIDENTIAL/CURRENT OWNER/MINERAL TITLE

A DECADE OF EXPERIENCE

E&O INSURED

WILL TRAVEL

ACCEPTING NEW CLIENTS

JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION

JACQUELINE M. RICHARDS,	:
Plaintiff,	:
	:
v.	:
	:
NATIONWIDE PROPERTY AND	:
CASUALTY INSURANCE COMPANY,	: No. 289 of 2019, G.D.
Defendant.	: Honorable Judge Joseph M. George, Jr.

OPINION

GEORGE, J.

February 23, 2022

Before the Court are cross Motions for Summary Judgment. Plaintiff, Jacqueline M. Richards, filed a Motion for Summary Judgment or in the alternative a partial Motion for Summary Judgment alleging that Nationwide's definitional limitation in its policy conflicts with Section 1702 of the Motor Vehicle Financial Responsibility Law (hereinafter "MVFRL"), 75 Pa. C.S.A. § 1702 and, therefore, is unenforceable. Additionally, Plaintiffs Motion alleges that Nationwide's definitional limitation is unenforceable as it functions as a de facto waiver and conflicts with Section 1731 of the MVFRL, 75 Pa. C.S.A. § 1731.

Defendant, Nationwide Property and Casualty Insurance Company, filed a Motion for Summary Judgment, requesting this Court to declare that Plaintiff has previously settled all the claims asserted in Plaintiffs First Amended Complaint by executing an unambiguous release, which released all claims against Nationwide after Plaintiffs accident on June 5, 2016. Additionally, in the alternative, Defendant requests this Court to declare that Plaintiffs claims are barred by the plain terms of the Nationwide insurance policy and applicable case law.

FACTUAL BACKGROUND

This action arises out of a motor vehicle accident which occurred on June 5, 2016, along Interstate 70 near Bentleyville, Pennsylvania. Plaintiff was a passenger in a vehicle operated by her husband when he lost control of the vehicle, struck a concrete divider, and the vehicle was then struck by another vehicle.

Plaintiff was a Nationwide policyholder at the time of the accident. Two policies existed for the household; Nationwide issued a first automobile policy (hereinafter "first policy") to Plaintiff and her husband, covering the car involved in the accident, and a second automobile policy (hereinafter "second policy") to Plaintiff and her husband, which covered other household vehicles. Plaintiff testified that she was aware that she had two different policies, see J. Richards Depo. Tr. at 22:18; paid the premiums on both, see id. at 28:10-13; and received new insurance cards for both policies and the

respective vehicles, see *id.* at 52:21-24. Plaintiff also testified that she believed the second policy belonged to her children. See *id.* at 52:13-16.

Since Plaintiff's husband was the at-fault driver in the June 5 accident, Plaintiff made a bodily injury claim under the first policy. Nationwide paid the policy limits of \$50,000 under the first policy. Plaintiff executed a release of Nationwide as to all claims arising from the accident in connection with receiving those funds. Plaintiff acknowledges that she signed a release. See *id.* at 36:13-25, 38:13-21.

Plaintiff then asserted her claim for underinsured motorist benefits (hereinafter "UIM benefits") under the second policy. Plaintiff alleges that there was a mutual understanding that the release would not affect her UIM claim. Nationwide denied Plaintiff's UIM claim under the second policy, alleging that the claim was subject to the policy's limitation on the definition of an "underinsured motor vehicle." Specifically, the second policy states that an "underinsured motor vehicle" does not include "any motor vehicle furnished for the regular use of you, a resident, or a relative."

STANDARD OF REVIEW

The standards for ruling on a Motion for Summary Judgment are well-defined and clear. The Pennsylvania Supreme Court has repeatedly held that summary judgment is appropriate where the record clearly demonstrates that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. See *Summers v. Certainteed Corp.*, 997 A.2d 1152, 1159 (Pa. 2010); see also Pa. R. Civ. P. 1035.2. When considering a Motion for Summary Judgment, the trial court "must take all facts of record and reasonable inferences therefrom in a light most favorable to the non-moving party." *Id.* In doing so, the trial court "must resolve all doubts as to the existence of a genuine issue of material fact against the moving party." *Id.* Therefore, a trial court may only grant summary judgment "where the right to such judgment is clear and free from all doubt." *Id.*

DISCUSSION

Nationwide's Release Unambiguously Bars Plaintiff's Claims

In Pennsylvania, "it is axiomatic that releases are construed in accordance with traditional principles of contract law." *Davis ex rel. Davis v. Gov't Emps. Ins. Co.*, 775 A.2d 871, 875 (Pa. Super. 2001). In determining the scope and the meaning of the release, "the intent of the parties is the writing itself." *Ins. Adjustment Bureau v. Allstate Ins.*, 905 A.2d 462, 468 (Pa. 2006). A release is ambiguous only where it is "reasonably susceptible of different constructions and capable of being understood in more than one sense." *Madison Constr. V Harleysville Mut. Ins.*, 735 A.2d 100, 106 (Pa. 1999). When interpreting agreements involving clear and unambiguous terms, the Court need only examine the writing itself to give effect to the parties' understanding. *Lang v. Meske*, 850 A.2d 737, 739-40 (Pa. Super. 2004).

The Release executed by Plaintiff bars all of Plaintiff's causes of action against Nationwide related to the accident. Specifically, the Release signed by Plaintiff released Nationwide from:

any and all past, present and future actions, causes of action, claims, demands, damages, costs, loss of services, expenses, compensation, third party actions, suits at law or in equity, including claims or suits for contribution and/or indemnity, of whatever nature, and all consequential damage on account of, or in any way growing out of any and all known and unknown personal injuries, death, and/or property damage resulting from or to result from an accident that occurred on or about June 5, 2016 at or about I 70 EB, Bentleyville, PA 15314.

Answer & New Matter, Ex. 1.

Plaintiff acknowledges that she was represented by counsel when she signed the release on April 12th, 2018. See J. Richards Depo. Tr. at 37:1-3, 32:11. However, Plaintiff raises the defense of mutual mistake.

Mutual mistake exists where both parties to a contract are mistaken as to existing facts at the time of execution. See *Holmes v. Lanhenau Hosp.*, 627 A.2d 763, 767 (Pa. Super. 1993). To obtain reformation of a contract because of mutual mistake, the moving party is required to show the existence of the mutual mistake by clear, precise, and convincing evidence. See *Buttermore v. Aliquippa Hospital*, 561 A.2d 733, 735 (Pa. 1989).

As Plaintiff stated, there were two Nationwide policies for the household. See J. Richards Depo. Tr. at 21:17-24. Additionally, Plaintiff testified that the second policy was a policy for the vehicles of her children. See *id.* at 22:14-18, 52:13-16. Plaintiff stated that she understood the purpose of the release. See *id.* at 36:13-25. Therefore, at the time the Release was executed, both parties had knowledge of the second Nationwide policy that covered vehicles other than the vehicle involved in the accident. The Release included any and all past, present, and future claims resulting from the accident at issue and Plaintiff signed it knowing that the second policy existed. Accordingly, the Court finds that there is no genuine issue of material fact with regard to a purported mutual mistake at the time the release was signed.

WHEREFORE, we will enter the following Order:

ORDER

AND NOW, this 22nd day of February, 2022, the Court hereby ORDERS and DECREES the following:

1. Defendant, Nationwide Property and Casualty Insurance Company's Motion for Summary Judgment requesting this Court declare that Plaintiff has previously settled all claims by the execution of an unambiguous release is GRANTED and Plaintiffs First Amended Complaint is DISMISSED; and

2. As we have dismissed Plaintiffs Complaint, all other issues raised by either party are deemed MOOT.

BY THE COURT
JOSEPH M. GEORGE, JUDGE

ATTEST
PROTHONOTARY

LUNCH & LEARN SERIES

The Fayette County Bar Association's next presentation in its Lunch & Learn Series will be:

- Date: **Wednesday, April 20th from 12:00 p.m. to 1:00 p.m.**
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topics: **Class Actions and the Local Practitioner**
- Presenter: **William "Trip" Radcliffe, Esquire**

CLE Credit

1.0 hours of Substantive CLE credit for the program. The fees are as follows:

Members of the FCBA

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- \$10 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2016

- No charge for attendance with CLE Credit

Non-members of the FCBA

- \$10 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

**** All fees to be paid at the door ****
A light lunch will be provided.

RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or email to cindy@fcbar.org on or before Monday, April 18th.

Join us for an evening of camaraderie with your colleagues as we honor the retirement of President Judge John F. Wagner, Jr. at the

127th ANNUAL FAYETTE COUNTY BAR ASSOCIATION



*Bar
Banquet*

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5:30 COCKTAIL RECEPTION
6:30 STEAKHOUSE & SEAFOOD BUFFET

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