

MOTIONS COURT SCHEDULE

Judge	COMPLETE info at www.washingtoncourts.us/101/Judges
DiSalle, John (PJ) CR#2	Until further order, all motions, incl. Criminal & Orphans' Court, shall be handled remotely via email or fax to chambers. Filing party must notify all necessary parties that a motion is being filed and if motion is contested. Contested motions shall include a scheduling order. Motions for Modification of Bail or Release from Probation must be circulated first to Probation/Pretrial Services & DA's Office for acknowledgment of objection or consent. An advance copy of any Orphan's Court motion shall be sent to the Audit Attorney or Guardianship Clerk, where applicable.
Gilman, Gary CR#1	Tu, W, Th and Fr at 9:15a. Judge of the Term, Civil, 16th-end of the month. Copy of motion due before noon the business day prior to scheduled presentation. Motions in person., may be remote upon approval. NOTE: August 14 license suspension cases will be moved to August 21, and the August 15 Summary Appeals will be moved to August 8.
Costanzo, Valarie CR#3	Motions on Tu, Th at 9:15a. Motions in person. For complete Standard Operating Procedures: https://www.washingtoncourts.us/194/Valarie-Costanzo Judge of the Term, Criminal: Apr, Jun, Aug, Oct, Dec.
Lucas, Michael, CR#6	M 1:15p and Tu, W, Th 8:45a; also Fr 8:45a when Civil Judge of the Term, 1st-15th of each month. Motions in person.
Neuman, Brandon CR#4	Tu, W, Th at 9:15a. Motions to be signed up with chambers' Motions Inbox at least 24hrs in advance. Motions in person. Judge of the Term, Criminal: May, Jul, Sep, Nov.
McDonald, Traci CR#5	W, Th 9:30 Contested Motions. Consent Motions may be heard at any time, contact chambers for details. Presentment of Contested Motions requires filing party to notify and provide copy of Motion to all necessary parties and the Court, before noon on the business day prior to scheduling. Requests for remote handling of Motions and/or presentment on alternate days may be considered upon contacting chambers. Motions must be e-mailed to billie.jo.pustovrh@washingtoncourts.us and court.crier.mcdonald@washingtoncourts.us .
Pettit, Jesse CR#7	Motions on Tu at 9:15am (copies due by Fri noon) and W at 9:15a (copies due by Mon noon).

COURT CALENDARS

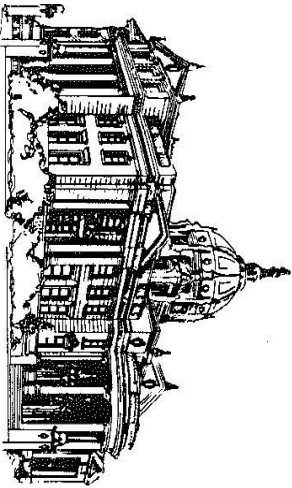
Orphan's Court Audits, 2023	May 12, July 14
Sheriff Sale Date	Last Date to File w/Prothonotary
May 5, 2023	February 24, 2023
June 2, 2023	March 31, 2023
July 7, 2023	April 28, 2023

Washington County Reports is owned & published by the Washington County Bar Association, 119 S. College St., Washington, PA 15301. Phone 724-225-6710. Fax 724-225-8345. Email wcbawashco.org. Washington County Reports does not edit any legal advertisement for substance or content, only for format.
Editor: Frank Arcuri, Esq.; Assistant Editor, Kathleen L. Sabol, WCBA Executive Director
LEGAL NOTICES DUE Friday by Noon for publication the following Thursday (holidays may alter deadline).
 Periodical Postage paid at Washington, PA 15301. Washington County Reports USPS 667-460.
Subscription Rate. \$85.00 for 52 Weekly Issues.
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WASHINGTON COUNTY REPORTS

Vol. 103, No. 41 APRIL 27, 2023

119 South College Street, Washington, PA 15301



**SERVING THE LEGAL COMMUNITY
OF WASHINGTON COUNTY,
PENNSYLVANIA**

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Obiter Dictum

From the *ABA Journal Daily Newsletter*: [1] A partner in a major Florida law firm was fired after being charged with possession of child pornography. The partner in question led the law firm’s sexual abuse, sex trafficking, and domestic abuse teams and exclusively represented children and adult survivors of sex crimes out of the firm’s Palm Beach Gardens, Florida, office. The charges arose after FBI agents raided the lawyer’s home and found him “actively downloading child pornography” and a subsequent search of his electronic devices uncovered nearly 2,000 images and videos of child pornography. [2] Billing rates for second year associates at some big law firms are nearing \$1,000 an hour according to a review of bankruptcy fee requests by ten larger law firms examined by Law.com. The highest rate was \$995 an hour with the second highest rate being billed at \$960 an hour. [3] The Colorado Supreme Court has approved a new rule that allows licensed non-lawyer paraprofessionals to perform limited legal work in some divorce and child custody matters. The rule will allow paraprofessionals to complete and file standard pleadings, represent their clients in mediation, accompany their clients to court, and answer the court’s factual questions. But they may not present oral argument or examine witnesses in a hearing. The new rule takes effect July 1. The program is intended to make legal representation more widely available and more affordable in certain domestic relation matters and the paraprofessionals will have to pass a written licensed legal professionals examination, submit to a character and fitness review, pass an ethics class, and pass a professional conduct examination. They will also have to complete 1,500 hours of law-related practical experience, including 500 hours of experience in Colorado family law. A discipline process will be like the one for lawyers. [4] According to the ABA Section of Legal Education and Admissions to the Bar, first time bar examinees in 2022 had the following passing grades: pass rate for Blacks was 57%; Native Americans 60%; Hawaiians 69%; Hispanics 69%; Asians 75%; Caucasians 83%; and persons with two or more races was 74%. The pass rates for women were 77% and 80% for men, and for people with another gender identity, the first-time pass rate was 79%. There were 33,721 first time bar examinees in 2022, of which 2,510 candidates were Black, 183 candidates were Native American, 45 candidates were Hawaiian, 4,201 were Hispanics, 2,199 candidates were Asian, 21,553 candidates were Caucasian, and 1,186 candidates were of two or more races.

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IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA CIVIL DIVISION NO. 2021-15

KEY ENVIRONMENTAL, INC., PLAINTIFF,
 VS.
 NORTH STRABANE PROPERTIES, LLC, DEFENDANT.

SYNOPSIS: Consulting engineering firm sought summary judgment on its breach of contract claim against property owner and sought to dismiss owner’s counterclaims for breach of contract and unjust enrichment. Property Owner requested partial summary judgment as to engineering firm’s demand for enhanced damages under the Contractor and Subcontractor Payment Act (CASPA). The Court, J. Lucas, granted property owner’s motion for partial summary judgment, holding that CASPA does not apply where real estate remains unimproved. Court granted summary judgment for engineering firm as to property owner’s unjust enrichment claim. Court held that an unjust enrichment claim may not be based upon matters subject to express provisions of the parties’ written agreement.

[1] Summary Judgement 368H

Summary judgment is appropriate only in those cases 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. When considering a motion for summary judgment, this trial court must take all facts of record and reasonable inferences therefrom in a light most favorable to the non-moving party.

[2] Pleading 302

Pa.R.C.P. 1020(a) requires each cause of action to be set forth in separate counts. An objection to a plaintiff’s failure to plead in separate counts may be raised by preliminary objection pursuant to Pa.R.C.P. 1028(a)(2).

[3] Pleading 302

Multiple issues listed in Rule 1028 are waived if a defendant fails to raise them in preliminary objections, an answer or reply. Pa.R.C.P. 1032.

[4] Trade Regulation 862.1

CASPA’s scope of coverage is clearly limited to construction contracts. In order to be entitled to relief under CASPA, a party must first establish a contractual right to payment pursuant to either a written or oral construction contract and a subsequent breach of that construction contract.

[5] Pretrial Procedure 307A

The language of Pa.R.C.P. 4014 provides that an admission is conclusive. However, where a request for admission requires a response interpreting a contract it is a request seeking a legal conclusion, and not within the permissible scope of Rule 4014. As such a trial court should not consider such an admission when determining a motion for summary judgment. Estate of Borst v. Edward Stover Sr. Testamentary Tr., 30 A.3d 1207, 1212 (Pa. Super. 2011).

[6] Trade Regulation 862.1

CASPA does not define the term “Real property” to include all real estate. Instead, CASPA indicates the term “Real property” as being “**improved** lands, leaseholds, tenements, . . . hereditaments, and improvements thereon.” Id. and Prieto Corp. v. Gambone Const. Co., 100 A.3d 602, 608 (Pa. Super. 2014).

[7] Trade Regulation 862.1

CASPA does not appear to provide enhanced remedies for parties where real estate remains unimproved. CASPA generally provides that a contractor or subcontractor who **improves** real property pursuant to a contract is entitled to timely payment pursuant to governing contract terms, or, in the absence of such terms, according to a statutorily-specified timetable, on pain of liability in the form of interest payments, and, if litigation is commenced, penalties and reasonable attorneys' fees and expenses. Scungio Borst & Associates v. 410 Shurs Lane Developers, LLC, 636 Pa. 621, 623, 146 A.3d 232, 233 (2016).

[8] Trade Regulation 862.1

Under CASPA an owner is “[a] person who has an interest in the real property that **is improved** and who ordered the improvement to be made.” 73 P.S. § 502. (emphasis added) CASPA directs that such an “owner” is the person subject to penalties and attorney’s fees. See 73 P.S. § 505(d) and § 512.

[9] Trade Regulation 862.1

CASPA was not intended to have broadly apply to any contractual agreements that relate to construction.

[10] Contracts 95

To succeed on a breach of contract claim, a plaintiff, must prove the existence of a contract and its essential terms, the breach of a contractual duty, and damages. Hart v. Arnold, 884 A.2d 316, 332 (Pa.Super.2005).

[11] Summary Judgment 368H

The testimony or affidavits of the moving party or his witnesses, not documentary, even if uncontradicted, will not afford sufficient basis for the entry of summary judgment, since the credibility of the testimony is still a matter for the jury.” Rosenberry v. Evans, 48 A.3d 1255, 1260 (Pa. Super. 2012).

[12] Contracts 95

In a breach of contract action against a professional, the professional's liability is based upon the terms of the contract and may not necessarily require expert testimony and a certificate of merit to sustain such a claim.

[13] Contracts 168 and Judgments 570(4), 585(2) and 590(3)

A claim for breach of the implied covenant of good faith and fair dealing is subsumed in a breach of contract claim. A breach of the covenant of good faith is nothing more than a breach of contract claim and that separate causes of action cannot be maintained for each, even in the alternative. JHE, Inc. v. Se. Pennsylvania Transp. Auth., 2002 WL 1018941, at *7 (Pa. Com. Pl. May 17, 2002) (J. Shepherd).

[14] Election of Remedies 143

A basic tenet of our civil justice system is that a plaintiff may not obtain a double recovery for a single wrong. The doctrine of election of remedies provides that “a claimant cannot simultaneously recover damages based on two different liability findings if the injury is the same for both claims, thus creating a double recovery.

[15] Implied and Constructive Contracts 205H

The doctrine of quasi-contract, or unjust enrichment, is generally inapplicable where a written or express contract exists. there are exceptions to this rule. For instance, where no express contract exists between the parties due to the absence of an agreed-upon contract price, a plaintiff may recover under a quasi-contract theory of unjust enrichment. Kuss Mach. Tool & Die Co. v. El-Tronics, Inc., 393 Pa. 353, 143 A.2d 38 (1958). Fur-

ther, a subcontractor may recover based upon unjust enrichment when it performs work outside the coverage of the parties' contractual provisions. Ruthrauff, Inc. v. Ravin, Inc., 914 A.2d 880 (Pa. Super. 2006).

MEMORANDUM AND ORDER

Both parties seek summary judgment regarding claims each has made in this dispute. On January 4, 2021, Key Environmental, Inc. (Key) commenced this action by filing a complaint in arbitration. Key alleges that it provided consulting services for the Hidden Acres Mobile Home Park (“Project”) and Defendant, North Strabane Properties, LLC (NSP) has not paid for Key’s work.¹ NSP denies Key’s claims and through amended counterclaims, NSP seeks to recover damages, in excess of \$50,000, from Key. NSP contends that Key breached their contract and was unjustly enriched by payments NSP made.

[1] Summary judgment is appropriate only in those cases 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. When considering a motion for summary judgment, this trial court must take all facts of record and therefrom in a light most favorable to the non-moving party. Brewington for Brewington v. City of Philadelphia, 199 A.3d 348, 352 (Pa. 2018).

The record provided by the parties includes the pleadings, their written agreement, Key’s response to a request for admissions, copies of correspondence regarding the Project, some of Key’s time entries for the Project, Key’s invoices to NSP, selected portions of deposition transcripts for a landscape architect and the parties’ designated representatives, and Key’s emails acknowledging NSP’s direction to stop work on the project.

This record reveals the following chronology of events. On February 21, 2018, Key issued a proposal to provide NSP with consulting services that included seventeen (17) tasks. Of these tasks only one is identified as services during construction.² With regard to the 16 other tasks, Key quoted a lump sum cost of \$191,000.00³ Key “estimated” additional charges of \$75,000 for services during construction. NSP accepted Key’s proposal on May 2, 2018.⁴ For a period of time, Key performed some of the tasks, invoiced NSP and NSP paid for those services.⁵

On February 26, 2019, Key’s representative, Greg Banner, met with NSP. At that time, Mr. Banner informed NSP that they needed additional studies, investigations and plans. These additional matters included geotechnical investigations for bridge design and general development, an environmental assessment for wetland and stream mitigation, and a railroad design for an at-grade crossing. Mr. Banner told NSP the costs for such additional work would be “in the range of \$200,000.”⁶ As of February 27, 2019, Key was to stop its work on the Project until further notice.⁷

Key indicates that invoices for work it performed from December 1, 2018 through February 28, 2019, remain unpaid.⁸ Key alleges that it invoiced NSP for work having a cost of \$96,010.13, however, NSP has only made payments of \$55,770.13.⁹

¹Complaint ¶ 5.

²Key MSJ Appendix. p. 024

³Id.

⁴Key MSJ Appendix p. 011

⁵NSP MSJ Ex. C p. 154-155.

⁶Key MSJ Appendix p. 137

⁷Key MSJ Appendix p. 138 and NSP MSJ Ex. C, p. 173.

⁸Complaint ¶ 7 and Ex. C.

⁹Complaint ¶ 7

Accordingly, in its complaint, Key charges that NSP breached the parties' contract and should pay the outstanding amount, along with penalties and counsel fees as directed by the Contractor and Subcontractor Payment Act (CASPA).¹⁰ Key argues that its right to a recovery is clear, judgment should be entered for it and a hearing scheduled to determine the amounts of statutory penalties and fees Key may recover.

NSP disagrees. NSP challenges the value of the services that Key provided. NSP states that it paid over \$65,000 for incomplete work.¹¹ NSP contends that Key took drawings from other professionals hired by NSP and "simply" overlaid additional material. NSP adds that Key never provided work such as a Land Development Plan Application. NSP asserts that Key's work was non-compliant with contract requirements and NSP overpaid \$65,290 to Key.¹² In four counts, NSP claims that Key breached its contract and was unjustly enriched by NSP's payments.

Key denies its liability for NSP's counterclaims. Key calls those claims "merely pretextual" and asserts that they lack supporting evidence.

Concisely, Key requests that this court grant summary judgment that not only dismisses NSP's counterclaims but enters judgment for Key on its breach of contract claim. For its part, NSP opposes Key's dispositive motions and seeks partial summary judgment. While acknowledging that it entered into a "consulting agreement" with Key, NSP contends that Key is not entitled to the enhanced damages provided by CASPA. According to NSP, Key did not perform work in relation to a "construction contract," as that term is defined in CASPA. Also, NSP now objects to Key's failure to plead a CASPA claim in a separate count in its Complaint.

CASPA

NSP asserts both a procedural and substantive challenge to Key's right to obtain CASPA damages.

[2] NSP's procedural objection to Key's claim for CASPA damages is rejected. Key pleaded its entitlement to CASPA damages in Count I of its Complaint.¹³ NSP's argument that Key should have pleaded its CASPA claims in a separate count is immaterial at the summary judgment stage. Pa.R.C.P. 1020(a) requires each cause of action to be set forth in separate counts. An objection to a plaintiff's failure to plead in separate counts may be raised by preliminary objection pursuant to Pa.R.C.P. 1028(a)(2). NSP did not file preliminary objections and did not raise the lack of separate counts in its Amended Answer, New Matter and Counterclaims.

[3] Multiple issues listed in Rule 1028 are waived if a defendant fails to raise them in preliminary objections. Drake Mfg. Co., Inc. v. Polyflow, Inc., 109 A.3d 250, 257 (Pa. Super. 2015) and Pa.R.C.P. 1032 ("A party waives all defenses and objections which are not presented either by preliminary objection, answer or reply...") NSP waived its procedural challenge to the form of Key's Complaint and demand for CASPA damages.

[4] NSP's substantive challenge requires a different analysis. As a threshold matter, in order to recover damages under CASPA, Key must identify evidence that it entered into a "construction contract" with NSP. CASPA's scope of coverage is "clearly limited to construction contracts." Reco Equip., Inc. v. John T. Subrick Contracting, Inc., 780 A.2d 684, 687 (Pa. Super. 2001).

CASPA's application has been rejected for contracts that might be construed as being related to construction contracts, but which are not themselves construction contracts. Lookout Windpower Holding Co., LLC v. Edison Mission Energy, 2011 WL

¹⁰73 P.S. § 501 et. seq. entitled the Contractor and Subcontractor Payment Act.

¹¹NSP Amended Answer, New Matter and Counterclaim ¶ 7.

¹²NSP Amended Answer New Matter and Counterclaim ¶ 6-10.

¹³Complaint ¶ 17-20.

13238017, at *8 (W.D. Pa. May 20, 2011). For instance, a dispute over a contract for rental of a hydraulic excavator that was used in a construction project does not fall under CASPA. Reco Equip., Inc. v. John T. Subrick Contracting, Inc., supra.

Pennsylvania Appellate Courts have reiterated this view on several occasions. The Pennsylvania Supreme Court explained:

Our view of CASPA's purpose in this regard is consistent with numerous decisions describing CASPA as protecting contractors and subcontractors by encouraging fair dealing *among parties to construction contracts*, which stem largely from Judge R. Stanton Wettick's decision in Richardson v. Sherman, 26 Pa. D. & C.4th 193 (Ct.Com.Pl.Allegheny 1996). See, e.g., Nippes v. Lucas, 815 A.2d 648 (Pa.Super.2003); R.W. Sidley, Inc. v. U.S. Fidelity & Guar. Co., 319 F.Supp.2d 554 (W.D.Pa.2004); Ruthrauff, supra; Zimmerman v. Harrisburg Fudd I, L.P., 984 A.2d 497 (Pa.Super.2009); Lomas v. Kravitz, 130 A.3d 107 (Pa.Super.2015).

Scungio Borst & Associates v. 410 Shurs Lane Developers, LLC, 636 Pa. 621, 634, 146 A.3d 232, 239 (2016). In order to be entitled to relief under CASPA, a party must first establish a contractual right to payment pursuant to either a **written or oral construction contract and a subsequent breach of that construction contract.** El-Gharbaoui v. Ajayi, 260 A.3d 944, 959 (Pa. Super. 2021) (Emphasis added).

Here, certain uncontested facts support NSP's view that CASPA does not apply. First, Key concedes that NSP's project never reached the construction phase.¹⁴ Second, Key admitted that its "Agreement" with NSP was not a construction contract.¹⁵

[5] Key, however, persists that its agreement with NSP is a "construction contract" and it is entitled to pursue CASPA's enhanced damages. In a sub silentio effort¹⁶ to overcome its verified admission, Key insists that its services were directly related to the development of real property. Key points to its *intended* production of plans for subdivision, grading and the design of a railroad crossing and bridge as proof that its services were work necessary for actual construction and municipal permitting.¹⁷ In support of this argument, Key cites to SE Technologies, Inc. v. K-Cor Inc. (GD-01-21752, Alleg. Co.).

In that non-jury decision, the Hon. W. Terrence O'Brien ruled that an engineer could recover CASPA damages. Pointing to a description of the engineer's services in the parties' contract, Judge O'Brien ruled that the engineer's services satisfied the definition of "contractor."¹⁸ The engineer's services were described as including "civil, geotechnical, environmental and land engineering necessary to" site grading, relocation of an airport runway, environmental and geotechnical fieldwork, and the preparation of grading, erosion and sedimentation control plans.¹⁹

¹⁴Key Brief in Opposition p.9, n.5

¹⁵NSP MSJ Ex. F. -Request for Admission 6.

¹⁶A review of the docket shows that Key has never moved to withdraw its admission regarding the nature of its contract with NSP. The language of Pa.R.C.P. 4014 provides that an admission is conclusive. However, because the interpretation of a contract is a question of law, it is not within the permissible scope of Rule 4014. As such a trial court should not consider such an admission when determining a motion for summary judgment. Estate of Borst v. Edward Stover Sr. Testamentary Tr., 30 A.3d 1207, 1212 (Pa. Super. Ct. 2011) (citations omitted)

¹⁷Key Brief in Opposition p. 12.

¹⁸Key MSJ Appendix p. 155.

¹⁹Key MSJ Appendix p. 155

Here, the contract Key obtained was for “consulting services.” This Consulting Agreement specifically incorporated a written proposal Key submitted to secure its contract with NSP.²⁰ In that proposal, Key described its services as follows:

You (NSP) requested that Key submit this proposal to provide professional services to prepare necessary design drawings and permit applications, and request approval from the involved regulatory agencies. In addition, you also requested that Key perform the following tasks:

- Verify that the PASDA topography is reasonably accurate;
- Stake the locations for geotechnical borings and stormwater infiltration sites;
- Design the bridge that will cross Little Chartiers Creek;
- Provide bonding (construction) cost estimates for each of the six (6) phases; and
- Provide services during construction

Key acknowledged that its scope of services did not include geo-technical services for NSP’s intended project. Key further delineated the services it felt necessary for: i) the preparation of plans and permit applications; and ii) the miscellaneous services NSP requested.²¹ No less than 17 categories of services were set forth.

[6] Applying Judge O’Brien’s approach, Key has not demonstrated that it is entitled to CASPA enhanced damages. Critical to Judge O’Brien’s determination was his consideration of CASPA’s definition of the term “improve.” For that term CASPA provides:

“**Improve.**” To design, effect, alter, provide professional or skilled services, repair or demolish any improvement upon, connected with or on or beneath the surface of any **real property**, to excavate, clear, grade, fill or landscape any real property, to construct driveways and private roadways, to furnish materials, including trees and shrubbery for any of these purposes, or to perform any labor upon improvements.

73 P.S. § 502 (emphasis added). CASPA does not define the term “Real property” to include all real estate. Instead, CASPA indicates the term “Real property” as being “**improved** lands, leaseholds, tenements, . . . hereditaments, and improvements thereon.” Id. and Prieto Corp. v. Gambone Const. Co., 100 A.3d 602, 608 (Pa. Super. 2014) (emphasis added).

[7] CASPA does not appear to provide enhanced remedies for parties where real estate remains unimproved. As Chief Justice Todd explained:

CASPA generally provides that a contractor or subcontractor who **improves** real property pursuant to a contract is entitled to timely payment pursuant to governing contract terms, or, in the absence of such terms, according to a statutorily-specified timetable, on pain of liability in the form of interest payments, and, if litigation is commenced, penalties and reasonable attorneys’ fees and expenses.

Scungio Borst & Associates v. 410 Shurs Lane Developers, LLC, 636 Pa. 621, 623, 146 A.3d 232, 233 (2016) (emphasis added).

[8] Such an explanation follows directly from CASPA’s definition of the term “owner.” Under CASPA an owner is “[a] person who has an interest in the real property that is **improved** and who ordered the improvement to be made.” 73 P.S. § 502. (emphasis added) CASPA directs that such an “owner” is the person subject to penalties and attorney’s fees. See 73 P.S. § 505(d) and § 512.

²⁰(NSP MSJ Ex. A).

²¹Key MSJ Appendix, p. 24.

Indeed, CASPA specifies that it does not apply to certain construction contracts involving a small number of improvements. CASPA does “not apply to improvements to real property which consists of six or fewer residential units which are under construction simultaneously. El-Gharbaoui v. Ajayi, 260 A.3d 944, 954–55 (Pa. Super. 2021) discussing 73 P.S. § 703 and Richardson v. Sherman, 26 Pa. D. & C.4th 193, 196 (Pa. Com. Pl. 1996) (which stated that the definition of a “construction contract” is consistent with the definitions of “improved” and “improvement” which include any labor performed on any part of a building or structure.)

Key has not cited to and this court has not found a reported case that sanctions the imposition of CASPA damages for unimproved lands. For example, precedent does support the availability of CASPA’s remedies where curbs, an improvement, have been constructed Prieto Corp.; where a contractor has successfully prosecuted a mechanic’s lien claim for labor and materials, El-Gharbaoui v. Ajayi; and where a fifteen-unit apartment building has been constructed. Waller Corp. v. Warren Plaza, Inc., 95 A.3d 313, 314 (Pa. Super. 2014). In SE Technologies, Inc., the parties did not dispute the fact that the defendant’s owner’s airport runway had been improved. Instead, they quarreled over the value of the services that had to be paid.²²

Significantly, in this case, the record shows that NSP’s project never completed the planning process. In February of 2019, Key presented a list of required items that were beyond the scope of Key’s proposal. Those items included environmental, geotechnical and surveying work that Key indicated needed to be done in order for Key to continue working on the Hidden Acres Project.²³ Indeed, Key’s Supervising Engineer conceded that Key’s “deliverables” were of “no value” to NSP.²⁴ The circumstances, here, are quite different from those in SE Technologies, Inc.

[9] NSP is correct, that at most, the parties merely had an agreement related to construction and not a *construction contract*. Key’s claim that its contract involved the development of real property misses the mark. For instance, loan agreements between a lender and a developer also involve development. However, CASPA was not intended to have such a “broad application.” Reco Equip., Inc. v. John T. Subrick Contracting, Inc. 780 A.2d at 688.

For these reasons, Key is not entitled to recover enhanced damages pursuant to CASPA.

BREACH OF CONTRACT CLAIMS

Key asserts that there are no genuine issues of material fact regarding its claim that NSP breached their Agreement.²⁵ Key adds that NSP’s counterclaims for breach of contract fail as a matter of law.

[10] To succeed on a breach of contract claim, a plaintiff, must prove the existence of a contract and its essential terms, the breach of a contractual duty, and damages. Hart v. Arnold, 884 A.2d 316, 332 (Pa. Super. 2005), *appeal denied*, 587 Pa. 695, 897 A.2d 458 (2006) as cited in Allen-Myland, Inc. v. Garmin Int’l, Inc., 140 A.3d 677, 692 (Pa. Super. 2016).

The parties do not dispute the existence of their written agreement, dated May 2, 2018. The parties’ agreement expressly provides that “[i] consideration for services performed” NSP shall pay Key “the fees set forth in” a proposal dated February 21, 2018.²⁶

²²Key MSJ Appendix p. 152.

²³NSP MSJ Ex. C, p. 271 and Dep. Ex. 18.

²⁴NSP MSJ Ex. C p. 238-240.

²⁵Key MSJ ¶ 25-43.

²⁶Key Complaint Ex. A ¶ 4 of the Consulting Agreement

Here, the parties dispute both the fact that NSP breached their Agreement and the amount of damages, if any, owed to Key. Key maintains that it performed services for NSP and that NSP did not contest Key's billings until "months after the time had been incurred." Key argues it is entitled to summary judgment because NSP is unable to "contradict" Key's evidence, consisting of its time entries, partially completed work product and deposition testimony.²⁷ NSP responds that Key never completed its scope of work, never delivered its work to NSP and caused NSP harm by failing to perform services for NSP.

Key's motion for summary judgment relies upon the deposition testimony of Greg Banner, Key's designated representative. At deposition, in response to leading questions asked by Key's Counsel, Mr. Banner affirmed that all of the time billed to NSP was reasonably spent, included reasonable hourly rates, and conformed to the parties' agreement.²⁸

[11] The testimony or affidavits of the moving party or his witnesses, not documentary, even if uncontradicted, will not afford sufficient basis for the entry of summary judgment, since the credibility of the testimony is still a matter for the jury." Rosenberry v. Evans, 48 A.3d 1255, 1260 (Pa. Super. 2012). In other words, the *Nanty-Glo* rule prohibits this court from entering judgment for Key on its breach of contract claim.

NSP's breach of contract claim is supported by the record. Michael Wetzel, a landscape architect and land planner, testified that he reviewed Key's invoices and drawings. Mr. Wetzel opined that Key's drawings were not sufficiently complete for 55% of NSP's project budget to have been expended. Mr. Wetzel stated "[t]hey are not at the 55% range."²⁹ Further, on behalf of Key, Mr. Banner acknowledged that Key's "deliverables" were of "no value" to NSP.³⁰ Such evidence presents a genuine issue of fact as to whether Key breached its contract with NSP.

[12] Key misplaces its reliance on Zokaites Contracting Inc. v. Trant Corp., 968 A.2d 1282, 1287 (Pa. Super. 2009). In that case, the trial court **did not strike** the allegations in Appellants' Count II breach of contract claim, *that sounded in contract*, because expert testimony was unavailable to support the claimed breaches. In particular, the trial court did not strike allegations that the defendant had failed to complete work. *Id.* at 1288. Instead, the Superior Court affirmed the trial court's ruling that allegations sounding in professional negligence could not be recast as a breach of contract, without a certificate of merit being filed. The Superior Court reiterated that in a breach of contract action against a professional, the professional's liability must be based upon the terms of the contract.

Here, NSP's breach of contract claims do no more than allege Key's failure to complete work, to bill for services it actually performed, and to deliver documents that NSP paid for.³¹ Proof of such claims do not sound in negligence.

Key also challenges NSP's right to recover damages for delay and for obtaining replacement engineering services. NSP did not respond to this argument. Section 7 of the parties' agreement precludes the recovery of Key's liability for "indirect, special, incidental or consequential losses, damages, or expenses." Section 7 expressly provides that Key's total liability is "expressly limited" to the net fees that Key received.³² In its counterclaims, NSP does not appear to be demanding anything more than some or all of the fees it paid. NSP does not specifically plead a liquidated sum for delay or replacement engineering services. Instead, NSP pleaded that it paid over \$65,000 in fees to Key

²⁷Key MSJ Brief p. 4.

²⁸Key MSJ Appendix p. 134.

²⁹NSP Brief in Opp. Ex. G, p. 97-99.

³⁰NSP MSJ Ex. C p. 239-240.

³¹NSP Amended Counterclaim ¶¶16-20, and 30 -41.

³²*Id.*

for incomplete work and it seeks damages in excess of \$50,000. As grounds for the recovery of fees paid to Key, NSP has pleaded delay and the need to hire a replacement to do Key's incomplete work. Section 7 of the parties' contract does not preclude such a claim.

Key next challenges NSP's right to proceed to trial with multiple breach of contract claims. NSP pleaded three (3) breach of contract counts in its Amended Counterclaim. In Count II, NSP alleged that Key's conduct amounted to a breach of the implied covenant of good faith and fair dealing. Key argues such a count may not stand alone.

[13] Key cites LSI Title Agency, Inc. v. Evaluation Servs., Inc., 951 A.2d 384, 392 (Pa. Super. 2008) which held that a claim for breach of the implied covenant of good faith and fair dealing is subsumed in a breach of contract claim. In LSI, the panel cited with approval to JHE, Inc. v. Se. Pennsylvania Transp. Auth., 1790 NOV.TERM 2001, 2002 WL 1018941, at *7 (Pa. Com. Pl. May 17, 2002) which sustained a preliminary objection to a separate count alleging the breach of the covenant of good faith. In JHE, Inc., Judge Shepherd ruled that a breach of the covenant of good faith is nothing more than a breach of contract claim and that separate causes of action cannot be maintained for each, even in the alternative.

For its part, NSP cites to Somers v. Somers, 418 Pa. Super. 131, 139, 613 A.2d 1211, 1215 (1992). In that case, the Superior Court reversed a trial court's decision to strike two counts of a complaint, each asserting a violation of the covenant of good faith and fair dealing. The Superior Court stated "[w]e vacate the trial court's order granting Appellees' demurrer to Joseph Somers' claims in Counts I and II of his complaint and reinstate these claims on the basis that a claim for relief for breach of contract based on the implied duty of good faith performance of contractual duties found in the consulting contract was stated by Appellant."

This court will not settle the parties' *academic* argument. Doing so is unnecessary.

[14] Pennsylvania Law is clear. Whether NSP proves all or only one of its breach of contract counts, it will be limited to one recovery for breach of contract. A basic tenet of our civil justice system is that a plaintiff may not obtain a double recovery for a single wrong." Homart Dev. Co. v. Sgreneci, 662 A.2d 1092, 1100 (Pa. Super. 1995)). As NSP acknowledges, the obligation of good faith is tied specifically to and is not separate from the duties a contract imposes on the parties. Murphy v. Duquesne Univ. Of The Holy Ghost, 565 Pa. 571, 598, 777 A.2d 418, 434, n. 11 (2001). The doctrine of election of remedies provides that "a claimant cannot simultaneously recover damages based on two different liability findings if the injury is the same for both claims, thus creating a double recovery." Gamesa Energy USA, LLC v. Ten Penn Ctr. Associates, L.P., 655 Pa. 351, 364, 217 A.3d 1227, 1235 (2019) (citation omitted).

This court will not strike the additional counts at this stage. The form of NSP's amended counterclaim should have been objected to earlier. See Pa.R.C.P. 1032 and Drake Mfg. Co., Inc. v. Polyflow, Inc., supra. Instead, at trial, this court will craft appropriate jury instructions and a verdict slip to address this issue.

NSP'S UNJUST ENRICHMENT CLAIM

[15] Key seeks summary judgment as to NSP's claim for unjust enrichment. Key is correct that the doctrine of quasi-contract, or unjust enrichment, is inapplicable where a written or express contract exists. Ne. Fence & Iron Works, Inc. v. Murphy Quigley Co., Inc., 933 A.2d 664, 669 (Pa. Super. 2007). For instance, a trial court properly strikes a client's claim for unjust enrichment against a lawyer where the client possessed a written and express contract with the lawyer and the client claimed that the lawyer mishandled the matter covered in that contract.

However, there are exceptions to this rule. For instance, where no express contract

exists between the parties due to the absence of an agreed-upon contract price, a plaintiff may recover under a quasi-contract theory of unjust enrichment. Kuss Mach. Tool & Die Co. v. El-Tronics, Inc., 393 Pa. 353, 143 A.2d 38 (1958). Further, a subcontractor may recover based upon unjust enrichment when it performs work outside the coverage of the parties' contractual provisions. Ruthrauff, Inc. v. Ravin, Inc., 914 A.2d 880 (Pa. Super. 2006).³³

Here the parties do not dispute the existence of their express written agreement. Paragraph 4 of the parties' agreement expressly provides for a refund where Key's work is nonconforming.³⁴ As discussed above, NSP's breach of contract claim is essentially one seeking a refund of monies they paid for incomplete work. In Count II of its Counterclaim, NSP simply asserts that Key's retention of those same funds paid to Key for the same incomplete work is proof that Key has been unjustly enriched.³⁵ Such a claim is no different from its claim of a breach of the parties' express written agreement. Thus, the record does not include evidence that NSP conferred benefits upon Key outside the parties' contractual provisions. NSP's claim for unjust enrichment has not been supported by evidence in the record.

ORDER

AND NOW, this 20th day of April, 2023 for the reasons set forth above, the motion for summary judgment filed by the Plaintiff, Key Environmental, Inc. is GRANTED, in part, and DENIED, in part. Count II of the Amended Counterclaim filed by the Defendant, North Strabane Properties, LLC, is STRICKEN. In all other respects, Plaintiff's motion for summary judgment is DENIED.

The motion for summary judgment filed by North Strabane Properties, LLC, wherein it seeks to strike the Plaintiff's claim for statutory penalties and counsel fees, is GRANTED. Such claims asserted in paragraphs 17, 18 and 20 of the Plaintiff's Complaint are STRICKEN.

This case is placed on the **June 2023 Trial List**. The parties shall:

- 1) On or before **May 19, 2023**, file and serve any motions in limine, that require determination prior to opening statements;
- 2) On or before **May 30, 2023**, submit a joint juror questionnaire to chambers, which does not duplicate matters set forth in Pa.R.C.P. 220.3 and which calls for a simple "yes" or "no" response from each prospective juror;
- 3) On or before **June 2, 2023**, each file requested points for charge and a proposed verdict slip;
- 4) Attend a Pre-Trial Conference on **June 2, 2023, at 11:00 a.m.**, in Courtroom No.6;
- 5) Jury selection shall commence on **June 20, 2023, at 9:15 a.m.**, in Courtroom No.6;
- 6) The individual method will be used for jury selection; and
- 7) The parties shall be prepared to begin trial immediately following jury selection;

BY THE COURT
/S/ MICHAEL J. LUCAS, J.

Copies: Chadd C. Collin, Esq., Kevin L. Barley, Esq., Court Administration, Chambers

NOTICE OF JAMES ROMAN

Register of Wills and Ex-Officio Clerk of the Orphans' Court Division,
Court of the Common Pleas, Washington, Pennsylvania

The following fiduciaries have filed their respective accounts in the
Office of the Clerk of the Orphans' Court of Washington County

ACCOUNTS FILED IN THE REGISTER'S OFFICE TO
MAY 12, 2023 AUDIT

AUDIT LIST

<u>NO.</u>	<u>ESTATE</u>
63-2008-0410	Janoski, Gusty C. Accountant:John C. Janoski Attorney:E.J. Julian, Esq.
63-2017-0972	Ripepi, Michaelangelo P. Accountant & Attorney: William H. Knestrick, Esq.

PARTIES INTERESTED ARE HEREBY NOTIFIED THAT AN AUDIT LIST WILL BE MADE UP OF THE AFOREMENTIONED ACCOUNTS AND THAT SAID AUDIT IS MAY 12TH, 2023 AT 9:30 A.M., COURTROOM #2, BEFORE THE HONORABLE JOHN F. DISALLE, PRESIDENT JUDGE.

James Roman, Register and Ex-Officio
Clerk of the Orphans' Court Division of the
Court of Common Pleas of
Washington County, Pennsylvania

Washington, Pennsylvania
Audit Date: May 12th, 2023
Publication Dates: April 27, 2023 & May 04, 2023

³³As discussed in Ne. Fence & Iron Works, Inc. v. Murphy Quigley Co., Inc.,

³⁴Complaint Ex. A p. 013 Section 4 "company's Limited Warranty."

³⁵Answer New Matter and Counterclaim ¶ 22-28.

ESTATE NOTICES**FIRST PUBLICATION****Brooks, Helen Coen**

a/k/a Helen C. Brooks
a/k/a Helen Brooks
a/k/a Helen L. Coen
Late of South Strabane Twp.
Washington Co., PA
File No. 63-23-0617

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Julia G. Brooks, 970 Overlook Dr., Washington PA 15301

Attorney: Richard J. Amrhein, Esq., Peacock Keller, LLP, 95 West Beau St., Ste. 600, Washington, PA 15301

WCR Vol 103 Issues 41,42,43

Edwards, Cathryne George

a/k/a Cathryne Helen Edwards
Late of Burgettstown
Washington Co., PA
File No. 63-21-1719

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Scott D. Edwards, 461 Kingston Plantation Blvd., Benton, LA 71006

Attorney: Jay R. Hagerman, Esq., 4927 William Flinn Hwy., Allison Park, PA 15101

WCR Vol 103 Issues 41,42,43

Greiner, Carole M.

a/k/a Carole S. Greiner
Late of Nottingham Twp., Eighty Four
Washington Co., PA
File No. 63-23-0591

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Jennifer Rucker, 19 Wallace St., Canonsburg, PA 15317

Attorney: Emmanuel S. Anthon, Esq., Anthon Legal Services, LLC, 165 McClelland Rd., Canonsburg, PA 15317

WCR Vol 103 Issues 41,42,43

Griffith, Jack

Late of McDonald
Washington Co., PA
File No. 63-22-0719

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Jennifer Patsch, 139 View Ave., Strabane, PA 15363

Attorney: Mark S. Riethmuller, Esq., Speakman, Riethmuller & Allison, 6 S. Main St., Ste. 614, Washington, PA 15301

WCR Vol 103 Issues 41,42,43

Grzelek, Kenneth

Late of Deemston
Washington Co., PA
File No. 63-21-1646

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Jared Grzelak c/o

Attorney: Wayne M. Chiurazzi, The Chiurazzi Law Group, 101 Smithfield St., Pittsburgh, PA 15222

WCR Vol 103 Issues 41,42,43

Jones, Jonathan K.

a/k/a Jonathan Kip Jones
Late of Coal Center
Washington Co., PA
File No. 63-23-0598

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Kathy Lee Gregg Jones, 427 S. Ridge Rd., Coal Center, PA 15423

Attorney: Lisa J. Buday, Esq., P.O. Box 488, California, PA 15419

WCR Vol 103 Issues 41,42,43

Lutz, William Dennis

a/k/a William D. Lutz
Late of City of Washington
Washington Co., PA
File No. 63-23-0557

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Matthew J. Lutz c/o

Attorney: G.T. George, Esq., George and George, 92 E. Main St., Uniontown, PA 15401

WCR Vol 103 Issues 41,42,43

Mahan, John C.

a/k/a John Carlton Mahan, Jr.
Late of Canonsburg, North Strabane Twp.
Washington Co., PA
File No. 63-23-0487

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is

hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Valori B. Bring, 1610 Strecker Woods Ct., Wildwood, MO 63011

Attorney: James R. Baker, Esq., Sikov and Love, P.A., Grant Bldg. Ste. 1110, 310 Grant St., Pittsburgh, PA 15219-2213

WCR Vol 103 Issues 41,42,43

Poole, Ena

Late of Washington
Washington Co., PA
File No. 63-21-01147

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Denise Mull, 38 Central Ave., Washington, PA 15301

Attorney: E.J. Julian, Esq., Julian Law Firm, 70 N. Main St., Washington, PA 15301

WCR Vol 103 Issues 41,42,43

Ross, Beulah M.

a/k/a Beulah Mae Ross
Late of City of Monongahela
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Cheryl D. Brazelton, 635 Park St., Monongahela, PA 15063

Attorney: Richard C. Mudrick, Esq., 300 Fallowfield Ave., Charleroi, PA 15022

WCR Vol 103 Issues 41,42,43

Wagner, Karen L.

Late of Speers Borough
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: George Wagner,
8 Payer Ln., Mystic, CT 06355

Attorney: Richard C. Mudrick, Esq., 300
Fallowfield Ave., Charleroi, PA 15022

_____ WCR Vol 103 Issues 41,42,43

Zosso, Erica M.

a/k/a Erica Marie Zosso
Late of Finleyville
Washington Co., PA
File No. 63-23-0594

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Maureen M. Kinest,
450 Parkridge Dr., Bethel Park, PA 15102
Attorney: Robin L. Rarie, Esq., Brenlove
& Fuller, LLC, 401 Washington Ave.,
Bridgeville, PA 15017

_____ WCR Vol 103 Issues 41,42,43

SECOND PUBLICATION**Altland, Karen**

Late of West Bethlehem Twp.
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Adminis-

trator without delay.

Administrator: Richard Altland, 17 Field
and Stream Rd., Marianna, PA 15345

Attorney: Timothy N. Logan, Esq., Logan
& Gatten Law Offices, 54 N. Richhill St.,
Waynesburg, PA 15370

_____ WCR Vol 103 Issues 40,41,42

Devitis, Jr., Joseph John

a/k/a Joseph J. Devitis
Late of Canonsburg Borough
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Robert P. Veres, 409 Gladden
Rd., Canonsburg, PA 15317

Attorney: Jeffrey P. Derrico, Esq., Green-
lee Derrico Posa, LLC, 60 E. Beau St.,
Washington, PA 15301

_____ WCR Vol 103 Issues 40,41,42

Elson, Anita

a/k/a Anita Joan Elson
Late of South Strabane Twp.
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Stacey Popko, 101 Sundial Dr.,
Canonsburg, PA 15317

Attorney: Cary D. Jones, Esq., Marriner,
Jones & Fitch, 6 South Main St., Ste. 600,
Washington, PA 15301

_____ WCR Vol 103 Issues 40,41,42

Livezey, Howard L.

a/k/a Howard Livezey
Late of Canonsburg
Washington Co., PA
File No. 63-23-00596

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Charles F. Eicholtz, 321 E.
Broadacre Rd. NE, Dalton, GA 30721

_____ WCR Vol 103 Issues 40,41,42

Meta, Sylvia May

Late of Peters Twp.
Washington Co., PA
File No. 63-23-0592

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Christopher Meta, 1501
Oakwood Dr., Pittsburgh, PA 15234

Attorney: Carl M. Hanchak, Esq., 76 Old
Clairton Blvd., Pittsburgh, PA 15236

_____ WCR Vol 103 Issues 40,41,42

Miller, Marilyn T.

a/k/a Marilyn Miller
Late of Union Twp.
Washington Co., PA
File No. 63-23-0587

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Kayla Marie Kowatch, 350
Country Hills Dr., Irwin, PA 15642

Attorney: Timothy R. Berggren, Esq., Pea-
cock Keller, LLP, 95 W. Beau St., Ste.
600, Washington, PA 15301

_____ WCR Vol 103 Issues 40,41,42

Pacini, Mary Ann

Late of Finleyville
Washington Co., PA
File No. 63-23-0240

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Diana Schultz, 207 Lutes Rd.,
Finleyville, PA 15332

Attorney: Joseph S. Bielecki, Esq., 68
South 12th St., Pittsburgh, PA 15203

_____ WCR Vol 103 Issues 40,41,42

Popp, Henry

a/k/a Henry RIL Popp
Late of Washington
Washington Co., PA
File No. 63-23-0453

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Carol Ashmore, 109 Ashmore
Rd., Washington, PA 15301

Attorney: E.J. Julian, Esq., Julian Law
Firm, 71 N. Main St., Washington, PA
15301

_____ WCR Vol 103 Issues 40,41,42

Watkins, Fay M.

Late of Donora Borough
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Sherri L. Scholl, 606 Walnut
St., Donora, PA 15033

Attorney: Richard C. Mudrick, Esq., 300 Fallowfield Ave., Charleroi, PA 15022

WCR Vol 103 Issues 40,41,42

THIRD PUBLICATION

Barr, Maryjo

a/k/a Maryjo Niverth Barr
Late of West Bethlehem Twp.
Washington Co., PA
File No. C-63-CV-2023-372

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Stephen Niverth, P.O. Box 14, 102 Whitehall St., Marianna, PA 15345

Attorney: Lars Lange, 1561 Lone Pine Rd., Marianna, PA 15345

WCR Vol 103 Issues 39,40,41

Barr, Andrew J.

a/k/a Jack Barr
Late of West Bethlehem Twp.
Washington Co., PA
File No. C-63-0C-2023-542

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Stephen Niverth, P.O. Box 14, 102 Whitehall St., Marianna, PA 15345

Attorney: Lars Lange, 1561 Lone Pine Rd., Marianna, PA 15345

WCR Vol 103 Issues 39,40,41

Berry, Helen V.

Late of Washington
Washington Co., PA
File No. 63-23-0380

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is

hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Sharon Knizer, 178 Horne Run Rd., Amity, PA 15311

Attorney: E.J. Julian, Esq., Julian Law Firm, 71 N. Main St., Washington, PA 15301

WCR Vol 103 Issues 39,40,41

Blazevich, Mary Joan

Late of West Middletown
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Nancy Hutchison aka Nancy Ann Hutchison, 42 W. Main St., West Middletown, PA 15379

Attorney: Bradley M. Bassi, Esq., Bassi, Vreeland & Assoc., P.C., P.O. Box 144, 111 Fallowfield Ave., Charleroi, PA 15022

WCR Vol 103 Issues 39,40,41

Burris, Lucille

Late of Hanover Twp.
Washington Co., PA
File No. 63-23-00468

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Carol A. Cox, 3394 State Route 18, Hookstown, PA 15050

Attorney: Kurt J. Winter, Esq., 1535 Main St., P.O. Box 53, Burgettstown, PA 15021

WCR Vol 103 Issues 39,40,41

Cox, Mary Elizabeth

Late of Hanover Twp.
Washington Co., PA
File No. 63-23-0535

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: David L. Cox, 3394 State Route 18, Hookstown, PA 15050

Attorney: Kurt J. Winter, Esq., 1535 Main St., P.O. Box 53, Burgettstown, PA 15021

WCR Vol 103 Issues 39,40,41

Cox, Bernadine M.

Late of Centerville
Washington Co., PA
File No. 63-23-00406

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Cary Harris, 116 S. Malden Rd., Brownsville, PA 15417

Attorney: Lisa J. Buday, Esq., P.O. Box 488, California, PA 15419

WCR Vol 103 Issues 39,40,41

George, Ann B.

Late of North Strabane Twp.
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Susan Loeser, 204 Greenwood Dr., Canonsburg, PA 15317

Attorney: J. Lynn DeHaven, Esq., Goldfarb, Posner, Beck, DeHaven, & Drewitz,

62 E. Wheeling St., Ste. 101, Washington, PA 15301

WCR Vol 103 Issues 39,40,41

Gilmore, George E.

Late of Washington
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Michelle Lynn Gilmore aka Michelle Cappetta, 1354 Prospect Rd., Pittsburgh, PA 15227

Attorney: Thomas O. Vreeland, Esq., Bassi, Vreeland & Assoc., P.C., 62 E. Wheeling St., Washington, PA 15301

WCR Vol 103 Issues 39,40,41

Harrison, Harold Ray

a/k/a Harold Harrison
Late of North Strabane Twp.
Washington Co., PA
File No. 63-23-0479

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: John Langmann, Jr., 107 Commodore Dr., McDonald, PA 15057

Attorney: Michael C. Cruny, Esq., Sweat Law Offices, 375 Valleybrook Rd., Ste. 112, McMurray, PA 15317

WCR Vol 103 Issues 39,40,41

Johnson, Kathryn Louise

a/k/a Kathryn L. Johnson
Late of South Strabane Twp.
Washington Co., PA
File No. 63-21-0420

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having

claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Karen Sue Quinn, 775 Michigan Ave., Washington, PA 15301

Attorney: J. Lynn DeHaven, Esq., Goldfarb, Posner, Beck, DeHaven, & Drewitz, 62 E. Wheeling St., Ste. 101, Washington, PA 15301

_____ WCR Vol 103 Issues 39,40,41

Johnson, Sharon Kay

a/k/a Sharon K. Johnson
Late of North Franklin Twp.
Washington Co., PA
File No. 63-23-0494

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Lucas A. Johnson, 749 Michigan Ave., Washington, PA 15301

Attorney: J. Lynn DeHaven, Esq., Goldfarb, Posner, Beck, DeHaven, & Drewitz, 62 E. Wheeling St., Ste. 101, Washington, PA 15301

_____ WCR Vol 103 Issues 39,40,41

Lobodinsky, Francis L.

Late of Bentleyville Borough
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administratrix or attorney, and all persons indebted to the decedent to make payment to the Administratrix without delay.

Administratrix: Mary Ann Lobodinsky, 60 Ames Rd., Bentleyville, PA 15314

Attorney: Richard C. Mudrick, Esq., 300 Fallowfield Ave., Charleroi, PA 15022

_____ WCR Vol 103 Issues 39,40,41

Lucas, Peter Steve

Late of Canonsburg
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Helene I. Raymond c/o

Attorney: Frank C. Roney, Jr., Esq., 382 W. Chestnut St., Ste. 102, Washington, PA 15301

_____ WCR Vol 103 Issues 39,40,41

Martin, Estella M.

Late of South Franklin Twp.
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: David D. Martin, 213 Moore Rd., West Alexander, PA 15376

_____ WCR Vol 103 Issues 39,40,41

Rebel, Robert P.

Late of N. Charleroi
Washington Co., PA
File No. 63-23-0403

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Co-Administrators or attorney, and all persons indebted to the decedent to make payment to the Co-Administrators without delay.

Co-Administrators: James Rebel and Kathleen Rebel, 153 Sunridge Dr., Pittsburgh, PA 15234

Attorney: Benjamin W. Urso, Esq., Zacharia Brown P.C., 111 W. McMurray Rd., McMurray, PA 15317

_____ WCR Vol 103 Issues 39,40,41

Snee, Julia T.

a/k/a Julia Theresa Snee
Late of Finleyville
Washington Co., PA
File No. 63-23-0480

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Donald L. Snee, 93 Courtney Hill Rd., Finleyville, PA 15332

Attorney: Benjamin W. Urso, Esq., Zacharia Brown P.C., 111 W. McMurray Rd., McMurray, PA 15317

_____ WCR Vol 103 Issues 39,40,41

Stough, Linda L.

a/k/a Linda Lee Stough a/k/a Linda Miles
Late of Washington, Amwell Twp.
Washington Co., PA
File No. 63-23-0500

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: William G. Stough, 114 Paul St., Washington, PA 15301

Attorney: Eva H. Ahern, Esq., Peacock Keller, LLP, 95 West Beau St., Ste. 600, Washington, PA 15301

_____ WCR Vol 103 Issues 39,40,41

Teagarden, Kathryn D.

a/k/a Kathryn Teagarden
Late of Hopewell Twp.
Washington Co., PA
File No. 63-23-0490

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor

without delay.

Executor: Brian H. Teagarden, 4051 Jefferson Ave., Washington, PA 15301

Attorney: Mark S. Riethmuller, Esq., Speakman, Riethmuller & Allison, 6 S. Main St., Ste. 614, Washington, PA 15301

_____ WCR Vol 103 Issues 39,40,41

Thomas, Janet L.

Late of Smith Twp.
Washington Co., PA
File No. 63-23-0379

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Michele Rupani, 306 State Line Rd., Burgettstown, PA 15021

Attorney: Mark S. Riethmuller, Esq., Speakman, Riethmuller & Allison, 6 S. Main St., Ste. 614, Washington, PA 15301

_____ WCR Vol 103 Issues 39,40,41

Vega, Janet Rae

Late of Smith Twp.
Washington Co., PA
File No. 63-22-00045

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Gerald G. Vega, 381 Florence Rd., New Cumberland, WV 26047

Attorney: Kurt J. Winter, Esq., 1535 Main St., P.O. Box 53, Burgettstown, PA 15021

_____ WCR Vol 103 Issues 39,40,41

Visnich, Theodore

Late of Smith Twp.
Washington Co., PA
File No. 63-19-1019

The Register of Wills has granted Letters

on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Diana L. Haley, 56 Second St., P.O. Box 92, Slovan, PA 15078

Attorney: Kurt J. Winter, Esq., 1535 Main St., P.O. Box 53, Burgettstown, PA 15021

WCR Vol 103 Issues 39,40,41

Vitori, Julia M.

Late of Borough of Donora
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Edwin A. Younkin, II, 860 Thompson Ave., Donora, PA 15033

Attorney: Melenzyer & Agrafiotis LLC, 411 Washington Ave., Charleroi, PA 15022

WCR Vol 103 Issues 39,40,41

Wible, Carol Ann

a/k/a Carol Ann Wietrzykowski
Late of Gastonville
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administratrix or attorney, and all persons indebted to the decedent to make payment to the Administratrix without delay.

Administratrix: Stacey Lynne Joll, 201 Torrance Rd., Elizabeth, PA 15037

Attorney: Daniel F. Bekavac, Jr., Esq., 400 Market St., Elizabeth, PA 15037

WCR Vol 103 Issues 39,40,41

REAL PROPERTY NOTICE

NewRez LLC d/b/a Shellpoint Mortgage Servicing
PLAINTIFF
VS.

Jeffrey Alderson, known Heir of Kathleen Alderson, deceased and Christine Kovacich, known Heir of Kathleen Alderson, deceased and Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or under Kathleen Alderson, deceased

DEFENDANTSCOURT OF COMMON PLEAS

CIVIL DIVISION

WASHINGTON COUNTY

NO: C-63-CV-2022-6496

NOTICE OF SHERIFF'S SALE OF REAL PROPERTY

TO:Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or under Kathleen Alderson, deceased
1751 The Circle
Washington, PA 15301

Your house (real estate) at:

1751 The Circle, Washington, PA 15301
Parcel ID: 1200120504001600

is scheduled to be sold at Sheriff's Sale at Washington County Sheriff's Office Courthouse Square
Public Meeting Room #104
100 West Beau Street

Washington, PA 15301 on August 4, 2023 at 10:00AM to enforce the court judgment of \$96,401.40 obtained by NewRez LLC d/b/a Shellpoint Mortgage Servicing against you.

NOTICE OF OWNER'S RIGHTS

YOU MAY BE ABLE TO PREVENT THIS SHERIFF'S SALE

To prevent this Sheriff's Sale you must take immediate action:

The sale will be cancelled if you pay back to NewRez LLC d/b/a Shellpoint Mortgage Servicing the amount of the judgment plus costs or the back payments, late

charges, costs, and reasonable attorneys fees due. To find out how much you must pay, you may call: LOGS Legal Group, LLC. (610) 278-6800.

PLEASE NOTE a Schedule of Distribution will be filed by the Sheriff on a date specified by the Sheriff not later than thirty (30) days after sale. Distribution will be made in accordance with the schedule unless exceptions are filed thereto within 20 days after the filing of the schedule.

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LOGS LEGAL GROUP LLP
BY: CHRISTOPHER A. DeNARDO, PA
I.D. NO. 78447

ELIZABETH L. WASSALL, PA I.D.
NO. 77788

LESLIE J. RASE, PA I.D. NO. 58365
SAMANTHA GABLE, PA I.D. NO.
320695

HEATHER RILOFF, PA I.D. NO.
309906

KEVIN T. TONCZYCZYN, PA I.D. NO.
332616

LORRAINE GAZZARA DOYLE, PA
I.D. NO. 34576

3600 HORIZON DRIVE, SUITE 150
KING OF PRUSSIA, PA 19406

TELEPHONE: (610) 278-6800

E-MAIL: PAHELP@LOGS.COM

LLG FILE NO. 22-068005

Reverse Mortgage Funding LLC
PLAINTIFF

VS.

Steven Skariot, known Heir of Carole N. Beck, deceased; John Skariot, known Heir of Carole N. Beck, deceased; Deborah Codute, known Heir of Carole N. Beck, deceased; and Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or under Carole N. Beck, deceased

DEFENDANTS

COURT OF COMMON PLEAS
CIVIL DIVISION
WASHINGTON COUNTY

NO: C-63-CV-2023-914

To the Defendants, Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or under Carole N. Beck, deceased: TAKE NOTICE THAT THE Plaintiff, Reverse Mortgage Funding LLC has filed an action Mortgage Foreclosure, as captioned above.

NOTICE

IF YOU WISH TO DEFEND, YOU MUST ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE YOUR DEFENSE OR OBJECTIONS WITH THE COURT. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT FURTHER NOTICE FOR THE RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Washington County Bar Association
Southwestern Pennsylvania Legal Aid
10 W. Cherry Street
Washington, PA 15301

**VOLUNTARY DISSOLUTION
PROFESSIONAL BUSINESS
CORPORATION**

NOTICE IS HEREBY GIVEN THAT the sole Shareholder of **Anderson Chiropractic, PC**, a Pennsylvania professional business corporation with a registered office of 3821 Washington Road, McMurray, Washington County, Pennsylvania 15317, has approved a proposal that the corporation voluntarily dissolve, and the sole shareholder is now engaged in winding up and settling the affairs of the corporation under the provisions of Section 1975 of the Pennsylvania Business Corporation Law of 1988, as amended, so that its corporate existence shall cease upon the filing of Articles of Dissolution with the Department of State of the Commonwealth of Pennsylvania.

Tracy L. Zihmer, Esquire
Zihmer Law Firm, LLC
3244 Washington Road, Suite 210
McMurray, PA

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NOTICE

NOTICE is hereby given that a Certificate of Organization-Domestic Limited Liability Company has been filed with the Department of State of the Commonwealth of Pennsylvania on or about March 22, 2023, for a limited liability company established under the provisions of the Business Corporation Law of 1994, for **GIOVANELLI RENTALS LLC**. The proposed registered office in this Commonwealth is PO Box 215, Millsboro, PA 15348.

James W. Haines, Jr.
Attorney at Law
1202 West Main Street
Monongahela, PA 15063
724-258-3021

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There is a safe place to go

- Safe housing
- Counseling & support groups
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- Housing & homelessness prevention
- Children's programs
- Prevention education programs



Legal advocacy: 724-223-8349
24/7 hotline: 800-791-4000
Website: peacefromdv.org

Legal advocacy office is located on the basement level of the Washington Co. Courthouse.





Lisa Conklin
Sales Associate

Office: 724-228-9700
Cell: 412-217-1177
lisaconklin@howardhanna.com



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**CENTURY 21 Frontier Realty
4121 Washington Rd.
McMurray, PA 15317**



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