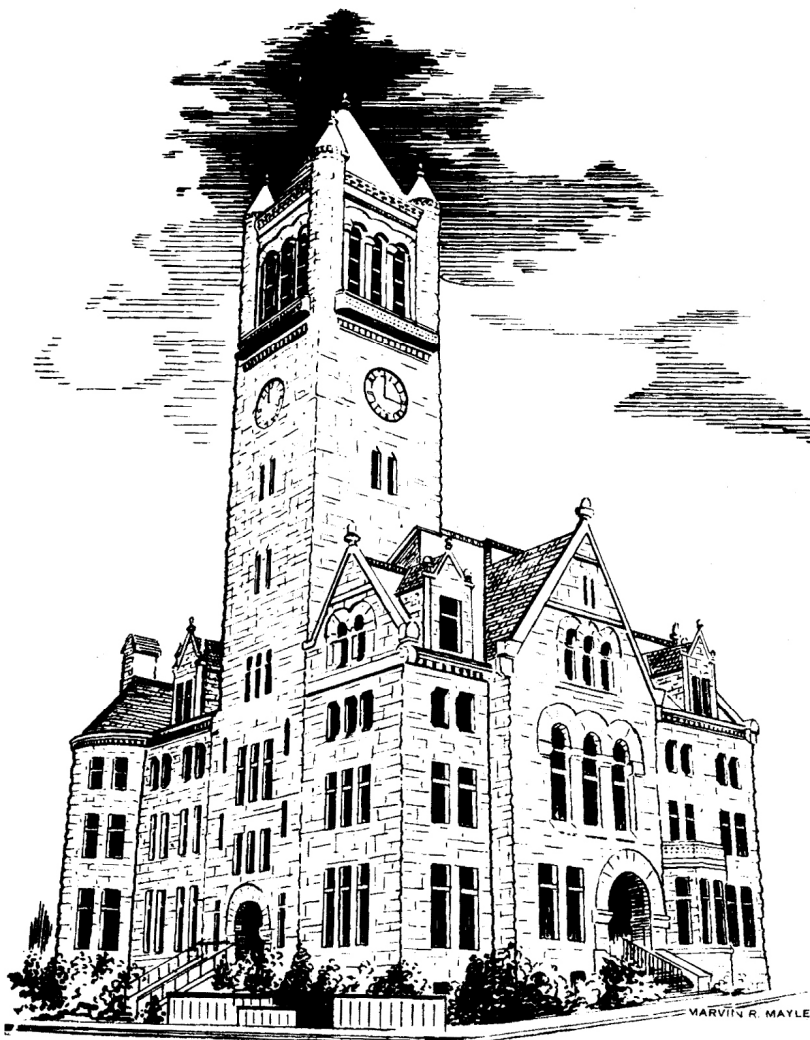


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FAYETTE LEGAL JOURNAL

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The Ethics Hotline provides free advisory opinions to PBA members based upon review of a member's prospective conduct by members of the PBA Committee on Legal Ethics and Professional Responsibility. The committee responds to requests regarding, the impact of the provisions of the Rules of Professional Conduct or the Code of Judicial Conduct upon the inquiring member's proposed activity. All inquiries are confidential.

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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

RONALD LEE BAIRD, late of Lower Tyrone Township, Fayette County, PA ⁽³⁾

Executrix: Rachel Louise Baird Alahmad
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Jeremy J. Davis

MARILYN BULLOCK, a/k/a MARILYN FRANCES BULLOCK, late of Silver Spring, Montogomery County, Maryland ⁽³⁾

Executrix: Cynthia J. Conte
4623 Warrington Drive
Orlando, Florida 32826
c/o 4 West Manilla Avenue, Suite 10
Pittsburgh, PA 15220
Attorney: Joan Shinavski

JAMES W. BUSH, a/k/a JAMES W. BUSH, JR., late of Perry Township, Fayette County, PA

Executrix: Natalie King Bush ⁽³⁾
8 Railroad Street
Dawson, PA 15428
c/o Jones Gregg Creehan & Gerace, LLP
20 Stanwix Street, Suite 1100
Pittsburgh, PA 15222
Attorney: Branden A. Fulciniti

LAWRENCE R. DENNIS, late of Menallen Township, Fayette County, PA ⁽³⁾

Administratrix: Elizabeth W. Dennis
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

SHIRLEY B. EVANS, a/k/a SHIRLEY ANN EVANS, late of Springhill Township, Fayette County, PA ⁽³⁾

Executrix: Patricia Heid
c/o 4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Sheryl R. Heid

GERALDINE M. GEBADLO, late of Dunbar Township, Fayette County, PA ⁽³⁾

Personal Representative: Timothy J. King
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

HOWARD JOSEPH GILLOTT, a/k/a HOWARD T. GILLOTT, late of Bullskin Township, Fayette County, PA ⁽³⁾

Executor: Howard Justin Gillott
1505 Breakneck Road
Connellsville, PA 15425
c/o Henderson Law Offices, PC
319 Pittsburgh Street
Scottdale, PA 15683
Attorney: Kevin Henderson

VINCENT LOUIS GRLOVICH, a/k/a VINCENT L. GRLOVICH, late of Redstone Township, Fayette County, PA ⁽³⁾

Executrix: Mary Ann Grlovich, a/k/a Mary Ann Plisko-Grlovich
495 Twin Hills Road
Grindstone, PA 15442
c/o 96 East Main Street
Uniontown, PA 15401
Attorney: Anne N. John

ROSEMARY S. KALASKY, a/k/a ROSEMARY SUSAN KALASKY, late of North Union Township, Fayette County, PA

Executor: Andrew M. Kalasky and Joseph A. Kalasky ⁽³⁾
31 Phillippi Avenue
Uniontown, PA 15401
c/o Newcomer Law Offices
4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Ewing D. Newcomer

JUDY M. LIVENGOOD, late of South Union Township, Fayette County, PA (3)

Co-Executors: Aleta Held and Richard A. Livengood II
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Anthony S. Dedola, Jr.

PHILLIP JOHN MICHAEL, late of South Union Township, Fayette County, PA (3)

Administratrix: Tricia Carbonara-Michael
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Wendy L. O'Brien

SHIRLEY K. MUNDEL, late of South Union Township, Fayette County, PA (3)

Personal Representatives:
Benjamin Mundel and Jeffrey W. McCabe
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

CHARLES HENRY PITMAN, late of Acme Township, Fayette County, PA (3)

Administratrix: Nancy A. Tebell
11421 Donnington Court
Manassas, VA 20111
c/o King Legal Group, LLC
114 North Maple Avenue
Greensburg, PA 15601
Attorney: Bradley A. King

JOEL C. REBOVICH, late of Perryopolis Borough, Fayette County, PA (3)

Executrix: Dana J. Rebovich
536 Liberty Street
Perryopolis, PA 15473
c/o Bassi, Vreeland & Associates, P.C.
P.O. Box 144
111 Fallowfield Avenue
Charleroi, PA 15022
Attorney: Bradley M. Bassi

YVONNE J. URBAN, late of Perryopolis Borough, Fayette County, PA (3)

Executor: Kenneth R. Urban
232 Todd Farm Road
Belle Vernon, PA 15012
c/o Moore Becker Smarto & Acosta, P.C.
121 West Second Street
Greensburg, PA 15601
Attorney: Elizabeth A. Becker

CHARLES W. WATSON, late of Dunbar Township, Fayette County, PA (3)

Personal Representative: Aaron C. Watson
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

MORRIS WEBB, JR., late of Dunbar Township, Fayette County, PA (3)

Administratrix: Anna E. Webb
c/o 208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

ANNA P. WHITE, a/k/a ANNA PEARL WHITE, late of Dunbar Township, Fayette County, PA (3)

Executor: Duane L King
P.O. Box 732
Vanderbilt, PA 15486
c/o Lederach Law
201 North Chestnut Street
P.O. Box 342
Scottdale, PA 15683
Attorney: James S. Lederach

Second Publication

SAMUEL EDWARD ANGELO, late of Menallen Township, Fayette County, PA (2)

Administrator: James Paul Angelo
c/o Steven M. Zelinger, Esquire
1650 Market Street, #3600
Philadelphia, PA 19103
Attorney: Steven M. Zelinger

MARY LOUISE BRENZY, a/k/a MARY LOU BRENZY, late of German Township, Fayette County, PA (2)

Executrix: Theresa Hunyady
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Sean M. Lementowski

MICHAEL J. CHUBERKO, late of Hopwood, Fayette County, PA (2)

Administratrix: April Behneman
c/o 45 East Main Street, Suite 400
Uniontown, PA 15401
Attorney: Charles C. Gentile

EDWARD C. FESTOR, SR., late of North Union Township, Fayette County, PA (2)

Executor: Edward C. Festor, Jr.
c/o Fitzsimmons & Barclay
55 East Church Street, Suite 102
Uniontown, PA 15401
Attorney: James N. Fitzsimmons, Jr.

LINDA L. GLISAN, late of Stewart Township, Fayette County, PA (2)

Executor: Eric Jason Glisan
c/o Adams Law Offices, PC
55 East Church Street, Suite 101
Uniontown, PA 15401
Attorney: Jason Adams

CAROLYN L. JOHNSON, a/k/a CAROLYN LEE JOHNSON, late of Henry Clay Township, Fayette County, PA (2)

Co-Executors: Kelley E. Shaw and Keith A. Johnson
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Sean M. Lementowski

MILDRED L. MARTIN, late of North Union Township, Fayette County, PA (2)

Executrix: Lana J. Miller
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401

ROSE MARIE MCCOY, late of Henry Clay Township, Fayette County, PA (2)

Executrix: Denise McCoy-Gaurrich
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

JAXON PAUL PIREAUX, late of Mill Run, Fayette County, PA (2)

Administratrix: Skylar K. Pireaux
P.O. Box 252
Mill Run, PA 15464
c/o Phillips Froetschel, LLC
310 Grant Street, Suite 700
Pittsburgh, PA 15219
Attorney: Laura D. Phillips

First Publication

SANDRA LEE ANSEL, a/k/a SANDRA L. ANSEL, late of German Township, Fayette County, PA (1)

Executor: Lewis O. Ansel, Jr.
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

LOUISE ANNE HERCIK, a/k/a LOUISE A. HERCIK, late of Georges Township, Fayette County, PA (1)

Personal Representatives:
Marlene Jane Hercik Evans and Lorie A. Hercik
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

TERRELL G. HOSLER, late of Jefferson Township, Fayette County, PA (1)

Executor: William R. Hawker
1640 7th. Avenue Extension
Brockway, PA 15824
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

LARRY WAYNE MIKESELL, a/k/a LARRY W. MIKESELL, late of Perryopolis Borough, Fayette County, PA (1)

Executor: Lewis Sweitzer
4950 Summit Drive
Allison Park, PA 15101
c/o P.O. Box 718
1310 Cross Street
Rostraver, PA 15012
Attorney: Brian Pirilla

HILDEGARDE M. SEIAMAN, late of Nicholson Township, Fayette County, PA (1)

Executrix: Lindasue Owcar
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

JOSEPH TERRY, a/k/a JOSEPH LAWRENCE TERRY, late of Brownsville Boro, Fayette County, PA (1)

Executor: Joseph Daniel Terry
58 Greatwood Drive
White, Georgia 30184
c/o Buday Law Firm
P.O. Box 488
California, PA 15419
Attorney: Lisa Buday

JOHN TRIVONOVICH, late of Masontown Borough, Fayette County, PA (1)

Executrix: Tamara Jones
c/o Goodwin Como. P.C.
108 North Beeson Boulevard, Suite 400
Uniontown, PA 15401
Attorney: Amanda Como

LEGAL NOTICES

Notice of Condemnation

**In the County of Common Pleas of Fayette County, Pennsylvania
Civil Division
In REM Proceeding
Civil Action No. 1569 of 2024 GD**

Columbia Gas of Pennsylvania, Inc., 121 Champion Way, Suite 100, Canonsburg, Pennsylvania 15317, Condemnor,
v.

Real Property Situate in the Township of Dunbar, Fayette County, Pennsylvania, as vested by that Certain Deed Dated January 17, 1919 of record at Deed Book 369 and Page 67 in the Recorder’s Office of Fayette County, Pennsylvania being, respectively, Fayette County Tax Parcel Number 09-03-0106, Condemnees.

Notice of Condemnation For Pipeline Right- Of-Way

Notice is given to the heirs, successors or assigns, if any, and unknown owners of real property situate in Dunbar Township, Fayette County, Pennsylvania, as vested by that Certain Deed between William J. Reed and Annetta Reed Dated January 17, 1919 of record at Deed Book 369 and Page 67 in the Recorder’s Office of Fayette County, Pennsylvania being, respectively, Fayette County Tax Parcel Number 09-03-0106, that Columbia Gas of Pennsylvania, Inc. has filed a Verified Application for Taking a Natural Gas Right- of-Way pursuant to 15 Pa. Cons. Stat. § 1511 and Rule 1007 of the Pennsylvania Rules of Civil Procedure to acquire title to, and right of possession of, the Right-of-Way for the construction and maintenance of a natural gas pipeline. The Right -of-Way is described in the Verified Application for Taking a Natural Gas Right-of-Way and depicted on the map attached to it. The action was filed on August 5, 2024. Just compensation has been secured by the posting of a bond in the amount of \$470.00.

LOGS LEGAL GROUP LLP
 BY: CHRISTOPHER A. DeNARDO,
 PA I.D. NO. 78447
 SAMANTHA GABLE, PA I.D. NO. 320695
 STEVEN PALMER, PA I.D. NO. 334553
 LESLIE J. RASE, PA I.D. NO. 58365
 HEATHER RILOFF, PA I.D. NO. 309906
 KEVIN T. TONCZYCZYN,
 PA I.D. NO. 332616
 ELIZABETH L. WASSALL,
 PA I.D. NO. 77788
 JOSEPH L. LoCASTRO, IV,
 PA I.D. NO. 314973
 985 OLD EAGLE SCHOOL ROAD,
 SUITE 514
 WAYNE, PA 19087
 TELEPHONE: (610) 278-6800
 E-MAIL: PAHELP@LOGS.COM
 LLG FILE NO. 23-068845

COURT OF COMMON PLEAS
 CIVIL DIVISION
 FAYETTE COUNTY

NO: 2023-01289

Lakeview Loan Servicing, LLC
 PLAINTIFF

VS.

Unknown Heirs, Successors, Assigns and All
 Persons, Firms or Associations Claiming Right,
 Title or Interest from or under Charles M.
 Livingston, deceased; Chelsea Livingston
 Known Heir of Charles M. Livingston,
 deceased; Cassidy Livingston, Known Heir of
 Charles M. Livingston, deceased; and C.L.,
 Minor and Known Heir of Charles M.
 Livingston, deceased
 DEFENDANTS

To the Defendants, Unknown Heirs,
 Successors, Assigns and All Persons, Firms or
 Associations Claiming Right, Title or Interest
 from or under Charles M. Livingston, deceased:
**TAKE NOTICE THAT THE Plaintiff,
 Lakeview Loan Servicing, LLC** has filed an
 amended 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 COUT. 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.

SOUTHWESTERN PA LEGAL SERVICES
 45 EAST MAIN STREET
 UNIONTOWN, PA 15401
 724-439-3591

Articles of Incorporation

Notice is hereby given that Articles of
 Incorporation have been or will be filed with the
 Department of State of the Commonwealth of
 Pennsylvania, for a business corporation which
 is to be incorporated under the provisions of the
 Business Corporation Law of 1988. The name of
 the corporation is "GWB MANAGEMENT
 CORP."

Gregg Zegarelli, Esq.
 Zegarelli Law Group
 PO Box 113345
 Pittsburgh, PA 15241

Articles of Incorporation

NOTICE is hereby given that Articles of
 Incorporation were filed with the Department of
 State of the Commonwealth of Pennsylvania, for
 a professional corporation which has been
 incorporated under the provisions of the
 Business Corporation Law of 1988. The name of
 the corporation is AEP Orthopedic Group, P.C.

IN THE UNITED STATES BANKRUPTCY
COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA
Bankruptcy Case No. 21-21390 GLT
Chapter 13

IN RE: Ricky J. Churby,
Debtor.

Property to be sold: 20 Beth Drive, Fairchance,
PA 15436

Initial Offer: \$216,000.00/\$1,000.00 deposit

Terms of Sale: Mortgage Contingency,
\$1,000.00 in cash or certified funds at the time
of sale. Closing in 30 days.

Contact: Daniel R. White, Esquire, 1310 Morrell
Avenue, Suite C, Connellsville, PA 15425, 724-
628-7955, dwhite@westpalawyers.com

An in-person hearing will be held on **September 11, 2024 at 9:00 a.m.** before Judge Gregory L. Taddonio in Courtroom A, 54th Floor U.S. Steel Tower, 600 Grant Street, Pittsburgh, PA, 15219. In accordance with Judge Taddonio's procedures, parties may appear for non-evidentiary matters remotely by utilizing the Zoom video conference platform. Parties seeking to appear remotely must register for the hearing by submitting a registration form via the link published on Judge Taddonio's website (which can be found at <http://www.pawb.uscourts.gov/judge-taddonios-video-conference-hearing-information>) by no later than 4 p.m. on the business day prior to the scheduled hearing. All parties participating remotely shall comply with Judge Taddonio's General Procedures, which can be found at <http://www.pawb.uscourts.gov/sites/default/files/pdfs/glt-proc.pdf>. Parties who fail to timely register for remote participation will be expected to attend the hearing in person. Only a limited time of ten (10) minutes is being provided on the calendar. No witnesses will be heard. If there is an issue of fact, an evidentiary hearing will be scheduled by the Court for a later date.

Notice of Bankruptcy Sale

On July 29, 2024, the following parties filed voluntary petitions for bankruptcy relief: Guardian Elder Care at Clarion, LLC, Guardian Elder Care at Erie II, LLC, Guardian Elder Care at Hastings, LLC, Guardian Elder Care at Johnstown, LLC, Guardian Elder Care at Lewistown, LLC, Guardian Elder Care at Oil City, LLC, Guardian Elder Care at Shippenville, LLC, Guardian Elder Care at Titusville, LLC, Guardian Elder Care at Uniontown, LLC, Guardian Elder Care at Warren, LLC, Guardian Elder Care at Waynesburg, LLC, and Guardian Healthcare Home Office II, LLC (collectively, the "**Cuarzo Portfolio Debtors**") in the United States Bankruptcy Court for the Western District of Pennsylvania (the "**Court**"), and are jointly administered under Case No. 24-70299 (JAD) (the "**Bankruptcy Case**"). The Cuarzo Portfolio Debtors, along with all other debtors jointly administered in the Bankruptcy Case, are collectively referred to as the "**Debtors**."

The Debtors have filed a motion [Docket No. 201] (the "**Motion**") to approve the transfer of operations and sale of substantially all assets of the following facilities (collectively, the "**Transferred Assets**") to affiliates of Valley West Health LLC (the "**New Operators**").

Facility Name: Clarion Healthcare and Rehabilitation Center. **Type of Facility:** (i) Skilled Nursing Facility with 83 licensed beds; and (ii) Personal Care Home with 40 licensed beds. **Location:** 999 Heidrick St., Clarion, PA 16214, Clarion County

Facility Name: Walnut Creek Healthcare and Rehabilitation Center. **Type of Facility:** Skilled Nursing Facility with 115 licensed beds. **Location:** 4850 Zuck Rd., Erie, PA 16506, Erie County

Facility Name: Haida Healthcare and Rehabilitation Center. **Type of Facility:** Skilled Nursing Facility with 98 licensed beds. **Location:** 397 3rd Ave., Hastings, PA 16646, Cambria County

Facility Name: Richland Healthcare and Rehabilitation Center. **Type of Facility:** Skilled Nursing Facility with 97 licensed beds. **Location:** 349 Vo Tech Dr., Johnstown, PA 15904, Cambria County

Facility Name: William Penn Reserve Healthcare and Rehabilitation Center. **Type of**

Facility: Skilled Nursing Facility with 121 licensed beds. **Location:** 163 Summit Dr., Lewistown, PA 17044, Mifflin County

Facility Name: Oil City Healthcare and Rehabilitation Center. **Type of Facility:** (i) Skilled Nursing Facility with 95 licensed beds; and (ii) Personal Care Home with 22 licensed beds. **Location:** 1293 Grandview Rd., Oil City, PA 16301, Venango County

Facility Name: Shippenville Healthcare and Rehabilitation Center. **Type of Facility:** Skilled Nursing Facility with 120 licensed beds. **Location:** 21158 Paint Blvd., Shippenville, PA 16254, Clarion County

Facility Name: Titusville Healthcare and Rehabilitation Center. **Type of Facility:** Skilled Nursing Facility with 77 licensed beds. **Location:** 81 W Dillon Dr., Titusville, PA 16354, Crawford County

Facility Name: Uniontown Healthcare and Rehabilitation Center. **Type of Facility:** Skilled Nursing Facility with 120 licensed beds. **Location:** 129 Franklin Ave., Uniontown, PA 15401, Fayette County

Facility Name: Kinzua Healthcare and Rehabilitation Center. **Type of Facility:** Skilled Nursing Facility with 106 licensed beds. **Location:** 205 Water St., Warren, PA 16365, Warren County

Facility Name: Waynesburg Healthcare and Rehabilitation Center. **Type of Facility:** Skilled Nursing Facility with 111 licensed beds. **Location:** 300 Center Ave., Waynesburg, PA 15370, Greene County

The sale and transfer of the Transferred Assets to the New Operators will be free and clear of all liens, claims, encumbrances, and other interests, and free and clear of any successor liability or similar claims or remedies of any kind.

Copies of the Motion and all related exhibits, and any other filings in the Cuarzo Portfolio Debtors' bankruptcy cases are available for free on the website of Debtors' notice agent, Omni Agent Solutions, at <https://omniagentsolutions.com/Guardian>. Additional information regarding the proposed transfer and sale can also be found on the Court's Electronic Access to Sales Information (EASI) system at <https://www.pawb.uscourts.gov/EASI.htm>.

The Court will hold a hearing to approve the Motion on **September 24, 2024 at 11:00 a.m. (prevailing Eastern Time), Courtroom D, U.S. Steel Building, 600 Grant St., 54th Fl., Pittsburgh, PA 15219.**

OBJECTIONS TO THE SALE MOTION, IF ANY, (I) MUST BE IN WRITING, (II) CONFORM TO THE APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE, BANKRUPTCY RULES, AND LOCAL RULES, (III) STATE WITH PARTICULARITY THE LEGAL AND FACTUAL BASIS FOR THE OBJECTION, AND (IV) BE FILED WITH THE COURT NO LATER THAN SEPTEMBER 9, 2024, AT 4:00 P.M. (PREVAILING EASTERN TIME) ("OBJECTION DEADLINE").

ANY PARTY WHO FAILS TO TIMELY FILE AND SERVE AN OBJECTION TO THE MOTION ON OR BEFORE THE OBJECTION DEADLINE SHALL BE DEEMED TO HAVE CONSENTED TO THE SALE AND TRANSFER OF THE TRANSFERRED ASSETS TO THE NEW OPERATORS AND ARE FOREVER BARRED FROM ASSERTING ANY OBJECTION TO THE SALE AND TRANSFER OF THE TRANSFERRED ASSETS TO THE NEW OPERATORS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS THAT SUCH PARTY OR ENTITY MAY HAVE AGAINST THE DEBTORS OR THE TRANSFERRED ASSETS.

NOTICE

IN THE COURT OF COMMON PLEAS
OF FAYETTE COUNTY, PENNSYLVANIA
No. 1017 of 2024, G. D.,

Richard Hovanec, Plaintiff,
vs.
Estate of Joann H. Adams, Raymond F. Adams,
Jr., Ricky Adams, Michael Adams, Linda
Means, Melissa Clingen, their heirs, successors,
and/or assigns generally, Defendants

TAKE NOTICE that Plaintiffs filed a
Complaint in an Action to Quiet Title in the
Court of Common Pleas of Fayette County,
Pennsylvania, averring that they are the owner in
fee and in possession of, all rights title and
interest, in and to:

A tract of land situated in Perry Township,
Fayette County, Pennsylvania, and which
premises are described as containing 0.1200
acres and identified as Tax Parcel No. 27-18-
0017 and known as 320 Greenfield Road.

Plaintiffs acquired said land by deed of the
Fayette County Tax Claim Bureau, dated
November 23, 2022, and recorded in the
Recorder of Deeds Office of Fayette County,
Pennsylvania, in Record Book 3534, Page 226.

The service of this Complaint by
publication is made pursuant to an Order of
Court dated August 20, 2024, and filed at the
above number and term.

You are hereby notified to plead to the
complaint in this case, of which the above is a
brief summary, within twenty (20) days from
this date. If you wish to defend, you must enter a
written appearance personally or by attorney and
file your defenses or objections in writing 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 PAPER 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 OR NO FEE.**

PENNSYLVANIA BAR ASSOCIATION
100 SOUTH STREET
P. O. BOX 186
HARRISBURG, PA 17108
PHONE: 1-800-692-7375

WATSON MUNDORFF, LLP
720 Vanderbilt Road
Connellsville, PA 15425-6218
Phone: (724) 626-8882

NOTICE

IN THE COURT OF COMMON PLEAS
OF FAYETTE COUNTY, PENNSYLVANIA
No. 1184 of 2024, G. D.,

Jami Hovanec, Plaintiff,
vs.
John W. Mizerak, Jennifer Mizerak, Jeanette
Casciato, Joel Mizerak, and Joshua Mizerak,
their heirs, successors, and/or assigns generally,
Defendants

TAKE NOTICE that Plaintiff filed a
Complaint in an Action to Quiet Title in the
Court of Common Pleas of Fayette County,
Pennsylvania, averring that they are the owner in
fee and in possession of, all rights title and
interest, in and to:

A tract of land situated in Perry Township,
Fayette County, Pennsylvania, and which
premises are described as containing 0.1100
acres and identified as Tax Parcel No. 02-10-
0328 and known as 704 Lewis Street.

Plaintiffs acquired said land by deed of the
Fayette County Tax Claim Bureau, dated
December 28, 2023, and recorded in the
Recorder of Deeds Office of Fayette County,
Pennsylvania, in Record Book 3566, Page 1130.

The service of this Complaint by
publication is made pursuant to an Order of
Court dated August 2, 2024, and filed at the
above number and term.

You are hereby notified to plead to the
complaint in this case, of which the above is a
brief summary, within twenty (20) days from
this date. If you wish to defend, you must enter a
written appearance personally or by attorney and
file your defenses or objections in writing 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 PAPER 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 OR NO FEE.

PENNSYLVANIA BAR ASSOCIATION
100 SOUTH STREET
P. O. BOX 186
HARRISBURG, PA 17108
PHONE: 1-800-692-7375

WATSON MUNDORFF, LLP
720 Vanderbilt Road
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IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY
CIVIL ACTION – LAW

U.S. Bank N.A., in its capacity as Trustee for
CSFB Home Equity Pass-Through Certificates,
Series 2005-FIX1 Trust, CSFB Home Equity
Pass-Through Certificates, Series 2005-FIX1
c/o PHH Mortgage Corporation
Plaintiff

v.

The Unknown Heirs of Dorothy Lee Turosik,
deceased
Defendants

Docket#: 2023-02566

TO: The Unknown Heirs of Dorothy Lee
Turosik, deceased

You have been sued in mortgage foreclosure on premises: 1250 Second Street, Brownsville, PA 15417-1553 based on defaults since July 19, 2020. You owe \$84,124.11 plus interest.

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing 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 PAPER TO A 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.

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NOTICE

NOTICE is hereby given pursuant to the provisions of Act 295 of December 16, 1982, P. L. 1309, that a Certificate was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about August 26, 2024, to conduct a business in Fayette County, Pennsylvania, under the assumed or fictitious name of "Premier Pools & Spas of Pittsburgh-South, PA", with the principal place of business at 1192 University Drive, Dunbar, Fayette County, Pennsylvania, 15431. The name or names and addresses of persons owning and interested are: Dash Bright Pools, LLC, of 1192 University Drive, Dunbar, Fayette County, Pennsylvania, 15431.

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JUDICIAL OPINION

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

FIRST CHRISTIAN CHURCH OF NEW SALEM, Plaintiff, v. ULTIMATE STRUCTURES, LLC, NORTHERN STEEL BUILDINGS AND STRUCTURES, AND MICHELE CRAMER, AN INDIVIDUAL, Defendants. No. 737 of 2022, G.D. PRESIDENT JUDGE STEVE P. LESKINEN

OPINION AND ORDER

LESKINEN, P.J.

July 19, 2024

Before the Court is the Motion for Judgment on the Pleadings filed by Plaintiff, First Christian Church of New Salem. ("First Christian.") Upon consideration of the Motion, the Response filed by Defendants, Ultimate Structures, LLC, ("Ultimate") and Michele Cramer ("Cramer"), and the briefs filed by the parties, the Court issues this Opinion and Order denying Plaintiff's Motion.

Factual and Procedural History

First Christian entered into an agreement to purchase a 24' by 36' storage building/shed ("Building") from Defendant, Northern Steel Buildings and Structures, ("NSBS"), through their dealer, Ultimate Structures, LLC. The agreement is memorialized by two documents, which were attached to the Amended Complaint as Exhibits. Exhibit "A" is dated March 11th, 2021, which sets forth certain terms and conditions related to site preparation and installation on Ultimate's letterhead and was signed by John Herre for First Christian and by Michele Cramer as "Dealer". The pre-printed term #6 reads, "NO DEPOSIT REFUNDS FOR ANY REASON!" which has been modified with the handwritten notations, "See Below" and "Will Refund deposit for any unforeseen circumstances!" and was initialed with "MC/JH." Exhibit "B" is an order sheet on NSBS letterhead dated March 11th, 2021, and signed by John Herre as "Buyer", Michele Cramer as "Dealer/Witness" and has no signature on the line marked "Accepted." A handwritten notation at the top indicates that the terms were modified on March 15th, 2021. The shed was never delivered or installed, and First Christian has not received any refund of their \$6,256.12 deposit, which was paid by check made out to NSBS.

This action came before the Court of Common Pleas by Notice of Appeal filed by Ron Romeo t/d/b/a Ultimate Structures on April 26th, 2022, of a Magisterial District Judge's judgment in favor of First Christian against Ron Romeo t/d/b/a Ultimate Structures in the amount of \$6,438.37 dated April 5th, 2022. First Christian filed a Complaint on May 17th, 2022, to which Defendant/Appellant filed Preliminary Objections on June 21st, 2022. First Christian filed an Amended Complaint on July 12th, 2022. Ultimate and Cramer filed Preliminary Objections to the Amended Complaint on August 16th, 2022, which were overruled by this Court by Order dated June 16th, 2023. Ultimate and Cramer filed an Answer and New Matter to the Amended Complaint on July 10th, 2023, to which First Christian has not filed a reply. First Christian filed the Motion for Judgment on the Pleadings currently before this Court on August 3rd, 2023. {1}

{1} Both sides have contributed to procedural delays in this matter. Defendants filed Preliminary Objections to the Amended Complaint on August 16th, 2022, but did not present them in Motions Court as required by F.C.R. 1028(c)(c) until January of 2023. Plaintiff filed its Motion for Judgment on the Pleadings on August 3rd, 2023, but failed to present a timely Motion for disposition (per the Court's Order dated August 14th, 2023) until May of 2024.

Standard of Review

A motion for judgment on the pleadings is in the nature of a demurrer and may only be entered when there are no disputed issues of fact, and the moving party is entitled to judgment as a matter of law. *Kelly v. Nationwide Ins. Co.*, 606 A.2d 470, 471 (Pa. Super. 1992). The court must accept as true all well-pled facts of the party against whom the motion is made while holding against them only those facts they have specifically admitted. *Id.* Consideration is limited to the pleadings themselves and any documents or exhibits properly attached to them. The court may not consider any conclusions of law or unjustified inferences as admissions. *Id.* The moving party's case must be so free from doubt that a trial would prove fruitless. *Id.* at 472.

Discussion

This Court previously overruled Ultimate and Cramer's Preliminary Objections challenging the legal sufficiency of the claims raised in the Amended Complaint. A court may sustain preliminary objections only when it is clear and free from doubt that the law would permit no recovery under the allegations pled. *Lerner v. Lerner*, 954 A.2d 1229, 1234 (Pa. Super. 2008). Though First Christian repeatedly characterizes that decision as one "on the merits" in their Motion and Brief, the ruling did not make any findings as to whether First Christian would eventually succeed in their claims, finding only that the evidentiary record was not yet developed to a point where the Court could rule as a matter of law as to the nature of any contractual relationship between First Christian and Ultimate or whether the fraud claim was precluded by the "gist of the action" doctrine.

Breach of Contract

The claim for breach of contract avers that Ultimate, in both its individual capacity and as an agent of NSBS, contracted with First Christian and that NSBS ratified the contract by accepting and depositing the check made out to NSBS. In a contract action, the burden is on the plaintiff to prove the existence of a contract to which the defendant is a party. *Viso v. Werner*, 471 Pa. 42, 46 (Pa. 1977). The order sheet with specifications and pricing is on NSBS letterhead, with pre-printed language near the bottom above the signatures stating, "If accepted below by Northern Steel Buildings & Structures (Seller) at its office in Lee, MA, this order becomes a contract between Seller and the Buyer named above as follows: subject to the terms above." {2}

Pennsylvania law is well-settled that an authorized agent for a disclosed principal is not a party to the contract and not personally liable to the other contracting party, absent a showing of fraud, illegality, or evidence demonstrating that the agent incurred personal liability. *Id.* at 46 and 49. This creates a strong presumption that the contract was between First Christian and NSBS and not between First Christian and Ultimate (or Cramer). There is no dispute in the pleadings that NSBS did not fulfill its obligations under this contract to provide the building First Christian ordered and has not refunded their deposit. First Christian would appear to be entitled to judgment against NSBS on the breach of contract count, {3} but the Motion for Judgment on the Pleadings only seeks judgment against Cramer (who is not actually named in the Count) and Ultimate.

{2} Though the document is not signed on the "accepted" line by NSBS, the pleadings and attached documents demonstrate that NSBS cashed the check tendered by First Christian for the amount specified on the order sheet.

{3} However, the original Complaint filed on May 17th, 2022, names Ron Romeo, t/d/b/a Ultimate Structures, LLC, as the only Defendant, consistent with the caption of the appeal from the MDJ decision that initiated this case. The Amended Complaint filed on July 12th, 2022, after Preliminary Objections, names Ultimate; NSBS; and Cramer, an individual, as Defendants. No Certificate of Service was filed with the Amended Complaint, nor was a Return of Service filed indicating service of original process on NSBS or on Cramer. The Amended Complaint does not include a Notice to Defend or a Notice to Plead. Though Cramer has participated in the litigation with counsel entering an appearance on her behalf, there is nothing in the record to suggest that NSBS was served with original process, nor have they filed any legal papers in this matter. Furthermore, upon review of the other documents filed in this action, it does not appear that counsel for Plaintiff or counsel for Ultimate and Cramer have ever served NSBS with any document filed in this matter, as the Certificates of Service consistently refer only to service upon other counsel of record.

To overcome the presumption that Ultimate and Cramer are not parties to the contract, First Christian would have to establish that Ultimate and/or Cramer made a contractual promise to incur personal liability, or would have to establish fraud or illegality. *Id.* A plaintiff may overcome the inference that the agent is not a party to a contract by producing other facts connected with the transaction. Restatement 2nd of Agency, §320, comment “c”. Though the refund language added to the document included in Exhibit “A” to the Amended Complaint provides some support for such an argument, the ambiguity of the language, particularly where the deposit was paid by check made out to NSBS, is insufficient on its own to find that Ultimate or Cramer incurred liability for the contract based on the pleadings.

First Christian argues in its Motion and Brief that NSBS was not a party to the contract and that Cramer’s actions bound Ultimate to the contract. This is predicated on a respondeat superior/vicarious liability theory that does not appear in the Amended Complaint. This theory fails to distinguish between tort and contract concepts and does not address the plain language of the contractual documents which establish a contract with NSBS and not with Ultimate, supported by the check written directly to NSBS. The Motion and Brief also directly contradict the averments of fact in Count I of the Amended Complaint. Thus, the Court cannot find that Cramer or Ultimate breached the contract based solely on the pleadings.

Counts Pled in the Alternative

A party may plead causes of action in the alternative under Pa. R.C.P. 1020(c), but a party may not recover under multiple causes of action when those causes are mutually exclusive. *Lugo v. Farmers Pride*, 967 A.2d 963, 969-970 (Pa. Super. 2009). For example, a plaintiff cannot ultimately recover on both breach of contract and unjust enrichment claims arising from the same facts and circumstances. *Id.* at 970. First Christian has pled causes of action for breach of contract, unjust enrichment, conversion, and fraud. First Christian’s Motion seeks judgment on all four counts but only against Ultimate and Cramer. This contradicts the Amended Complaint, as Count II, for unjust enrichment, was only pled against NSBS, therefore the Motion for Judgment on that Count as to Ultimate and Cramer must be denied.

Count III for conversion, is similarly titled as “First Christian Church v. NSBS” but then goes on to plead conversion against NSBS and Ultimate (but not against Cramer). Conversion under common law is a tort concept in which a defendant deprives a plaintiff of their right to a chattel or interferes with the plaintiff’s use or possession of a chattel without the plaintiff’s consent and without lawful justification. *Chrysler Credit Corp. v. Smith*, 643 A.2d 1098, 1100 (Pa. Super 1994). The facts in this matter, as developed in the pleadings, establish that Ultimate took possession of a check from First Christian made out to NSBS on March 11th, 2021, which was forwarded to NSBS who then deposited the check on or about March 16th, 2021. The pleadings do not establish that Ultimate had control or dominion over First Christian’s funds at the time any conversion occurred as would be required to sustain a claim for conversion against Ultimate.

Furthermore, The Pennsylvania courts have consistently held that the “gist of the action” doctrine precludes a plaintiff from re-casting ordinary breach of contract claims into tort claims. *Bruno v. Erie Ins. Co.*, 630 Pa. 79, 112 (Pa. 2014). A plaintiff’s label for such a claim as a tort is not controlling: if the facts of a particular claim establish that the duty breached is one created by the parties by the terms of their contract then it is viewed as one of a breach of contract. *Id.* Claims for conversion have been consistently disallowed where such claims are based on the same facts as the contract claim. *Pittsburgh Construction Co. v. Griffith*, 834 A.2d at 572, 584 (Pa. Super. 2003). Here, First Christian has not established sufficient facts through the pleadings to support a tort claim for conversion rather than a contract claim.

First Christian’s Count IV for fraud names all three Defendants, and is the only Count pled against Cramer in her individual capacity. First Christian avers that at the time the parties executed the contract for the purchase of the building, “NSBS was unable to deliver and/or install the

same on Plaintiff's property." (Amended Complaint, ¶ 79). The Amended Complaint references an email dated March 10th, 2021, which was not attached to the pleadings. First Christian further alleges that Cramer, in her individual capacity, knew or should have known that NSBS was unable to deliver or install the shed. (Id. at ¶ 80.) The Amended Complaint alleges, at ¶ 83, "By misrepresenting material facts to Mr. Herre in order to induce a fraudulent payment, Ms. Cramer acted beyond the lawful scope of her duties as an agent of Ultimate and is therefore liable to the Plaintiff for fraud in her individual capacity."

Ultimate and Cramer specifically denied each of these allegations in their Answer and New Matter, creating disputed issues of material facts. In addition, the factual allegation in the Amended Complaint that Cramer acted beyond the scope of her duties as an agent of Ultimate directly contradicts First Christian's Motion at ¶ 5, which argues, "As its employee, at all times relevant hereto, Cramer acted as the authorized, lawful, and disclosed agent of Unlimited, which at all times relevant hereto, was Cramer's lawful and disclosed principal." The question of whether a person was acting within the scope of his or her employment is typically a question of fact for the jury. *Costa v. Roxborough Memorial Hospital*, 708 A.2d 490, 493 (Pa. Super. 1998). As these disputed facts were not resolved by the pleadings, First Christian's Motion as to Count IV for fraud is also denied.

WHEREFORE, the Court issues the following Order:

ORDER

AND NOW, this 19th day of July, 2024, upon consideration of the Plaintiff's Motion for Judgment on the Pleadings, Defendants' Response and New Matter, and the briefs submitted by the parties, the Motion is hereby DENIED, without prejudice, for the reasons set forth in the Opinion filed with this Order.

WHEREAS, the time period set for discovery pursuant to F.C.R. 212.1(a) of 240 days from the filing of the Amended Complaint expired in March of 2023, the Court ORDERS and DIRECTS that Plaintiff shall have twenty (20) days from the date of this Order to file a Pre-Trial Statement pursuant to F.C.R. 212.2, unless stayed by the Court upon appropriate Motion.

BY THE COURT:
STEVE. P. LESKINEN,
PRESIDENT JUDGE

ATTEST:
PROTHONOTARY

BENCH BAR CONFERENCE**Bench Bar Conference**

Wednesday, October 16, 2024

The Historic Summit Inn

AGENDA

8:30 - Meet the Sponsors & Breakfast Buffet

9:00 - 12:15 - Conference Seminars (2.0 Substantive and 1.0 Ethics CLE Credits)

Estate Planning for Impactful Giving in Fayette County

Presenters: Jordan R. Pallitto and Daniel L. DeMarco, Esquire - The Hill Group

**Artificial Intelligence and the Criminal Justice System:
Balancing Technology, Ethics, and Law**

Presenter: Daniel Hickton, Esquire - Counsel 1337 PLLC

Fayette County Criminal Practice Discussion

Presenter: District Attorney Michael A. Aubele, Esquire

Acknowledgment of 50 Year Member Gary N. Altman, Esquire**Remarks by Pennsylvania Supreme Court Justice Debra Todd**

Introduction by Gretchen A. Mundorff, Esquire

12:30 - Lunch Buffet

Fees to Attend

FCBA members - \$85

Non-members of the FCBA - \$135

Attorneys admitted to practice in Pennsylvania after January 1, 2019 - \$50

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