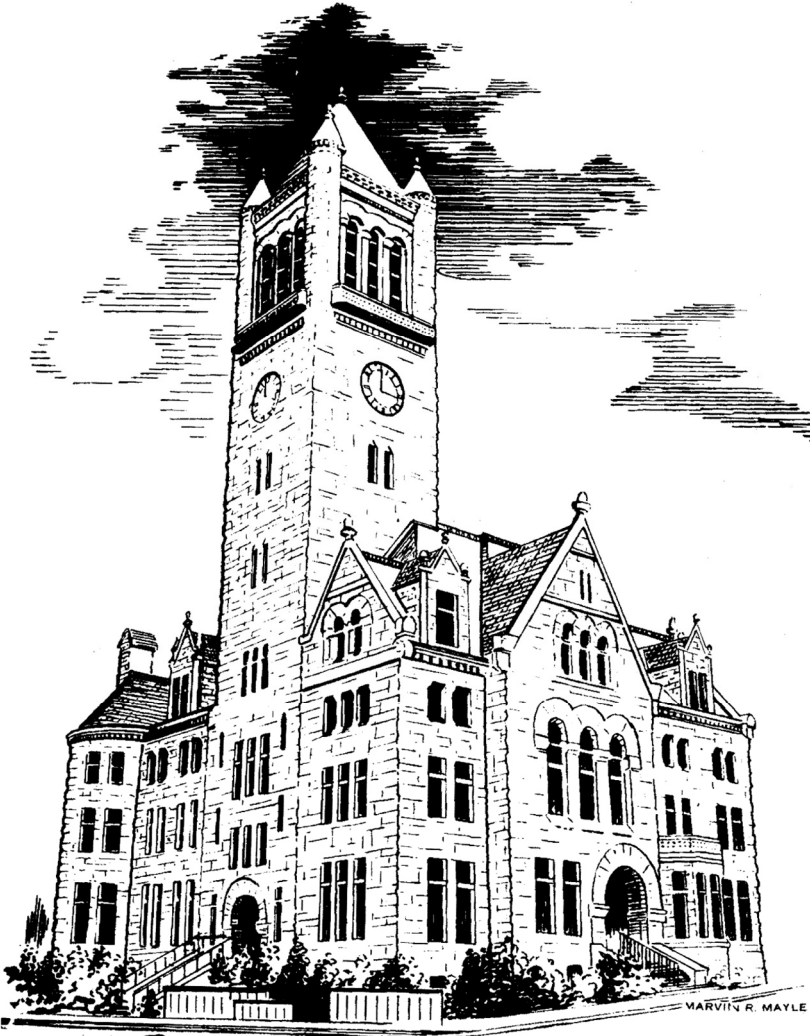


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FAYETTE LEGAL JOURNAL

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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

ELOISE J. FESTOR, late of North Union Township, Fayette County, PA ⁽³⁾

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

Attorney: James N. Fitzsimmons, Jr.

JACQUELIN FRITTS, late of Uniontown, Fayette County, PA ⁽³⁾

Administrator: John W. Fritts, Jr.
16 Pheasant Run Road
Smock, PA 15480
c/o Newcomer Law Offices
4 North Beeson Boulevard
Uniontown, PA 15401

Attorney: Ewing D. Newcomer

SHIRLEY WOLBERT, a/k/a SHIRLEY ELAINE WOLBERT, late of Fairchance Borough, Fayette County, PA ⁽³⁾

Administrator: Brian Wolbert
c/o Kopas Law Office
556 Morgantown Road
Uniontown, PA 15401

Attorney: John Kopas

Second Publication

ROGER ADAMS, late of Connellsville, Fayette County, PA ⁽²⁾

Personal Representative: Clara S. Adams
1 River Avenue
Connellsville, PA 15425
c/o Ogg, Murphy & Perkosky, PC
245 Fort Pitt Boulevard
Pittsburgh, PA 15222

Attorney: John Perkosky

NANCY DLUSKY, a/k/a NANCY A. DLUSKY, late of North Union Township, Fayette County, PA ⁽²⁾

Executrix: Sister Melanie DePietro
c/o Tremba, Kinney, Greiner & Kerr, LLC
302 West Otterman Street
Greensburg, PA 15601

Attorney: John K. Greiner

GEORGE J. W. DOWNS, late of North Union Township, Fayette County, PA ⁽²⁾

Administratrix: Heather Mette
399 Redstone Furnace Road
Uniontown, PA 15401
c/o Mette
3401 North Front Street Fl. 2
Harrisburg, PA 17110

Attorney: John B. Zonarich

MARY ELLEN FABRYCKI, a/k/a MARY E. FABRYCKI, late of Allison, Fayette County, PA ⁽²⁾

Co-Administrators: Tina M. Derring and
Richard T. Fabrycki, Jr.
c/o 39 Francis Street
Uniontown, PA 15401

Attorney: Jack R. Heneks, Jr.

FRANK CLYDE HLATKY, a/k/a FRANK HLATKY, a/k/a FRANK C. HLATKY, late of German Township, Fayette County, PA ⁽²⁾

Executor: Mark Hlatky
c/o 9 Court Street
Uniontown, PA 15401

Attorney: Vincent J. Roskovensky, II

**THERESA KENNEDY MAGARIO, a/k/a
THERESA KENNEDY, a/k/a THERESA
MAGARIO**, late of Redstone Township,
Fayette County, PA (2)

Co-Executrix: Deborah Davic and
Maureen Lucking
c/o Goodwin Como, P.C.
108 North Beeson Boulevard, Suite 400
Uniontown, PA 15401
Attorney: Amanda Como

**SHIRLEY MARIE PROVANCE, a/k/a
SHIRLEY PROVANCE, a/k/a SHIRLEY M.
PROVANCE**, late of Nicholson Township,
Fayette County, PA (2)

Executor: Wesley Bruce
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

JOSEPH A. SLEZAK, late of 159 Keefer
Road, Connellsville, Fayette County, PA (2)

Executor: Eric Slezak
157 Keefer Road
Connellsville, PA 15425
c/o Diefenderfer, Hoover & Wood, LLP
310 Grant Street, Suite 1420
Pittsburgh, PA 15219
Attorney: James K. Wood

First Publication

**JAMES AUGUSTINE, a/k/a JAMES
EDWARD AUGUSTINE**, late of South Union
Township, Fayette County, PA (1)

Executor: Ben Junior Augustine
c/o Goodwin Como, P.C.
108 North Beeson Boulevard, Suite 400
Uniontown, PA 15401
Attorney: Amanda Como

**EDWARD PAVLOSKY, a/k/a EDMUND F.
PAVLOSKY**, late of Dunbar Township, Fayette
County, PA (1)

Personal Representatives:
Carol Ann Shultz and Frances Iaquina and
Paula Goretsky
127 North 11th Street
Connellsville, PA 15425
c/o Fieschko & Associates, Inc.
300 Cedar Boulevard, Suite 202
Pittsburgh, PA 15228
Attorney: Joseph Fieschko

**W. LOIS PODVIA, a/k/a LOIS WILDA
PODVIA**, late of South Union Township,
Fayette County, PA (1)

Executor: Mark Podvia
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

**DOLORES R. SMITH, a/k/a DOLORES
RUTH SMITH**, late of Georges Township,
Fayette County, PA (1)

Executrix: Vivian K. Smith
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

SANDRA L. SOHYDA, late of Uniontown,
Fayette County, PA (1)

Executor: David E. Sohyda
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Wendy L. O'Brien

**PATRICK STROMICK, a/k/a PATRICK J.
STROMICK**, late of South Union Township,
Fayette County, PA (1)

Executor: Joseph Stromick
c/o DeHaas, Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

**WILMA SUMMERS, a/k/a WILMA
LUCILLE SUMMERS, a/k/a WILMA L.
SUMMERS**, late of South Union Township,
Fayette County, PA

Executrix: Susan R. Golden (1)
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

LEGAL NOTICES

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 June 20, 2024, to conduct a business in Fayette County, Pennsylvania, under the assumed or fictitious name of Art Wicked Studios with the principal place of business at 31 Shady Lane, Uniontown PA, 15401.

The name or names and addresses of persons owning and interested are: Michael E. Antonucci Jr., 31 Shady Lane, Uniontown, PA, 15401.

IN RE: PRITT, Jim L.
Case No. 24-20973 JAD, Chapter 7

Real Estate Located at 141 N. Mill Street,
Menallen Twp., New Salem PA 15468
Tax I.D. Nos. 22-09-0074

Date of Sale 08/13/2024 at 11:00 a.m.

A Zoom Video Conference Hearing will be held on 08/13/2024 at 11:00 a.m. via the Zoom Video Conference Application.

To participate in and join a Zoom Hearing, please initiate and use the following link at least ten (10) minutes prior to the scheduled Zoom Hearing time:

<https://www.zoomgov.com/j/16009283473>,
or alternatively, you may use the following Meeting ID: 160 0928 3473

Objections due by: 7/24/2024

Initial Offer\$ 150,000.00

Higher and better offers will be considered at the hearing

Hand money required: \$2,000.00

(Cash or Certified Funds Only)

Contact: Robert H. Slone, Trustee

223 South Maple Avenue

Greensburg, PA 15601

Ph#(724)834-2990

For more information:

www.pawb.uscourts.gov/easi.htm

SHERIFF'S SALE

Date of Sale: September 19, 2024

By virtue of the below stated writs out of the Court of Common Pleas of Fayette County, Pennsylvania, the following described properties will be exposed to sale by James Custer, Sheriff of Fayette County, Pennsylvania on Thursday September 19, 2024, at 2:00 pm at <https://fayette.pa.realforeclose.com>.

The Conditions of sale are as follows:

All bidders must complete the Realaucaution on-line registration process at <https://fayette.pa.realforeclose.com> to participate in the auction.

All bidders must place a 10% deposit equal to the successful bid for each property purchased to Realaucaution via wire transfer or ACH per Realaucaution requirements. Upon the auction's close, buyer shall have 10 business days to pay the remaining balance to the Fayette County Sheriff's Office via cashier's check. No cash will be accepted. Failure to comply with the Conditions of Sale, shall result in a default and the down payment shall be forfeited by the successful bidder and applied to the costs and judgments. The schedule of distribution will be filed no later than 30 days after the sale of real property. If no petition has been filed to set aside the sale or objections to the distribution are filed within 10 days of filing the distribution, the Sheriff will prepare and record a deed transferring the property to the successful bidder.

(2 of 3)

James Custer
Sheriff of Fayette County

No. 504 of 2024 GD
No. 147 of 2024 ED

No. 2316 of 2022 GD
No. 175 of 2024 ED

THE UNITED FEDERAL CREDIT UNION,
Plaintiff,
vs.
MARK E. BEATTY and JESSICA SARAH
DAWN BEATTY, his wife,
Defendants.

UNITED BANK,
Plaintiff,
vs.
JOSEPH CELLURALE, JR.
Defendant.

ALL that certain piece or parcel of land located in Springhill Township, Fayette County, Pennsylvania containing an area of .3685 of an acre, located on Township Road 364, known as Tax Parcel No. 36-20-0005-0 I and more particularly described in a deed recorded in the Office of the Recorder of Deeds for Fayette County in Record Book 3305, page 2297.

ALL that certain piece or parcel of land located in Dunbar Township, Fayette County, Pennsylvania containing an area of .54 of an acre located on University Drive and Cellurale Drive, known as Tax Parcel No. 09-31-0036-02, and more particularly described in a deed recorded in the Office of the Recorder of Deeds for Fayette County in Record Book 1519, page 281.

The address of the subject property is 224 First Street, Gans, Pennsylvania 15435.

The address of the subject property is 2052 University Drive, also known as 1 20 Cellurale Drive, Lemont Furnace, Pennsylvania 15456.

Seized and taken in execution as the property of Mark E. Beatty and Jessica Sarah Dawn Beatty, owners, at the suit of The United Federal Credit Union in the Court of Common Pleas of Fayette County, Pennsylvania at No. 504 of 2024, G.D.

Seized and taken in execution as the property of Joseph Cellurale, Jr., owner, at the suit of United Bank in the Court of Common Pleas of Fayette County, Pennsylvania at No. 2316 of 2022, G.D.

McCABE, WEISBERG & CONWAY, LLC
1420 Walnut Street, Suite 1501
Philadelphia, PA 19102
215 790-1010

McCABE, WEISBERG & CONWAY, LLC
1420 Walnut Street, Suite 1501
Philadelphia, PA 19102
215 790-1010

No. 362 of 2024 GD
No. 194 of 2024 ED

No. 242 of 2024 GD
No. 181 of 2024 ED

PennyMac Loan Services, LLC
Plaintiff
v.
Sarabeth R. Burkholder
Defendant

Lakeview Loan Servicing, LLC
Plaintiff
v.
Christina L. Cocciano
Defendant

All that certain piece or parcel or Tract of land situate in Saltlick Township, Fayette County, Pennsylvania, and being known as 123 Second Street, Indian Head, Pennsylvania 15446.

ALL THAT CERTAIN tract of land situate in South Union Township, Fayette County, Pennsylvania, more particularly bounded and described as follows:

Being known as: 123 Second Street, Indian Head, Pennsylvania 15446

BEGINNING at an iron pin in the side of the road known as Watson Drive and the Northwest corner of lot of Frank Pukl; thence by land of Frank Pukl, South 24 degrees 17 minutes East, 103.62 feet to the Southwestern corner of said Pukl lot; thence by other land of W. Clyde Bryson and of which this is a part, South 65 degrees 10 minutes West, 155 feet to an iron pin; thence still by other lands of W. Clyde Bryson, North 18 degrees 29 minutes 30 seconds West, 100.13 feet to a point in the Southern side of the road known as Watson

Title vesting in Sarabeth R. Burkholder by deed from Chris W. Resh and Valeria M. Resh, Husband and Wife dated July 15, 2022 and recorded July 26, 2022 in Deed Book 3521, Page 1919 Instrument Number 202200008257.

Tax Parcel Number: 31-19-0186 and 31-19-0187

Drive; thence by the Southern side of the road known as Watson Drive, North 63 degrees 33 minutes East, 145 feet to the place of beginning, according to the plan recorded in Book 9, page 98.

EXCEPTING AND RESERVING, thereout and therefrom, a strip of ground containing 401 square feet situate between Lots No. 14 and 15 in the Bryson Plan of Lots which was conveyed by John T. Kukla and Madeline Kukla, his wife, to Peter C. Rendina and Dorothy J. Rendina, his wife, by deed dated July 30, 1960, and recorded in the Recorder's Office if Fayette County, Pennsylvania, in Deed Book Volume 934, page 622.

BEING the same premise conveyed to Christina L. Cocciardo by deed of James E. Churilla, Jr. and Brenda L. Churilla, his wife, dated December 16, 1998, and recorded in the Recorder's Office of Fayette County, Pennsylvania, in Record Book Volume 2236, Page 257, et seq.

All that certain piece or parcel or Tract of land situate in South Union Township, Fayette County, Pennsylvania, and being known as 142 Watson Drive, Hopwood, Pennsylvania 15445.

Being known as: 142 Watson Drive, Hopwood, Pennsylvania 15445

Title vesting in Christina L. Cocciardo by deed from James E. Churilla, Jr. and Brenda L. Churilla, His Wife dated December 16, 1998 and recorded December 21, 1998 in Deed Book 2236, Page 0257 Instrument Number 9800022671.

Tax Parcel Number: 34-12-011 9

Brock & Scott, PLLC

No. 1142 of 2023 GD
No. 190 of 2024 ED

**KEYBANK NATIONAL ASSOCIATION
S/B/M FIRST NIAGARA BANK. N.A.**

v.

**LINDA JANE KINDERVATER A/K/A
LINDA J. KINDERVATER EXECUTRIX
OF THE ESTATE OF HAROLD FUEHRER
A/K/A HAROLD E. FUEHRER,
DECEASED**

KEYBANK NATIONAL ASSOCIATION
S/B/M FIRST NIAGARA BANK. N.A. v.
LINDA JANE KINDERVATER A/K/A LINDA
J. KINDERVATER EXECUTRIX OF THE
ESTATE OF HAROLD FUEHRER A/K/A
HAROLD E. FUEHRER, DECEASED, owner
(s) of property situate in the NORTH UNION

TOWNSHIP, FAYETTE County, Pennsylvania,
being 34 LEXINGTON AVE, NORTH UNION,
PA 15401

Tax ID No. 25-19-0008

Improvements thereon: RESIDENTIAL
DWELLING

Judgment Amount: \$37,284.40

No. 1455 of 2023 GD
No. 205 of 2024 ED

**FANNIE MAE,
Plaintiff,
v.**

**MARQUIS AID PROPCO LLC, a Delaware
limited liability company,
Defendant.**

Property of: Marquis Aid Propco LLC
Case No. 1455-2023

Judgement Amount: \$448,533,980.86
Attorney: Jared S. Roach (307541)

ALL, RIGHT, TITLE, INTEREST AND
CLAIM OF: GREER AID PROPCO LLC IN
AND TO:

PROPERTY LOCATED IN:
TOWNSHIP OF SOUTH UNION,
FAYETTE COUNTY

KNOWN AS MARQUIS GARDEN
PLACE, 660 CHERRY TREE LANE
UNIONTOWN, PA 15401

BEING THE SAME PREMISES WHICH
ALC PROPERTIES II, LLC, A NEVADA
LIMITED LIABILITY COMPANY, BY DEED
DATED JULY 1, 2013, RECORDED JULY 26,
2013 IN FAYETTE COUNTY, AS
DOCUMENT NO. 201300008832, GRANTED
AND CONVEYED ONTO MARQUIS AID
PROPCO LLC, A DELAWARE LIMITED
LIABILITY COMPANY, IN FEE.

TAX PARCEL: 34-05-0206-11

No. 1125 of 2023 GD
No. 132 of 2024 ED

**PennyMac Loan Services, LLC
Plaintiff
vs.**

**Erica T. Mickens
Defendant(s)**

All that certain lot or land situate in the
Third Ward of the City of Uniontown, Fayette
County, Pennsylvania.

BEING THE SAME PREMISES which

Roy Matthew Fischer, by Deed dated 1/30/2017 and recorded in the Office of the Recorder of Deeds or Fayette County on 2/6/2017 in Deed Book Volume 3332, Pages 82-85, Instrument No.201700001392, granted and conveyed unto Robert L. Mickens and Erica T. Mickens.

Robert L. Mickens departed this life on 8/26/2021.

PARCEL # 38040655

No. 295 of 2024 GD
No. 133 of 2024 ED

FIRST NATIONAL BANK OF PENNSYLVANIA,
Plaintiff,
vs.
SUZANNE RUSH,
Defendant.

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND BEING SITUATE AND LAYING IN THE TOWNSHIP OF HENRY CLAY, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA, AS MORE FULLY DESCRIBED IN A CERTAIN DEED DATED SEPTEMBER 30, 1988, FROM BEAVER CREEK MOUNTAIN ESTATES, INC., TO SUZANNE RUSH AND WILLIAM W. SILBAUGH, AS JOINT TENANTS WITH THE RIGHT OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON, AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF FAYETTE COUNTY, PA ON OCTOBER 3, 1988, IN DEED BOOK VOLUME 480, PAGE 58. SAID WILLIAM W. SILBAUGH DIED ON OR ABOUT SEPTEMBER 3, 2018, AND UPON HIS DEATH, TITLE VESTED IN SUZANNE RUSH AS SURVIVING JOINT OWNER, BY OPERATION OF LAW.

IMPROVEMENT THEREON: A manufactured residential dwelling being known and numbered 1276 Beaver Creek Road, Farmington, Pennsylvania 15437.

TAX PARCEL NUMBER: 16-07-0001-16.

Property seized and taken in Execution as the property of Suzanne Rush

No. 2455 of 2023 GD
No. 197 of 2024 ED

JPMorgan Chase Bank, National Association
Plaintiff,
vs.
Robin E. Schomer, AKA Robin Schomer;
Jacky Schomer, AKA Jacky J. Schomer; Iris W. Brown; Rodney L. Brown
Defendants.

ALL that certain parcel of land lying and being situate in the Township of Springfield, County of Fayette, and Commonwealth of Pennsylvania, known as 373 Grimes Road, Normalville, PA 15469 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 35-10-0167

BEING the same premises which Iris W. Brown, Rodney L. Brown, Robin E. Schomer and Rebecca L. Brown, by Deed dated July 26, 2007 and recorded in and for Fayette County, Pennsylvania in Deed Book 3036, Page 2454, granted and conveyed unto Iris W. Brown, Rodney L. Brown, Robin E. Schomer, Jacky Schomer, and Rebecca L. Brown.

No. 1835 of 2023 GD
No. 206 of 2024 ED

FRICK TRI-COUNTY FEDERAL CREDIT UNION now known as FRICK: FINANCIAL FEDERAL CREDIT UNION,
Plaintiff,
v.
JAMES W. SHAFFER and AMY LYNN COLEMAN,
Defendants.

ALL that certain piece, parcel or tract of land, lying and situate in the Township of North Union, County of Fayette, and Commonwealth of Pennsylvania, known as 375 Main Street, Lemont Furnace, PA 15456, having erected thereon a dwelling house.

Being known and designated as Tax ID No: 25-34-0026.

BEING the same property conveyed to the Amy Lynn Coleman, a single woman, and James W. Shaffer, a single man, Defendants herein by deed dated November 9, 1992, and recorded in the Recorder of Deeds Office of Fayette County, Pennsylvania, at Record Book 1089, Page 001.

Robert Flacco, Esq.
1325 Franklin Avenue, Suite 160
Garden City, NY 11530
(212) 471-5100

No. 476 of 2024 GD
No. 169 of 2024 ED

U.S. Bank Trust Company, National Association, not in its individual capacity but solely in its capacity as Indenture Trustee of CIM Trust 2023-NR2

v.

Brian A. Slampak; Kimberly A. Slampak

By virtue of Writ of Execution No. 169 of 2024 ED, U.S. Bank Trust Company, National Association, not in its individual capacity but solely in its capacity as Indenture Trustee of CIM Trust 2023-NR2 v Brian A. Slampak; Kimberly A. Slampak

Docket Number: 2024-00476

Property to be sold is situated in the Borough of Uniontown, County of Fayette and Commonwealth of Pennsylvania.

Commonly known as: 171 Edison Street, Uniontown, PA 15401 Parcel Number: 25-31-0063

Improvements thereon of the residential dwelling or lot (if applicable):

Judgment Amount: \$89,610.35

Jill M. Fein, Esquire
Hill Wallack LLP
1000 Floral Vale Blvd., Suite 300
Yardley, PA 19067
(215) 579-7700

No. 104 of 2024 GD
No. 179 of 2024 ED

Plaintiff: FEDERAL HOME LOAN MORTGAGE CORPORATION, AS TRUSTEE FOR THE BENEFIT OF THE FREDDIE MAC SEASONED CREDIT RISK TRANSFER TRUST, SERIES 2020-3

v.

Defendant: STEPHANIE TREAT

By virtue of a writ of execution case number: 2024-104

Plaintiff: FEDERAL HOME LOAN MORTGAGE CORPORATION, AS TRUSTEE FOR THE BENEFIT OF THE FREDDIE MAC SEASONED CREDIT RISK TRANSFER TRUST, SERIES 2020-3

v.

Defendant: STEPHANIE TREAT

Owners of property situate in North Union Township, Fayette County, Pennsylvania, being pin number 25-31-0007

Property being known as: 548 NORTH GALLATIN AVE, UNIONTOWN, PA 15401

Improvements thereon: Residential Property

No. 2523 of 2023 GD
No. 137 of 2024 ED

Carrington Mortgage Services, LLC PLAINTIFF

vs.

Tiffany D. Vrabel DEFENDANT

ALL that certain lot or piece of ground situate in the CITY of CONNELLSVILLE, County of FAYETTE and Commonwealth of Pennsylvania, being Lot No. 120 in the MCKEE Plan of Lots as REVISED AND ENLARGED BY LLOYD JOHNSTON and as recorded in the Office of the Recorder of Deeds of FAYETTE County, Pennsylvania in Plan Book Volume 1, Page(s) 58.

IDENTIFIED as Tax/Parcel #: 05-12-0018 in the Deed Registry Office of FAYETTE County, Pennsylvania.

HAVING erected a dwelling thereon known as 411 E WASHINGTON AVENUE, CONNELLSVILLE, PA 15425

UNDER AND SUBJECT TO any and all oil and gas leases, the sale of coal and mining rights and all rights relating thereto, building lines, rights-of-way, zoning regulations, building restrictions, reservations, restrictive covenants, easements, rights and obligations, encroachments, party walls, maintenance fees, association fees and/or dues, if any, etc., as the same may be contained in prior instruments of record, set forth in the recorded plan and/or as shown on a survey of the property.

COMMONLY KNOWN AS: 411 East Washington Avenue, Connellsville, PA 15425 TAX PARCEL NO. 05120018

*** END SHERIFF'S SALE ***

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

COMMERCIAL/RESIDENTIAL/CURRENT OWNER/MINERAL TITLE

A DECADE OF EXPERIENCE E&O INSURED WILL TRAVEL ACCEPTING NEW CLIENTS



DiBella Weinheimer

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Holly Whalen ◊ Amy Coco ◊ Bethann Lloyd

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JUDICIAL OPINION

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

THOMAS R. VILLELLA, JR. and	:
SHARON L. LEGEZA,	:
Plaintiffs,	:
vs.	:
ROBERT A. GUERRIERE, PATRICIA L.	:
GUERRIERE, CLAUDETTE FRANKS,	:
RONALD G. LOVELACE, PAUL	:
SPROWLS AGENCY, INC. d/b/a	:
RE/MAX PROFESSIONALS,	: No. 1986 of 2021, G.D.
Defendants.	: Honorable Nancy D. Vernon

OPINION AND ORDER

VERNON, J.

July 12, 2024

Before the Court is a Motion for Summary Judgment by Defendants Claudette Franks, Ronald G. Lovelace, and Paul Sprowls Agency, Inc. d/b/a RE/MAX Professionals. In December 2020, Plaintiffs Thomas R. Vilella and Sharon L. Legeza purchased property from Defendants Robert A. Guerriere and Patricia L. Guerriere that included an A-frame office building located at 2975 National Pike, Chalkhill, Pennsylvania. The Subject Property is accessed from Route 40 by a gravel driveway and this access is where the within causes of action arise. Defendant Lovelace was Defendants Guerrieres’ real estate agent and Defendant Franks was Plaintiffs’ real estate agent, with both working as agents of Defendant RE/MAX who served as a dual broker on the transaction.

Plaintiffs filed a four count Complaint against all Defendants alleging (1) Intentional Misrepresentation and/or Concealment/Non-Disclosure, (2) Negligent Misrepresentation and/or Concealment/Non-Disclosure, (3) Innocent Misrepresentation and/or Non-Disclosure, and (4) Violation of the Unfair Trade Practices and Consumer Protection Law (“UTPCPL”). Defendants Franks, Lovelace, and RE/MAX moved for Summary Judgment on all counts seeking dismissal of the Complaint. At the time set for oral argument, Plaintiffs agreed to dismiss Defendant Claudette Franks.

Summary judgment is governed by Rule 1035.2 of the Pennsylvania Rules of Civil Procedure, which provides:

After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law

(1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or

(2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial

has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

Pa.R.C.P. No. 1035.2.

Plaintiffs allege that Defendants made representations through the various disclosure documents including that the Subject Property encompassed the entire gravel driveway; that they did not know of any violations of federal, state, or local laws or regulations relating to the Subject Property; that they were not aware of any threatened action, suit, or government proceeding relating to the Subject Property; that they were unaware of any shared or common areas (i.e., driveways); and that they were unaware of any present problems with the driveway. Plaintiffs cite the deposition of Ronald Lovelace that he personally completed some of the Seller Disclosure Documents for the transaction.

After closing, Plaintiffs learned information from their neighbors, Charlotte Molek and Ron Molek, that they allege constituted materially false representations by all Defendants and concealment of material defects about the gravel driveway including that the Guerrieres had previously sold three-fourths width of the gravel driveway to the Moleks and that the driveway lacked a Highway Occupancy Permit from PennDOT. The Moleks had applied to PennDOT for a Highway Occupancy Permit in 2014 for access from their insurance business to Route 40 and were denied because of the topography of that portion of the roadway in Chalkhill not allowing adequate sight distance.

State Highway Law [36 Pa.C.S.A. § 670-420(b)(2)] provides that no person “shall open a driveway onto a State highway [...] without a permit.” Violation is a summary offense subject to a fine. 36 Pa.C.S.A. § 670-420(e). Plaintiffs then also applied for a Highway Occupancy Permit in 2021 and were denied for the same reason. Without legal access to Route 40, the Subject Property is landlocked.

Plaintiffs allege that Realtor Lovelace had actual knowledge of the material defect impacting the gravel driveway by prior conversations with Charlotte Molek, the neighbor of the Subject Property. In her deposition, Charlotte Molek testified that she had a conversation followed by a text message exchange with Lovelace in August 2019 wherein she told Lovelace that she was not interested in purchasing the Subject Property. Charlotte Molek told Lovelace that PennDOT informed her that access to Route 40 was not permitted over the shared gravel driveway and that PennDOT had threatened to issue citations to her and the Guerrieres if anybody used the driveway. Molek testified that she relayed to Lovelace that the Subject Property was overpriced because of the access issue. Molek provided Lovelace by text message with her typewritten notes of the conversations she had with the PennDOT representative detailing the denial of the Highway Occupancy Permit for the shared gravel driveway and wherein the notes also explained the access issue as it pertained to the then Guerrieres’ Subject Property over the same gravel driveway. Lovelace admitted receiving the message.

Lovelace also admitted to filling out portions of the Sellers Disclosure Forms. On the Commercial Property Information Sheet, Lovelace represented that he knew of no past or present problems with driveways; that he knew of no violations of any federal, state, or local laws related to the Subject Property; that he knew of no improvements that were done without the required permits; that he was not aware of any encumbrances, covenants, conditions or restrictions affecting the Subject Property; and that he was not aware of any existing or threatened action, suit, or governmental proceeding relating to the Subject Property.

Turning to the first cause of action, intentional misrepresentation, the elements required to prove a claim “are: (1) [a] representation; (2) which is material to the transaction at hand; (3) made falsely, with knowledge of its falsity or recklessness as to whether it is true or false; (4) with the intent of misleading another into relying on it; (5) justifiable reliance on the misrepresentation; and, (6) the resulting injury was proximately caused by the reliance.” *Bortz v. Noon*, 729 A.2d 555, 560 (Pa. 1999).

Clearly, these representations, if proven at trial to have been made by Lovelace, regarding the driveway and access to the Subject Property were material to the real estate transaction and Plaintiffs relied on these representations in valuing and purchasing the Subject Property. The issue at hand then is Lovelace’s state of mind in making the representations – was it intentional? To hold Defendant Lovelace liable for an intentional misrepresentation, the finder of fact must decide that Lovelace made the representations falsely, with knowledge of the falsity, or with recklessness as to whether they were true or false. When a defendant’s state of mind is called into question, the determination does not readily lend itself to summary disposition. As such, we will DENY the Motion for Summary Judgment as to Count I – Intentional Misrepresentation and/or Concealment/Non-Disclosure.

As to Count II, “[n]egligent misrepresentation requires proof of: (1) a misrepresentation of a material fact; (2) made under circumstances in which the misrepresenter ought to have known its falsity; (3) with an intent to induce another to act on it; and; (4) which results in injury to a party acting in justifiable reliance on the misrepresentation.” *Bortz*, 729 A.2d at 561.

The determinative question becomes whether Lovelace ought to have known the falsity of his misrepresentations. Lovelace and RE/MAX cite the Pennsylvania Seller Disclosure Law which provides that “[a]n agent of a seller or a buyer shall not be liable for any violation of this chapter unless the agent had actual knowledge of a material defect that was not disclosed to the buyer or of a misrepresentation relating to a material defect.” 68 Pa.C.S.A. § 7310. Upon this they argue that “negligent” misrepresentation would require a finding the Lovelace negligently misrepresented that the existing driveway was permitted or negligently concealed that the Subject Property was landlocked. According to Defendants, finding that Lovelace acted “negligently” would not permit recovery in tort because of the Pennsylvania Seller Disclosure Law standard requiring actual knowledge or misrepresentation of a material defect.

Plaintiffs cited 68 Pa.C.S.A. § 7311 that the Pennsylvania Seller Disclosure Law does not preempt or restrict other tort claims. (“This subsection shall not be construed so as to restrict or expand the authority of a court to impose punitive damages or apply other remedies applicable under any other provision of law.”) Plaintiffs also argued that “even if [Lovelace] did not know that his representation and his client’s representations were false, he had a duty to investigate whether his own representations regarding the gravel driveway were true and failed to do so.” See, Brief in Opposition, at ¶ D. While the Court agrees the Pennsylvania Seller Disclosure Law standard of “actual knowledge” would not prohibit a claim for negligent misrepresentation, the Court finds that Plaintiff has failed to produce evidence of facts essential to the cause of action. Specifically, as a real estate agent, Lovelace did not have a duty to investigate whether the driveway had a Highway Occupancy Permit or to investigate the metes and bounds of the Subject Property. Holding otherwise “would place too high a burden on real estate agents.” *Bortz*, 729 A.2d at 563. Accordingly, Defendants’ Motion for Summary Judgment is denied.

ment at Count II - Negligent Misrepresentation and/or Concealment/Non-Disclosure is GRANTED and Count II is dismissed as to Defendants Ronald G. Lovelace and Paul Sprowls Agency, Inc. d/b/a RE/MAX Professionals.

As to Count III, Innocent Misrepresentation and/or Non-Disclosure, “A claim for a misrepresentation, innocently made, to the extent recognized in this Commonwealth, is an equitable doctrine based upon contract principles supporting equitable rescission to make a contract voidable by the innocent party, where appropriate[.]” Bortz, 729 A.2d at 564. Innocent misrepresentation claims are brought to rescind real estate transactions. Here, Lovelace is not a party to the real estate transaction and even if proven at trial, his innocent misrepresentations would not support rescision of the transaction. Defendants’ Motion for Summary Judgment at Count III - Innocent Misrepresentation and/or Non-Disclosure is GRANTED and Count III is dismissed as to Defendants Ronald G. Lovelace and Paul Sprowls Agency, Inc. d/b/a RE/MAX Professionals.

As pled at Count IV in Plaintiff’s Complaint, the Pennsylvania Unfair Trade Practices and Consumer Protection Law (“UTPCPL”) is Pennsylvania’s consumer protection law and seeks to prevent “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce [...]” 73 P.S. § 201–3. The purpose of the UTPCPL is to protect the public from unfair or deceptive business practices. Agliori v. Metropolitan Life Ins. Co., 879 A.2d 315, 318 (Pa.Super. 2005). The protections provided by the UTPCPL apply to residential real estate transactions. Bennett v. A.T. Masterpiece Homes at Broadsprings, LLC, 40 A.3d 145, 151 (Pa.Super. 2012) citing Growall v. Maietta, 931 A.2d 667, 676 (Pa.Super. 2007).

Plaintiffs alleged that “Defendants’ intentional misrepresentations and non-disclosures concerning the Gravel Driveway and access to the Subject Property as set forth herein constitute ‘deceptive conduct which creates the likelihood of confusion or of misunderstanding’ under 73 P.S. § 201–2(xxi), in violation of the [UTPCPL].” Complaint at ¶ 57. In moving for Summary Judgment, Defendants argue, “Plaintiffs cannot state a claim against these Defendants under the UTPCPL unless they can also establish a claim of intentional misrepresentation, concealment, or non-disclosure as set forth in Count I of their Complaint.” See, Motion for Summary Judgment at ¶ 114.

Our Supreme Court has stated courts should liberally construe the UTPCPL in order to effectuate the legislative goal of consumer protection. Com., by Creamer v. Monumental Properties, Inc., 329 A.2d 812, 816 (Pa. 1974). As the Court has found Plaintiffs have stated a claim for intentional misrepresentation in that they have produced evidence of facts essential to the cause of action which in a jury trial would require the issues to be submitted to a jury, the Court similarly finds Plaintiffs’ claims pursuant to the UTPCPL must also be submitted to the fact finder. Defendants’ Motion for Summary Judgment at Count IV is DENIED.

WHEREFORE, we will enter the following Order.

BY THE COURT:
NANCY D. VERNON, JUDGE

ATTEST:
Prothonotary

KENTUCK KNOB SUMMER EVENING INVITATION

Please join your colleagues of the Fayette County Bar Association for a
Summer Evening at Frank Lloyd Wright's Kentucky Knob

Thursday, August 22nd

Private House Tour

4:00 p.m.

No Charge for FCBA Members

\$25 Tour Fee for Guests

Check-In at the Visitor Center at 3:45 p.m.

Cocktails & Heavy Hors d'oeuvres on the Patio

Stone House Catering

5:00-7:00 p.m.

No Charge for FCBA Members & Guests

Entertainment by

Chuck Cantalamessa

RSVP required by Thursday August 8th

by reply email to cindy@fcbar.org or 724-437-7994



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