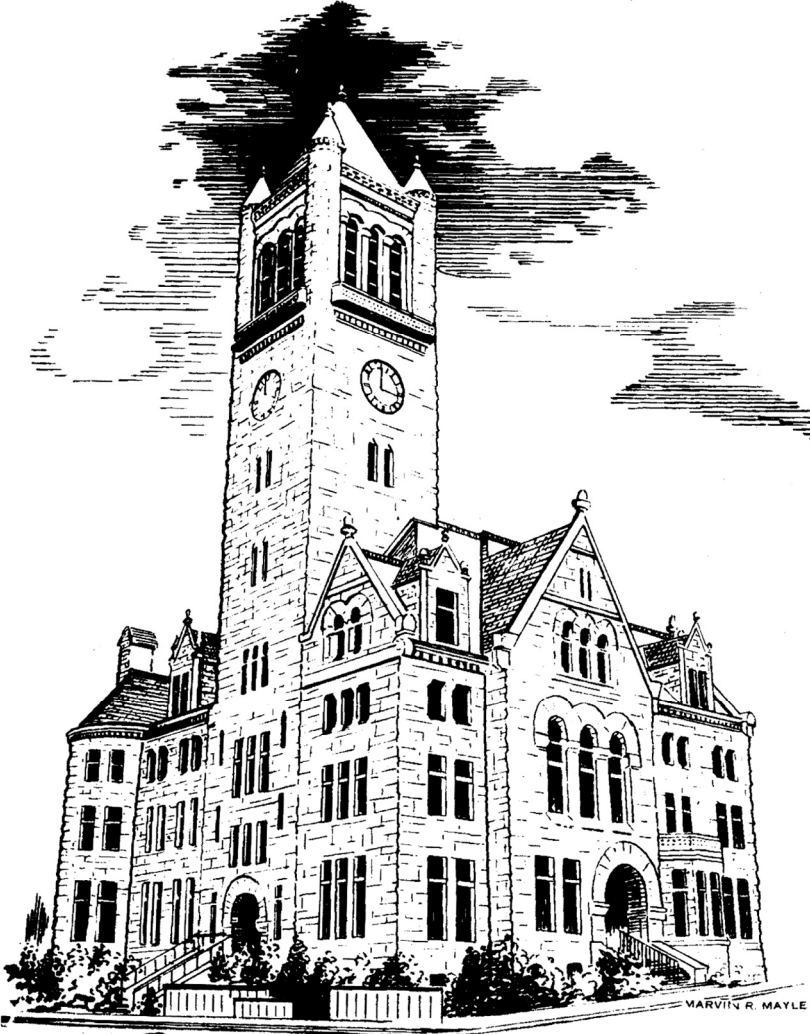


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ESTATE NOTICES

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

JAMES BIELECKI, late of Connellsville,
Fayette County, PA ⁽³⁾

Administratrix: Barbara S. Bielecki
507 West Francis Street
Connellsville, PA 15425
c/o 111 East Main Street
Uniontown, PA 15401
Attorney: Robert R. Harper, Jr.,

ELIZABETH BROOKS, a/k/a ELIZABETH C. BROOKS, late of McClellandtown, Fayette County, PA ⁽³⁾

Personal Representative:
Bernadette Brooks
828 Main Street
McClellandtown, PA 15458
c/o 50 East Main Street
Blackstone Building
Uniontown, PA 15401
Attorney: Patrick McDaniel

MARIE CLARK, late of Uniontown, Fayette County, PA ⁽³⁾

Personal Representative: Kathleen A. Ryan
117 Carnation Street
Uniontown, PA 15401
c/o 50 East Main Street
Blackstone Building
Uniontown, PA 15401
Attorney: Patrick McDaniel

DOLORES J. GALAND, a/k/a DOLORES JEAN GALAND, late of South Union Township, Fayette County, PA ⁽³⁾

Executor: Anthony Scott Galand
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

DOROTHY HAGERTY, a/k/a DOROTHY JANE HAGERTY, late of South Union Township, Fayette County, PA ⁽³⁾

Executrix: Linda Hagerty
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James Higinbotham

ELIZABETH LEVADA LOWRY, a/k/a ELIZABETH L. LOWRY, late of Nicholson Township, Fayette County, PA ⁽³⁾

Personal Representative: Candace Lowry
c/o Davis & Davis
107 East Main Street
Uniontown, PA
Attorney: Jeremy J. Davis

JOANN L. SMITH, a/k/a JOANN SMITH, late of North Union Township, Fayette County, PA ⁽³⁾

Executrix: Jennifer Millsagle
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

TIMOTHY B. THEAKSTON, late of Newell, Fayette County, PA ⁽³⁾

Administratrix: Marissa Dreucci
P.O. Box 164
Newell, PA 15466

ELIZABETH S. URICK, late of Redstone Township, Fayette County, PA ⁽³⁾

Executor: Kevin Urick
c/o Monaghan & Monaghan, L.L.P.
57 East Main Street
Uniontown, PA 15401
Attorney: Gary D. Monaghan

Second Publication

MILDRED BUGELLI, a/k/a MILDRED L. BUGELLI, late of Hiller, Fayette County, PA

Executor: Charles Sliger ⁽²⁾
c/o P.O. Box 727
Uniontown, PA 15401
Attorney: Bernadette K. Tummons

ROBERT J. BURKHOLDER, late of Saltlick Township, Fayette County, PA (2)
Executor: Jason T. Burkholder
 c/o 430 Depot Street
 Latrobe, PA 15650
Attorney: John M. Leonard

RONALD GUNN, a/k/a RONALD L. GUNN, a/k/a RONALD LEE GUNN, late of Redstone Township, Fayette County, PA (2)
Personal Representative: Patricia L. Gunn
 c/o George & George
 92 East Main Street
 Uniontown, Pa 15401
Attorney: Joseph M. George

ERMA J. HANN, a/k/a ERMA JEAN HANN, late of Connellsville, Fayette County, PA (2)
Personal Representative: Thomas E. Hann
 c/o Watson Mundorff, LLP
 720 Vanderbilt Road
 Connellsville, PA 15425
Attorney: Timothy J. Witt

GREGG HUSCROFT, late of Washington Township, Fayette County, PA (2)
Executrix: Beth Ann Coccari
 717 Henry Street
 Belle Vernon, PA 15012
 c/o 1747 Rostraver Road
 Belle Vernon, PA 15012
Attorney: Megan Kerns

ELLA MAE JUNICK, late of Bullsken, Township, Fayette County, PA (2)
Co-Executor: Larry M. Junick and Jennifer L. Junick
 c/o 20 North Pennsylvania Avenue, Suite 201
 Greensburg, PA 15601
Attorney: Eric Elia Bononi

ELEANOR KOSSA, a/k/a ELEANOR J. KOSSA, late of Perryopolis, Fayette County, PA (2)
Executor: Sharon L. Whitney
 300 Fifth Avenue, 31st. Floor
 Pittsburgh, PA 15222
 c/o 3244 Washington Road, Suite 210
 McMurray, PA 15317
Attorney: Tracy Zihmer

KATH NISHUAN MCCARGO, late of Uniontown, Fayette County, PA (2)
Personal Representative: Nikki McCargo
 c/o P.O. Box 622
 Smithfield, PA 15478
Attorney: Charity Grimm Krupa

ANN L. POPA, late of Connellsville, Fayette County, PA (2)
Personal Representative:
 Vicki Ellen Fierschnaller
 c/o Watson Mundorff, LLP
 720 Vanderbilt Road
 Connellsville, PA 15425
Attorney: Timothy J. Witt

GENEVIEVE STANEC, late of Perry Township, Fayette County, PA (2)
Administratrix: Lisa Cunningham
 112 Newtown Road
 Star Junction, PA 15012
 c/o 823 Broad Avenue
 Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

EVELYN M. SUDER, a/k/a EVELYN M. DUNLEVY, late of Fairchance, Fayette County, PA (2)
Executor: Terry Lee DeChessero
 c/o 51 East South Street
 Uniontown, PA 15401
Attorney: Webster & Webster

MARY JO UPHOLD, a/k/a MARY JO E. UPHOLD, late of Point Marion, Fayette County, PA (2)
Executor: Alfred E. DuBois
 c/o 51 East South Street
 Uniontown, PA 15401
Attorney: Webster & Webster

First Publication

ROBERT D. BURDEN, late of German Township, Fayette County, PA ⁽¹⁾

Administratrix: Frances Anderson
c/o 39 Francis Street
Uniontown, PA 15401
Attorney: Jack R. Heneks, Jr.

WANDA F. BURNWORTH, late of Henry Clay Township, Fayette County, PA ⁽¹⁾

Personal Representative: Donna Joy Burd
c/o P.O. Box 953
Uniontown, Pa 15041
Attorney: Ricardo J. Cicconi

JEAN CAWTHON, late of Fayette County, PA ⁽¹⁾

Executor: Charles William Thomas, Jr.
513 Old Route 51 Road
Smock, PA 15480
c/o Fieschko & Associates, Inc.
Suite 2230 436 7th. Avenue
Pittsburgh, PA 15219
Attorney: Joseph Fieschko

ERIC JUNIOR DAVID, a/k/a ERIC DAVID, late of Uniontown, Fayette County, PA ⁽¹⁾

Personal Representative: Berle Pastories, a/k/a Beryle Pastories
1005 Walnut Avenue, Apt. 34
Uniontown, PA 15401
c/o Fieschko & Associates, Inc.
Suite 2230 436 7th. Avenue
Pittsburgh, PA 15219
Attorney: Joseph Fieschko

IDA M. EZZI, late of South Union Township, Fayette County, PA ⁽¹⁾

Personal Representative:
Regina M. Shaffer
c/o P.O. Box 953
Uniontown, PA 15401
Attorney: Ricardo J. Cicconi

JESSE JOSEPH GUSEMAN, SR., a/k/a JESSE J. GUSEMAN, late of Hopwood, Fayette County, PA ⁽¹⁾

Personal Representatives:
Jesse J. Guseman, Jr., and
Jamie Lynn Prusak
c/o Davis & Davis

107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

KARL HICKMAN, late of Uniontown, Fayette County, PA ⁽¹⁾

Executrix: Lura Krause
433 Herrington Road
Johnsonville, New York 12094
c/o 100 Ross Street, Suite 130
Pittsburgh, PA 15219
Attorney: Geoffrey Wozman

GEORGE J. KOURY, a/k/a GEORGE J. KOURY, JR., a/k/a GEORGE KOURY, late of Connellsville, Fayette County, PA ⁽¹⁾

Executrix: Patricia Basinger
c/o John & John
96 East Main Street
Uniontown, PA 15401
Attorney: Simon B. John

MARY C. MATIS, a/k/a MARY CATHERINE MATIS, late of Redstone Township, Fayette County, PA ⁽¹⁾

Personal Representative: George Matis
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Jeremy J. Davis

JUDITH E. WALTERS, late of Dunbar Township, Fayette County, PA ⁽¹⁾

Administrator: Mildred Stash
c/o Casini & Geibig, LLC
815B Memorial Boulevard
Connellsville, PA 15425
Attorney: Jennifer M. Casini

GERALDINE P. WARD, a/k/a GERALDINE WARD, late of Grindstone Township, Fayette County, PA ⁽¹⁾

Personal Representative:
Kathleen W. Hughes
c/o Dellarose Law Office, PLLC
99 East Main Street, Suite 101
Uniontown, PA 15401
Attorney: Melinda Deal Dellarose

LULUBELLE WERNER, late of Fayette County, PA (1)

Executrix: Hope Dennis a/k/a
Hope Ann Webb
1347 Fayette Avenue
Belle Vernon, PA 15012
c/o 707 Grant Street, Suite 2828
Pittsburgh, PA 15219
Attorney: Michael Henny

LEGAL NOTICES

NOTICE OF ACTION - PERSONAL INJURY

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Brittany R. Silbaugh, Plaintiff, vs.
Heather Hollis and Jeremy Scott Ansell,
Defendants.

COURT OF COMMON PLEAS
CIVIL DIVISION
FAYETTE COUNTY 2423 of 2019 GD

NOTICE
TO: Defendant, Heather Hollis

You are hereby notified that you have been sued in court. On November 1, 2019, a Complaint in a Civil Action was filed against you in the Court of Common Pleas of Fayette County, Pennsylvania, at Docket Number 2423 of 2019 GD, through which the Plaintiff, Brittany R. Silbaugh, is seeking compensation in an amount in excess of the arbitration limits of Fayette County for personal injuries and damages sustained as the result of a motor vehicle collision that occurred on September 19, 2017, on West Main Street near the Nassau Street intersection.

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

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.

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45 E. Main Street
Uniontown, PA 15410
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PUBLIC NOTICE

IN THE COURT OF COMMON PLEAS OF
WASHINGTON COUNTY,
PENNSYLVANIA

ORPHANS' COURT DIVISION

IN RE: **ELLIE MCDONALD a/k/a ELLIE
ROSE MCDONALD**

D.O.B. 8/7/2020

**CHILD OF: Randy William McDonald a/k/a
Randy McDonald a/k/a Randy W McDonal
a/k/a Randy J. McDonald a/k/a Randy W.
McDonald a/k/a Randy Mc Donald a/k/a
Randy McDonald Jr. a/k/a Randy William
Mxdonald**

NO: 63-21-1277

Take notice that a Petition for Involuntary Termination of Parental Rights of Father, Randy William McDonald a/k/a Randy McDonald a/k/a Randy W McDonal a/k/a Randy J. McDonald a/k/a Randy W. McDonald a/k/a Randy Mc Donald a/k/a Randy McDonald Jr. a/k/a Randy William Mxdonald, and Petition to Confirm Consent to Adoption and Terminate Parental Rights of Mother Brittany Michelle Toplisek a/k/a Brittany McDonald a/k/a Brittany M. Toplisek a/k/a Brittany M. McDonald a/k/a Brittany Toplisek, to the minor child, Ellie McDonald a/k/a Ellie Rose McDonald, will be presented to the Orphans' Court of Washington County, Pennsylvania. Any person wishing to assert her parental rights should appear in

Courtroom No. 7 of the Washington County Courthouse, Washington, Pennsylvania, for a hearing as to the same on November 4, 2021, at 10:00 a.m.

You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without your being present.

You have the right to be represented at the hearing by an attorney. You should take this notice to your attorney at once. If you do not have an attorney or cannot afford representation, contact the Southwestern Pennsylvania Legal Aid Society, 10 West Cherry Avenue, Washington, Pennsylvania, 15301, (724) 225-6170, to find out where you can obtain legal help.

Kristy King, Caseworker
Washington County Children & Youth
Social Service Agency
95 West Beau Street
Suite 300
Washington, PA 15301
Telephone: (724) 228-6884

Registers' Notice

Notice by JEFFREY L. REDMAN, Register of Wills and
Ex-Officio Clerk of the Orphans' Court Division of the Court of Common Pleas

Notice is hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

Monday, November 1, 2021, at 9:30 A.M.

| <u>Estate Number</u> | <u>Estate Name</u> | <u>Accountant</u> |
|----------------------|--------------------|-----------------------------------|
| 2612-0898 | ROBERT LEE EVANS | Gabriella A. Locke, Administrator |

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on

Monday, November 15, 2021, at 9:30 A.M.

in Courtroom No. 1 of the **Honorable Steve P. Leskinen** or his chambers, 2nd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

Notice is also hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

Monday, November 1, 2021, at 9:30 A.M.

| <u>Estate Number</u> | <u>Estate Name</u> | <u>Accountant</u> |
|----------------------|-------------------------|----------------------------|
| 2619-0539 | SARAH KATHERINE BARTUCH | Gina G. Barrett, Executrix |

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on

Monday, November 15, 2021, at 9:30 A.M.

in Courtroom No. 5 of the **Honorable Joseph M. George, Jr.** or his chambers, 3rd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

JUDICIAL OPINION

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

PETER VLOSICH and RACHEL :
VLOSICH, husband and wife, :
PLAINTIFFS, :
v. :
EDESON REALTY, LLC., :
A Pennsylvania Limited Liability :
Company, : No. 1840 of 2020 G.D.
DEFENDANT. : Honorable President Judge John F. Wagner, Jr.

OPINION AND ORDER

Wagner, P.J.

September 7, 2021

Before the Court are the Preliminary Objections to Plaintiffs' complaint, filed by the Defendant, Edeson Realty, LLC, a Pennsylvania Limited Liability Company.

BACKGROUND

The Plaintiffs reside at 270 Edison Street, Uniontown, North Union Township, Fayette County. The Defendant purchased two parcels of real estate, 266 and 268 Edison Street, totaling more than twelve acres, adjacent to the Plaintiffs' property. In 2020, the Defendant began constructing commercial storage units on the two parcels. The Defendants altered the landscape of the property by removing earth, construction driveways and roadways across the parcels, and laying drainage pipes. The elevation of the property was altered. The Plaintiffs allege that these alterations have caused excessive storm water and runoff to flow onto Plaintiffs' property causing damage to their property and impairing their use of it. Plaintiffs' assert that on July 10, 2020 due to the surface water runoff onto their property, a portion of their basement wall collapsed causing significant damage to their residence. The Plaintiffs informed the Defendant of the damage caused by their alterations on the two parcels but the Defendant took no action to control the surface water runoff.

On March 1, 2021, the Plaintiffs filed the instant action asserting a negligence count, a trespass count, and a private nuisance count. Defendant filed Preliminary Objections Pursuant to Pa. R.C.P. 1028(a)(4)-Demurrer.

DISCUSSION

The Defendant raises three issues in their Preliminary Objections. First, the Defendant argues that the Plaintiffs are not entitled to reimbursement for legal fees and interest in their prayer for relief. Second, the Defendant requests that the claim for injunctive relief be stricken. Third, the Defendant asserts that the count for Private Nuisance should be stricken.

Preliminary objections in the nature of a demurrer test the legal sufficiency of a plaintiffs complaint. *Feingold v. Hendrzak*, 15 A.3d 937, 941 (Pa. Super. 2011). The standard to be used by the court in ruling on a preliminary objection in the form of a demurrer is whether the complaint indicated on its face that the claim being made can-

not be legally sustained. *Id.* Before a demurrer can be sustained, the court must determine that upon the facts averred in the complaint, it is certain that the law will not permit the recovery being sought. *Kyle v. McNamara & Criste*, 487 A.2d 814 (Pa. 1985). In examining the complaint, the court must accept as true all well-pleaded, relevant and material facts as well as all inferences fairly deductible from those facts, *Fiedler v. Spencer*, 231 A.3d 831 (Pa. Super. 2020).

Defendant's first Preliminary Objection is that the Plaintiffs are not entitled to claim legal fees. Under Pennsylvania law, a party can recover its attorney fees where there is an express statutory authority or clear agreement to that effect between the parties. *Merlino v. Delaware County*, 728 A.2d 949 (Pa. 1999), The circumstances of the case clearly indicate that there was no contractual relationship between the parties. The Plaintiffs fail to state any statutory authority that would permit them to recover their attorney fees or the costs of litigation. Therefore, the Defendant's first preliminary objection is sustained.

The Defendant's second Preliminary Objection asserts that the request for a permanent injunction should be stricken. In order to obtain a permanent injunction, the plaintiffs must prove that their right to relief is clear, that the injunction is necessary to avoid an injury that cannot be compensated by damages, and a greater injury will result if the court doesn't grant it than if it does. *Big Bass Community Assoc'n*, 959 A.2d 1137 (Pa. Commw. 1999). Plaintiffs have alleged sufficient evidence that the Defendant has caused a substantial invasion of their interest in the private use of their property that they may be able to sustain their claim, therefore Defendant's second preliminary objection is overruled.

Defendant's third and final Preliminary Objection asserts that the Private Nuisance count should be stricken as a private nuisance is a nontrespassory action. One is subject to liability for a private nuisance if, but only if, his conduct is a legal cause of an invasion of another's interest in the private use and enjoyment of land, and the invasion is either intentional and unreasonable or unintentional and otherwise actionable under the rules controlling liability for negligent or reckless conduct, or for abnormally dangerous conditions or activities. Restatement Second of Torts § 822. Private nuisance is solely a matter of tort liability. The interest in the private use and enjoyment of land may be invaded by more than one type of conduct. *Id.* Pennsylvania courts have recognized that a neighbor who diverted surface water from its natural course caused a private nuisance. *Youst v. Kecks Food Service, Inc.*, 94 A.3d 1057 (Pa. Super. 2014). The Plaintiffs have alleged that the Defendant in altering the terrain of their property that the surface water runoff has caused significant damage to the basement of their residence. Plaintiffs have sufficiently alleged enough evidence that they may be able to sustain their claim. Therefore, the Defendant's third preliminary objection is overruled.

ORDER

AND NOW, this 7th day of September 2021, after consideration of the three Preliminary Objections filed by the Defendant, it is hereby ORDERED and DECREED that Defendant's Preliminary Objection to strike plaintiffs' requests for legal fees and costs is hereby SUSTAINED, the Preliminary Objections regarding the permanent injunction count and the private nuisance count are hereby OVERRULED.

BY THE COURT:
WAGNER, P.J.

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

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