

# **ADVANCE SHEET**

## **The Dauphin County Reporter**

(USPS 810-200)

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**A WEEKLY JOURNAL CONTAINING THE DECISIONS  
RENDERED IN THE 12TH JUDICIAL DISTRICT**

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**THE  
DAUPHIN COUNTY REPORTER**

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DAUPHIN COUNTY  
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**Penn National a/s/o Gerald and Michelle Thompson v. Sam's Club****Torts - Products Liability - Summary Judgment**

Plaintiffs sought damages for bodily injuries alleged to have been sustained due to smoke inhalation from a fire at their residence caused by a space heater purchased at Defendant's store. Defendants asserted that Plaintiffs' evidence could not prove that a defect existed in the heater and therefore they could not proceed on any products liability theory.

1. Summary judgment is appropriate only in those cases where the record clearly demonstrates that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. *Truax v. Roulhac*, 126 A.3d 991, 996 (Pa. Super. 2015). In ruling on such a motion, the trial court must take all facts of record and reasonable inferences therefrom in a light most favorable to the non-moving party and resolve all doubts as to the existence of a genuine issue of material fact against the moving party. *Id.* Where the non-moving party bears the burden of proof on an issue, he may not merely rely on his pleadings or answers in order to survive summary judgment. *Babb v. Ctr. Cmty. Hosp.*, 47 A.3d 1214, 1223 (Pa. Super. 2012). Failure of a non-moving party to adduce sufficient evidence on an issue essential to his case and on which he bears the burden of proof establishes the entitlement of the moving party to judgment as a matter of law. *Id.*

2. The threshold inquiry in all products liability cases is whether there is a defect. *Barton v. Lowe's Home Centers, Inc.*, 124 A.3d 349, 355 (Pa. Super. 2015).

3. The product malfunction theory, which is akin to a *res ipsa loquiter* claim, is intended to benefit plaintiffs who do not have the benefit of examining the allegedly defective product. *Dansak v. Cameron Coca-Cola Bottling Co., Inc.*, 703 A.2d 489, 496 (Pa. Super. 1997).

4. The issue of fire causation requires expert testimony. *Young v. Com., Department of Transportation*, 744 A.2d 1276, 1278 (Pa. 2000).

Motion for Summary Judgment. C.P., Dau. Co., No. 2017 CV 1430 CV. Motion Granted.

*Roger R. Laguna*, for the Plaintiff

*Adam M. Barnes*, for the Defendant

Cherry, P.J., April 13, 2020.

MEMORANDUM OPINION  
AND ORDER

This matter comes before the Court on the Motion for Summary Judgment of Sam's East, Inc. d/b/a Sam's Club, Sam's Club West, Inc. d/b/a Sam's Club, and Wal-Mart Stores, Inc. d/b/a Sam's Club ("Defendants"). For the reasons set forth, we GRANT Defendants' Motion for Summary Judgment.

FACTUAL BACKGROUND

Plaintiffs, Pennsylvania National Mutual Casualty Insurance Company ("Penn National") commenced this action by Complaint on February 24, 2017, as subrogees of Gerald and Michell Thompson ("the Thompsons"). The action arises out of a residential fire which occurred at approximately 4 o'clock a.m. on

February 28, 2015 at property in which the Thompsons lived at 1020 Sherman Street, Harrisburg, Pennsylvania. The Thompsons seek compensatory damages for bodily injuries alleged to have been sustained due to smoke inhalation from the fire. Mr. and Mrs. Thompson settled their claims at Count I-IV. The claims of B.C.T., the Thompsons' son, at Count V remain at issue.<sup>1</sup>

Plaintiffs allege that the February 28, 2015 fire was caused by a space heater purchased at Defendant Sam's East, Inc. store. The Thompsons allege that Defendants marketed, sold and distributed the electric space heater sometime prior to December 2011. Mr. Thompson's mother purchased the heater and gave it to the Thompsons as a Christmas gift. (Complaint, para. 9-11). The Thompson used the heater approximately twenty hours per month during the winter months from December 2011 to February 2015. (Defendant's Motion for Summary Judgment, Exhibit 4, Deposition Transcript of Michelle Thompson, November 14, 2017, p. 10; Defendant's Motion for Summary Judgment, Exhibit 5, Deposition Transcript of Gerald Thompson, November 14, 2017, p. 13). During that time, the heater operated like new with no concerns, and required no maintenance. (Defendant's Motion for Summary Judgment, Exhibit 5, Deposition Transcript of Gerald Thompson, November 14, 2017, p. 14). The unit came with operating instructions which Mr. Thompson read, but which he no longer had, because they were destroyed in the fire. *Id.*

Plaintiffs testified that on the evening of February 27, 2015, Mrs. Thompson went to sleep while watching television upstairs in the residence. At around 8:00 p.m., Mr. Thompson and B.C.T. went to the basement to watch a movie, at which point they turned on the space heater. At some point, they fell asleep near the heater. Mr. Thompson believes the heater was operating for four to six hours before he realized a fire started. (Defendant's Motion for Summary Judgment, Exhibit A, Deposition Transcript of Gerald Thompson, November 14, 2017, p. 37). Mr. Thompson testified that the space heater caught fire and the fire spread. Mr. Thompson testified that "[t]he fire spread from the [heater] unit to the TV ... I threw a blanket over the top of the burning heater, picked it up with my forearms, and forced-and ran up the stairs carrying it out in the snow". (See, Plaintiff's Response to Defendant's Motion for Summary Judgment, Exhibit A, Deposition Transcript of Gerald Thompson, November 14, 2017, pp. 17-18). B.C.T. testified that he observed his father screaming as he removed the burning heater from the basement with a blanket, then took it outside and placed it in a snowbank in order to extinguish the fire. (See, Plaintiff's Response to Defendant's Motion for Summary Judgment, Exhibit B, Deposition Transcript of B.C.T., November 14, 2017, pp. 10). Mr. Thompson testified

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<sup>1</sup> Count V incorporates by reference Claims I-IV of Products Liability-Strict Products Liability, Products Liability- Failure to Warn of Danger in Use Of Product, Negligence, Products Liability- Breach of Implied Warranty of Merchantability.

that he believed that the fire started from “inside the heater” but could not point to a component of the heater which caused the fire to ignite. As to her understanding of an alleged defect of the unit, Mrs. Thompson stated only that “it caught fire.” (Defendant’s Motion for Summary Judgment, Exhibit 4, Deposition Transcript of Michelle Thompson, November 14, 2017, p. 30).

In support of their products liability claims, Plaintiffs rely upon the cause and origin investigation report of Tyler Shriver, CFEI, dated March 5, 2015. (*See*, Defendant’s Motion for Summary Judgment, Exhibit 7). Mr. Shriver opined,

My examination of the heater revealed heavy fire damage inside the unit. The power cord for the heater which traversed across the floor to an outlet located on the south wall of the basement, remained unaffected by the fire. The remains of a manufacturers label was observed on the back of the heater.

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Based on burn patters and physical evidence observed at the scene coupled with information learned throughout the course of the investigation, it is the opinion of this investigator that the fire was accidental in nature. *The fire originated within the electric space heater which was located along the east wall of the basement. From its origin, the fire spread laterally to a nearby chair.* The remainder of the basement revealed heavy smoke damage only.

\*\*\*

All additional heat sources within the home had been examined, considered, and eliminated as a cause of the fire.

*Id.* (emphasis added).

## DISCUSSION

Defendants are entitled to summary judgment where Plaintiffs cannot produce evidence necessary to constitute a genuine issue of material fact necessary to prove Defendants’ liability for the fire under strict liability for a defective design, strict liability for failure to warn, negligence, or breach of implied warranty of merchantability.

As to the standard for grant of summary judgment, it is well settled that,

[s]ummary judgment is appropriate only in those cases where the record clearly demonstrates that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. *Truax v. Roulhac*, 126 A.3d 991, 996 (Pa. Super. 2015) (*en banc*)(quoting *Summers v. Certainteed Corp.*, 606 PA. 294, 997 A.2d 1152, 1159 (2010)). In ruling on such a motion, “the trial court must take all facts of record and reasonable inferences therefrom in a light most favorable to the non-moving party” and “resolve all doubts as to the existence of a genuine issue of material fact against the moving party.” *Id.* “Where the non-moving party bears the burden of proof on an issue, he may not merely rely on his pleadings or answers in order to survive summary judgment.” *Babb v. Ctr. Cmty. Hosp.*, 47 A.3d 1214, 1223 (Pa. Super. 2012)(citations omitted). “[F]ailure of a non-moving to adduce sufficient evidence on an issue essential to his case and on which he bears the burden of proof establishes the entitlement of the

moving party to judgment as a matter of law.” *Id.* Thus, “a proper grant of summary judgment depends upon an evidentiary record that either (1) shows the material facts are undisputed or (2) contains insufficient facts to make out a prima facie cause of action or defense.” *Basile v. H & R Block, Inc.*, 777 A.2d 95, 100 (Pa. Super. 2001) (quoting *McCarthy v. Dan Lepore & Sons Co., Inc.*, 724 A.2d 938, 940 (Pa. Super. 1998).

*Dunlap v. Federal Signal Corporation*, 194 A.3d 1067, 1069 (2017)(emphasis in original).

Defendants assert that Plaintiffs’ evidence cannot prove that a defect existed in the heater and therefore cannot proceed on any of the products liability theories. Plaintiffs respond that their evidence would prove that the fire started inside the heater and spread through the home at an identified time and therefore sufficiently establishes a defective condition to support their causes of action.

We find that Plaintiff’s expert opinion falls short of the proof required to overcome Defendants motion for summary judgment as to any products liability theory asserted.

#### Strict Liability and Failure to Warn Claims (Counts I and II)

The Pennsylvania Supreme Court has explained strict liability theories as follows:

Strict liability allows a plaintiff to recover where a product in “a defective condition unreasonably dangerous to the user or consumer” causes harm to the plaintiff. Section 402A, Restatement (Second) of Torts. *See also, Webb v. Zern*, 422PA. 424, 427, 220 A.2d 853, 854 (1966)(Adopting §402A). There are three different types of defective conditions that can give rise to a strict liability claim: design defect, manufacturing defect, and failure to warn defect. *Walton v. Avco Corp.*, 530 PA. 568, 576, 610 A.2d 454, 458 (1992).

\*\*\*

A product is defective due to a failure-to-warn where the product was “distributed without sufficient warnings to notify the ultimate user of the dangers inherent in the product.” *Mackowick v. Westinghouse Electric*, 525 Pa. 52, 56, 575 A.2d 100, 102 (1990).

As with the two other types of strict liability claims, a plaintiff raising a failure-to-warn claim must establish only two things: that the product was sold in a defective condition “unreasonably dangerous” to the user, and that the defect caused plaintiff’s injury. *Walton*, 530 Pa. at 576, 610 A.2d 458. To establish that the product was defective, the plaintiff must show that a warning of a particular danger was either inadequate or altogether lacking, and that this deficiency in warning made the product “unreasonably dangerous.” For the plaintiff in a failure to warn claim to establish the second element, causation, the plaintiff must demonstrate that the user of the product would have avoided the risk had he or she been warned of it by the seller. *See, Sherk v. Daisy-Heddon*, 498 PA. 594, 598 and 602, 450 A.2d 615, 617 and 619 (1982). If the plaintiff fails to establish either of these two elements, the plaintiff is barred from recovery as a matter of law.

*Phillips v. A-Best Products Company*, 542 Pa. 124, 130, 665 A.2d 1167, 1170 (1995).

The threshold inquiry in all products liability cases is whether there is a defect. *Barton v. Lowe’s Home Centers, Inc.*, 124 A.3d 349, 355, (2015) citing *Riley v. Warren Manufacturing Inc.*, 455 Pa. Super. 384, 688

A.2d 221, 224 (1997). The question of whether a product is defectively designed should be removed from the jury's consideration only where it is clear that reasonable minds cannot differ on the issue. *Tinchner v. Omega Flex, Inc.*, 104 A.3d 328, 407 (Pa. 2014).

Strict liability – Design defect

As to strict liability law which governs design defects, the Pennsylvania Supreme Court has clarified that a plaintiff can prove a design defect in one of two ways: 1) by showing that the product's danger is unknown and unknowable and acceptable to the average consumer (the consumer expectations test); or 2) that a reasonable person would conclude that the probability and gravity of the harm caused by the product outweigh the burden or costs of taking precautions (the risk-utility standard). *Dunlap v. Federal Signal Corporation*, 194 A.3d 1067, 1070 (2017).

Here, Plaintiff alleges:

25. The heater at issue in this case, at the time of its purchase, was defective and unsafe for its intended purpose by reason of a *design defect in its design, manufacture and assembly in that it was susceptible to spontaneously catching fire and its lacked any safety device to prevent or minimize the risk of fire.*

26. The heater was in a *defective condition* at the time it left the possession and control of Defendants Wal-Mart and the Sam's Club and was not substantially changed prior to the time of the aforementioned fire.

27. The *defect or defective condition* was the cause or a substantial factor in causing the aforementioned damages.

(Plaintiff's Complaint, para. 25-27)(emphasis added).

Plaintiff's Complaint pleads that the heater possessed a *design defect* in the form of unknown and unknowable danger unacceptable to the average consumer. To recover, a plaintiff must prove that (1) the product was defective; (2) the defect was the cause of the plaintiff's injuries; and (3) the defect existed at the time it left the manufacturer's control. See, *Barnish v. KWI Building Co.*, 602 Pa. 402, 980 A.2d 535, 541 (2009). Whether expert evidence is required in a products liability case depends upon whether "all the primary facts can be accurately and intelligently described to the jury, and if they as [persons] of common understanding, are capable of comprehending the primary facts and of drawing correct conclusions from them as are witnesses of special or peculiar training of the subject under investigation." *Ellis v. Beemiller, Inc.*, 910 F. Supp. 2d 768, 774 (2012), citing *Padillas v. Stork-Gamco, Inc.*, 186 F.3d 412, 415-416 (3d Cir 1999) and *Cipriani v. Sun Pipe Line Co.*, 393 Pa. Super. 471, 574 A.2d 706, 710 (1990). See also, *Dunlap v.*

*Federal Signal Corp.*, 194 A.3d 1067 (2017) (Trial Court's grant of summary judgment affirmed where plaintiff failed to present expert opinion as to feasible alternative design.)

Here, Plaintiff's expert opinion is devoid of identification of the design defect, how any alleged defect caused the heater to catch fire, or identification of what type of safety design should have existed. Such matters are beyond the realm of knowledge of the average juror and therefore require expert opinion. The report offers only that "the fire originated within the electric space heater". We also find significant to Plaintiffs' lack of identification of design defect the fact that the heater worked perfectly in the years of use since December 2011.

Plaintiffs ask us to assume, without more, that because a fire occurred, a design defect must have existed. However, Plaintiffs may not avail themselves of the "product malfunction" theory, which is akin to a *res ipsa loquiter* claim, but is intended to benefit plaintiffs who do not have the benefit of examining the allegedly defective product. See, *Dansak v. Cameron Coca-Cola Bottling Co., Inc.*, 703 A.2d 489, 496 (PA. Super. 1997). In the instant case, Plaintiffs' expert examined the product.

Plaintiffs' expert report offers no more insight than that which a layperson possesses and would require the jury to guess as to what, if any aspect of the heater caused the fire and whether such defect existed at the time it left the manufacturer.

Strict liability-Failure to Warn

As to strict liability under the failure-to warn theory, a plaintiff must show that the product was sold without sufficient warnings to "adequately notif[y] the intended user of the unobvious dangers inherent in the product." *Mackowick v. Westinghouse Elec. Corp.*, 525 Pa. 52, 575 A.2d 100, 102 (1990).

Plaintiffs assert that:

36. At all relevant times, *the heater was defective as a result of the fact that it was prone to catching fire and failed to contain any safety mechanism or any other device which would prevent it from igniting and/or catching fire*, and the Defendants Wal-Mart and the Sam's Club failed to give adequate warning that the particular risk of [fire ] rendered the product unsafe for its intended or reasonably foreseeable use.

37. Plaintiff believes and therefore avers that, at all relevant times, Defendants Wal-Mart and the Sam's Club had *specific knowledge of the risk or could have known of the risk by the application of scientific knowledge available at the time of the manufacture of the product*.

(Plaintiff's Complaint, para. 37-38).



To determine whether a warning is sufficient, pursuant to *Mackowick*, courts must decide whether the warning “adequately notifies the intended users of the unobvious dangers inherent in the product.” 575 A.2d at 102. “To this end, the Court should ask (1) whether the dangers are obvious; and; (2) if not, whether the warning adequately notifies intended users of any unobvious dangers in the product. There is no duty to warn of obvious dangers, and “[t]he duty to adequately warn does not require the manufacturer to educate a neophyte in the principles of the product.” *Id*; *Hatcher v. SCM Group North America, Inc.*, 167 F.Supp. 3d 719 (2016).

Here, Plaintiff’s failure-to-warn claim is fundamentally based upon their design defect claim, that is, that Defendants should have warned of an alleged defect in the form of a proclivity to catch fire and the lack of a mechanism to prevent it from catching fire. Plaintiffs’ claim fails for two reasons. First, Plaintiffs provide no evidence of the content of any materials which accompanied the product upon which the jury could decide whether the Defendants provided sufficient warning. Although Plaintiffs no longer possess the instructions which came with the heater, they do not explain why they cannot obtain and produce such materials, which are vital to their claim. Second, because Plaintiffs base the failure to warn claim upon a design defect theory, for the reasons we have presented, Plaintiff’s expert opinion is similarly insufficient to prove a failure-to-warn claim.

### Negligence (Count III)

In order to prevail in a negligence action, “the plaintiff must show that the defendant had a duty to conform to a certain standard of conduct, that the defendant breached that duty, that such breach caused the injury in question, and actual loss or damage.” *Barton v. Lowes Home Centers, Inc.*, 124 A.3d 349, 359 (2015) citing *Phillips v. Cricket Lighter*, 576 Pa. 644, 841 A.2d 1000, 1008 (2003).

Plaintiffs claim that Defendants were negligent in:

44. failing to exercise reasonable care in the *marketing, distribution and sale of the heater and failing to include proper warnings, notice and instructions* to users and consumers about the alleged dangers, risks and hazards of the heater;

45. *failing to provide adequate systems of safety features* which would have prevented the damages to the property;

46. *failing to provide sufficient warnings* as to: 1) the reasonably *foreseeable defects* in the heater and 2) the reasonably foreseeable dangers intended in the use or operation of the heater.

47. *failing to give sufficient instructions* so that the ultimate purchaser or user would have sufficient information, preparation and training in the safe and proper use and maintenance of the heater.

48. *failing to test and/or inspect the heater* to determine whether it could be used for its intended purpose without injury or damage to persons who use it or property near or around it.

49. failing to exercise due and reasonable care under the circumstances in view of the *foreseeable dangers and foreseeable accidents and injuries* that could occur as a result of using or operating the heater or being near the same when it was being operated.

Plaintiffs cannot proceed with any of their negligence theories. At the outset, the claim of negligent failure to test the heater is not viable because such claim is encompassed within either a claim for strict liability or negligent design. *Barton*, at 360. We have rejected the strict liability claims.

Next, with no evidence of the heater's instructions, product testing, or of any non-obvious danger associated with a heater, Plaintiffs raise no issue of fact as to how Defendants were negligent. Plaintiffs would again ask the factfinder to assume liability solely upon the occurrence of the fire.

Finally, the issue of fire causation requires expert testimony. *Young v. Com., Department of Transportation* 744 A.2d 1276, 1278 (Pa. 2000), quoting, *Reardon v. Meehan*, 227 A.2d 667, 670 (PA. 1967); *Swartz v. Gen. Electric Co.*, 474 A.2d 1172, 1178 (Pa. Super. 1984). Plaintiff's expert offers no opinion as to causation as to the negligence claims.

#### Plaintiffs' Breach of Implied Warranty of Merchantability Against all Defendants Count IV

Under Pennsylvania law, "contract claims for breach of implied warranty of merchantability and fitness for a particular purpose may fall within the sphere of products liability actions." *Barton*, at 357, citing *French v. Commonwealth Associates, Inc.*, 980 A.2d 623, 633 (Pa. Super. 2009). In cases involving a breach of the implied warranty of merchantability, any party injured by the *defective* product may sue any party in the distributive chain" *Id.* (emphasis added).

Plaintiff asserts a breach of implied warranty of merchantability as follows:

53. By marketing, distributing and selling the heater at issue, Defendants Wal-Mart and the Sam's Club impliedly warranted that the heater was fit for its ordinary purpose.

54. By reason of its *defective condition, as described above*, the heater was not of merchantable quality and was not fit for its ordinary purpose.

55. Defendants Wal-Mart and the Sam's Club breached their implied warranty of merchantability by placing into the stream of commerce the heater which was not fit for its ordinary purpose.

56. The Thompsons relied upon the implied warranty of merchantability in utilizing the heater.

(Plaintiff's Complaint, para. 53-56).

Because Plaintiffs have failed to present any issue of material as to the alleged defect, they are unable to proceed with a claim of breach of implied warranty of merchantability.

CONCLUSION

For these reasons, we enter the following:

ORDER

AND NOW, this 13<sup>th</sup> day of April, 2020,

Defendants' Motion for Summary Judgment is GRANTED.

BY THE COURT:  
JOHN F. CHERRY  
PRESIDENT JUDGE

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## **FIRST PUBLICATION**

### **ESTATE NOTICES**

**ESTATE OF CAROL J. HILTNER**, late of Susquehanna Township, Dauphin County, PA (died: January 30, 2020)

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

**Executrix:** Maryan G. McCormick, c/o Edmund G. Myers, Attorney, Johnson, Duffie, Stewart & Weidner, 301 Market Street, P.O. Box 109, Lemoyne, PA 17043 a24-m8

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**ESTATE OF ARLENE M. BECK**, late of the Township of West Hanover, Dauphin County, PA

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

**Executor:** Dennis L. Beck, 40 S. 24<sup>th</sup> Street, Harrisburg, PA 17103

**Attorney:** Theresa L. Shade Wix, Esquire, Wix, Wenger & Weidner, 4705 Duke Street, Harrisburg, PA 17109-3041 a24-m8

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**ESTATE OF ROBERT P. WALLACE, a/k/a ROBERT PAUL WALLACE**, late of Swatara Township, Dauphin County, PA

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

**Executrix:** Frances Findley, c/o Caram J. Abood, Esquire, Abood, Russell, Pappas & Rozich, 709 Franklin Street, Suite 200, Johnstown, PA 15901

**Attorney:** Caram J. Abood, Esquire, Abood, Russell, Pappas & Rozich, 709 Franklin Street, Suite 200, Johnstown, PA 15901 a24-m8

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## **SECOND PUBLICATION**

**ESTATE OF JOSEPH M. KLEHA**, late of 378 Barnett Circle, Harrisburg, Dauphin County, PA

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

**Personal Representative:** Joseph D. Kleha c/o R. Nicholas Nanovic, Esquire, Gross McGinley, LLP, 33 South 7<sup>th</sup> Street, PO Box 4060, Allentown, PA 18105-4060

**Attorney:** R. Nicholas Nanovic, Esquire, Gross McGinley, LLP, 33 South 7<sup>th</sup> Street, PO Box 4060, Allentown, PA 18105-4060 a17-m1

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**ESTATE OF A. ELIZABETH BINNER**, late of Derry Township, Dauphin County, PA

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

**Personal Representative:** Theodore J. Sopko, c/o Megan C. Huff, Esquire, Nestico Druby, P.C., 1135 East Chocolate Avenue, Suite 300, Hershey, PA 17033 a17-m1

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**ESTATE OF THERESA ANN HARRIS**, late of Swatara Township, Dauphin County, PA (died: 11/20/2019)

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

**Administratrix:** She'Quiera Harris, 8301 President's Drive, Apt. 233, Hummelstown, PA 17036

**Attorney:** Robin J. Marzella, Esquire, R.J. Marzella & Associates, 3513 North Front Street Harrisburg, PA 17110 a17-m1

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**ESTATE OF ANTHONY J. MAY a/k/a ANTHONY JOSEPH MAY**, late of Harrisburg, Dauphin County, PA (died: January 20, 2020)

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

indebted to the decedent to make payment to the Executor without delay.

**Executrix:** Elizabeth L. Payne, 2955 Green Street, Harrisburg, PA 17110

**Attorney:** Linda C Plum, Attorney at Law, 4617 Walnut Street, McKeesport, PA 15132

a17-m1

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## **THIRD PUBLICATION**

**ESTATE OF ELIZABETH J. NOON, a/k/a ELIZABETH JANE NOON**, late of the City of Harrisburg, Dauphin County, PA (died: December 29, 2019)

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

**Executrix:** Carol Lynn Noon

**Attorney:** Timothy M. Finnerty, Esq., McNees Wallace & Nurick LLC, 100 Pine Street, P. O. Box 1166, Harrisburg, PA 17108-1166, (717) 232-8000

a10-24

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**ESTATE OF JAMES WILLARD LINDBERG**, late of the County of Dauphin and Commonwealth of PA

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

**Executor:** Joshua A. Reed, 4303 Derry Street Harrisburg, PA 17111

a10-24

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**ESTATE OF JOSEPH E. REAGAN**, late of Paxtang Township, Dauphin County, PA (died: February 9, 2020)

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

**Administratrix:** Cecilia Johnson

**Attorney:** Aviv S. Bliwas, Esq., Family First Law, LLC, 3514 Trindle Road, 2<sup>nd</sup> Floor, Camp Hill, PA 17011

a10-24

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**ESTATE OF DORIS V. CLAY** late of the Borough of Lykens, County of Dauphin, PA (died: January 23, 2020).

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

**Executrix:** Donna L. Donaldson, 4072 Rufus King Court, Enola, Pennsylvania 17025

**Attorney:** Joseph D. Kerwin, Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, Pennsylvania 17023.

a10-24

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**ESTATE OF BARBARA K. SCHINDLER**, late of Lower Paxton, Dauphin County, PA (died: August 27, 2019)

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

**Executor:** Michael Schindler, 203 Francis L Cadden Parkway, Apt. T2, Harrisburg, PA 17111

**Attorney:** Michael C. Giordano, Attorney & Counselor at Law, 221 W. Main Street, Mechanicsburg, PA 17055

a10-24

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## **FIRST PUBLICATION**

## **CORPORATE NOTICES**

NOTICE IS HEREBY GIVEN that a Foreign Registration Statement has been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA on March 23, 2020, for a foreign corporation with a registered address in the Commonwealth of Pennsylvania as follows: **Whitewall USA Inc.** c/o United Corporate Services, Inc.

This corporation is incorporated under the laws of Delaware.

The address of its principal office is 2125 Center Ave., Ste. 507, Fort Lee, NJ 07024. The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988, as amended.

a24

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NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA on or about March 4, 2020, for: **Scriptis USA Inc.** c/o United Corporate Services, Inc.

The corporation has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended. a24

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NOTICE IS HEREBY GIVEN that **Scrypt, Inc.**, a foreign business corporation incorporated under the laws of the State of Nevada, received a Certificate of Authority/Foreign Registration in Pennsylvania on March 24, 2015, and will surrender its Certificate of Authority/Foreign Registration to do business in Pennsylvania.

The address of its principal office is 3800 N. Lamar Boulevard, Suite 200, Austin, TX 78756.

Its last registered office in this Commonwealth was located at c/o Registered Agent Solutions, Inc. and the last registered office shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania. a24

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NOTICE IS HEREBY GIVEN that a Foreign Registration Statement has been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA on or about March 13, 2020, for a foreign corporation with a registered address in the Commonwealth of Pennsylvania as follows: **Doe & Ingalls Investors, Inc.** c/o Capitol Corporate Services, Inc.

This corporation is incorporated under the laws of Delaware.

The address of its principal office is 2525 Meridian Pkwy, Durham, NC 27713.

The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988, as amended. a24

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NOTICE IS HEREBY GIVEN **Level 2 Medical Services, P.A.**, a foreign professional association incorporated under the laws of Delaware, with its princ. office located at 17 Ronald Reagan Dr., Parkersburg, WV 26101, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The commercial registered office provider in PA is c/o Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN **France Enterprises, Inc.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 1 Daytona Blvd., Daytona Beach, FL 32114, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act.

The commercial registered office provider in PA is c/o Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN **Acceleron Pharma Inc.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 128 Sidney St., Cambridge, MA 02139, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act.

The commercial registered office provider in PA is c/o Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN **Principal Global Investors Trust Company**, a foreign business corporation incorporated under the laws of Oregon, with its princ. office located at 711 High St., Des Moines, IA 50392, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act.

The commercial registered office provider in PA is c/o Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN **Advanced Electronic Services, Inc.**, a foreign business corporation incorporated under the laws of North Carolina, with its princ. office located at 101 Technology Lane, Mt. Airy, NC 27030, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The street address in the association's jurisdiction of formation is 101 Technology Lane, Mt. Airy, NC 27030.

The commercial registered office provider in PA is c/o Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN **Natures Trading Group, Inc.**, a foreign business corporation incorporated under the laws of New Jersey, with its princ. office located at 576 Valley Brook Ave., Lyndhurst, NJ 07071, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The street address in the association's jurisdiction of formation is 576 Valley Brook Ave., Lyndhurst, NJ 07071.

The commercial registered office provider in PA is c/o Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN **GN Transportation Corp.**, a foreign business corporation incorporated under the laws of California, with its princ. office located at 1750 S. Wolf Rd., Des Plaines, IL 60018, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act.

The commercial registered office provider in PA is c/o Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN **Spectrum Asset Management, Inc.**, a foreign business corporation incorporated under the laws of Connecticut, with its princ. office located at 711 High St., Des Moines, IA 50392, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act.

The commercial registered office provider in PA is c/o Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN **Life for Relief and Development, Inc.**, a foreign business corporation incorporated under the laws of California, with its princ. office located at 17300 W. 10 Mile Road, Southfield, MI 48075, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act.

The commercial registered office provider in PA is c/o Corporation Service Co., and shall be deemed or venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN that **Victor Garber, Inc.**, a foreign corporation formed under the laws of the State of New York and with its principal office located 509 Madison Ave., New York, NY 10022, has registered to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on 3/17/20, under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN that **Viventium Software Inc.**, a foreign corporation formed under the laws of the State of Delaware and with its principal office located 400 Connell Drive, Suite 1000, Berkeley Heights, NJ 07922, has registered to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on 3/27/20, under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN **Thales Avionics, Inc.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 2733 S. Crystal Dr., Ste. 1200, Arlington, VA 22202, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act.

The commercial registered office provider in PA is c/o Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN that **Artemilife Inc.**, a foreign business corporation, has applied for a Statement of Registration to do business in the Commonwealth of Pennsylvania under the provisions of Chapter 4 of the Pennsylvania Association Transactions Act (15 Pa. C.S. § 6124). The corporation is incorporated under the laws of the State of Delaware. The address of its principal office under the laws of said jurisdiction is 850 New Burton Rd. #201, Dover, DE 19904 and the address, including street and number, if any, of its proposed registered office in Pennsylvania is 1591 Stoney Mountain Way, Dauphin, PA 17018. a24

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NOTICE IS HEREBY GIVEN that **Acnos Pharma Inc.** filed a foreign registration statement to do business in the Commonwealth of Pennsylvania on March 18, 2020. The street and mailing address of the association's principal office is 6681 Snowdrift Road, Allentown, PA 18106.

The commercial registered office provider is in c/o United Corporate Services Inc. in Dauphin County. The Corporation is filed in compliance with the requirements of the applicable provisions of 15 Pa. C.S. 412. a24

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NOTICE IS HEREBY GIVEN that **Greentech USA, Inc.** filed a foreign registration statement to do business in the Commonwealth of Pennsylvania on March 30, 2020. The street and mailing address of the association's principal office is 30 Forest Falls Drive, Unit 4, Yarmouth, ME 04096.

The commercial registered office provider is in c/o Cogency Global Inc. in Dauphin County. The Corporation is filed in compliance with the requirements of the applicable provisions of 15 Pa. C.S. 412. a24

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NOTICE IS HEREBY GIVEN that **LW2 Solutions Inc.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 933 Louise Ave., #101, Charlotte, NC 28204, has or will register to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on March 18, 2020, under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located at c/o Business Filings Incorporated, Dauphin County. a24

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NOTICE IS HEREBY GIVEN that, pursuant to the Business Corporation Law of 1988, **CONTRACT FURNITURE REFINISHING & MAINTENANCE CORP. OF GEORGIA**, a corporation incorporated under the laws of the State of Georgia will withdraw from doing business in Pennsylvania. The address of its principal office in its jurisdiction of incorporation is 9350 INDUSTRIAL TRCE, ALPHARETTA, GA – 30004 and the name of its commercial registered office provider in Pennsylvania is REGISTERED AGENT SOLUTIONS, INC. a24

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NOTICE IS HEREBY GIVEN that **ADZerk, Inc.**, a foreign corporation formed under the laws of the State of Delaware and with its principal office located at 505 South Duke St., Ste. 500, Durham, NC 27701, has registered to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on 4/1/20, under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN **Lighthouse Placement Services, Inc.**, a foreign business corporation incorporated under the laws of Massachusetts, with its princ. office located at 1600 Osgood St., Ste. 2082, N. Andover, MA 01845, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act.

The commercial registered office provider in PA is c/o Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN **A.S. Judge Virtual Dental, P.C.**, a foreign business corporation incorporated under the laws of Indiana, with its princ. office located at 9 W. Walton St., Chicago, IL 60610, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act.

The commercial registered office provider in PA is c/o Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN that **TeamMD Physicians, P.C.**, a foreign corporation formed under the laws of the State of Iowa and with its principal office located at 9900 Bren Rd E, Minnetonka, MN 55343 has registered to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on 4/1/20, under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREGY GIVEN **Delaware Charter Guarantee & Trust Company**, a foreign business corporation incorporated under the laws of Oregon, with its princ. office located at 711 High St., Des Moines, IA 50392, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act.

The commercial registered office provider in PA is c/o Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. a24

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed, on 3/27/20, with the Department of State of the Commonwealth of Pennsylvania, for a business corporation which has been incorporated under the provisions of the Business Corporation Law of 1988. The name of the corporation is: **Infinity Workplace Solutions, Inc.** a24

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## **FICTITIOUS NAME NOTICES**

NOTICE IS HEREBY GIVEN an application for registration of the fictitious name **Joyous Photography**, 4350 N. 6<sup>th</sup> St., Harrisburg, PA 17110 has been filed in the Department of State at Harrisburg, PA, File Date 02/07/2020 pursuant to the Fictitious Names Act, Act 1982-295.

The name and address of the person who is a party to the registration is Amelia Allen, 4350 N. 6th St., Harrisburg, PA 17110. a24

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NOTICE IS HEREBY GIVEN, pursuant to the provisions of Act of Assembly No. 295, effective March 16, 1983, of the filing in the office of the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, an application for the conduct of a business in Dauphin County, Pennsylvania under the assumed or fictitious name, style or designation of Name: **OptumServe Community Care Services**, with its principal place of business at: 3160 Fairview Park Drive, Suite 600, Falls Church, VA 22042.

The names and addresses of all persons or entities owning or interested in said business are: Optum Public Sector Solutions, Inc., 3160 Fairview Park Drive, Suite 600, Falls Church, VA 22042. The application has been filed on 3/26/2020. a24

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NOTICE IS HEREBY GIVEN that an application for registration of the assumed name **UPMC Pinnacle Foundation** for the conduct of business in Dauphin County, Pennsylvania, with the principal place of business being 409 South Second Street, Harrisburg, PA 17105 was made to the Department of State of Pennsylvania at Harrisburg, Pennsylvania, on the 19<sup>th</sup> day of March 2020, pursuant to 54 Pa.C.S. §311.

The name of the entity owning or interested in the said business is Pinnacle Health Foundation.

McNEES WALLACE & NURICK LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

a24

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## **NAME CHANGE NOTICES**

**IN THE COURT OF COMMON PLEAS  
OF DAUPHIN COUNTY  
PENNSYLVANIA**

**DOCKET NO: 2019-CV-10200-NC**

**PETITION FOR CHANGE OF NAME**

### **NOTICE**

NOTICE IS HEREBY GIVEN that on March 3<sup>rd</sup>, 2020, the Petition of Valerie Nicole Paxton was filed in the above named court, requesting a decree to change his/her name from **Valerie Nicole Paxton** to **Adrien David Tucker**.

The Court has fixed Tuesday, May 5<sup>th</sup>, 2020 at 9:30am in Courtroom No. 9, 2<sup>nd</sup> Floor, at the Dauphin County Courthouse, 101 Market Street, Harrisburg, PA as the time and place for the hearing on said Petition, when and where all persons interested may appear and show cause if any they have, why the prayer of the said Petition should not be granted. a24

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**BAR ASSOCIATION PAGE**  
**Dauphin County Bar Association**  
**213 North Front Street, Harrisburg, PA 17101-1493**  
**www.dcba-pa.org**  
**Phone: (717) 232-7536      Fax: (717) 234-4582**

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The Board of Directors of the Bar Association meets on the third Thursday of the month at the Bar Association headquarters. Anyone wishing to attend or have matters brought before the Board should contact the Bar Association office in advance.

**REPORTING OF ERRORS IN ADVANCE SHEET**

The Bench and Bar will contribute to the accuracy in matters of detail of the permanent edition of the Dauphin County Reporter by sending to the editor promptly, notice of all errors appearing in this advance sheet. Inasmuch as corrections are made on a continuous basis, there can be no assurance that corrections can be made later than thirty (30) days from the date of this issue but this should not discourage the submission of notice of errors after thirty (30) days since they will be handled in some way if at all possible. Please send such notice of errors to: Dauphin County Reporter, Dauphin County Bar Association, 213 North Front Street, Harrisburg, PA 17101-1493.

**DAUPHIN COUNTY COURT SECTION**  
*Opinions Not Yet Reported*

**BAR ASSOCIATION PAGE**  
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**[www.dcba-pa.org](http://www.dcba-pa.org)**  
**Phone: (717) 232-7536                      Fax: (717) 234-4582**

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**PROJECT ATTORNEY:** The YWCA Greater Harrisburg's Legal Center, a non-profit law office, is seeking a full-time attorney to provide legal assistance and representation in family law matters to victims of sexual violence, domestic violence, dating violence, stalking, and human trafficking. This position will function as part of a mobile response unit (MRU) providing services at multiple locations through Perry County. The ideal candidate will have at least 3 years family law experience and experience working with survivors/crime victims. Applicant must have a professional demeanor, excellent verbal and written communication skills, demonstrate an ability to function in a team environment, excellent time management skills, and be a self-starter requiring minimal supervision. Requires advanced-level computer skills, and the ability to multi-task. Must have valid driver's license, clean driving history, reliable transportation, proof of insurance, FBI, criminal, and child abuse clearances. Interested candidates should forward their resume along with a cover letter to [mailto:resume@ywcahbg.org](mailto:mailto:resume@ywcahbg.org) or fax to (717) 234-1779. a17-m1

**ASSOCIATE ATTORNEY:** The YWCA Greater Harrisburg's Legal Center, a non-profit law office, is seeking a full-time attorney to provide legal assistance and representation to victims of domestic violence, sexual assault, dating violence, stalking, and Human Trafficking in family law and immigration matters. This position will provide services at multiple locations throughout Dauphin County and Perry County and may be located at either our Harrisburg or Perry County office. The ideal candidate will have at least 3 years family law and immigration law experience and prior experience working with survivors/crime victims. Applicants must have a professional demeanor, excellent verbal and written communication skills, excellent time management skills, and be a self-starter requiring minimal supervision. Requires advanced-level computer skills and the ability to multi-task. Must have valid driver's license, clean driving history, reliable transportation, proof of insurance, FBI, criminal, and child abuse clearances. Interested candidates should forward their resume along with a cover letter to [mailto:resume@ywcahbg.org](mailto:mailto:resume@ywcahbg.org) or fax to (717) 234-1779. a17-m1

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The Judges have completed the **JANUARY 6, 2020** civil jury term. One civil case reached a verdict in the January jury trial, however that trial was bifurcated with claims under 42 U.S.C. 1981, 1983, 1985(3), and 1986 proceeding to a jury, followed by a bench trial in March on the remaining counts. The summary is as follows:

**EDDIE L. COLLINS v. GREG FAJT and COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF REVENUE (2005-CV-01060)**

**Trial dates: January 6 – 13, 2020 (jury trial)  
March 16, 2020 (bench trial)**

**Trial Summary:** Eddie L. Collins and Gary Dieffenbach, former employees of the Pennsylvania Department of Revenue, initiated this action on March 15, 2005, by filing a praecipe for writ of summons against the Department of Revenue and Revenue Secretary Gregory C. Fajt. The writ was served on the defendants on March 23, 2005. Seven years later, on May 25, 2012, the plaintiffs filed a complaint naming the Department of Revenue, Fajt, and 17 other individuals and Commonwealth agencies. An amended complaint adding 13 additional individual defendants was filed on July 10, 2012.

Plaintiffs alleged that during their employment with the Department of Revenue they were subjected to racial discrimination, harassment, and retaliation, which occurred from 2004 through 2007. After preliminary objections and two appeals to the Commonwealth Court, it was determined that claims against all defendants other than the Department of Revenue and Fajt were barred by the statute of limitations and that all claims by Dieffenbach were barred by res judicata. After subsequent motions, the only counts that survived for trial

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were Collins' claims pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. 1981, 1983, 1985(3) and 1986, the Pennsylvania Human Relations Act, and the Pennsylvania Whistleblower Law. Further decisions of the court determined that the trial would be bifurcated with the claims under 42 U.S.C. 1981, 1983, 1985(3), and 1986, proceeding to a jury followed by a bench trial on the remaining counts.

At trial, the plaintiff presented testimony and evidence to show that he was subject to and complained about discriminatory practices at the Department of Revenue and that he reported ongoing waste and corruption within his assigned bureau. Plaintiff testified that he experienced multiple adverse employment actions and was terminated as a result. The defense challenged the plaintiff's version of events and offered testimony and evidence to rebut plaintiff's claims and show that he failed to take advantage of reinstatement.

**Plaintiff's witnesses:**

Ed Collins  
Gary Dieffenbach  
Hilda Eck

**Defense witnesses:**

Gregory Fajt  
Jane Baldo

**Exhibits:** Numerous exhibits were offered, including various communications between Collins and individuals in the Department of Revenue, complaints and grievances.

**Verdict:** After deliberating for a day and a half, the jury found in favor of the plaintiff and against both the Department of Revenue and Fajt on the Section 1981 retaliation claim. The jury awarded \$10,000 in compensatory damages and \$50,000 in actual damages. At the conclusion of the bench trial, the court determined that plaintiff was entitled to judgment on the Whistleblower count and awarded \$50,000 in economic damages and \$50,000 in non-economic damages.

**Judges:**

Judge Andrew H. Dowling (until August 15, 2019)  
Judge Royce L. Morris (after August 15, 2019)

**Counsel for Plaintiff:**

Sandra Thompson, Esquire  
Law Office of Sandra Thompson, LLC

**Counsel for Defendants:**

Nicole R. DiTomo, Esquire  
Office of the Attorney General  
  
Alexander T. Korn, Esquire  
Office of the Attorney General

**IN THE SUPREME COURT OF PENNSYLVANIA**

|                                  |   |                     |
|----------------------------------|---|---------------------|
| IN RE:                           | : | NO. 836             |
|                                  | : |                     |
| ORDER TEMPORARILY MODIFYING      | : | SUPREME COURT RULES |
| PENNSYLVANIA RULE OF CONTINUING: | : | DOCKET              |
| LEGAL EDUCATION 108(e)           | : |                     |
|                                  | : |                     |

**ORDER**

**PER CURIAM**

**AND NOW**, this 15th day of April, 2020, upon the recommendation of the Pennsylvania Continuing Legal Education Board (the “Board”),

**IT IS ORDERED** pursuant to Article V, Section 10 of the Constitution of Pennsylvania, and Rule 1952(A) of the Rules of Judicial Administration, that Rule 108 of the Pennsylvania Rules of Continuing Legal Education is temporarily modified as follows:

Pennsylvania Rule of Continuing Legal Education 108(e), which states that no more than six (6) credits earned by distance learning education may be applied to the annual compliance requirement, is hereby modified with respect to CLE compliance deadlines for the year 2020 only. All CLE credits to satisfy 2020 compliance deadlines may be obtained through completion of distance learning programs consistent with the Rules and Regulations for Continuing Legal Education in Pennsylvania.

This **ORDER** shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective immediately.



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