

Northampton County Reporter

(USPS 395-280)

VOL. LX

EASTON, PA January 11, 2018

NO. 2

**Amy Walton and Joseph Young, Plaintiffs v. Sarah Pearce, Angelina Zong and
Wayne Hawk, Defendants**

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NOTICE TO THE BAR...

Save the Dates

Annual Association Meeting – Thursday, January 18, 2018
Quarterly Association Meeting – Thursday, March 8, 2018
Annual Reception for the Court – Friday, March 23, 2018

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Editor

NOTICE TO NCBA MEMBERS – BAR NEWS

New in 2018

The NCBA will begin showing the live simulcast PBI programs in addition to video replays. Registration for both types of programming begins one-half hour prior to the start time listed.

On the NCBA Calendar listed inside, note the PBI/CLE programs list “Live” or “Video.” The “Live” programs are the live simulcast programs, which include all of the breaks taken at the program locations. You should plan to stay the entire time listed for full credit.

The “Video” programs will continue to run straight through and may end earlier than the listed ending time.

Save the Dates

Annual Association Meeting – Thursday, January 18, 2018

Annual Reception for the Court – Friday, March 23, 2018

Don't cry because it's over, smile because it happened. ~ Dr. Seuss

ESTATE AND TRUST NOTICES

Notice is hereby given that, in the estates of the decedents set forth below, the Register of Wills has granted letters testamentary or of administration to the persons named. Notice is also hereby given of the existence of the trusts of the deceased settlors set forth below for whom no personal representatives have been appointed within 90 days of death. All persons having claims or demands against said estates or trusts are requested to make known the same, and all persons indebted to said estates or trusts are requested to make payment, without delay, to the executors or administrators or trustees or to their attorneys named below.

FIRST PUBLICATION**BECK, ADRIENNE R.,** dec'd.

Late of Bushkill Township, Northampton County, PA
Executors: Robert A. Beck, 338 Saddle Ridge Rd., Port Matilda, PA 16870 and Michael W. Beck, 102 N. 27th St., Camp Hill, PA 17011

Attorneys: Peters, Moritz, Peischl, Zulick, Landes & Brienza, LLP, 1 South Main Street, Nazareth, PA 18064-2083

BENNER, BETTY C., dec'd.

Late of the Township of Forks, Northampton County, PA
Executor: William Cunningham c/o Theresa Hogan, Esquire, Attorney-at-Law, 340 Spring Garden Street, Easton, PA 18042
Attorney: Theresa Hogan, Esquire, Attorney-at-Law, 340 Spring Garden Street, Easton, PA 18042

DIAZ, MIGUEL A., dec'd.

Late of the Borough of Freemansburg, Northampton County, PA

Administratrix: Holly M. Diaz c/o Richard P. Kovacs, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064

Attorneys: Richard P. Kovacs, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064

GAMBINO, ANTHONY, dec'd.

Late of Palmer Township, Northampton County, PA

Executor: Carmen J. Napoli c/o Ralph J. Bellafatto, Esquire, 4480 William Penn Highway, Easton, PA 18045

Attorney: Ralph J. Bellafatto, Esquire, 4480 William Penn Highway, Easton, PA 18045

JURASITS, MARY E., dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Executors: John F. Jurasits, Jr. and Thomas M. Jurasits c/o Joseph A. Corpora, III, Esquire, Santander Bank Building, 100 North Third Street, Suite 502, Easton, PA 18042

Attorney: Joseph A. Corpora, III, Esquire, Santander Bank Building, 100 North Third Street, Suite 502, Easton, PA 18042

KAMMERMAN, HARRY, dec'd.

Late of Bethlehem, Northampton County, PA

Executors: Martin Kammerman and David Crosson, Esquire, Albarelli & Stirba, LLC, 609 W. Hamilton St., Ste. 201, Allentown, PA 18101

Attorneys: David Crosson, Esquire, Albarelli & Stirba, LLC, 609 W. Hamilton St., Ste. 201, Allentown, PA 18101

KOCHER, CAROL A., dec'd.

Late of the Township of Bushkill, Northampton County, PA

Executor: Dale C. Kocher c/o Alfred S. Pierce, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064
Attorneys: Alfred S. Pierce, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064

McCUEN, SARA A., dec'd.

Late of Bethlehem, Northampton County, PA
Administratrix: Kathleen F. Disque c/o Karen S. Dayno, Esquire, Timoney Knox, LLP, 400 Maryland Dr., P.O. Box 7544, Ft. Washington, PA 19034-7544
Attorneys: Karen S. Dayno, Esquire, Timoney Knox, LLP, 400 Maryland Dr., P.O. Box 7544, Ft. Washington, PA 19034-7544

METZGER, GARY K., dec'd.

Late of Bethlehem, Northampton County, PA
Administratrix: Cheryl Louise Streeper c/o Richard H. Morton, Esquire, Ryan, Morton & Imms, LLC, 220 West Gay Street, West Chester, PA 19380
Attorneys: Richard H. Morton, Esquire, Ryan, Morton & Imms, LLC, 220 West Gay Street, West Chester, PA 19380

PETRUSKA, ETHEL M., dec'd.

Late of the Township of Moore, Northampton County, PA
Executrix: Linda Lee Muzikar c/o Alfred S. Pierce, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064
Attorneys: Alfred S. Pierce, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064

ROSSINI, MARCO N., dec'd.

Late of Northampton, Northampton County, PA
Administratrix: Jennine M. Rossini c/o Lisa A. Pereira, Esquire, Broughal & DeVito, L.L.P., 38 West Market Street, Bethlehem, PA 18018
Attorneys: Lisa A. Pereira, Esquire, Broughal & DeVito, L.L.P., 38 West Market Street, Bethlehem, PA 18018

SECOND PUBLICATION

GORETTI, MAFALDA, dec'd.

Late of Bethlehem Township, Northampton County, PA
Executrix: Diana P. Morganelli, 835 Barnsdale Road, Bethlehem, PA 18017
Attorney: John M. Morganelli, Esquire, 835 Barnsdale Road, Bethlehem, PA 18017

KASARDA, JUNE M., dec'd.

Late of Palmer Township, Northampton County, PA
Administrators: Rae Anne Denardo and Gregory Zehnder c/o Stanley J. Margle, III, Esquire, Margle Law Offices, P.C., 3839 Easton Ave., Bethlehem, PA 18020
Attorneys: Stanley J. Margle, III, Esquire, Margle Law Offices, P.C., 3839 Easton Ave., Bethlehem, PA 18020

KELLER, PAUL M., SR., dec'd.

Late of the Township of Forks, Northampton County, PA
Executor: Paul M. Keller, Jr. c/o Alfred S. Pierce, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064
Attorneys: Alfred S. Pierce, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064

PETITO, JOANNE C. KOSTECKY,
dec'd.

Late of the Township of Lower Saucon, Northampton County, PA

Executrices: Suzanne E. Trautman and Jennifer M. McGuire c/o Judith Harris, Esquire, Norris, McLaughlin & Marcus, P.A., 515 West Hamilton Street, Suite 502, Allentown, PA 18101

Attorneys: Judith Harris, Esquire, Norris, McLaughlin & Marcus, P.A., 515 West Hamilton Street, Suite 502, Allentown, PA 18101

ZIMA, JOHN C., dec'd.

Late of 1849 Washington Avenue, Northampton, Northampton County, PA

Executor: John C. Zima, Jr., 321 Sharadin Road, Kutztown, PA 19530

Attorneys: James E. Sher, Esquire, Sher & Associates, P.C., 15019 Kutztown Road, Kutztown, PA 19530

ZINKLER, BARBARA A., dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executor: David D. Zinkler c/o Judith Harris, Esquire, Norris, McLaughlin & Marcus, P.A., 515 West Hamilton Street, Suite 502, Allentown, PA 18101

Attorneys: Judith Harris, Esquire, Norris, McLaughlin & Marcus, P.A., 515 West Hamilton Street, Suite 502, Allentown, PA 18101

THIRD PUBLICATION**DeFRANK, NORA I.,** dec'd.

Late of Bethlehem, Northampton County, PA

Executor: Michael P. DeFrank c/o Barbara Rush Renkert,

Esquire, 2120 Northampton Street, Easton, PA 18042

Attorney: Barbara Rush Renkert, Esquire, 2120 Northampton Street, Easton, PA 18042

ELIAS, JOSEPH FAYEZ a/k/a JOSEPH F. ELIAS, dec'd.

Late of the Borough of Bangor, Northampton County, PA

Executor: Michael Marshall Elias c/o Mark P. Albright, Esquire, 403 Main Street, Hellertown, PA 18055-1721

Attorney: Mark P. Albright, Esquire, 403 Main Street, Hellertown, PA 18055-1721

FOX, THOMAS W., SR., dec'd.

Late of Easton, Northampton County, PA

Executor: Craig A. Fox c/o Fitzpatrick Lentz & Bubba, P.C., 4001 Schoolhouse Lane, P.O. Box 219, Center Valley, PA 18034-0219

Attorneys: Fitzpatrick Lentz & Bubba, P.C., 4001 Schoolhouse Lane, P.O. Box 219, Center Valley, PA 18034-0219

GEIST, ROBERT R., dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executrix: Janet L. Maslany, 2934 Highbridge Court, Bethlehem, PA 18020

HADER, STEVEN JOHN, SR.,
dec'd.

Late of 175 W. North Street, Nazareth, Northampton County, PA

Executor: Steven J. Hader, Jr. c/o Stuart T. Shmookler, Esquire, Gross McGinley, LLP, 33 S. 7th Street, P.O. Box 4060, Allentown, PA 18105-4060

Attorneys: Stuart T. Shmookler, Esquire, Gross McGinley, LLP,

33 S. 7th Street, P.O. Box 4060,
Allentown, PA 18105-4060

HENSHAW, CHARLOTTE E.,
dec'd.

Late of the Borough of Hellertown, Northampton County, PA
Executrix: Sandra Lee Nolan c/o
Bradford D. Wagner, Esquire,
662 Main Street, Hellertown, PA
18055-1726

Attorney: Bradford D. Wagner,
Esquire, 662 Main Street, Hellertown, PA 18055-1726

OTERO, MARIA L., dec'd.

Late of Bethlehem, Northampton County, PA

Administrator: Jose Antonio Otero c/o William W. Matz, Jr., Esquire, 211 W. Broad Street, Bethlehem, PA 18018-5517

Attorney: William W. Matz, Jr., Esquire, 211 W. Broad Street, Bethlehem, PA 18018-5517

SANCHEZ, CECILIA, dec'd.

Late of the City of Bethlehem, Northampton County, PA

Co-Executors: Miguel A. Sanchez and Miriam Theresa Howard c/o Nancy K. Busch, Esquire, 825 North 19th Street, Allentown, PA 18104

Attorney: Nancy K. Busch, Esquire, 825 North 19th Street, Allentown, PA 18104

SARSON, PEGGY A., dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executor: Robert Harold Sarson c/o Alexander J. Karam, Jr., Esquire, Alexander J. Karam, Jr., P.C., 675 Walnut Street, Easton, PA 18042

Attorneys: Alexander J. Karam, Jr., Esquire, Alexander J. Karam, Jr., P.C., 675 Walnut Street, Easton, PA 18042

SHARER, JUDY D., dec'd.

Late of Bath, Northampton County, PA

Administratrix: Imogene G. Kresge c/o Wendy A. Nicolosi, Esquire, Broughal & DeVito, L.L.P., 38 West Market Street, Bethlehem, PA 18018

Attorneys: Wendy A. Nicolosi, Esquire, Broughal & DeVito, L.L.P., 38 West Market Street, Bethlehem, PA 18018

NOTICE OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on December 21, 2017, for the purpose of obtaining a Certificate of Incorporation. The name of the corporation is:

SPOCKSY, INC.

The purpose for which it has been organized is to engage in and to do any lawful act concerning any and all lawful business for which corporations may be incorporated under the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

BRANDON M. BENNER, ESQUIRE
BENNER & TROVATO

City Line Plaza
2005 City Line Road
Suite 106
Bethlehem, PA 18017
(610) 867-3900

Jan. 11

**IN THE NORTHAMPTON COUNTY
COURT OF COMMON PLEAS
ORPHANS' COURT DIVISION**

The following Executors, Administrators, Guardians & Trustees have filed Accounts in the Office of the Orphans' Court:

ESTATE; Accountant

JEFFREY P. VARGO; Barbara J. Buttillo, Administratrix

DOROTHY PICHEL SCHNEIDER
a/k/a DOROTHY P. SCHNEIDER;
Debra S. Boyce, Executrix
AUDIT NOTICE

All parties interested are notified that an audit list will be made up of all Accounts and the said list will be called for audit at the Northampton County Government Center, Easton, PA on: FRIDAY, JANUARY 19, 2018 AT 9:00 A.M. IN COURTROOM #1.

Gina X. Gibbs
Clerk of Orphans' Court
Jan. 4, 11

NOTICE FOR CHANGE OF NAME

NOTICE IS HEREBY GIVEN that on December 28, 2017, the Petition of Margaret Ellen Gettys was filed in Northampton County Court of Common Pleas at No. C-48CV2017-011546, seeking to change the name of Margaret Ellen Gettys to Mason Elliot Gettys. The Court has fixed February 27, 2018 at 9:00 a.m. in Courtroom 4 at the Northampton County Courthouse as the date for hearing of the Petition. All persons interested in the proposed change of name may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

Jan. 11

NOTICE FOR CHANGE OF NAME

NOTICE IS HEREBY GIVEN that on December 29, 2017, the Petition of Ryan Karp was filed in Northampton County Court of Common Pleas at No. C48.CV.2017-11573, seeking to change the name of Petitioner from Ryan Karp to Ryan Roberts. The Court has fixed Friday, January 26, 2018 at 9:00 a.m., in courtroom #4 at the Northampton County Courthouse as the date for hearing of the Petition. All persons interested in the proposed change of name may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

Jan. 11

IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY, PENNSYLVANIA CIVIL DIVISION—LAW

A Proceeding

In Rem

COURT MINUTES

In re: Taking in Eminent
Domain of a Certain Parcel of
Real Estate located at
508 East Fifth Street, in the
City of Bethlehem, Northampton
County, Pennsylvania by the
Redevelopment Authority of
the City of Bethlehem

NO. C-48-CV-2017-11264

NOTICE TO CONDEMNOR OF
FILING DECLARATION OF TAKING
PURSUANT TO SECTION 405 OF
THE 1964 EMINENT DOMAIN
CODE OF PENNSYLVANIA

TO: William D. Green, Jr., Trustee,
710 Greenbriar Drive, Harrison-
burg, VA 22801 and 8906 Camden
Street, Alexandria, VA 22308;
William D. Green, Jr., 710 Green-
briar Drive, Harrisonburg, VA
22801 and 8906 Camden Street,
Alexandria, VA 22308

You are hereby notified that a Declaration of Taking was filed on December 18, 2017 in the Office of the Prothonotary of the Court of Common Pleas of Northampton County, Pennsylvania, as of Court of Common Pleas No. C-48-CV-2017-11264.

The name and address of the Condemnor is the Redevelopment Authority of the City of Bethlehem, 10 East Church Street, Bethlehem, Pennsylvania 18018.

The Condemnor has been empowered by Section 12.1 (26 P.S. §1712.1(a)) of the Urban Redevelopment Law of Pennsylvania (Act of 1945, P.L. 991 as amended) to acquire by Eminent Domain (26 P.S. §1-101).

This Declaration of Taking was authorized by the members of the Condemnor at a regular meeting on November 16, 2017 and that action may be examined at the address of the Condemnor.

The purpose of the Condemnation is to promote the elimination of blighted areas within and outside the certified redevelopment area and supply sanitary housing in areas throughout the City of Bethlehem, Pennsylvania.

The condemned property of the Condemnee is located at 508 East Fifth Street, Bethlehem, Northampton County, Pennsylvania (Parcel I.D. #P6SE1B-12-2). Title to be acquired is in fee simple.

Plans showing the condemned property are presently on file in the office of the Condemnor at the above address in Northampton County.

Just compensation has been secured by the Condemnor filing its open end bond, without surety, pursuant to Section 403(a) of the Eminent Domain Code of Pennsylvania.

You are further notified that if you wish to challenge the power or right of the Condemnor to appropriate the condemned property, the sufficiency of the security, the procedure followed by the Condemnor or the Declaration of Taking, you shall file Preliminary Objections within thirty (30) days after publication of this Notice of Condemnation.

MICHAEL E. RISKIN, ESQUIRE
RISKIN AND RISKIN

Attorneys for the Redevelopment
Authority of the City of Bethlehem
18 East Market Street
P.O. Box 1446
Bethlehem, PA 18016-1446
(610) 868-8543

Jan. 11

**IN THE COURT OF COMMON
PLEAS OF PENNSYLVANIA FOR
NORTHAMPTON COUNTY**

North Fund 1 LLC,

Plaintiff

vs.

All Known and Unknown Heirs,
Executors, Administrators and
Devises of the Estate of Vivian D.

Principato, deceased,

Defendant(s)

**CIVIL ACTION NUMBER:
C-48-CV-2017-10395**

To: All Known and Unknown Heirs,
Executors, Administrators and
Devises of the Estate of Vivian D.
Principato, deceased, Defendant(s),
whose last known address is 2469
Forest Street, Easton, PA 18042

You have been sued in mortgage
foreclosure on premises: 2469 Forest
Street, Easton, PA 18042, based on
defaults since September 28, 2014.
You owe \$98,948.32, plus interest.

NOTICE

YOU HAVE BEEN SUED IN
COURT. If you wish to defend against
the claims set forth in the notice
above, you must take action within
twenty (20) days after this Complaint
and Notice are served, by entering a
written appearance personally or by
attorney and filing in writing with the
Court your defenses or objections to
the claims set forth against you. You
are warned that if you fail to do so the
case may proceed without you and a
judgment may be entered against you
by the Court without further notice
for any money claimed in the
Complaint or for any other claim or
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 THE 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.

Lawyer Referral Service
P.O. Box 4733
Easton, PA 18043-4733
(610) 258-6333

STERN & EISENBERG, PC
Attys. for Plaintiff

1581 Main St.
Ste. 200
Warrington, PA 18976
(215) 572-8111

Jan. 11

**REQUEST FOR BID PROPOSALS
BOROUGH OF ROSETO,
NORTHAMPTON COUNTY,
PENNSYLVANIA**

PROPOSALS will be received by the Roseto Borough Council until 1 P.M. prevailing time on Monday, February 5, 2018 at the Roseto Borough Office, located at 164 Garibaldi Avenue, Roseto, PA 18013. The Borough Manager will open received bids at 1 P.M. to verify all calculations and required documents are included. The Council will then publicly announce the proposals and act upon the same at the meeting on Monday, February 5, 2018 at 7:30 P.M. at their regularly scheduled Council meeting.

Office personnel at the Borough Office are generally available to receive proposals from 10:00 a.m. to 1:00 p.m., Monday through Friday. The telephone number for the Borough Municipal Building is (610) 588-0695.

The bid proposals are for a Waste Refuse and Recycling Contract.

It is required that all project activities be carried out in accordance with applicable Federal, State and local laws and regulations.

THE BOROUGH RESERVES THE RIGHT to waive any informality in any proposal, and to reject and/or accept any and all proposals if the same is deemed to be in the Borough's best interest and at the Borough's discretion.

Cathy Martino
Borough Manager

164 Garibaldi Avenue
Roseto, PA 18013-1371
(610) 588-0695

Jan. 11, 18

**LEGAL AID ATTORNEY
NEEDED—TEMPORARY**

Temporary, part-time attorney to work at North Penn Legal Services in the Bethlehem office at a salary rate of approx. \$750 per 30-hour week while regular staff member is on leave. This is a non-benefits position expected to last about five months.

Seeking an attorney with 0-3 years of general practice experience in the areas of housing, consumer and/or family law. Will consider contractual arrangement with attorney already in practice.

Send resume and cover letter describing interest in position to resumes@northpennlegal.org or to HR Manager, 25 West Third St., Suite 400, Williamsport, PA 17701. EOE.

Jan. 11

**TEMPORARY ESTATE
ADMINISTRATION PARALEGAL**

Kolb, Vasiliadis & Florenz, LLC is in need of an experienced estate administration paralegal for temporary duty to cover for our employee who is on injured reserve.

If interested, please send resume, references and compensation requirements to Paul A. Florenz, Esq., at Kolb, Vasiliadis & Florenz, LLC, 60

W. Broad Street, Suite 303, Bethlehem, PA 18018, or by e-mail to paf@kvflaw.net. All correspondence will be held in strict confidence.

Jan. 4, 11

The Law Firm of
KING, SPRY, HERMAN, FREUND & FAUL, LLC
is pleased to announce



KEELY JAC COLLINS

has been named a

MEMBER of the firm

Ms. Collins concentrates her practice on
employment, education and municipal law



One West Broad Street • Suite 700
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Jan. 11

AMY WALTON and JOSEPH YOUNG, Plaintiffs v. SARAH PEARCE, ANGELINA ZONG and WAYNE HAWK, Defendants

Preliminary Objections—Untimely Pleadings—Recklessness—Punitive Damages—Motor Vehicle Accident—Connor Objection.

Plaintiffs filed a complaint alleging that Defendant Sarah Pearce crashed into a vehicle operated by Defendant Angelina Zong and owned by Defendant Wayne Hawk, which in turn crashed into Plaintiffs' vehicle. Plaintiffs sought punitive damages in their complaint, alleging both negligence and recklessness.

Defendant Sarah Pearce filed preliminary objections, asserting that Plaintiffs' claims for punitive damages and allegations of recklessness should be stricken. Defendant also argued that numerous paragraphs of Plaintiffs' complaint were insufficiently specific pursuant to *Connor v. Allegheny General Hospital*. Plaintiffs then filed preliminary objections to Defendant's preliminary objections, asserting that Defendant's preliminary objections were untimely pursuant to Pennsylvania Rule of Civil Procedure 1026(a). The court overruled Plaintiffs' preliminary objection and found that Defendant demonstrated just cause for the delay. In addition, the court struck all allegations of recklessness and claims for punitive damages from Plaintiffs' complaint, as well as a number of insufficiently specific paragraphs pursuant to *Connor*.

In the Court of Common Pleas of Northampton County, Pennsylvania,
Civil Action—No. C-48-CV-2017-2131.

GEORGE S. MARION, ESQUIRE, for Plaintiffs.

PAUL C. TROY, ESQUIRE, for Defendant Sarah Pearce.

MARYANN E. HIGGINS, ESQUIRE, for Defendants Angelina Zong and Wayne Hawk.

Order of the Court entered on September 8, 2017 by BELTRAMI, J.

OPINION

This matter is before the court on the "Preliminary Objections of Defendant, Sarah Pearce, to Plaintiffs' Complaint," filed on May 8, 2017, and "Plaintiffs' Preliminary Objections to the Preliminary Objections of Defendant, Sarah Pearce," filed on May 26, 2017. The case was assigned to the undersigned at Argument Court on July 13, 2017, for disposition on the parties' briefs.

On March 17, 2017, Plaintiffs filed a Complaint seeking damages for negligence and alleging the following facts. On or about April 27, 2015, at approximately 3:21 p.m., Defendant Sarah Pearce ("Defendant") was operating her 2004 Ford Explorer and was traveling eastbound on Butler Street in Easton, Pennsylvania. (Compl. ¶¶6, 10.) At the same time and place, Defendant Angelina Zong was operating a 1999 Dodge Durango as an authorized agent of the vehicle's owner, Defendant Wayne Hawk. (*Id.* ¶¶7-8.) The Complaint alleges:

[Defendant] operated said vehicle with such negligence, carelessness, and/or recklessness as to lose control of said vehicle, thereby striking the rear of the vehicle then and there operated by Defendant, Angelina Zong, which vehicle then struck the rear of the vehicle in which Plaintiffs were traveling, which vehicle was carefully, cautiously, and lawfully stopped on Butler Street at the time of said collision.

(*Id.* ¶10.)

On April 4, 2017, the Sheriff's Office of Northampton County served Defendant with the Complaint. (Pls.' Prelim. Objections Ex. B.) On May 8, 2017, Defendant filed Preliminary Objections ("Defendant's POs") to the Complaint. On May 26, 2017, Plaintiffs filed Preliminary Objections ("Plaintiffs' POs") to Defendant's POs.

The court will first address Plaintiffs' POs to Defendant's POs. In their POs, Plaintiffs argue that Defendant's POs are untimely. In this regard, Plaintiffs rely upon Pennsylvania Rule of Civil Procedure 1026(a), which states that "every pleading subsequent to the complaint shall be filed within twenty days after service of the preceding pleading." Pa. R.C.P. No. 1026(a). In this case, Defendant was served with Plaintiffs' Complaint on April 4, 2017. Thus, the deadline for filing POs was April 24, 2017. Defendant's POs were filed on May 8, 2017, making them untimely on their face. However, the filing date of Defendant's POs is not dispositive because Rule 1026(a) "has been interpreted as permissive rather than mandatory." *Gale v. Mercy Catholic Med. Center Eastwick, Inc., Fitzgerald Mercy Division*, 698 A.2d 647, 649 (Pa. Super. 1997). In determining whether to permit an untimely pleading, "the party who files the untimely pleading must demonstrate just cause for the delay." *Id.* at 650 (quoting *Peters Creek Sanitary Auth. v. Welch*, 545 Pa. 309, 314-15, 681 A.2d 167, 170 (1996)). After a party successfully demonstrates just cause, "[i]t is left to the sound discretion of the trial court 'to permit a late filing of a pleading where the opposing party will not be prejudiced and justice so requires.'" *Id.* at 649 (quoting *Ambrose v. Cross Creek Condominiums*, 412 Pa. Super. 1, 10, 602 A.2d 864, 868 (1992)).

To determine whether just cause for a delay exists, the court looks to whether Defendant's delay exhibits a "blatant disregard for the time limits established by the Rules of Civil Procedure," thereby constituting "an abject indifference to the Rules." *Peters Creek Sanitary Authority v. Welch*, 545 Pa. 309, 315, 681 A.2d 167, 170 (1996). In her Response to Plaintiffs' POs, Defendant asserts that, on April 27, 2017, her counsel wrote a letter to Plaintiffs' counsel which states:

This will acknowledge receipt of the complaint with regard to the above-captioned matter. I will be entering my appearance on behalf of [Defendant].

Inasmuch as I have just received this assignment and do not have an entire file as yet, I would appreciate you granting me a reasonable extension of time within which to file any responsive pleadings that I deem necessary. Unless I hear from you to the contrary, I shall assume that you have been kind enough to grant me this extension.

(Def.'s Response ¶4; Def.'s Reply Br. Ex. A.) According to Defendant's counsel, Plaintiffs' counsel did not respond to this request. (Def.'s Reply Br. 4.) In addition, Defendant's counsel provides a reason for not having the file, asserting that Defendant's insurance carrier had just recently assigned the case to him. (*Id.*) Before assigning Defendant's counsel, Defendant's insurance carrier needed to undergo an analysis regarding the scope of its coverage and defenses. (*Id.*) Defendant analogizes her case with a case decided by the Court of Common Pleas of Lancaster County, which permitted a forty-one-day delay in the filing of preliminary objections when the filing parties were "awaiting a determination from their insurer regarding the [p]laintiff's claims, including whether or not the claims were covered under the [d]efendant[s'] insurance, whether the insurer would defend them against the claims and if so, who would represent the [d]efendants in that suit." *Horton, Inc. v. East Hempfield Twp.*, No. CI-07-04587, 2008 WL 8189851 (C.P. of Lancaster Cnty. Feb. 28, 2008).

Based upon the above, the court finds that Defendant has established just cause for the fourteen-day delay in filing her POs. Further, it cannot be said that the justification for Defendant's untimely filing constitutes an "object indifference" to the Rules of Civil Procedure. *Peters*, *supra*. Rather, Defendant's counsel actively took steps to secure an extension from Plaintiffs' counsel and demonstrated his best efforts to comply with the Rules under the extenuating circumstances. Moreover, Plaintiffs have failed to identify any prejudice that would result from the court permitting the late filing. Such prejudice "includes any substantial diminution in [Plaintiffs'] ability to present factual information in the event of trial," a finding not apparent to the court in this case. *Gale*, *supra* at 650 (quoting *American Bank & Trust Co. v. Ritter; Todd & Haayen*, 274 Pa. Super. 285, 289, 418 A.2d 408, 410 (1980)). Accordingly, Plaintiffs' POs to Defendant's POs will be overruled.

With regard to Defendant's POs, Defendant presents two issues for the court's consideration. First, Defendant moves to strike all allegations of recklessness from Plaintiffs' Complaint, asserting that they do not meet the legal requirements for imposing punitive damages. Second, Defendant asserts that Plaintiffs' Complaint contains insufficiently specific allegations of negligence.

Defendant argues her first objection as a failure to conform to law or rule of court. However, Defendant's objection is more in the nature of a motion to strike impertinent matter, which is the appropriate means for

challenging the legality of damages sought in a complaint. *See Hudock v. Donegal Mutual Insurance Company*, 438 Pa. 272, 277 n.2, 264 A.2d 668, 671 n.2 (1970). Pennsylvania Rule of Civil Procedure 1028(a)(2) allows for any party to file a preliminary objection on the ground of “inclusion of ... impertinent matter[.]” Pa. R.C.P. No. 1028(a)(2). “To be ... impertinent, the allegations must be immaterial ... to the proof of the cause of action.” *Common Cause/Pennsylvania v. Commonwealth*, 710 A.2d 108, 115 (Pa. Commw. 1998).

In Pennsylvania, ‘punitive damages are awarded for outrageous conduct, that is, for acts done with a bad motive or with a reckless indifferen[ce] to the interests of others.’ Judge Technical Servs., Inc. v. Clancy, 813 A.2d 879, 889 (Pa.Super. 2002) (emphasis and internal quotation marks omitted). ‘[P]unitive damages are penal in nature and are proper only in cases where the defendant’s actions are so outrageous as to demonstrate willful, wanton or reckless conduct.’ *Empire Trucking*, 71 A.3d at 937 (quoting *Hutchison v. Luddy*, 582 Pa. 114, 870 A.2d 766, 770 (2005)). ‘The state of mind of the actor is vital. The act, or the failure to act, must be intentional, reckless or malicious.’ *Hutchison*, 870 A.2d at 770.

Sears, Roebuck & Co. v. 69th Street Retail Mall, L.P., 126 A.3d 959, 983 (Pa. Super. 2015) (second alteration in original). For purposes of awarding punitive damages, Pennsylvania law requires a specific type of recklessness defined in comment *a* to Section 500 of the Restatement (Second) of Torts. *Hutchison v. Luddy*, 582 Pa. 114, 123, 870 A.2d 766, 771 (2005). Under that definition, a person acts with recklessness where he “knows, or has reason to know, ... of facts which create a high degree of risk of physical harm to another, and deliberately proceeds to act, or to fail to act, in conscious disregard of, or indifference to, that risk.” *Id.* at 122-23, 870 A.2d at 771 (quoting *Martin v. Johns-Manville Corp.*, 494 A.2d 1088, 1097 (1985)). Therefore, “a punitive damages claim must be supported by evidence sufficient to establish that (1) a defendant had a subjective appreciation of the risk of harm to which the plaintiff was exposed and that (2) he acted, or failed to act, as the case may be, in conscious disregard of that risk.” *Id.* at 124, 870 A.2d at 772.

In their Complaint, Plaintiffs have pleaded, in part, that Defendant was traveling at an excessive rate of speed, failed to properly apply the brakes, disregarded traffic lanes, patterns, and signals, and lost control of her vehicle, causing the ensuing three-car collision. (Compl. ¶¶12(a), 12(f), 12(h).) Even accepting these assertions as true for purposes of ruling on Defendant’s POs, Plaintiffs’ allegations do not suggest that Defendant engaged in reckless conduct. There are no facts pleaded indicating “outrageous” conduct on the part of Defendant, such that Defendant can be said to have consciously disregarded a high degree of risk created by her conduct.

At most, the allegations contained in Plaintiffs' Complaint support a claim that Defendant acted negligently. Thus, in the absence of any facts indicating reckless conduct, a claim for punitive damages is impertinent to Plaintiffs' cause of action for negligence. For all of the above reasons, Defendant's first objection will be sustained, and the court will strike any references to reckless conduct and punitive damages from Plaintiffs' Complaint as impertinent.

With regard to Defendant's second objection, any party may file preliminary objections based on "insufficient specificity in a pleading." Pa. R.C.P. No. 1028(a)(3). The relevant question in ruling on such an objection is whether the complaint is adequately clear to allow the defendant to set up its defense, or whether the complaint informs the defendant, with precision, of the basis on which recovery is sought so that the defendant may know, without question, the grounds upon which to assert its defense. *Podolak v. Tobyhanna Township Board of Supervisors*, 37 A.3d 1283, 1288 (Pa. Commw. 2012). In determining whether a particular paragraph is stated with the necessary specificity, that paragraph must be read in the context of all of the allegations made in the complaint. *Estate of Denmark ex rel. Hurst v. Williams*, 117 A.3d 300, 306 (Pa. Super. 2015).

In *Connor v. Allegheny General Hospital*, 501 Pa. 306, 308, 461 A.2d 600, 601 (1983), the plaintiffs' complaint contained a general allegation that agents of the defendant hospital had been negligent "[i]n otherwise failing to use due care and caution under the circumstances." Because of the defendant's failure to preliminarily object, the plaintiffs were later able to use that general language to amend their complaint to add a new cause of action after the expiration of the applicable statute of limitations. *Id.* at 311, 461 A.2d at 602-603. In ruling that the proposed amendment did not violate the statute of limitations, the Pennsylvania Supreme Court noted that "[i]f [the defendant] did not know how it 'otherwise fail[ed] to use due care and caution under the circumstances,' it could have filed a preliminary objection in the nature of a request for a more specific pleading or it could have moved to strike that portion of [the plaintiffs'] complaint." *Id.* at 311 n.3, 461 A.2d at 602 n.3. In general terms, objections based on *Connor* deal "with catchall phrases involving claims of negligence that are at risk of being amplified or expanded upon in a manner that may be prejudicial to a defendant." *Howick v. Chiappazzi*, 11 D. & C.5th 129, 135 (C.P. of Crawford Cnty. 2010).

The court has reviewed the averments in the Complaint that Defendant argues are insufficiently specific, which are contained in paragraphs 10, 12, 12(b)-(c), 12(g)-(h), 12(k), 12(m), 12(o)-(s), 14 and 24. The court first addresses the averments contained in paragraphs 12, 12(c), 12(m) and 12(q)-(s).

With specific regard to paragraph 12(q), the Complaint alleges that Defendant violated "the local ordinances and the Statutes of the Common-

wealth of Pennsylvania relating to the operation of motor vehicles, *including but not limited to* Pa.C.S.A. §§ 3310 and 3714[.]” (Compl. ¶12(q) (emphasis added).) Pursuant to local rule, “[w]hen any ... claim ... is asserted to be founded upon a specific statute of this or another jurisdiction or upon an ordinance, governmental regulation or rule of court, the first pleading in which such ... claim ... is asserted shall cite, for the information of the Court, the statute, ordinance, regulation or rule so relied upon.” Northampton Cnty. R.C.P. N1019. The portion of paragraph 12(q) containing the language “including but not limited to” violates Local Rule N1019 and *Connor*. Accordingly, it is insufficiently specific and will be stricken.

The general averment introducing the numerous subparagraphs of paragraph 12 reads as follows: “The above-described automobile collision was caused by the negligence, carelessness, and/or recklessness of Defendants ... *both generally* and in the following and particular respects.” (Compl. ¶12 (emphasis added).) Paragraph 12(c) asserts that Defendant was “[o]perating said vehicle[] in a reckless manner without due regard for the rights, safety, and position of those lawfully upon the highway[.]” (*Id.* ¶12(c).) Paragraph 12(m) avers Defendant’s “fail[ure] to exercise ordinary care to avoid a collision[.]” (*Id.* ¶12(m).) Paragraph 12(r) alleges that Defendant’s conduct constituted “negligence at law[.]” (*Id.* ¶12(r).) Finally, paragraph 12(s) refers to “[s]uch other acts and/or omissions” which constitute careless, negligent, or reckless behavior. (*Id.* ¶12(s).) These vague averments presented in the above quotations constitute precisely the sort of open-ended language that could allow Plaintiffs to amend their Complaint to add new theories of liability after the expiration of the applicable statutes of limitations. Accordingly, these averments will be stricken from Plaintiffs’ Complaint.

The court will next consider Defendant’s objections to paragraphs 10, 12(b), 12(g)-(h), 12(k), 12(o)-(p), 14 and 24 of Plaintiffs’ Complaint. Paragraph 10 alleges, in part, that Defendant operated her vehicle “with such negligence, carelessness, and/or recklessness as to lose control of said vehicle,” causing the subsequent three-car collision. (*Id.* ¶10.) Paragraphs 12(b) and 12(g)-(h) allege Defendant’s failure to properly control her vehicle, failure to remain attentive and keep a “proper lookout,” and her disregard for traffic patterns and signals. (*Id.* ¶¶12(b), 12(g)-(h).) Paragraphs 12(k) and 12(o)-(p) allege Defendant’s failure to perceive the danger she created to others, failure to operate her vehicle with regard for the safety of Plaintiffs, and failure to properly inspect her vehicle. (*Id.* ¶¶12(k), 12(o)-(p).) Paragraphs 14 and 24 discuss the injuries sustained by Plaintiffs due to the “aforesaid negligence, carelessness, and/or recklessness” of Defendant. (*Id.* ¶¶14, 24.)

Read in the context of the entire Complaint, each of these allegations contain sufficiently specific factual averments, putting Defendant on “adequate notice of the claim against which [she] must defend.” *Yacoub v.*

Lehigh Valley Medical Associates, P.C., 805 A.2d 579, 589 (Pa. Super. 2002). Further, more specific information regarding Plaintiffs' allegations contained in these paragraphs may be obtained through discovery. Therefore, Defendant's second objection, as it relates to paragraphs 10, 12(b), 12(g)-(h), 12(k), 12(o)-(p), 14, and 24 of Plaintiffs' Complaint, will be overruled. However, the allegations of recklessness in paragraphs 10, 14, and 24 of the Complaint will be stricken pursuant to Defendant's first objection.

WHEREFORE, the court enters the following:

ORDER

AND NOW, this 8th day of September, 2017, "Plaintiffs' Preliminary Objections to the Preliminary Objections of Defendant, Sarah Pearce," filed on May 26, 2017, are hereby OVERRULED. The "Preliminary Objections of Defendant, Sarah Pearce, to Plaintiffs' Complaint," filed on May 8, 2017, are hereby SUSTAINED, in part, and OVERRULED, in part. The following are hereby STRICKEN from the Complaint:

1. Paragraph 10: "and/or recklessness";
2. Paragraph 12: "and/or recklessness" and "both generally";
3. Paragraph 12(c) in its entirety;
4. Paragraph 12(m) in its entirety;
5. Paragraph 12(q): "including but not limited to";
6. Paragraph 12(r) in its entirety;
7. Paragraph 12(s) in its entirety;
8. Paragraph 14: "and/or recklessness"; and
9. Paragraph 24: "and/or recklessness."

Plaintiffs shall file an amended complaint, in accordance with this Order, within twenty (20) days.



PERIODICAL PUBLICATION

* Dated Material. Do Not Delay. Please Deliver Before Tuesday, January 16, 2018