

Northampton County Reporter

(USPS 395-280)

VOL. LIX

EASTON, PA May 4, 2017

NO. 70

**Bethlehem Village Associates, Plaintiff v. Powellwood Corporation d/b/a Express
Dry Cleaners, David G. Powell and Joan V.N. Powell, Mark S. Wood and
Katherine D. Wood, Defendants (Continued)**

CONTENTS

Attorney Opening in Center Valley, PA	15	Estate and Trust Notices	4
Audit—Orphans' Court.	9	Fictitious Name Registration Notice	9
Bar News	3	Legal Notices.	10
Corporate Fictitious Name Registration Notice	9	Limited Liability Company Notice	9
		Notice of Nonprofit Incorporation.	8
		Real Estate Paralegal.	16

INSERT: Blue: 1. Quarterly Association Meeting
2. "Act 170: Major Changes to Pennsylvania LLC and Partnership Laws"
3. Holiday Hope Chest Happy Hour
4. 2017 Calendar

NOTICE TO THE BAR...

Kindly be advised that due to the Criminal Law Symposium being held on Thursday, June 8, 2017 and Friday, June 9, 2017, there will be no criminal matters on the Miscellaneous Hearing List on Friday, June 9, 2017.

If you have any questions, please call the Court Administrator's Office at 610-829-6700.

* * * * *

Reporter Ad Submission Deadline Change—due to the Memorial Day Weekend holiday, the new deadline to submit ads for the June 1, 2017 edition is Thursday, May 25th at noon.

**NORTHAMPTON COUNTY BAR ASSOCIATION
2017 BAR ASSOCIATION OFFICERS**

Michael Shay President
Daniel O'Donnell President-Elect
Lisa Spitale Vice President
Robert Eyer Treasurer
Maura Zajac McGuire Secretary
Alyssa Lopiano-Reilly Past President

BOARD OF GOVERNORS

David M. Backenstoe
Paul J. Harak
Rebecca Kulik
Jacqueline K. Holmes
Steven B. Molder
Michael A. Santanasto
Scott M. Wilhelm

ZONE II DELEGATES

Michael C. Deschler
Jonathan M. Huerta
Alyssa Lopiano-Reilly
Richard P. Kovacs
Joel M. Scheer

Northampton County Reporter
Attorney Referral & Information Service
155 South Ninth Street, P.O. Box 4733
Easton, PA 18042
Phone (610) 258-6333 Fax (610) 258-8715
E-mail: ncba@norcobar.org
PBA (800) 932-0311—PBI (800) 932-4637
BAR ASSOCIATION STAFF

Mary Beth LeesonExecutive Director
Patti A. GoberAccounting
Heather Rizzotto-Stefanik Legal Journal
Christen T. BorsoAttorney Referral
Deborah J. FlanaganAttorney Referral

The Northampton County Reporter will be published every Thursday by the Northampton County Bar Association, 155 South Ninth St., Easton, PA 18042-4399. All legal notices relating to the business of the county, are required by rule of Court, to be published in this Journal. All legal notices must be submitted in typewritten form and are published exactly as submitted by the advertiser. Neither the Law Reporter nor the printer will assume any responsibility to edit, make spelling corrections, eliminate errors in grammar or make any changes to content.

Subscription Price—\$75.00 per year.

Periodical Postage Paid at Easton, PA and additional office.

Postmaster: Send all communications and address changes to:

NORTHAMPTON COUNTY REPORTER
155 South Ninth St., Easton, PA 18042-4399
Telephone (610) 258-6333 FAX (610) 258-8715
Ralph J. Bellafatto, Esquire
Editor

NOTICE TO NCBA MEMBERS – BAR NEWS

Quarterly Association Meeting and Malpractice Avoidance Seminar

Thursday, May 18, 2017

Registration form inside.

Donation of Old Clothing

If you are in the Spring Cleaning mode and plan to purge old suits, shoes, ties and belts, consider donating those items to Court Administration for use by defendants in trial. Court Administration provides clothing as per the Judges' requests to outfit them from the prison-wear to courtroom attire. Contact the Office of Court Administration with any questions.

Save the Dates

Annual Summer Outing – Thursday, July 20, 2017

NCBA at the Iron Pigs – Tuesday, August 8, 2017

Barristers Boast

Have you received an honor or award for community work? Do you have a new grandchild? Have you heard good news about one of your NCBA colleagues that should be shared?

Good news items about fellow members should be sent to:
marybeth@norcobar.org.

Problems are only opportunities in work clothes. ~ *Henry J. Kaiser*

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**AYLWARD, MARY K., dec'd.**

Late of the City of Bethlehem, Northampton County, PA
Executor: Kevin John Kostelnik
c/o Mary Ann Snell, Esquire,
4510 Bath Pike, Suite 201,
Bethlehem, PA 18017

Attorney: Mary Ann Snell,
Esquire, 4510 Bath Pike, Suite
201, Bethlehem, PA 18017

**BENNER, SAMUEL K., SR. a/k/a
SAMUEL KENNETH BENNER,
SR., dec'd.**

Late of the Borough of Bath, Northampton County, PA
Executrix: Tammy Cruz c/o
Robert E. Donatelli, Esquire,
Norris, McLaughlin & Marcus,
P.A., 515 West Hamilton Street,
Suite 502, Allentown, PA 18101
Attorneys: Robert E. Donatelli,
Esquire, Norris, McLaughlin &
Marcus, P.A., 515 West Hamilton
Street, Suite 502, Allentown, PA
18101

CHRISTMAN, GLORIA M., dec'd.

Late of the Township of Lehigh, Northampton County, PA
Executor: David Christman, 453
Walnut Drive, Northampton, PA
18067

Attorneys: James A. Wimmer,
Esquire, Philip & Wimmer, 419
Delaware Avenue, P.O. Box 157,
Palmerton, PA 18071

DeLONG, LEO H., JR., dec'd.

Late of Allentown, Northampton
County, PA

Executrix: Wanda J. DeLong, 55
Hidden Meadow Drive, Easton,
PA 18042

Attorney: Margo S. Wiener,
Esquire, 825 North 12th Street,
Allentown, PA 18102

EDWARDS, THOMAS R., dec'd.

Late of Easton, Northampton
County, PA

Executor: Bruce Edwards, 7
Spencer St., Somerset, NJ 08873
Attorney: Stacey Beecher,
Esquire, 106 West High St.,
Milford, PA 18337

**GOTTSCHALL, ALBERTA E.,
dec'd.**

Late of the City of Bethlehem,
Northampton County, PA

Executrix: Melanie Jane Gaal
Attorneys: Joseph J. Piperato, III,
Esquire, Piperato Law Office,
LLC, 3894 Courtney Street, Suite
105, Bethlehem, PA 18017

HAGEMAN, RICHARD H., dec'd.

Late of the Township of Palmer,
Northampton County, PA
Executor: Richard C. Hageman,
121 Pine Hollow Way, Saylors-
burg, PA 18353

HASENECZ, ALEX, dec'd.

Late of the City of Bethlehem,
Northampton County, PA
Executor: Timothy A. Hasenecz
c/o Jay C. Glickman, Esquire,

Rubin, Glickman, Steinberg & Gifford, 2605 N. Broad Street, P.O. Box 1277, Lansdale, PA 19446

Attorneys: Jay C. Glickman, Esquire, Rubin, Glickman, Steinberg & Gifford, 2605 N. Broad Street, P.O. Box 1277, Lansdale, PA 19446

HOLOTYAK, ANNA S., dec'd.

Late of the Township of Bethlehem, Northampton County, PA

Executrices: Anna H. Sule a/k/a Anna M. Sule and Mary Jane Holtyak c/o Justin K. McCarthy, Esquire, 520 East Broad Street, Suite 108, Bethlehem, PA 18018
Attorney: Justin K. McCarthy, Esquire, 520 East Broad Street, Suite 108, Bethlehem, PA 18018

HUMMER, DAVID E., dec'd.

Late of Nazareth, Northampton County, PA

Administrator: Casey D. Hummer c/o Barbara Rush Renkert, Esquire, 2120 Northampton Street, Easton, PA 18042
Attorney: Barbara Rush Renkert, Esquire, 2120 Northampton Street, Easton, PA 18042

KLINE, THERESA E., dec'd.

Late of the Township of Moore, Northampton County, PA

Executor: John Petrilak, 99 Brainards Road, Phillipsburg, NJ 08865

Attorney: Daniel G. Spengler, Esquire, 110 East Main Street, Bath, PA 18014

OLEWINE, ROSE A., dec'd.

Late of Northampton, Northampton County, PA

Executrix: Kathleen A. Carrer c/o William P. Bried, Esquire, Ritter & Bried, PC, 1600 W.

Hamilton Street, Allentown, PA 18102-4287

Attorneys: William P. Bried, Esquire, Ritter & Bried, PC, 1600 W. Hamilton Street, Allentown, PA 18102-4287

PIKE, GEORGE W., dec'd.

Late of the Township of Plainfield, Northampton County, PA
Executrix: Karen Marie Zripko c/o Theodore R. Lewis, Esquire, Lewis and Walters, 46 S. 4th Street, P.O. Box A, Easton, PA 18044-2099

Attorneys: Theodore R. Lewis, Esquire, Lewis and Walters, 46 S. 4th Street, P.O. Box A, Easton, PA 18044-2099

SENICK, PAUL M., II, dec'd.

Late of Bethlehem, Northampton County, PA

Administrators: Paul M. Senick, Sr. and Jill M. Senick 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

SLAHTA, MICHAEL S., dec'd.

Late of the Borough of Hellertown, Northampton County, PA
Executrix: Lois J. Weidner 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

STEINER, JOHN R., SR., dec'd.

Late of the Borough of Stockertown, Northampton County, PA
Executor: Mark A. Steiner, 207 Brookfield Circle, Macungie, PA 18062

Attorney: James J. Holzinger, Esquire, 1216 Linden Street,

P.O. Box 1409, Bethlehem, PA 18016

WALTERS, VINCENZA A., dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Executrix: Mary Alice L. Einfalt c/o Gregory R. Reed, Esquire, Attorney-at-Law, 141 South Broad Street, P.O. Box 299, Nazareth, PA 18064-0299

Attorney: Gregory R. Reed, Esquire, Attorney-at-Law, 141 South Broad Street, P.O. Box 299, Nazareth, PA 18064-0299

ZIEGENFUSS, PENELOPE G., dec'd.

Late of the Borough of Hellertown, Northampton County, PA
Executrix: Brenda Lee Fritzinger 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

SECOND PUBLICATION

ALDERISO, NICHOLAS R., dec'd.

Late of the Township of East Allen, Northampton County, PA
Executor: James A. Alderiso c/o George M. Vasiliadis, Esquire, Vasiliadis & Associates, 2551 Baglyos Circle, Suite A-14, Bethlehem, PA 18020

Attorneys: George M. Vasiliadis, Esquire, Vasiliadis & Associates, 2551 Baglyos Circle, Suite A-14, Bethlehem, PA 18020

APPEL, GLORIA M. a/k/a GLORIA MAY APPEL, dec'd.

Late of Palmer Township, Northampton County, PA

Executor: Thomas A. Appel

Attorneys: Raymond J. DeRaymond, Esquire, Gross McGinley, LLP, 33 South 7th

Street, P.O. Box 4060, Allentown, PA 18105-4060

FENSTERMAKER, LURAY V., dec'd.

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

Executrix: Hattie J. Laudenslager 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

FERGUSON, JOAN C. a/k/a JOAN P. FERGUSON a/k/a JOAN FERGUSON, dec'd.

Late of Bethlehem, Northampton County, PA

Executor: Robert J. Peters c/o Kathleen M. Collins, Esquire, 1125 S. Cedar Crest Boulevard, Suite 205, Allentown, PA 18103
Attorney: Kathleen M. Collins, Esquire, 1125 S. Cedar Crest Boulevard, Suite 205, Allentown, PA 18103

HERCEG, GAIL E., dec'd.

Late of the Borough of Hellertown, Northampton County, PA
Executor: Tod A. Herceg 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

KLECKNER, RUTH A., dec'd.

Late of Bethlehem Township, Northampton County, PA

Administratrix: Diana F. Drabic c/o Quintes D. Taglioli, Esquire, 121 N. Cedar Crest Blvd., Allentown, PA 18104

Attorney: Quintes D. Taglioli, Esquire, 121 N. Cedar Crest Blvd., Allentown, PA 18104

MITROS, DAVID F., dec'd.

Late of the City of Bethlehem, Northampton County, PA
Administratrix: Daria M. Sockey c/o Mary Ann Snell, Esquire, 4510 Bath Pike, Suite 201, Bethlehem, PA 18017
Attorney: Mary Ann Snell, Esquire, 4510 Bath Pike, Suite 201, Bethlehem, PA 18017

NICKISHER, JOEL ANTHONY a/k/a JOEL A. NICKISHER a/k/a JOEL NICKISHER a/k/a JOEL A. NICKISHER, I, dec'd.

Late of the City of Bethlehem, Northampton County, PA
Administrator: Michael G. Nickisher c/o Robert V. Littner, Esquire, Littner, Deschler & Littner, 512 North New Street, Bethlehem, PA 18018
Attorneys: Robert V. Littner, Esquire, Littner, Deschler & Littner, 512 North New Street, Bethlehem, PA 18018

OAKLEY, DAVID BRYANT a/k/a DAVID B. OAKLEY, dec'd.

Late of Palmer Township, Northampton County, PA
Administratrices: Alecia M. Fehley and Ronnita M. Fern c/o Dennis P. Ortwein, Esquire, 5201 William Penn Highway, Easton, PA 18045
Attorney: Dennis P. Ortwein, Esquire, 5201 William Penn Highway, Easton, PA 18045

PERAZZETTI, DINA M., dec'd.

Late of Easton, Northampton County, PA
Co-Executors: Bradford A. Perazzetti and Barry F. Perazzetti 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

PRICE, RITA M., dec'd.

Late of the City of Easton, Northampton County, PA
Executrix: Lindsey Pantuso c/o George M. Vasiliadis, Esquire, Vasiliadis & Associates, 2551 Baglyos Circle, Suite A-14, Bethlehem, PA 18020
Attorneys: George M. Vasiliadis, Esquire, Vasiliadis & Associates, 2551 Baglyos Circle, Suite A-14, Bethlehem, PA 18020

REPH, ARNOLD CARL a/k/a ARNOLD C. REPH, dec'd.

Late of the Township of Lehigh, Northampton County, PA
Administratrix: Rita A. Reph, 3900 Mountain View Drive, P.O. Box 79, Danielsville, PA 18038
Attorneys: James A. Wimmer, Esquire, Philip & Wimmer, 419 Delaware Avenue, P.O. Box 157, Palmerton, PA 18071

VALITSKI, WILLIAM F., dec'd.

Late of the Township of Lower Saucon, Northampton County, PA
Executrix: Lynne V. Finnegan 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

VENEZIA, CECELIA A., dec'd.

Late of the Borough of Nazareth, Northampton County, PA
Executrix: Christina Venezia Wood c/o George M. Vasiliadis, Esquire, Vasiliadis & Associates, 2551 Baglyos Circle, Suite A-14, Bethlehem, PA 18020
Attorneys: George M. Vasiliadis, Esquire, Vasiliadis & Associates,

2551 Baglyos Circle, Suite A-14,
Bethlehem, PA 18020

**WARNER, BETTY L. a/k/a BETTY
LOU WARNER a/k/a BETTY
JOYCE WARNER**, dec'd.

Late of the Borough of Nazareth,
Northampton County, PA
Executor: David H. Warner,
4200 Kennedy Ct., Bethlehem,
PA 18017

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

YOUNG, ELAINE M., dec'd.

Late of Forks Township, North-
ampton County, PA
Executor: John S. Young, 204
Adrian Drive, Easton, PA 18040-
7719

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

THIRD PUBLICATION

**CONNELL, JOHN MICHAEL a/k/a
JOHN M. CONNELL**, dec'd.

Late of the Borough of Heller-
town, Northampton County, PA
Administrator: Dennis Raymond
Connell c/o Mark P. Albright,
Esquire, 403 Main Street, Heller-
town, PA 18055-1721

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

**GILLESPIE, HOLLIE J. a/k/a
HOLLIE GILLESPIE a/k/a
HOLLIE JAN GILLESPIE**, dec'd.

Late of the Borough of Nazareth,
Northampton County, PA
Executrices: June Daye Hughes,
100 E. Douglasville Rd.,
Nazareth, PA 18064 and Deborah
Lyons, 4810 Janet Lane,
Bethlehem, PA 18017

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

PRICE, DOROTHY A., dec'd.

Late of the Township of East
Allen, Northampton County, PA
Executor: James R. Price, 64
Great Oak Road, Levittown, PA
19057

Attorneys: Francis X. Dillon,
Esquire, Begley, Carlin &
Mandio, LLP, 680 Middletown
Boulevard, Langhorne, PA 19047

RUHF, ROBERT W., dec'd.

Late of Bethlehem, Northampton
County, PA

Executrix: Lori Lee Sergeant 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

SHAFFER, BERTRAM H., dec'd.

Late of Bethlehem, Northampton
County, PA

Executors: Bruce B. Shafer and
Branch Banking and Trust
Company c/o Joel M. Scheer,
Esquire, Fishbone and Scheer,
940 W. Lafayette Street, Easton,
PA 18042

Attorneys: Joel M. Scheer,
Esquire, Fishbone and Scheer,
940 W. Lafayette Street, Easton,
PA 18042

**NOTICE OF NONPROFIT
INCORPORATION**

NOTICE IS HEREBY GIVEN that
Articles of Incorporation have been
filed and approved on February 22,
2017, with the Department of State
of Commonwealth of Pennsylvania,
Harrisburg, Pennsylvania, for the
purpose of incorporating a nonprofit

corporation pursuant to the provisions of the Nonprofit Corporation Law of the Commonwealth, December 21, 1988, P.L. 1444, No. 177, Section 103, as amended. The name of the non-profit corporation is:

**FRIENDS OF
GRACEDALE FOUNDATION**

The purpose for which this corporation has been organized is as follows: To do any lawful act concerning any and all business for which corporations may be incorporated under the Non-Profit Corporation Law of Pennsylvania including enhancing the quality of life of residents of Gracedale, Northampton County's Nursing home and to further this purpose.

KARL F. LONGENBACH, ESQUIRE
ATTORNEY AT LAW
425 W. Broad Street
P.O. Box 1920
Bethlehem, PA 18016
(610) 867-8150

May 4

**FICTITIOUS NAME
REGISTRATION NOTICE**

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Fictitious Names Act of Pennsylvania that an application for registration of a fictitious name will be filed with the Department of State of the Commonwealth of Pennsylvania for the conduct of a business under the fictitious name of:

HARProductions

with its principal office at: 1949 Pine Ct., Hellertown, PA 18055. The person who is party to the registration is Anthony J. Gallela, 1949 Pine Ct., Hellertown, PA 18055.

May 4

**CORPORATE FICTITIOUS NAME
REGISTRATION NOTICE**

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed with the

Department of State of the Commonwealth of Pennsylvania on April 21, 2017 for:

PrismHR Hiring

located at: 731 E. 5th St., Bethlehem, PA 18015. The name and address of the entity interested in the business are: HiringThing, LLC, 731 E. 5th St., Bethlehem, PA 18015. This was filed in accordance with 54 Pa. C.S. 311.

May 4

**LIMITED LIABILITY COMPANY
NOTICE**

NOTICE IS HEREBY GIVEN that on April 19, 2017, Certificate of Organization was filed in the Department of State of the Commonwealth of Pennsylvania for:

**POSH PROPERTIES NO. 39,
PAXTON, LLC**

in accordance with the provisions of the Limited Liability Act of 1994.

**WENDY A. NICOLosi, ESQUIRE
BROUGHAL & DeVITO, L.L.P.**

38 West Market Street
Bethlehem, PA 18018

May 4

**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

ARTHUR R. KADUK; Bruce A. Kaduk, Executor

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, MAY 19, 2017 AT 9:00 A.M. IN COURTROOM #1.

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

NOTICE FOR CHANGE OF NAME

NOTICE IS HEREBY GIVEN that on April 25, 2017, the Petition of Rodney James Arrington was filed in Northampton County Court of Common Pleas at No. C-48CV2017-2389, seeking to change the name of Petitioner from Rodney James Arrington to Rodney Arrington Conners. The Court has fixed Friday, May 19, 2017 at 9:00 a.m., in courtroom #4 at the Northampton County Courthouse as the date for the 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.

May 4

NOTICE FOR CHANGE OF NAME

NOTICE IS HEREBY GIVEN that on March 23, 2017, the Petition of Elizabeth Ashley Nielsen filed in Northampton County Court of Common Pleas at No. C-48CV2017-002274, seeking to change the name of petitioner from Elizabeth Ashley Nielsen to Liam Matthew Nielsen. The court has fixed Tuesday, May 16, 2017 at 10:00 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.

May 4

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

NOTICE OF ACTION IN
MORTGAGE FORECLOSURE
Bayview Loan Servicing, LLC,

Plaintiff

vs.

Marylou Horning and Unknown
Heirs of Larry S. Kramer,
Defendant(s)

NO: C-48-CV-2014-05594

NOTICE**NOTICE OF SHERIFF'S SALE OF
REAL PROPERTY**

To: All Other Heirs of Larry S. Kramer,
Defendant(s), whose last known
address is 2530 East Boulevard,
Bethlehem, PA 18017

TAKE NOTICE that the real estate located at 2530 East Boulevard, Bethlehem, PA 18017, is scheduled to be sold at Sheriff's Sale on June 9, 2017 at 10:00 A.M., in the Jury Lounge, 1st Fl., Northampton County Government Center, 669 Washington St., Easton, PA 18042, to enforce the court judgment of \$157,395.90, obtained by Bayview Loan Servicing, LLC, against you. Property Description: Prop. sit in the CITY OF BETHLEHEM, BEING prem.: 2530 East Boulevard, Bethlehem, PA 18017. Tax Parcel: N7NW1C 1 12 0204. Improvements consist of residential property. Sold as the property of Larry S. Kramer. TERMS OF SALE: The purchaser at sale must pay the full amount of his/her bid by two o'clock P.M. on the day of the sale, and if complied with, a deed will be tendered by the Sheriff at the next Court of Common Pleas for Northampton County conveying to the purchaser all the right, title, interest and claim which the said defendant has in and to the said property at the time of levying the same. If the above conditions are not complied with on the part of the purchaser, the property will again be offered for sale by the Sheriff at three o'clock P.M., on the same day. The said purchaser will be held liable for the deficiencies and additional costs of said sale. TAKE NOTICE that a Schedule of Distribu-

tion will be filed by the Sheriff on a date specified by the Sheriff not later than thirty (30) days after sale. Distribution will be made in accordance with the schedule unless exceptions are filed thereto within 10 days after the filing of the schedule.

POWERS, KIRN & ASSOC., LLC
Attys. for Plaintiff

Eight Neshaminy Interplex
Ste. 215
Trevose, PA 19053
(215) 942-2090

May 4

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

IN CUSTODY

ELIZABETH ORTIZ,

Plaintiff

vs.

CARLOS M. MARTINEZ,
Defendant

**DOCKET NO.
C0048CV2017-3191**

TO: CARLOS MARTINEZ

You are hereby notified that Elizabeth Ortiz has filed a Complaint for Custody against you in the Court of Common Pleas of Northampton County, Docket No. C0048CV2017-3191. You have been sued in Court for custody, partial custody or visitation of the child(ren): Jean Carlos Martinez-Ortiz.

You are hereby notified that a Custody Conference has been scheduled by the Court for May 10, 2017 at a time to be determined in the Custody Mediation Room, Northampton County Government Center, Easton Pennsylvania.

NOTICE

You have been sued in Court for custody, partial custody or visitation of the child(ren): JEAN CARLOS.

If you fail to appear for Conference, an order for custody, partial custody or visitation may be entered against you or the court may issue a warrant for your arrest.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, YOU MAY GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

LAWYER REFERRAL SERVICE

P.O. Box 4733

Easton, PA 18043-4733

(610) 258-6333

BRANDON M. BENNER, ESQUIRE
BENNER & TROVATO

2005 City Line Road

Suite 106

Bethlehem, PA 18017

(610) 867-3900

May 4

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

NOTICE OF CIVIL COMPLAINT

RAJESH R. PATEL,

Plaintiff

v.

KALAVATHI SHANMUGAM,

Defendant

NO. C48-CV-2016-1878

TO: Kalavathi Shanmugam

This is a breach of contract action being brought by Rajesh R. Patel, the Plaintiff, against Kalavathi Shanmugam, the Defendant, seeking damages.

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so, the case may proceed

without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE

Northampton County

Bar Association

P.O. Box 4733

Easton, PA 18043-4733

RICHARD J. ORLOSKI, ESQUIRE

Attorney I.D. No. 09857

THE ORLOSKI LAW FIRM

111 N. Cedar Crest Boulevard

Allentown, PA 18104-4602

(610) 433-2363

May 4

IN THE COURT OF COMMON

PLEAS OF NORTHAMPTON

COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW

NOTICE OF ACTION IN

MORTGAGE FORECLOSURE

MTGLQ Investors, L.P.,

Plaintiff

vs.

Unknown Heirs, Successors,
Assigns and All Persons, Firms or
Associations Claiming Right, Title or
Interest From or Under Renay D.
Hudson, deceased, Robert Hudson,
Known Heir of Renay D. Hudson,
deceased, Dorothy Jordan, Known

Heir of Renay D. Hudson, deceased
and Shenna Hudson, Known Heir
of Renay D. Hudson, deceased,

Defendants

NO. C-48-CV-2014-4726

**NOTICE OF SHERIFF'S SALE OF
REAL PROPERTY**

TO: Unknown Heirs, Successors,
Assigns and All Persons, Firms or
Associations Claiming Right, Title
or Interest From or Under Renay
D. Hudson, deceased, De-
fendant(s), whose last known
address is 471 West Berwick
Street, Easton, PA 18042

Your house (real estate) at 471
West Berwick Street, Easton, PA
18042, L9SE4C-26-18-310, is
scheduled to be sold at Sheriff's Sale
on August 11, 2017, at 10:00 A.M.,
at Northampton County Courthouse,
669 Washington St., Easton, PA
18042, to enforce the court judgment
of \$106,399.34, obtained by MTGLQ
Investors, L.P. (the mortgagee) against
you.—NOTICE OF OWNER'S RIGHTS
—YOU MAY BE ABLE TO PREVENT
THIS SHERIFF'S SALE—To prevent
this Sheriff's Sale you must take
immediate action: 1. The sale will be
cancelled if you pay back to MTGLQ
Investors, L.P., the amount of the
judgment plus costs or the back
payments, late charges, costs, and
reasonable attorneys fees due. To find
out how much you must pay, you
may call: (610) 278-6800. 2. You may
be able to stop the sale by filing a
petition asking the Court to strike or
open the judgment, if the judgment
was improperly entered. You may also
ask the Court to postpone the sale for
good cause. 3. You may be able to
stop the sale through other legal
proceedings. 4. You may need an
attorney to assert your rights. The
sooner you contact one, the more
chance you will have of stopping the

sale. (See notice below on how to obtain an attorney.)—YOU MAY STILL BE ABLE TO SAVE YOUR PROPERTY AND YOU HAVE OTHER RIGHTS EVEN IF THE SHERIFF'S SALE DOES TAKE PLACE—5. If the Sheriff's Sale is not stopped, your property will be sold to the highest bidder. You may find out the price bid by calling (610) 278-6800. 6. You may be able to petition the Court to set aside the sale if the bid price was grossly inadequate compared to the value of your property. 7. The sale will go through only if the buyer pays the Sheriff the full amount due in the sale. To find out if this has happened you may call (610) 559-3084. 8. If the amount due from the buyer is not paid to the Sheriff, you will remain the owner of the property as if the sale never happened. 9. You have a right to remain in the property until the full amount due is paid to the Sheriff and the Sheriff gives a deed to the buyer. At that time, the buyer may bring legal proceedings to evict you. 10. You may be entitled to a share of the money, which was paid for your house. A schedule of distribution of the money bid for your house will be filed by the Sheriff no later than thirty days after the Sheriff Sale. This schedule will state who will be receiving the money. The money will be paid out in accordance with this schedule unless exceptions (reasons why the proposed distribution is wrong) are filed with the Sheriff within ten (10) days after the date of filing of said schedule. 11. You may also have other rights and defenses or ways of getting your house back, if you act immediately after the sale. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE

OFFICE LISTED BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT YOU ARE ADVISED THAT THIS LAW FIRM IS DEEMED TO BE A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

CHRISTOPHER A. DeNARDO,
ESQUIRE

KRISTEN D. LITTLE, ESQUIRE

KEVIN S. FRANKEL, ESQUIRE

SAMANTHA GABLE, ESQUIRE

DANIEL T. LUTZ, ESQUIRE

LESLIE J. RASE, ESQUIRE

ALISON H. TULIO, ESQUIRE

KATHERINE M. WOLF, ESQUIRE

SHAPIRO & DeNARDO, LLC

Attys. for Plaintiff

3600 Horizon Dr.

Ste. 150

King of Prussia, PA 19406

May 4

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

JURY OF 12 TRIAL DEMANDED
MONAH TUAN,

Plaintiff

vs.

TREYLIN WALLS and

YVONNE WALLS,

Defendants

FILE NO.: C48-CV-2016-5136

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, 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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE:

Lawyer Referral Service
of the Bar Association
of Northampton County
P.O. Box 4733
Easton, PA 18043-4733
Telephone (610) 258-6333

May 4

MISCELLANEOUS LEGAL NOTICE
IN THE UNITED STATES DISTRICT

COURT FOR THE EASTERN
DISTRICT OF PENNSYLVANIA
NOTICE OF MARSHAL'S SALE OF
REAL ESTATE

U.S. BANK NATIONAL
ASSOCIATION, AS TRUSTEE,
SUCCESSOR-IN-INTEREST TO
BANK OF AMERICA, NATIONAL
ASSOCIATION, AS SUCCESSOR

BY MERGER TO LaSALLE BANK
NATIONAL ASSOCIATION, AS
TRUSTEE FOR THE REGISTERED
HOLDERS J.P. MORGAN CHASE
COMMERCIAL MORTGAGE
SECURITIES TRUST 2006-CIBC15,
COMMERCIAL MORTGAGE
PASS-THROUGH CERTIFICATES,
SERIES 2006-CIBC15,

Plaintiff

v.

WALNUTPORT ASSOCIATES LP,
Defendant

NO. 5:16-CV-04966-EGS

Marshal's Sale of Real Estate on
June 26, 2017, at 10:00 A.M., at the
U.S. Marshals Service, 2110 U.S.
Courthouse, 601 Market St., Phila-
delphia, PA 19106.

TO BE SOLD: All that certain tract
of land known as 200 S. Best Avenue,
Walnutport, Northampton County,
Pennsylvania, as more particularly
described in Exhibit A to the Mortgage
recorded on June 12, 2006, at Instru-
ment Number 2006034939 with the
Recorder of Deed for the County of
Northampton.

SEIZED IN EXECUTION as the
Property of WALNUTPORT ASSOCI-
ATES, LP. Judgment entered October
28, 2016 in the amount of
\$10,365,531.07, plus interests and
costs through the date of the Marshal's
sale.

The improvements are commer-
cial.

10% of the bid is due at the time
of sale in the form of money order,
cashier's check or certified funds (no
cash); the balance is due 10 days after
the Court confirms the sale. Other
terms and conditions to be announced
at the sale. Schedule of Distribution
will be filed by Plaintiff's attorney
within 30 days of the date of sale.

For more information, contact
Daniel Mullin, Esq. at (215) 665-8500.

Apr. 27; May 4, 11, 18

ATTORNEY OPENING IN CENTER VALLEY, PA

The law firm of Fitzpatrick Lentz & Bubba, P.C. is seeking a highly qualified attorney for its Corporate Business & Banking and Real Estate, Land Use & Development Law Practice Groups. The position is in its Center Valley, Pennsylvania office. The ideal candidate should have experience representing entities and individuals in all types of transactions, including particularly real estate finance, acquisitions and sales and other real estate-related practice areas such as land use and zoning, eminent domain and tax assessment law. The successful candidate will be involved in small to multimillion dollar transactions for buyers, sellers, borrowers and lenders and also in development projects in a variety of industries.

A resume, including salary requirements, can be sent in confidence to Fitzpatrick Lentz & Bubba, P.C. at P.O. Box 219, Center Valley, PA 18034 or to careers@flblaw.com.

Apr. 27; May 4

REAL ESTATE PARALEGAL

Fitzpatrick Lentz & Bubba, P.C., a 30+ attorney, full-service Lehigh Valley law firm, is accepting applications for a real estate paralegal position. The successful candidate must possess 5 or more years' experience as a real estate paralegal, which should include handling of significant commercial transactions and performing complex title review and settlements. The applicant should possess a commitment to professionalism, an attention to detail, computer proficiency and a proven ability to multitask in a dynamic work environment. Excellent communication and organizational skills are required. Title agent license is preferred. The firm offers a competitive salary, excellent benefits and a 401(k) plan.

Send your letter of interest, with resume demonstrating the above, three references and a salary requirement to Firm Manager, Fitzpatrick Lentz & Bubba, P.C., 4001 Schoolhouse Lane, P.O. Box 219, Center Valley, PA 18034 or e-mail to careers@flblaw.com. All correspondence will be held in the utmost confidence.

Apr. 27; May 4

William Stillwell, a partner in Plaintiff, who mailed the unsigned lease renewal pertaining to the period of 2004-2009 to Katherine Powell, testified that he could not recall whether or not [Powellwood] was ever a holdover tenant or had a month-to-month agreement with Plaintiff. *Id.* at Exhibit “6,” N.T. William Stillwell Dep. dated 1/12/16 at p. 87.

Shanna Mackin, who worked for the property management group that served as an agent of Plaintiff, testified that she did not become Plaintiff’s property manager until 2005. *Id.* at Exhibit “7,” N. T. Shanna Mackin Dep. dated 2/11/16 at p. 15. Therefore, she testified to what she knew from that point in time forward and the documents she had reviewed.

Q. Were you involved with the 2009 amendment to the lease between Bethlehem Village Associates and the dry cleaners?

A. Yes, I do believe so.

Q. Were you the one who negotiated that?

A. It would be on behalf of Bethlehem Village Associates, at their direction.

Q. When that agreement—amendment was agreed to, what was the contractual status between the dry cleaner and Bethlehem Village Associates?

Mr. Stellato: Objection to the form. I think you’re asking for a legal conclusion. You mean other than the lease?

Q. Was there a lease in effect?

A. Yes.

Q. When did that lease expire?

A. It was extended. It never expired.

Q. Was it extended by written agreement or was it a month-to-month, do you know?

A. To my knowledge, it was—there was written agreements to extend.

Id. at 128-29.

THE PARTIES’ ARGUMENTS

The Powell Defendants’ Arguments

According to the Powell Defendants, the Guaranty expired prior to the incidents that gave rise to Plaintiff’s causes of action. Specifically, the Powell Defendants take the following position with respect to the documents at issue:

There were two leases of real property dated February 3, 1987 (the “First Lease”) and September 10, 2009 (the “Second Lease”). *See* Powell Defendants’ Motion for Summary Judgment (“Motion”) at ¶1. On May 14, 1990, the First Lease was assigned to Defendant Powellwood. *Id.* at ¶2. The First Lease had a term of five years, with up to three five-year options

to extend the Lease. As a result, the terms of the First Lease could not be extended past 2007. *Id.* at ¶3. The Powell Defendants guaranteed the remainder of the original term of the First Lease upon assignment, from May 14, 1990 to February 3, 1992. *Id.* at ¶4. Rider No. 1 of the First Lease required that the exercise of any options to extend the Lease be agreed to in writing by any guarantors. *Id.* at ¶5. The Powell Defendants assert that they were not aware of any extensions of the First Lease, did not consent to any exercise of any options, did not agree to extend the First Lease, and did not extend their guaranty beyond expiration of the original term of the First Lease on February 3, 1992. *Id.* at ¶6. The Powell Defendants believe that the Guaranty, which was executed in 1990, applied only to the original five-year term of the First Lease, and therefore, that the Guaranty of Lease expired upon the expiration of the original five-year term of the First Lease. *Id.* at ¶12. The Powell Defendants further assert that Powellwood's 1992 execution of its option to extend the original term of the First Lease was made without the knowledge or consent of the Powell Defendants. *Id.* at ¶13. The Powell Defendants take the position that this execution was a material modification to the terms of the Powell Defendants' Guaranty, and, had the Guaranty not expired, such material modification would have terminated the obligation of the Powell Defendants to guarantee the First Lease under Pennsylvania law. *Id.*

Further, their position is that in 2007, the fourth and final term of the First Lease expired, was not renewed, and, under its original terms, could not be extended beyond May 14, 2007. *Id.* at ¶7. Thus, even if the Guaranty were found to have extended beyond 1992, then the Guaranty expired in 2007 along with the First Lease. *See* Powell Defendants' Statement of Undisputed Facts and Memorandum of Law in Support of Motion for Summary Judgment ("Powell Defendants' Memorandum") at p. 1.

More than two years later, the Second Lease was executed on September 10, 2009. Motion at ¶8. The Second Lease incorporated by reference the terms of the First Lease, as amended. *Id.* The Powell Defendants opine that they were not parties to the Second Lease, did not guarantee the Second Lease, and did not agree to extend their 1990 Guaranty of the original term of the First Lease to the Second Lease. *Id.* at 9. Accordingly, they believe that, as a matter of law, Plaintiff cannot establish liability against the Powell Defendants for the alleged failure to pay rent under the Second Lease and the alleged failure to install an HVAC system during the term of the Second Lease. *Id.* at ¶15. They also assert that they cannot be held liable for any asserted contamination at the Shopping Center pursuant to the Guaranty. *Id.* at ¶10. The Powell Defendants argue:

Plaintiff, however, seeks to enforce the Guaranty based on the execution two (2) years after the termination of the Lease and Guaranty of what was called an 'Amendment' executed by Plaintiff and Powellwood Corporation ('Powellwood'), owned

by Katherine and Mark Wood. The ‘Amendment’, which was actually a new lease incorporating the terms of the original Lease, extended the occupancy of Plaintiffs’ property by Powellwood for an additional five (5) years and significantly increased the rent. No one, however, bothered to inform either David Powell or Joan Powell of the ‘Amendment’ to the terminated Lease or asked them whether they would consent to a new Guaranty of what was in effect a new lease. Based on the unambiguous caselaw concerning guarantees, the material modification of the terms of the Lease by way of the additional term of years and the increased rent and the fact neither David Powell nor Joan Powell were informed of nor consented to the modification, the Guaranty of Lease is unenforceable against the Powells and summary judgment should be granted in their favor dismissing the Third Amended Complaint against them.

Powell Defendants’ Memorandum at pp. 1-2.

The Powell Defendants deny that they played any role in the day-to-day operations of the dry cleaning business, and as such, in addition to there being no written extension of the Guaranty, there could not have been a *de facto* extension of the Guaranty through their involvement in the business. They claim that David Powell was never an officer, employee, shareholder, or director of Powellwood. *Id.* at p. 3, ¶9. “At the commencement of the Lease Joan Powell was the uncompensated Treasurer of Powellwood Corporation, but she has not acted as the Treasurer of Powellwood Corporation for many years. ... Joan Powell was never an employee, shareholder or director of Powellwood Corporation.” *Id.* at p. 4, ¶¶210-11 (internal citations omitted).

The Powell Defendants also dispute the dates that the causes of action arose. Concerning unpaid rent and the HVAC system, they claim that there is no proof that the claims accrued prior to 1992, when they believe that their obligations as guarantors of the Lease terminated. *See* Powell Defendants’ Reply Memorandum at p. 10. “Therefore, as the Guaranty of Lease is unenforceable against the Powells after 1992, summary judgment is appropriate and the Plaintiff’s Third Amended Complaint must be dismissed in its entirety against the Powells.” *Id.* Finally, they contest the dates of the alleged environmental contamination, alleging that Plaintiff has neither facts nor an expert opinion to establish: 1) that any spills occurred prior to the termination of the Guaranty in 1992, or 2) whether any spills that may have occurred during that time period were the cause of any soil or groundwater contamination. *Id.* at pp. 11-12. “All plaintiff can do, however, is say that spills of PCE took place sometime between 1990 and 1995, with no exactitude.” *Id.* at p. 12. The Powell Defendants argue that there was no testing to determine the timing of the release, nor is there an expert opinion,

let alone facts, to establish any release occurred prior to 1993. *Id.* at pp. 17-18. “Clearly, Plaintiff has not met its burden to establish a release took place during the term of the Guaranty.” *Id.* at p. 18.

In support of their position, the Powell Defendants cite to *McIntyre Square Associates v. Evans*, 827 A.2d 446 (Pa. Super. 2003). *Id.* at p. 8. There, a tenant signed a commercial lease for space in a shopping center, which lease was guaranteed by the tenants’ principals. *McIntyre*, supra at 449. The lease was for a five-year term and did not contain an option to extend or renew. *Id.* At the conclusion of the five-year term, the tenant executed a lease amendment and extension agreement which extended the lease for another five years and significantly increased the rent. *Id.* “No new guaranty agreement was signed.” *Id.* The tenant eventually defaulted and the landlord confessed judgment against the tenant and, thereafter, sought to enforce the guaranty against the guarantors. *Id.* The trial court ruled that the original guaranty did cover the lease extension. *Id.* On appeal, the Superior Court reversed, finding that the amended lease was a material modification of the original lease which substantially increased the risk to the guarantors. *Id.* at 452. The doubling of the lease term substantially increased the guarantors’ exposure under the guaranty. *Id.*

The Powell Defendants deny that Powellwood was ever a holdover tenant. “Similar to the failure of Plaintiff to obtain the written consent of the Powells to the Lease renewals, there is also no evidence or claim that Plaintiff ever provided express written consent to a holdover tenancy.” *See* Powell Defendants’ Supplemental Memorandum dated 1/3/17 at p. 5; *see also*, fn. 7 supra.

The Powell Defendants further assert as follows:

During the term of its tenancy at the Property Plaintiff never considered Bethlehem to be a holdover tenant. At all times, Plaintiff viewed Powellwood to be occupying its tenancy under the original Lease that was regularly renewed. The strongest evidence of Plaintiff’s treatment of Powellwood not as a holdover tenant, but as a tenant under the Lease, is from the Lease renewal dated February 19, 1997, from the property manager for Plaintiff to Powellwood, stating as follows: *Attached is the lease renewal for your store*, Express Drycleaners, 3650 Nazareth Pike in Bethlehem, P.A ... If you have any questions or concerns regarding the Landlord’s offer to renew, please contact me. I will be happy to discuss your renewal.

And, importantly, the lease renewal says nothing about Powellwood having been a month to month tenant as a holdover tenant pursuant to the terms of the Lease. Rather, the lease renewal was for a three year term, not renewed on a month to month basis which Powellwood would have been had it been

a holdover tenant, with rent stated as a yearly rental. Had Powellwood been a holdover tenant it would have been impossible to renew the lease on a yearly basis.

See Powell Defendants' Supplemental Memorandum dated 1/3/17 at p. 2 (internal citations omitted).

Plaintiff's Arguments

In contrast, Plaintiff asserts, as one possibility, that throughout the term of the tenancy, Powellwood and Plaintiff operated under the terms of one lease, which terms were continually renewed either through written renewals, which were specifically contemplated by the Lease, or by a course of conduct. See Plaintiff's Memorandum of Law in Opposition to Motion for Summary Judgment of Powell Defendants ("Plaintiff's Memorandum") at p. 2. The tenancy continued in this same manner from 1990 until the tenant's abandonment of the Leased Premises in 2014. *Id.* Citing to language in the written lease renewals concerning renewal and holding over, Plaintiff claims that it was evident from the inception of the Lease to both Powellwood and the Powell Defendants that the terms and conditions of the Lease could continue indefinitely as long as Powellwood remained on the premises. *Id.* at pp. 2, 3. Plaintiff further cites to the language of the Guaranty which states, in part, that the Lease "may be altered, affected, modified or changed by agreement between Lessor and Lessee, or by a course of conduct, and said Lease may be assigned by Lessor or any assignee of Lessor without consent or notice to Guarantors. ... " *Id.* at p. 3. Plaintiff asserts that Powellwood was assigned the Lease for the dry cleaners on May 14, 1990, but prior to permitting the assignment, Plaintiff mandated, as a condition precedent to any assignment, that the Powell Defendants execute a continuing and irrevocable guaranty. *Id.*

Plaintiff further believes that the Powell Defendants played a key role in the operation of the dry-cleaning business.

In fact, Moving Defendants played a crucial role in their daughter and son-in-law's new venture. For example, Moving Defendants recommended an attorney to handle the entire transaction. Moving Defendant Joan V.N. Powell served as Powellwood's treasurer, executed the assignment of the lease as Powellwood's treasurer, and she, along with her daughter, were the two shareholders in Powellwood. Moving Defendants also loaned money to their daughter and son-in-law in order to purchase the drycleaners, and, finally, they executed the subject guaranty. The executed guaranty explicitly states that '*David G. Powell and Joan V.N. Powell hereinafter referred to as "Guarantors" have a financial interest in Lessee.*'

Throughout the tenancy, Moving Defendants visited the drycleaners, had periodic phone calls with their daughter, saw

their daughter and son-in-law each year during Christmas and Thanksgiving, knew that there was a lease in place from 1990 until 2014, and knew that the dry cleaning business was operating in the same location from 1990 until 2014.

Id. at p. 4 (emphasis in original).

Concerning the dates of contamination, Plaintiff asserts that the contamination took place between 1990 and 1995, but Plaintiff did not discover same until 2014 after Powellwood abandoned the Leased Premises. *Id.* at pp. 4-5. Plaintiff maintains that the Powell Defendants, as guarantors, are liable for Powellwood's multiple breaches of the Lease. *Id.* at p. 5. Plaintiff distinguishes the *McIntyre* case and asserts that any extension of the Lease and Guaranty did not impose unreasonable burdens on the Powell Defendants. *Id.* at p. 37.

Plaintiff asserts alternatively that Powellwood was a holdover tenant after the terms of the original Lease expired, as follows:

... There is no evidence in the factual record that Tenant ever signed a writing and sent same by registered or certified mail to Plaintiff six (6) months before the expiration of any term.

... Therefore, given this fact and the fact that the signed amendments to the Lease (the first dated 3/6/2000 and the second dated 9/10/09) make no reference to the exercising of any option by Powellwood, it could be reasonably argued that the entirety of Powellwood's tenancy beyond 1992 and continuing up through 2014 was as a holdover tenant, subject to all the terms and conditions of the Lease (with rent modifications as per the two signed amendments). At a bare minimum, there is a genuine issue of material fact regarding whether or not Tenant was a holdover tenant between 1992 and October 1, 1997—October 1, 1997 being the date of the first unexecuted Lease amendment document for the term 10/1/1997 to 9/30/2000. In fact, this three year unexecuted Lease amendment does not comport to the five-year options provided in Rider No. 1 to the Lease.

See Plaintiff's Memorandum of Law dated January 5, 2017 at pp. 3-4 (internal citations omitted).

Plaintiff further asserts that the Powell Defendants' personal guaranty extended to the period of any holdover tenancy. In support thereof, Plaintiff cites to *Coe v. Vogdes*, 71 Pa. 383, 386 (1872) (holding that, where a lease expressly provided for year-to-year tenancy, if tenant held over following termination of original lease term, the surety was responsible for the subsequent rent and stating "[a] mere notice by the sureties that they will not be liable, is no defence to their covenant, for it is not in their power to dissolve their contract at their own pleasure"); *Platt v. Fisher*, 59

Pa. Super. 114, 115 (1914) (finding that, where a party fails to provide a termination notice, a lease for the term of one year is to continue for another year, and so on from year to year. Further, a surety covenants that the “lessee shall and will well and faithfully perform all the covenants and conditions in the said lease,” and the liability of the surety will extend to rentals which accrue and are not paid long after the original term has expired); *Appeal of Pleasanton*, 75 Pa. 344 (1874) (surety was liable during holdover period only until such time as surety gave proper notice of terminating suretyship at end of current holdover period). See Plaintiff’s Memorandum of Law dated 1/3/17 at p. 13.

Plaintiff further cites to case law from other jurisdictions which it asserts is persuasive. See e.g., *Roth v. Dillavou*, 359 Ill. App. 3d 1023, 835 N.E.2d 425 (2005) (holding that guaranty applied to month-to-month holdover tenancy where guarantor executed the lease, the lease provided that a month-to-month holdover tenancy shall be created if tenant held over, and guarantor agreed to uphold “all” lease covenants); *G.H. Bass & Co. v. Dalsan Properties—Abilene*, 885 S.W.2d 572 (Tex. App. 1994) (holding the guarantor liable for rent during a holdover period under a commercial lease where the lease provided for payments in the event of a holdover tenancy and the guarantor agreed to pay rent and other charges payable by tenant under the lease); *Rice v. Loomis*, 139 Mass. 302, 1 N.E. 548 (1885) (holding a guarantor liable for holdover rent payments due after expiration of one-year lease term because lessee agreed to pay rent for such further time as he might hold the premises and guarantor guaranteed payment of the rent stipulated in the lease). Plaintiff’s Memorandum of Law dated 1/3/17 at p. 14.

Plaintiff argues that here, as in *Roth*, the Guaranty is broad and obligates the Powell Defendants to “jointly, severally, unconditionally and irrevocably guarantee the prompt payment by Lessee of all rentals and all other sums payable by Lessee under said Lease and the faithful and prompt performance by Lessee of *each and everyone of the terms, conditions and covenants of said Lease* to be kept and performed by Lessee.” Plaintiff’s Memorandum of Law dated 1/3/17 at p. 14. “The Holdover provision is a term, condition and covenant of the Lease. Accordingly, Defendants are bound by it.” *Id.* at pp. 14-15.

DISCUSSION

Standard of Review

The purpose of summary judgment is “to pierce the pleadings and to assess the proof in order to see whether there is a genuine need for a trial.” *Curran v. Philadelphia Newspapers, Inc.*, 497 Pa. 163, 176, 439 A.2d 652, 658 (1981). Pennsylvania Rule of Civil Procedure 1035.2 governs summary judgment, and states in pertinent part:

After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law (1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or (2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

Pa. R.C.P. 1035.2.

In determining whether to grant a motion for summary judgment, the court must view the record in a light most favorable to the non-moving party. *Dorohovich v. West American Insurance Company*, 403 Pa. Super. 412, 419, 589 A.2d 252, 256 (1991). In order to be successful in bringing a motion for summary judgment, the moving party must demonstrate that there are no genuine issues of material fact for the court to decide. *First Wisconsin Trust Company v. Strausser*, 439 Pa. Super. 192, 197, 653 A.2d 688, 691 (1995).

Once the moving party has met this burden, the non-moving party must produce sufficient evidence on an issue essential to the case on which he bears the burden of proof such that a jury could return a verdict in his favor. *Ertel v. Patriot-News Company*, 544 Pa. 93, 674 A.2d 1038 (1996).

[T]he adverse party may not rest upon the mere allegations or denials of the pleadings but must file a response within thirty days after service of the motion identifying (1) one or more issues of fact arising from evidence in the record controverting the evidence cited in support of the motion or from a challenge to the credibility of one or more witnesses testifying in support of the motion, or ... (2) evidence in the record establishing the facts essential to the cause of action or defense which the motion cites as not having been produced.

Pa. R.C.P. 1035.3(a).

If the adverse party fails to come forward with sufficient evidence to establish a contested fact, the court may grant the moving party's motion for summary judgment. Pa. R.C.P. 1035.3(d). However, summary judgment should be granted only where the entitlement to judgment as a matter of law is free and clear of doubt. *Electronic Laboratory Supply Co. v. Cullen*, 712 A.2d 304, 307 (Pa. Super. 1998). All doubts as to the existence of a genuine issue of material fact must be resolved against the moving party.

Marks v. Tasman, 527 Pa. 132, 589 A.2d 205 (1991). Additionally, Pennsylvania Rule of Civil Procedure 1029 states:

(b) Averments in a pleading to which a responsive pleading is required are admitted when not denied specifically or by necessary implication. A general denial or a demand for proof, except as provided by subdivisions (c) and (e) of this rule, shall have the effect of an admission.

Pa. R.C.P. 1029(b).

Relevant Contract Law Principles

There are several basic principles of contract law relevant to this matter:

[A] lease is in the nature of a contract and is controlled by principles of contract law. It must be construed in accordance with the terms of the agreement as manifestly expressed, and the accepted and plain meaning of the language used, rather than the silent intentions of the contracting parties, determines the construction to be given the agreement.

Southwestern Energy Production Company v. Forest Resources, LLC, 83 A.3d 177, 186-87 (Pa. Super. 2013) (quoting *T.W. Phillips Gas and Oil Co. v. Jedlicka*, 615 Pa. 199, 42 A.3d 261, 267 (2012) (internal quotation marks and citations omitted)). In interpreting a contract, the ultimate goal is to ascertain and give effect to the intent of the parties as reasonably manifested by the language of their written agreement. *Id.* at 187. When construing agreements involving clear and unambiguous terms, a reviewing court need only examine the writing itself to give effect to the parties' understanding. *Id.* The "Court must construe the contract only as written and may not modify the plain meaning under the guise of interpretation." *Id.* (quoting *Humberston v. Chevron U.S.A., Inc.*, 75 A.3d 504, 509-10 (Pa. Super. 2013)).

It is a general rule of law in the Commonwealth that where a contract refers to and incorporates the provisions of another, both shall be construed together. It is well-settled that clauses in a contract should not be read as independent agreements thrown together without consideration of their combined effects. Terms in one section of the contract, therefore, should never be interpreted in a manner which nullifies other terms in the same agreement. *Furthermore, the specific controls the general when interpreting a contract.*

Id. (quoting *Trombetta v. Raymond James Financial Services, Inc.*, 907 A.2d 550, 560 (Pa. Super. 2006) (emphasis added)). It is fundamental that one part of a contract cannot be so interpreted as to annul another part and that writings which comprise an agreement must be interpreted as a whole. *Id.* (citations omitted). With these principles in mind, we evaluate the issues at hand.

The Documents at Issue Indicate That the Guaranty Expired With the Original Lease Term and Was Not Renewed

Here, the Lease was for a five-year term, and it contained a provision for three five-year options. *See* Lease, p. 2, ¶5 and Rider No. 1, Exhibit “A” of Third Amended Complaint. As indicated by Rider No. 1 to the original Lease, the exercise of any renewal option was required to be in writing and signed by the tenant *and any guarantor of the tenant*. *Id.* Plaintiff admits that the Powell Defendants did not sign anything pertaining to an option to extend the Lease beyond the original five-year term. *See* Reply of Plaintiff to Statement of Undisputed Facts of Defendants David G. Powell and Joan V.N. Powell at ¶15. None of the written lease options that are part of the record, whether signed or unsigned by the landlord and the tenant, are signed by the Powell Defendants as is required to effectuate any extension of the five-year lease options and, by extension, the Guaranty.

Thus, although the Guaranty of the Lease indicates that the Lease terms could be altered, affected, modified or changed by agreement between Plaintiff and Powellwood, or by a course of conduct, the Guaranty is silent on any *extensions* of the Lease or of the Guaranty itself. The Lease, however, is not silent on this issue, and Rider No. 1 specifically indicates that any option to extend the terms of the Lease beyond the original five-year term was required to be in writing, signed by the tenant and any guarantor. We find that the language of Rider No. 1 to the original Lease is clear in its requirements. We find that irrespective of the existence of any written lease extension signed by the tenant, there are none signed by the guarantors, the Powell Defendants.

Accordingly, per the terms of the Lease itself, the original Guaranty expired when the original Lease expired in February of 1992. Importantly, in *McIntyre*, supra, the original lease had no renewal provision. *Id.* at 452. It consisted of a single five-year term. Accordingly, the Superior Court found that it could not be argued that the guarantors could have anticipated, or implicitly consented to, an extension of the lease term. *Id.* at 452-53. Here, unlike in *McIntyre*, the Lease does provide for a renewal option. However, as stated supra, the language of that renewal option is specific and requires the guarantors to consent to the renewal option in writing, which the Powell Defendants did not do.

Powellwood Was Not a Holdover Tenant in Accordance With the Lease

With respect to the question of whether or not Powellwood was a holdover tenant, we find that, pursuant to the holdover provision of the Lease, there was no holdover tenancy. Plaintiff concedes that there is no written lease renewal, signed or unsigned, covering the period of time of the expiration of the original Lease Term in February of 1992 through October of 1997. The first evidence in the record of a written lease exten-

sion commences in 1997, and it is unsigned and thus not in conformity with the terms of the Lease concerning written renewals, which terms require any written renewals to be signed by the tenant and any guarantor of the tenant. *See* Rider No. 1 to Lease. In addition, the first unsigned written extension provided by Plaintiff/Landlord to the tenant was for only a three-year period, from 1997 until 2000. The Lease provides options for extensions of five years, not three. *Id.* It is undisputed that Powellwood remained at the Leased Premises from 1992-1997. But these facts alone do not create a holdover tenancy under the specific terms of the Lease. As noted *supra*, the holdover provision of the Lease provides:

HOLDING OVER. If Tenant remains in possession of the Premises or any part thereof after the expiration of the term hereof *with the express written consent of landlord*, such occupancy shall be a tenancy from month-to-month *at a rental in the amount of the last Monthly Minimum Rent*, plus all other charges payable hereunder, and upon all the terms hereof applicable to a month-to-month tenancy.

See Lease at ¶20 (emphasis added).

The course of conduct between the parties, while not specifically compliant with the provisions in the Lease pertaining to written renewals, were also not compliant with the holdover provision of the Lease to create a holdover tenancy.¹⁶ The holdover provision of the Lease first requires that the tenant could remain in possession of the premises or any part thereof after the expiration of the term *with the express written consent of the landlord*, which would create a tenancy from month to month. Plaintiff has produced no evidence of an express written consent to any holdover tenancy on the part of Powellwood for the period of 1992 through 1997. *See* Lease at ¶20. Further, the holdover provision of the Lease which would have created the month-to-month tenancy would have only created such a tenancy at a rental amount in the amount of the last Monthly Minimum Rent, plus all other charges payable thereunder. *Id.* Thus, if Powellwood was a holdover tenant, the rent could not increase. But the record reveals, and Plaintiff concedes, that the parties did not operate from 1992 to 1997, or at any period thereafter, at a rental amount in the amount of the last Monthly Minimum Rent. Instead, Plaintiff asserts that the amount of rent was determined, not pursuant to the holdover provision at paragraph 20 of the Lease, but rather, pursuant to the provisions of the renewal option in Rider No. 1, which contained a percentage of increase pursuant to the Cost of Living Index published by the U.S. Department of Labor for Retail Consumers in the U.S. *See* Lease, p. 2, ¶5 and Rider No. 1; *see also*, Plaintiff's Memorandum of Law in Opposition to Motion for Summary Judgment

¹⁶ Based upon our finding that no holdover tenancy existed in accordance with the Lease terms, we decline to discuss the cases cited by Plaintiff pertaining to whether a guaranty is extended to a holdover tenancy.

of Powell Defendants at p. 22 (“Nevertheless, the Plaintiff and Powellwood always operated under the terms of the Lease with occasional rent increases per the Lease—the basic annual rent payable under this Lease shall be adjusted by the percentage of increase, if any, in the Cost of Living Index ...’ ... this course of conduct continued throughout the tenancy.”).

Importantly, Katherine Wood testified that the rent increased from 1992-1997. *See* N.T. Katherine Wood Dep. at pp. 92-95. Although she could not recall the specific amount, she was certain of the existence of an increase. *Id.* With respect to the provisions of the Lease in Rider No. 1 concerning the formalities of a written renewal, Plaintiff concedes: “As stated earlier, this condition was for Plaintiff’s benefit and, as described above, Plaintiff waived it through its actions in accepting Powellwood’s continued tenancy.” Plaintiff’s Memorandum of Law in Opposition to Motion for Summary Judgment of Powell Defendants at p. 27.

Further, Defendants Katherine Wood and Mark Wood both testified that when the original lease term expired in 1992, Powellwood signed a five-year renewal of the Lease, and that Powellwood was never without a lease. N.T. Katherine Wood Dep. at pp. 93-95; N.T. Mark Wood Dep. at p. 92. Plaintiff’s representative, William Stillwell, could not recall whether or not [Powellwood] was ever a holdover tenant, or had a month-to-month agreement with Plaintiff. N.T. Stillwell Dep. at p. 87. Shanna Mackin, who worked for the property management group that served as an agent of Plaintiff, testified that she did not become Plaintiff’s property manager until 2005, and as such, could not provide information on the status of the tenancy from 1992-1997. N.T. Mackin Dep. at pp. 128-29.

Here, the evidence concerning the conduct of the Plaintiff and Powellwood is that the Lease was renewed in some form, albeit without the signatures of the Powell Defendants. Powellwood’s rental payments and Plaintiff’s acceptance thereof, are compelling evidence of the parties’ intent to continue some form of tenancy. We need not determine, nor can we, the precise arrangement between the parties for the rental period of 1992-1997, or for any renewal period where the record reflects written, but unsigned renewals. It is not necessary for us to definitively decide the terms of the parties’ agreements for these periods of time.¹⁷ There is no genuine issue of material fact because we can determine definitively what the arrangement was *not*. It was not a written lease renewal in conformity with the terms of the Lease because it was not in writing, signed by the tenant and any guarantor of the tenant as required by Rider No. 1 of the Lease. It was not a holdover tenancy pursuant to the holdover provision of the Lease because there is no express written permission of the Plaintiff/landlord in the record,

¹⁷ To the extent that Plaintiff argues that the Guaranty was extended as a result of a course of conduct by the Powell Defendants or by the Powell Defendants’ alleged involvement in the dry-cleaning business, we find this position to be contrary to the Statute of Frauds which requires a guaranty to be in writing. 33 P.S. §3.

and, importantly, there were rental increases, which is not in conformity with the holdover provision. *See* Lease at ¶20. As noted *supra*, we must construe the Lease at issue in accordance with the terms of the agreement manifestly expressed. *Sw. Energy Prod. Co.*, *supra*. The Lease language is clear and unambiguous about how a holdover tenancy would take effect. As such, we enforce its terms. *See id.*

Therefore, we find that no holdover tenancy was created. We need not make any legal conclusions concerning whether or not the Guaranty extended to the term of any holdover tenancy because we find that no holdover tenancy ever existed in accordance with the Lease terms.

CONCLUSIONS OF LAW

1) The Guaranty signed by the Powell Defendants terminated upon the expiration of the original Lease term on February 3, 1992.

2) There is no genuine issue as to any material fact concerning a written extension of the Lease that was in compliance with the renewal provisions of the Lease. The Lease required any renewal to be signed by the tenant and any guarantor of the tenant. Plaintiff admits, and the record indicates, that there is no written lease extension signed by the Powell Defendants as guarantors concerning any option to renew the Lease beyond its original term.

3) There is no genuine issue as to any material fact concerning the creation of a holdover tenancy which would have extended the Guaranty beyond the original lease term. No holdover tenancy was created in accordance with the strict terms of the Lease. The holdover provision of the Lease indicated that a month-to-month holdover tenancy could be created only with the express written consent of the landlord and without a rent increase. The record does not reveal written permission by the Plaintiff/landlord for any holdover tenancy, and the record indicates the existence of rental increases inconsistent with the holdover provision of the Lease.

4) It is appropriate to grant summary judgment to the Powell Defendants on any cause of action that arose after the expiration of the original lease term because the Guaranty expired with the original lease term.

5) Absent a signed guaranty, we reject Plaintiff's argument that personal liability should be imposed upon the Powell Defendants by virtue of their alleged involvement in the dry-cleaning business, including the assertion that Joan Powell was an officer in the business, absent some allegation that they were personally responsible for the contamination. *See Loeffler v. McShane*, 372 Pa. Super. 442, 446, 539 A.2d 876, 878 (1988). ("The general, if not universal, rule is that an officer of a corporation who takes part in the commission of a tort by the corporation is personally liable therefor; but that an officer of a corporation who takes no part in the commission of the tort committed by the corporation is not personally liable to third persons for such a tort, nor for the acts of other agents, officers or employees of the corporation in committing it, unless he specifically di-

rected the particular act to be done or participated, or cooperated therein.”) (quoting *Wicks v. Milzoco Builders, Inc.*, 503 Pa. 614, 621, 470 A.2d 86, 90 (1983).) No such facts are indicated herein.

6) We grant summary judgment to the Powell Defendants on any claims contained in the Third Amended Complaint for unpaid rent because the Third Amended Complaint indicates that those causes of action pertain only to the Lease amendment that occurred on September 10, 2009 according to the terms found in a Rent Rider. *See* Third Amended Complaint at ¶14. Specifically, the Third Amended Complaint states that Powellwood failed to pay the monthly rental payments that became due and owing between October 1, 2013 and September 30, 2014. *Id.* at ¶¶15, 16. These causes of action accrued beyond the date that we have determined that the Powell Defendants’ obligations under the Guaranty terminated. This same reasoning applies to any claims in the Third Amended Complaint for late charges, attorney’s fees, and additional rent.

7) We grant summary judgment to the Powell Defendants on the claims pertaining to the HVAC system. Concerning the claim for the HVAC installation, the letter of credit affixed as Exhibit “G” to the Third Amended Complaint suggests that Plaintiff’s predecessor in interest gave a credit to the original tenant in the form of a rent abatement in 1987 to purchase and install the HVAC system for the Leased Premises, which Plaintiff claims was never installed despite the credit. It appears that this claim arose prior to the expiration of the Guaranty. However, because the Guaranty expired in 1992, the statute of limitations for any such claim against the Powell Defendants for this claim has long since run. The failure to install an HVAC system was easily ascertainable by the Plaintiff. As such, the discovery rule would not extend the statute of limitations on this claim.

8) The parties have a dispute of material fact concerning the dates that causes of action arose regarding the alleged contamination. As indicated *supra*, Plaintiff asserts that the contamination occurred sometime between 1990 and 1995. Plaintiff further asserts that it did not discover the contamination until 2014 when Powellwood abandoned the Lease. As such Plaintiff seeks the benefit of the discovery rule concerning the statute of limitations. *See* Plaintiff’s Memorandum at pp. 4-5. We find that Plaintiff is entitled to demonstrate to the jury, if it can, that contamination may have occurred prior to the expiration of the original Lease term in 1992 and that Plaintiff did not and could not have discovered this within the statute of limitations. *See Crouse v. Cyclops Industries*, 560 Pa. 394, 745 A.2d 606 (2000) (when statute of limitations begins to run under the discovery rule is a factual issue for the jury). We deny summary judgment to the Powell Defendants on these claims.¹⁸

¹⁸ It may be necessary, at trial, to submit a special interrogatory to the jury concerning the dates of contamination.

WHEREFORE, we enter an Order consistent with this Opinion which will include certification language per the request of the parties.¹⁹

ORDER

AND NOW, this 6th day of February, 2017, upon consideration of the Motion for Summary Judgment of Defendants, David G. Powell and Joan V.N. Powell, and Plaintiff's Responses thereto, it is ORDERED and DECREED as follows: 1) Per agreement of the parties, this Court's Opinion of October 21, 2016 is VACATED; 2) The Motion for Summary Judgment is GRANTED IN PART and DENIED IN PART. Summary Judgment is GRANTED to the Powell Defendants on Plaintiff's claims for unpaid rent, late charges, attorney's fees, the HVAC system and any environmental claim that arose after the expiration of the original lease term and Guaranty on February 3, 1992; 3) Summary judgment is DENIED with respect to Plaintiff's claims for environmental contamination that arose prior to the expiration of the original lease term and Guaranty in 1992.

This Order involves a controlling question of law as to which there is a substantial ground for difference of opinion; an immediate appeal from the Order may materially advance the ultimate termination of the matter.

¹⁹ "When there is ambiguity, determining contractual intent is a fact-intensive finding subject to an abuse of discretion standard of review. ... On the other hand, the meaning of an unambiguous written instrument is a question of law subject to *de novo* review. ... To the extent that the trial court's findings are predicated on errors of law, [the trial] court's findings [are reviewed] *de novo*." *John B. Conomos, Inc. v. Sun Company, Inc. (R&M)*, 831 A.2d 696, 703-704 (Pa. Super. 2003) (internal citations omitted).



Skeptics say she will never start her own company.

A lawyer says she will.

She is denied her loan.

A lawyer helps her get one.

She can't get a lease for office space.

A lawyer sees to it that she does.

She needs a business plan.

A lawyer helps her draft one.

Skeptics said she would never start her own company.

A lawyer helped her prove them wrong.

You have rights. Lawyers protect them.
Pennsylvania Bar Association
Northampton County Bar Association

***The Pennsylvania Bar Association
announces a great new member benefit:***



InCite™ is an innovative approach to FREE online legal research — available exclusively to Pennsylvania Bar Association members.

It is fast, easy and accessible from anywhere. Powered by LexisNexis,™ the leader in legal research, InCite gives lawyers online access to Pennsylvania and federal research information, including court decisions, statutes and codes.

Use InCite to manage your research costs and streamline your research procedures.

Join the Pennsylvania Bar Association now to take advantage of this new members-only benefit.

LexisNexis is a registered trademark of Reed Elsevier Properties Inc. used under license. ©2002 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

**For an InCite
demo, visit
www.pabar.org
and click on
InCite.**

**For more
information,
or to join the
PBA, call
1-800-932-0311
or visit
www.pabar.org.**



Northampton County Bar Association

Notification of Change Form

In order to maintain up-to-date information on all members and subscribers of the *Reporter*, complete the form below and return it to the NCBA Office whenever you have a change and/or addition to your address, telephone number, fax number or e-mail address. *Return to:* Northampton County Bar Association, 155 South Ninth Street, Easton, PA 18042-4399, FAX: (610) 258-8715.

Previous information:

NAME _____

ADDRESS _____

TELEPHONE _____ FAX _____

E-MAIL _____

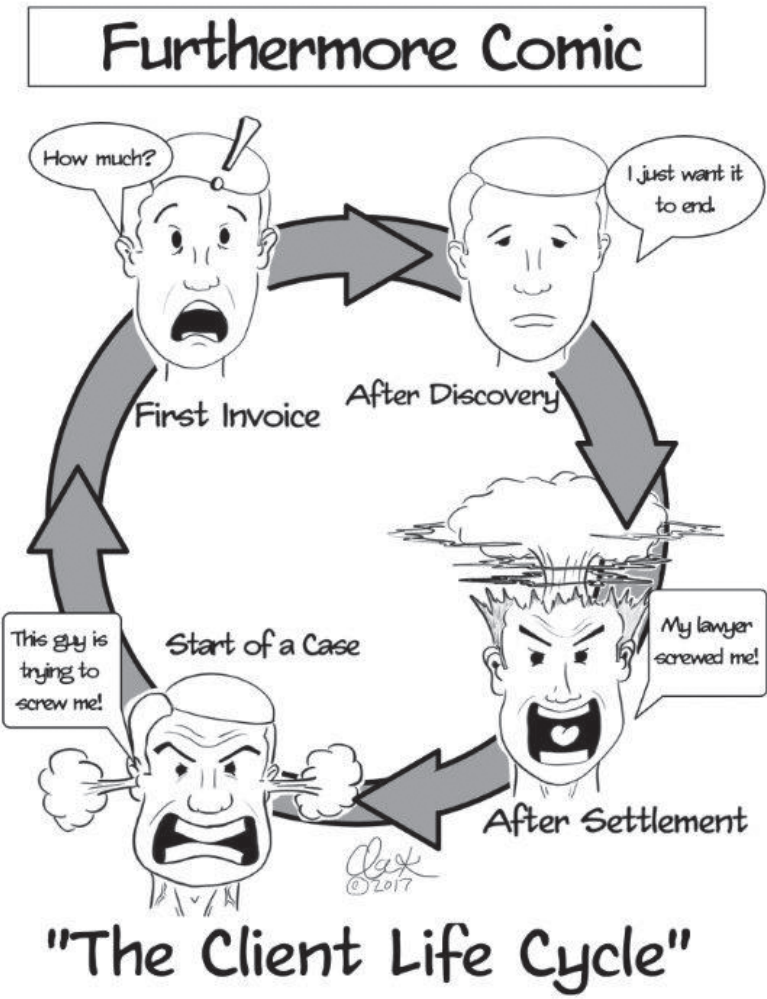
New information:

NAME _____

ADDRESS _____

TELEPHONE _____ FAX _____

E-MAIL _____





PERIODICAL PUBLICATION

* Dated Material. Do Not Delay. Please Deliver Before Monday, May 8, 2017