

Northampton County Reporter

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NOTICE TO THE BAR....

A LAW LIBRARY THANK YOU TO

THE NORTHAMPTON COUNTY BAR ASSOCIATION

The Law Library Committee of the Northampton County Bar Association elected to purchase and donate to the Law Library two new 19" Flat Panel Monitors and one new computer for electronic research. *Thank you for your continued generous support of the Law Library.*

Anita De Bona, Law Librarian

**NORTHAMPTON COUNTY BAR ASSOCIATION
2004 BAR ASSOCIATION OFFICERS**

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Northampton County Reporter

Attorney Referral & Information Service

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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.

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Robert C. Brown, Jr., Esquire

Editor

NOTICES TO NCBA MEMBERS—BAR NEWS

☞ **See front page for a “Thank you from the Law Library.”**

☞ **NCBA DUES DEADLINE IS JULY 31ST.** If you have not made any payments towards your NCBA Dues, please remit by July 31st or you will be dropped from the membership. If you have any questions, please call the NCBA Office.

☞ **INCLUDED IN THIS ISSUE** is the announcement and registration form for the **2004 SUMMER OUTING** at Louise Moore Park (Pavilion #2) on Thursday, July 22nd.

☞ **INCLUDED IN THIS ISSUE** is a list of decisions regarding appeals from the courts of common pleas that the Commonwealth Court has addressed.

☞ **PLEASE COMPLETE** your ARIS Panel Attorney applications and return them to the NCBA Office at your earliest convenience. They are due at this time.

COMMITTEE MEETINGS:

Sept. 8th—Workers’ Comp Committee Mtg. @ NOON/NCBA

☞ **PBI/CLE SEMINARS @ NCBA—(1) “Taking & Defending Depositions”** is scheduled for **Thursday, July 15, 2004** from 9:30 a.m. to 2:00 p.m. with 4 Substantive CLE Credits. **(2) “Fundamentals of Elder Law Practice”** is scheduled for **Thursday, July 29, 2004** from 9:30 a.m. to 5:30 p.m. with 5 Substantive & 1 Ethics CLE Credit. Registration begins at 9:00 a.m. Register early by calling (800) 932-4637 or go online at www.pbi.org

BAR ASSOCIATION OF LEHIGH COUNTY SPONSORED SEMINARS FOR 2004:

[**July 13th**—“Developments in Public & Subsidized Housing Dealing with the Local Housing Authority”] [**July 21st**—“Global War on Terrorism & Afghan Law Reform”] [**August 11th**—Lehigh County Law Library “It’s Not Just for Books Anymore”] [**August 18th**—“Important New Developments in Auto Negligence Law; Fifth Annual Update”] Call BALC for details such as times, fees, credits, meals and/or to register at (610) 433-6401, Ext. 16.

☞ **REAL FACTS:** *The sailfish has been clocked at speeds of over 60 miles per hour.*

ESTATE NOTICES

Notice is hereby given that in the estate of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION**APPLEGATE, EVELYN E.,** dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Executrix: Dorothy Applegate Motsko 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

CIAMBRONE, MARY, dec'd.

Late of the Borough of Wilson, Northampton County, PA

Executrix: Patricia Ann Mucklin c/o Ralph W. Litzenberger, Esquire, 1708 Northampton Street, P.O. Box 3272, Easton, PA 18043-3272

Attorney: Ralph W. Litzenberger, Esquire, 1708 Northampton Street, P.O. Box 3272, Easton, PA 18043-3272

DANIEL, STANLEY N., dec'd.

Late of the City of Easton, Northampton County, PA

Executrix: Ms. Kathleen Pavlish c/o Stanley M. Vasiliadis, Esquire, 65 East Elizabeth

Avenue, Suite 400, Bethlehem, PA 18018

Attorney: Stanley M. Vasiliadis, Esquire, 65 East Elizabeth Avenue, Suite 400, Bethlehem, PA 18018

ROMANO, RUSSELL N., dec'd.

Late of the Township of Bethlehem, Northampton County, PA

Executrix: Dolores N. Romano c/o Ralph W. Litzenberger, Esquire, 1708 Northampton Street, P.O. Box 3272, Easton, PA 18043-3272

Attorney: Ralph W. Litzenberger, Esquire, 1708 Northampton Street, P.O. Box 3272, Easton, PA 18043-3272

TAYLOR, ELIZABETH G., dec'd.

Late of Bethlehem, Northampton County, PA

Executor: R. Stockton Taylor, Jr. c/o Timothy J. Duckworth, Esquire, Mosebach, Funt, Dayton & Duckworth, PC, P.O. Box 20770, Lehigh Valley, PA 18002-0770

Attorneys: Timothy J. Duckworth, Esquire, Mosebach, Funt, Dayton & Duckworth, PC, P.O. Box 20770, Lehigh Valley, PA 18002-0770

TURBEDSKY, JOSEPH a/k/a JOSEPH TURBEDSKY, SR., dec'd.

Late of Northampton, Northampton County, PA

Co-Executors: Joseph J. & Judith Turbedsky, 142 W. Broad St., New Holland, PA 17557

Attorneys: Wentz, Weaver, Kling, Good & Harris, LLP

WEAVER, JOSEPH D., dec'd.

Late of Bethlehem, Northampton County, PA

Executor: James E. Weaver,
1370 Old Philadelphia Pike,
Bethlehem, PA 18015

Attorney: Kristofer M. Metzger,
Esquire, 42 N. 6th Street,
Allentown, PA 18101-1419

SECOND PUBLICATION

BECK, JOHN C., SR., dec'd.

Late of the City of Easton,
Northampton County, PA

Executor: John C. Beck, Jr.,
413 West Wilkes-Barre St.,
Easton, PA 18042

Attorney: Charles H. Spaziani,
Esquire, 205 South Seventh
Street, Easton, PA 18042

**CALANTONI, ANTONIO a/k/a
ANTONINO CALANTONI,**
dec'd.

Late of the Township of Palm-
er, Northampton County, PA
Executrix: Graziella M. Calan-
toni, 2900 Swanson Street,
Easton, PA 18045

Attorney: Charles Bruno, Es-
quire, 203 South Seventh
Street, Easton, PA 18042-4315

CZUBA, OLGA, dec'd.

Late of Hanover Township,
Allentown, Northampton
County, PA

Executrix: Dianne M. Loch
c/o Dean C. Berg, Esquire,
G.M. Berg Law Offices, P.O.
Box 10, Northampton, PA
18067

Attorneys: Dean C. Berg, Es-
quire, G.M. Berg Law Offices,
P.O. Box 10, Northampton, PA
18067

DRIESEN, LOLA, dec'd.

Late of the Township of Upper
Nazareth, Northampton
County, PA

Executrix: Dora Perez, 453
Larch Lane, Nazareth, PA
18064

Attorneys: Peters, Moritz,
Peischl, Zulick & Landes, LLP,
1 South Main Street, Naza-
reth, PA 18064

FERRARA, RUTH M., dec'd.

Late of the City of Easton,
Northampton County, PA

Administrator: Michael J. Ca-
hoon, 4505 Stephanie Drive,
Bethlehem, PA 18020

Attorney: Keene Jabbour, Es-
quire, 701 Washington Street,
Easton, PA 18042

FRANTZ, GLORIA M., dec'd.

Late of the Township of Palm-
er, Northampton County, PA
Co-Executrices: Carol A. Price,
Gail E.M. Regina and Joan M.
Schaffer c/o Frank S. Pos-
wistilo, Esquire, Ste. 300, 101
Larry Holmes Drive, Easton,
PA 18042

Attorney: Frank S. Poswistilo,
Esquire, Ste. 300, 101 Larry
Holmes Drive, Easton, PA
18042

HEPTNER, MARY A., dec'd.

Late of Easton, Northampton
County, PA

Executor: Donald F. Heptner
c/o Timothy J. Duckworth,
Esquire, Mosebach, Funt,
Dayton & Duckworth, PC, P.O.
Box 20770, Lehigh Valley, PA
18002-0770

Attorneys: Timothy J. Duck-
worth, Esquire, Mosebach,
Funt, Dayton & Duckworth,
PC, P.O. Box 20770, Lehigh
Valley, PA 18002-0770

HOENSTINE, OLIVE MARY,
dec'd.

Late of the City of Bethlehem,
Northampton County, PA

Executor: Keystone Nazareth
Bank and Trust Company, 76

South Main Street, Nazareth,
PA 18064

Attorneys: Peters, Moritz,
Peischl, Zulick & Landes, LLP,
1 South Main Street, Naza-
reth, PA 18064

HOFFNER, OLGA C., dec'd.

Late of the City of Bethlehem,
Northampton County, PA
Co-Administrators: John C.
Hoffner and Joel L. Hoffner
c/o Harry J. Newman, Es-
quire, 915 West Broad Street,
Bethlehem, PA 18018

Attorney: Harry J. Newman,
Esquire, 915 West Broad
Street, Bethlehem, PA 18018

JENNINGS, BETTY ANN, dec'd.

Late of the Borough of Wind
Gap, Northampton County,
PA

Executor: Loring Jennings c/o
Nicholas R. Sabatine, III, Es-
quire, 16 S. Broadway, Wind
Gap, PA 18091

Attorney: Nicholas R. Saba-
tine, III, Esquire, 16 S. Broad-
way, Wind Gap, PA 18091

KLO, DAVID A., dec'd.

Late of Northampton, North-
ampton County, PA

Administrator: Alexander Klo
c/o E. Keller Kline, III, Es-
quire, Kline and Kline, 731
Turner Street, Allentown, PA
18102

Attorneys: E. Keller Kline, III,
Esquire, Kline and Kline, 731
Turner Street, Allentown, PA
18102

KREMSNER, JOSEPH P., dec'd.

Late of Moore Township,
Northampton County, PA

Executrix: Patsy Palkovits
a/k/a Patricia Palkovits c/o
Dean C. Berg, Esquire, G.M.

Berg Law Offices, P.O. Box 10,
Northampton, PA 18067

Attorneys: Dean C. Berg, Es-
quire, G.M. Berg Law Offices,
P.O. Box 10, Northampton, PA
18067

LUMM, VIOLET, dec'd.

Late of the Borough of Bath,
Northampton County, PA

Executor: Kenneth J. Lumm
c/o Leonard M. Mellon, Es-
quire, 151 S. 7th Street,
Easton, PA 18042

Attorney: Leonard M. Mellon,
Esquire, 151 S. 7th Street,
Easton, PA 18042

McCARTHY, JAMES PATRICK,
dec'd.

Late of the Township of Upper
Mt. Bethel, Northampton
County, PA

Executor: William L. DiCarlo
c/o Ralph J. Bellafatto, Es-
quire, 4480 William Penn
Highway, Easton, PA 18045

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

SABO, PETER J., dec'd.

Late of Saucon Valley Manor,
Hellertown, Northampton
County, PA

Administrator: Peter G. Sabo,
6520 Paupack Circle, Bethle-
hem, PA 18017

STRAUB, MILDRED P., dec'd.

Late of the Borough of Heller-
town, Northampton County,
PA

Executor: Joseph W. Straub,
6807 West Main Boulevard,
Bath, PA 18088

Attorneys: J. Scott DeMasi,
Esquire, DeMasi & DeMasi, 91
South Main Street, Phillips-
burg, NJ 08865

SWINSBURG, ANNA M., dec'd.
 Late of Wilson Borough,
 Northampton County, PA
 Executor: Gary Swinsburg, 95
 Wilden Drive, Easton, PA
 18045
 Attorney: Steven B. Molder,
 Esquire, 904 Lehigh Street,
 Easton, PA 18042

THIRD PUBLICATION

**ABLE, STEPHEN D. a/k/a
 STEPHEN DOWDEN ABLE**,
 dec'd.
 Late of Bethlehem, Northamp-
 ton County, PA
 Executrix: Jana Svacek Able
 c/o John L. Carr, Esquire, 800
 Avondale Road, Suite 3-D,
 Wallingford, PA 19086
 Attorney: John L. Carr, Es-
 quire, 800 Avondale Road,
 Suite 3-D, Wallingford, PA
 19086

ARNOLD, JAMES J., dec'd.
 Late of the Township of Palm-
 er, Northampton County, PA
 Co-Executors: Thomas Yannes,
 1130 Walnut Street, Free-
 land, PA 18224 and Brian
 Frederico, 226 W. St. Joseph's
 Street, Easton, PA 18042
 Attorneys: Gerald M. Hatfield,
 Esquire, Fox Rothschild LLP,
 2000 Market Street, 10th
 Floor, Philadelphia, PA 19103-
 3291

FUCHS, FREDERICK R., dec'd.
 Late of Easton, Northampton
 County, PA
 Administratrix: Mildred C.
 Supplee c/o Timothy J. Duck-
 worth, Esquire, Mosebach,
 Funt, Dayton & Duckworth,
 PC, P.O. Box 20770, Lehigh
 Valley, PA 18002-0770
 Attorneys: Timothy J. Duck-
 worth, Esquire, Mosebach,

Funt, Dayton & Duckworth,
 PC, P.O. Box 20770, Lehigh
 Valley, PA 18002-0770

**HEALY, TERRANCE P. a/k/a
 TERRENCE P. HEALY**, dec'd.
 Late of Bethlehem, Northamp-
 ton County, PA
 Executor: Kevin T. Healy c/o
 Wendy A. Nicolosi, Esquire,
 Broughal & DeVito, L.L.P., 38
 West Market Street, Bethle-
 hem, PA 18018
 Attorneys: Wendy A. Nicolosi,
 Esquire, Broughal & DeVito,
 L.L.P., 38 West Market Street,
 Bethlehem, PA 18018

MEIXSELL, BEATRICE U.,
 dec'd.
 Late of the Township of Wash-
 ington, Northampton County,
 PA
 Administratrix: Shirley Pet-
 kus, P.O. Box 154, Brodheads-
 ville, PA 18322

Attorneys: Alfred S. Pierce,
 Esquire, I.D. No. 21445, Pierce
 & Dally, LLP, 124 Belvidere
 Street, Nazareth, PA 18064

NICHOLAS, DOROTHY V.,
 dec'd.

Late of the Township of Beth-
 lehem, Northampton County,
 PA

Executrix: Cheryl L. Nicholas
 c/o Karl H. Kline, Esquire,
 Karl Kline P.C., 2925 William
 Penn Highway, Suite 301,
 Easton, PA 18045-5283

Attorneys: Karl H. Kline, Es-
 quire, Karl Kline P.C., 2925
 William Penn Highway, Suite
 301, Easton, PA 18045-5283

THOMAS, EMILY M., dec'd.

Late of the Township of Wash-
 ington, Northampton County,
 PA

Co-Executrices: Betty Herd
 and Joyce Schisler 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

VAN AUKEN, ELIZABETH M. a/k/a ELIZABETH VAN AUKEN, dec'd.

Late of Bath, Northampton County, PA

Executrix: Lucille Carolyn Martucci c/o Justin K. McCarthy, Esquire, Suite 100, 528 N. New Street, Bethlehem, PA 18018

Attorney: Justin K. McCarthy, Esquire, Suite 100, 528 N. New Street, Bethlehem, PA 18018

ZINGLER, HELEN a/k/a HELEN D. ZINGER, dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executrix: Cynthia A. Zingler c/o Littner, Deschler & Littner, 512 N. New Street, P.O. Box 1407, Bethlehem, PA 18016-1407

Attorneys: Littner, Deschler & Littner, 512 N. New Street, P.O. Box 1407, Bethlehem, PA 18016-1407

NOTICES OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on June 11, 2004 for the purpose of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania

Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is:

BACCHUS TALBOT, INC.

Henry R. Newton, Esquire
Herster, Newton & Murphy
127 North Fourth Street
P.O. Box 1087
Easton, PA 18044-1087

July 8

NOTICE IS HEREBY GIVEN that the Articles of Incorporation were filed on, or about June 1, 2004, with the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation pursuant to the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania Act of December 21, 1988 (P.L. 1444, No. 177), by the following corporation:

NORTHAMPTON ORNAMENTAL IRON WORKS INC

44 W. 4th Street, Northampton, PA 18067.

July 8

NOTICE IS HEREBY GIVEN that:

THE BRICK HOUSE TAVERN, INC.

has been organized under the provisions of the Business Corporation Law of 1988 and has filed Articles of Incorporation with the Pennsylvania Department of State.

July 8

LIMITED LIABILITY COMPANY NOTICE

NOTICE IS HEREBY GIVEN that a Certificate of Organization for a Domestic Limited Liability Company has been filed with the Department of State of the Commonwealth of

Pennsylvania, at Harrisburg, Pennsylvania, on or about June 14, 2004 for the purpose of creating a Limited Liability Company under the Limited Liability Company Law of 1994, P.L. 703, No. 106.

The name of the limited liability company is:

STRATTON CUSTOM HOMES, L.L.C.

Leonard N. Zito, Esquire
Zito, Martino and Karasek

641 Market Street
Bangor, PA 18013

July 8

COURT OF COMMON PLEAS NORTHAMPTON COUNTY, PA

ERIE INSURANCE GROUP

and
RICHARD E. HOWEY
and
DOROTHY J. HOWEY

Plaintiffs,

v.

JEFFREY HUNT

Defendant

NO. C0048CV2003004788

NOTICE IS HEREBY GIVEN that a judgment in the above captioned matter has been entered against you in favor of Plaintiffs and against Defendant, Jeffrey Hunt, by Default for want of an answer. If you have any questions concerning the above, please contact Ray Willis Welcher, Esquire, Forry, Ullman, Ullman & Forry, P.C., One Montgomery Plaza, Suite 900, Norristown, PA 19401, (610) 278-7520.

RAY WILLIS WELCHER,
ESQUIRE

FORRY, ULLMAN, ULLMAN &
FORRY, P.C.

One Montgomery Plaza
Suite 900
Norristown, PA 19401
(610) 278-7520

July 8

NOTICE OF ACTION IN MORTGAGE FORECLOSURE IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY, PA CIVIL ACTION—LAW
MIDFIRST BANK

PLAINTIFF

vs.

THE UNKNOWN HEIRS OF JOHN P. WARGO, DECEASED
DEFENDANT

NO. C0048 CV 2004 003284

MORTGAGE FORECLOSURE

TO: UNKNOWN HEIRS AND ASSIGNS OF JOHN C. WARGO, DECEASED:

You are hereby notified that on May 6, 2004, Plaintiff, MIDFIRST BANK, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend against you in the Court of Common Pleas of Northampton County, Pennsylvania, docketed to No. C0048 CV 2004 003284 wherein Plaintiff seeks to foreclose its mortgage securing your property located at 219 YALE AVENUE, BETHLEHEM, PA 18015, whereupon your property would be sold by the Sheriff of Northampton County.

You are hereby notified to plead to the above referenced Complaint on or before 20 days from the date of this publication or a Judgment will be entered against you.

NOTICE

You have been sued in Court. 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 NOTICE 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.

Lawyer Referral Service
155 South 9th Street
Easton, PA 18042
(610) 258-6333

LEON P. HALLER, ESQUIRE
1719 North Front Street
Harrisburg, PA 17102
(717) 234-4178

July 8

ASSOCIATE

Medium size Phillipsburg/Easton Law Firm seeking Associate. Salary commensurate with experience. New Jersey and Pennsylvania Bar preferred. Fax resume in confidence to (908) 454-3322.

July 1, 8

ASSOCIATE POSITION

Minimum of 2 yrs. experience preferred. Easton general practice with emphasis on Civil Litigation and Municipal Law. Salary commensurate with experience. E-mail resume to: attorneyatlaw@entermail.net

July 1, 8, 15

ASSOCIATE ATTORNEY

Immediate opening to work out of Lehigh Valley Law Firm's Northampton County Office. Minimum of 2 years experience in family law required. Civil litigation background also preferred. Competitive salary commensurate with years of experience. Send resume to Thomas, Conrad and Conrad, Attention Office Manager, 515 W. Linden Street,

Allentown, PA 18101, or FAX to (610) 770-9457. All inquiries kept in strictest confidence.

July 1, 8

LEGAL SECRETARY

Part-time leading to full-time or full-time, hours flexible. Responsibilities include: legal correspondence, filing, data entry, answering telephones, scheduling. Must be organized, self motivated, detail oriented, and reliable. Send resume to Secretary, P.O. Box 1151, Easton, PA 18044-1151.

May 27; June 3, 10, 17, 24;
July 1, 8, 15, 22, 29

LEGAL SECRETARY

For busy center-city Bethlehem insurance defense firm. Must be proficient in MS Word and WordPerfect. Salary commensurate with experience. Please send resume in confidence to R.E. Hall & Associates, P.C., 74 West Broad Street, Suite 330, Bethlehem, Pennsylvania 18018 or fax resume to (610) 997-7987.

July 8

**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

JOHN GALLO; Jean L. Gallo, Executrix

CLARENCE O. LICHTENWALNER; David A. Lichtenwalner, Executor

HELEN H. LOOMIS; Carol L. Loomis and Sherrie L. Winkwork, Co-Executrices

RUTH L. MARKULICS; Rebecca L. Stein, 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, JULY 30, 2004 AT 9:00 A.M. IN COURTROOM #1.

Dorothy L. Cole
Clerk of Orphans' Court
July 8, 15

Notice to the Bar from the Commonwealth Court of Pennsylvania

From time to time, the Commonwealth Court of Pennsylvania publishes a list of decisions regarding appeals from the courts of common pleas that the Commonwealth Court has addressed in unpublished memorandum opinions. This practice, which begins with decisions filed on or after Dec. 1, 1988, permits more complete research of the disposition of appeals from common pleas courts. Such a list appears below for decisions filed between May 1, 2004, and May 31, 2004.

Copies of unreported memorandum opinions can be found on the Pennsylvania Unified Judicial System's Web site at www.courts.state.pa.us. These unreported memorandum opinions reside on the Web site for a three-month period from the date of filing. Thereafter, a copy of the unreported memorandum opinion may be obtained by writing to the chief clerk's office of the Commonwealth Court, 6th Floor, Irvis Office Building, Harrisburg, Pa. 17120 at a cost of \$1 per page. These unreported memorandum opinions of the court shall not be cited in any brief, argument or opinion, except that any opinion filed in the same case may be cited as representing the law of that case. 210 Pa. Code §67.55.

Caption	Docket number	Date	Trial court/docket number	Disposition
Ex Rel Hozay Royal a/k/a Carlos Johnson PR2170377 and PR2170378 v. Comm. of PA	1928 CD 03	05-03-04	Philadelphia County MR 01-004499	Quashed
Robert A. Maceeda Jr. v. Comm. of PA et al.	2618 CD 03	05-06-04	Allegheny County CC200108178	Affirmed and Reversed
Comm. of PA, Dept. of Trans., Bureau of Driver Lic. v. Lisa Marie Jensen	1852 CD 03	05-06-04	Allegheny County SA 1062 of 2002	Reversed
Meadowview Village Limited Partnership v. Centre Township	2454 CD 03	05-10-04	Perry County 2002-536	Affirmed
Todd M. Helman	1948 CD 03	05-10-04	Cumberland County 03-2134 Civil Term	Affirmed
Comm. of PA, Dept. of Trans., Bureau of Driver Lic. v. John William Pigott	2314 CD 03	05-10-04	Allegheny County SA 525 of 2003	Vacated
Comm. of PA, Dept. of Trans., Bureau of Driver Lic. v. Micah D. Harms	824 CD 03	05-10-04	Monroe County 8244-Civil-2002	Affirmed
Voyager Charter School v. Great Valley School District	1638 CD 03	05-11-04	Delaware County 03-3359	Reversed and Remanded
Comm. of PA, Dept. of Trans., Bureau of Driver Lic. v. Jesse L. Hockenbury	2569 CD 03	05-11-04	Montgomery County 03-12019	Vacated and Remanded

Comm. of PA, Dept. of Trans., Bureau of Driver Lic. v. Mary Anne Giraldo	1382 CD 03	05-11-04	Allegheny County SA 207 of 2003	Reversed
West Chester Borough v. Robert Kappe et al.	1905 CD 03	05-11-04	Chester County 00-07407	Affirmed
Comm. of PA, Dept. of Trans., Bureau of Driver Lic. v. Kathy L. Susan	1273 CD 03	05-12-04	Allegheny County SA 137 of 2003	Vacated and Remanded
Families United Network, Inc. v. Lycoming County Commissioners	1644 CD 03	05-12-04	Lycoming County 02-02290	Vacated and Remanded
City of Allentown v. Fraternal Order of Police Queen City Lodge #10	2069 CD 03	05-13-04	Lehigh County 2003-C-0065	Affirmed
Jan Ondra v. Comm. of PA	2167 CD 03	05-13-04	Westmoreland County No. 1806-C-2003	Affirmed
Comm. of PA, Dept. of Trans., Bureau of Driver Lic. v. Patricia R. DeMartini	1676 CD 03	05-13-04	Butler County MsD 03-40108	Affirmed
Michael Vitale v. Operating Engineers Local 542 Joint Apprenticeship Training & Safety Committee of Philadelphia, Eastern Pennsylvania et al.	1792 CD 03	05-14-04	Chester County 02-07861	Affirmed
John McCullough v. Civil Service Commission of Philadelphia	2066 CD 03	05-14-04	Philadelphia County Jan. Term, 2003 No. 01142	Affirmed
Comm. of PA, Dept. of Trans., Bureau of Driver Lic. v. Becky L. Heberlig	65 CD 03	05-17-04	Cumberland County 02-4874	Vacated and Remanded
Comm. of PA, Dept. of Trans., Bureau of Driver Lic. v. Mark Deiter	1139 CD 03	05-17-04	Lehigh County 2002-C-2312	Vacated and Remanded
Vincent Sottile et al. v. City of Philadelphia et al.	2823 CD 03	05-18-04	Philadelphia County 4664 Feb. Term 2002	Affirmed
Mark Andrew Cronin v. Comm. of PA, Dept. of Trans., Bureau of Driver Lic.	1913 CD 03	05-19-04	Delaware County 03-5674	Dismissed
Cocalico School District et al. v. PPL Electric Utilities Corporation et al.	1587 CD 03	05-19-04	Lancaster County CI-00-04294	Affirmed
Comm. of PA, Dept. of Trans., Bureau of Driver Lic. v. Larry D. Combs	1855 CD 03	05-19-04	Juniata County 152 of 2003	Affirmed
Carl Bruner v. Plain Grove Township	2308 CD 03	05-19-04	Lawrence County 10171 of 2000, C.A.	Affirmed

3740 Corp. v. Thomas Dana Watson, Esq. et al.	1800 CD 03	05-24-04	Crawford County	1800—Affirmed
Asset Management v. Thomas Dana Watson, Esq. et al.	1801 CD 03	05-24-04	1998-8 Crawford County	1801—Dismissed Affirmed
Employees of West Shore Regional Police Department v. West Shore Regional Police Department Commission	2237 CD 03	05-25-04	1998-8 Cumberland County	Reversed
Sukanya Basu v. The Borough of West Chester et al.	2240 CD 03	05-26-04	98-1994 Civil Term Chester County	Affirmed
Lynne M. Pettigrew, as Administratrix of the Estates of Haley Rose Finnegan and Jamie Adam Pettigrew v. Comm. of PA, Dept. of Trans. et al.	2298 CD 03 2350 CD 03 30 CD 04	05-26-04	03-01646 Erie County	Affirmed
Town of McCandless v. McCandless Police Officers Association	2623 CD 03	05-26-04	10069-2001 10541-2001 14236-2000	Affirmed
Timothy W. Shannon v. Comm. of PA, City of Butler	2661 CD 03	05-26-04	Allegheny County G.D. 03-8284 Butler County C.A. 00397-2003	Affirmed

July 8

NORTHAMPTON COUNTY REPORTER DIGEST—2004-7
RECENT DECISIONS OF THE COURTS OF COMMON PLEAS
OF NORTHAMPTON COUNTY

COMMONWEALTH OF PENNSYLVANIA v.
JEFFREY C. MATTHEWS, DEFENDANT

Habeas Corpus—Terroristic Threats—Prima Facie Case

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division, No. 2002-3828.

Order of Court entered denying defendant's petition for writ of habeas corpus seeking dismissal of a pending charge of terroristic threats.

Bruce A. Thomas, Esquire for the Commonwealth.

Dwight D. Danser, Esquire for Defendant.

Order of Court entered on May 22, 2003 by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Defendant was arrested on charges of aggravated assault, simple assault, and recklessly endangering another person, after a police officer responded to a domestic disturbance between defendant and defendant's brother. Defendant was handcuffed, patted down, and placed in the partitioned backseat of the officer's patrol car. On route to the station, defendant stated to the officer, "I guess I should have killed him, huh?" Defendant paused briefly and proceeded, "Next time I'll kill one of youse [sic]." Upon those statements, defendant was additionally charged with terroristic threats. Defendant, through his petition for habeas corpus, challenged the sufficiency of the Commonwealth's evidence to support that charge. Upon examination of the pretrial record in a light most favorable to the Commonwealth, the Court found that the Commonwealth presented sufficient *prima facie* evidence to hold defendant over for trial.

TEK PARTS NORTHWEST, INC., PLAINTIFF v. HYGRADE METAL
MOULDING MANUFACTURING CORPORATION, DEFENDANT

Preliminary Objection—Demurrer—Breach of Contract—Commissioned Sales Representative Law—Exemplary Damages—Attorney's Fees—Choice of Law

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. 2003-C-0834.

Order of Court entered overruling defendant Hygrade Metal Moulding Manufacturing Corporation's preliminary objection in the nature of a demurrer.

Jane Leopold-Leventhal, Esquire for Plaintiff.

John S. Harrison, Esquire for Defendant.

Order of Court entered on June 27, 2003 by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Plaintiff, a corporation with its principal place of business in the state of Washington, sought relief under the Pennsylvania Commissioned Sales Representative Law. Defendant, a Pennsylvania corporation, filed a preliminary objection in the nature of a demurrer. The Court performed a choice of law analysis and found that a true conflict existed between the Commissioned Sales Representative Laws of Pennsylvania and Washington. Further, the Court found that Pennsylvania had the greater interest in this case in having its law applied over Washington's.

**BRENT BORGER, PLAINTIFF v. AUTOMATED FLEXIBLE CONVEYOR,
INC., AND KASON CORPORATION, DEFENDANTS v. AUGER
MANUFACTURING SPECIALISTS CO., ADDITIONAL DEFENDANT**

Joinder—Additional Defendant—Original Defendant—New Matter Cross Claim—Preliminary Objections—Pa. R.C.P. 2255(b); 2252(d)

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. C0048CV2001008209.

Order of Court entered sustaining defendant Kason Corporation's preliminary objection to additional defendant Auger Manufacturing Specialists Company's new matter cross claim.

Michael Kaspszyk, Esquire for Plaintiff.

Michael Plevyak, Esquire for Defendant, Automated Flexible Conveyer, Inc.

Harry McMunigal, Esquire for Defendant Kason Corporation.

Craig Styer, Esquire, for Additional Defendant Auger Manufacturing Specialists Co.

Order of Court entered on June 25, 2003 by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Plaintiff filed a complaint against defendants Automated Flexible Conveyor, Inc., and Kason Corporation. Automated filed a joinder complaint joining Auger as an additional defendant. Additional defendant Auger subsequently filed an answer with new matter and new matter cross claim. Auger's new matter cross claim was directed at both Automated and Kason, although Kason was a non-joining original defendant. Kason filed preliminary objections moving to strike Auger's new matter cross claim against Kason as violative of Pa. R.C.P. 2255(b). As authority justifying its new matter cross claim against Kason, Auger points to Pa. R.C.P. 2252(d). The Court sustained Kason's preliminary objection.

**COMMONWEALTH OF PENNSYLVANIA v.
MATTHEW G. MITEK, DEFENDANT**

Habeas Corpus—Motion to Suppress—Incriminating Statements—Miranda Warnings—Interrogation—D.U.I.

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division, No. 2003-374.

Order of Court entered denying defendant's petition for habeas corpus and granting defendant's motion to suppress incriminating statements.

Michael A. Filingo, Esquire for the Commonwealth.

Gary N. Asteak, Esquire for Defendant.

Order of Court entered on March 28, 2003 by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Defendant was charged with (1) driving under the influence of alcohol; (2) driving while operating privilege is suspended or revoked; (3) maximum speed limits; (4) restriction on alcoholic beverages; and (5) possession of a small amount of marijuana. Defendant sought through his pretrial motion to dismiss the driving under the influence charge based upon lack of sufficient evidence and to suppress incriminating statements made in response to police questioning while defendant was un-Mirandized. The Court held that the Commonwealth had presented sufficient evidence to hold de-

defendant over for trial on the charge of driving under the influence of alcohol. The Court also held that, under the circumstances, defendant was interrogated without having been given *Miranda* warnings, and his incriminating statements must be suppressed.

GRAND CENTRAL SANITARY LANDFILL, INC., PLAINTIFF v. BOARD OF SUPERVISORS OF PLAINFIELD TOWNSHIP, DEFENDANT

Declaratory Judgment—Zoning—Ordinances—Preliminary Objections—Subject Matter Jurisdiction—Res Judicata—Lis Pendens

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division, No. 2003-553.

Order of Court entered sustaining defendant Board of Supervisors of Plainfield Township's preliminary objection in the nature of a motion to strike plaintiff's amended complaint for lack of subject matter jurisdiction under the Declaratory Judgment Act, overruling defendant's second preliminary objection raising the issue of *res judicata* and/or *lis pendens*, and affording plaintiff twenty (20) days to file a second amended complaint.

Leonard Zito, Esquire and Anthony Martino, Esquire for Plaintiff.

David Backenstoe, Esquire for Defendant.

Order of Court entered on July 1, 2003 by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Plaintiff filed complaint seeking declaratory judgment. Defendant filed preliminary objections in the nature of a motion to strike for lack of subject matter jurisdiction and for violation of the doctrine of "res judicata." The Court sustained the first preliminary objection, finding that the Court did not have jurisdiction to provide the particular relief sought by plaintiff. The Court overruled the second preliminary objection, finding that whether defendant intended to raise *lis pendens* or *res judicata*, plaintiff's action was not barred at this time.

PHILOMENA A. SANDT, PLAINTIFF v. DICK MILHAM CORPORATION AND DAVID ISKOLS, DEFENDANTS

Preliminary Objections—Demurrer—Vicarious Liability—Respondeat Superior—Principal/Agent—Motion to Strike—Attorney's Fees—Punitive Damages

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. C0048CV2003001438.

Order of Court entered sustaining in part and overruling in part defendant Dick Milham Corporation's preliminary objections.

Steven N. Goudsouzian, Esquire for Plaintiff.

John C. Bobber, Esquire for Defendant Dick Milham Corporation.

Order of Court entered on June 18, 2003 by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Defendant Dick Milham Corporation filed preliminary objections in the nature of a demurrer and in the nature of motions to strike plaintiff's claim for attorney's fees and punitive damages. The Court held that when examined in a light most favorable to plaintiff, the complaint sufficiently set forth a cause of action for vicarious liability and facts entitling her to punitive damages. However, the Court held that plaintiff failed to detail in her complaint the statute, agreement, or established exception entitling her to attorney's fees.

**DOTTIE JANE SCHIAVONE, PLAINTIFF v. DICK MILHAM
CORPORATION AND DAVID ISKOLS, DEFENDANTS**

Preliminary Objections—Demurrer—Vicarious Liability—Respondent Superior—Principal/Agent—Motion to Strike—Attorney’s Fees—Punitive Damages

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. C0048CV2003001410.

Order of Court entered sustaining in part and overruling in part defendant Dick Milham Corporation’s preliminary objections.

Steven N. Goudsouzian, Esquire for Plaintiff.

John C. Bobber, Esquire for Defendant Dick Milham Corporation.

Order of Court entered on June 18, 2003 by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Defendant Dick Milham Corporation filed preliminary objections in the nature of a demurrer and in the nature of motions to strike plaintiff’s claim for attorney’s fees and punitive damages. The Court held that when examined in a light most favorable to plaintiff, the complaint sufficiently set forth a cause of action for vicarious liability and facts entitling her to punitive damages. However, the Court held that plaintiff failed to detail in her complaint the statute, agreement, or established exception entitling her to attorney’s fees.

IN RE: E.M.G. AND J.M.G. MINOR CHILDREN OF P.S.S. AND K.B.G.

Involuntary Termination of Parental Rights—Non-Jury Trial

In the Court of Common Pleas of Northampton County, Pennsylvania, Orphan’s Court Division, No. 2003-0113.

Order of Court entered granting the petition for involuntary termination of parental rights filed by the Northampton County Department of Human Services, Children, Youth and Families Division.

Nancy G. Aaroe, Esquire for Respondent/Mother.

Robert Glazer, Esquire for Respondent/Father.

James Narlesky, Esquire for OCYS.

Sarah Hogan, Guardian Ad Litem.

Order of Court entered on April 7, 2004 by F.P. Kimberly McFadden, Judge.

DESCRIPTION OF DECISION

Northampton County Children and Youth filed to have the parental rights of E.M.G. and J.M.G.’s natural parents terminated. The Court found that under 23 Pa. C.S.A. 2511(a)(8), there was clear and convincing evidence that the child had been removed from the care of the parents by the court, 12 months or more have elapsed from the date of removal or placement; (3) the conditions which led to the removal or placement of the child continue to exist; (4) termination of parental rights would best serve the needs and welfare of the child. Mother and Father had an abusive relationship toward each other, failed to maintain adequate housing or avail herself of all the facilities available to her from Children and Youth.

The Court further found that termination was warranted under 23 Pa. C.S.A. 2511(a)(5). The Court found that despite the parents having 21 months to conform their behaviors appropriately, both parents have failed to comply with the recommendations of the Agency. The children currently live in a stable, loving environment where

they are both thriving. They are in a household where they have continuity and security, as well as reassurance that they will remain in the same house and not be forced to move from home to apartment to hotel. Further, this Court found secure that in their current living situation, the children will be fed properly and taken to any necessary medical checkups. Therefore, this Court found that the children's needs and welfare will best be served by allowing the Agency to maintain custody of E.M.G. and J.M.G. and allowing the children to maintain their current placement with their foster parents until such time as they are adopted.

The Court further found that termination was warranted under 23 Pa. C.S.A. 2511(a)(1) because Mother and Father failed to perform their parental duties. The children have been in placement with the agency for approximately 21 months. Mother and Father were fully aware that the return of their children was dependent upon their successful completion of agency recommendations and court-ordered requirements. They failed to complete classes and counseling and did not cooperate with the agency recommendations. Therefore, the Court found that the parents have failed to perform their parental duties.

Finally, the Court found termination appropriate under 23 Pa. C.S.A. 2511(a)(2). Both Mother and Father failed to maintain stable housing and employment to ensure the physical and mental well-being of the children, failed to ensure the children had all the recommended immunizations and well-baby check-ups and Mother failed to secure cribs for the boys. Mother further failed to take the recommendation of separation or couple's counseling when it came to Father. The children were in a household where domestic violence occurred. Due to the parents' obvious unwillingness to separate themselves from each other, the Court felt that the parents were unwilling to remedy this situation. Therefore, the Court found that the best need of the children would be served by terminating the parental rights of Mother and Father.

COMMONWEALTH OF PENNSYLVANIA v. DEAN TOMSIC

Omnibus—Pretrial Motion—Habeas Corpus—Motion To Suppress—Probable Cause—Stop of Vehicle—Miranda Warnings

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division, No. 2003-2702.

Order of Court entered denying Defendant's Motion for Habeas Corpus/Suppression.

Abraham P. Kassis, Esquire for Commonwealth.

Michael A. Ventrella, Esquire for Defendant.

Order of Court entered April 6, 2004 by F.P. Kimberly McFadden, Judge.

DESCRIPTION OF DECISION

Court found that the Commonwealth met its burden to establish at least a prima facie case against the Defendant. The Court found the driving at a high rate of speed and erratically and with a broken taillights is 'articulable and reasonable grounds' to suspect a violation of the Vehicle Code. Further, the Court found that the stop of the Defendant, at the time of his admission to having a few beers, was not considered at that time a 'custodial interrogation.' Therefore, the Court denied the Defendant's motion.

**WILLIAM MIKLAS v. SALVATORE MAIOANA, JR. A/K/A
SALVATORE J. MALORANA**

Preliminary Objections—Lack of Specificity—Failure To Sign Complaint

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Law Division, No. C0048CV2003009157.

Order of Court entered denying in part and granting in part Defendant's Preliminary Objections.

Raymond J. DeRaymond, Esquire for Plaintiff.

Stanley J. Margle, III, Esquire for Defendant.

Order of Court entered on March 29, 2004 by F.P. Kimberly McFadden, Judge.

DESCRIPTION OF DECISION

Defendant Salvatore Maioana, Jr a/k/a Salvatore J. Malorana filed Preliminary Objections to the Plaintiff, William Miklas' Complaint arguing lack of specificity and failure to sign the Complaint. Defendant contends that the Complaint fails to state specifically how the Defendant violated the alleged partnership agreement, generally describing items as materials, tools, and equipment. Further, Defendant argues that the description of the trucks used as the "two trucks" is insufficiently specific.

Defendant also argued that Plaintiff failed to identify the alleged partnership funds by amount, account or location. Further, the descriptions of the alleged partnership property are so vague that Defendant could not possibly admit or deny the allegations.

The Court found that Plaintiff was insufficiently specific in describing the alleged partnership property as "materials, tools and equipment." Further, the Plaintiff was equally involved in the partnership and would be aware of what materials, tools and equipment Defendant allegedly appropriated for his sole use. The Court disagreed with Defendant's argument that Plaintiff failed to identify the alleged partnership funds by amount, account or location. The Court found that if Defendant took sole control over the books, Plaintiff has no access to such information, and such information can only be obtained through discovery. The Court found the allegations regarding the two trucks sufficiently specific.

Defendant also argued that Plaintiff's attorney of record failed to sign the Complaint. However, the Court found that the copy of the Complaint filed with the Court was signed by the Plaintiff's attorney of record as required by Pa. R.C.P. 1023.1(b), and therefore denied this Preliminary Objection.

**RANDY CLEMENS & RUSSELL SWINEHART T/A CENTRAL
CONTRACTORS AND ENGINEERS v. CONTRACTING SYSTEMS, INC., II,
NORTHWESTERN HUMAN SERVICES, INC., AND FEDERAL
DEVELOPMENT CORP.**

*Preliminary Objections—Conform Pleadings—Joinder—Additional Defendant—Amend
Complaint*

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Law Division, No. C0048CV2001008886.

Order of Court entered denying Defendant, Northwestern Human Services, Inc.'s Preliminary Objections to Plaintiffs' Amended Complaint.

Christopher H. Meinzer, Esquire for Plaintiff.

Robert B. Bodzin, Esquire for Defendant.

Order of Court entered on April 7, 2004 by F.P. Kimberly McFadden, Judge.

DESCRIPTION OF DECISION

Defendant, Northwestern Human Services filed Preliminary Objections to the Plaintiffs' Amended Complaint alleging the Complaint did not conform to the pleadings and opposes joinder of the additional Defendant Federal Development Corp. The Court found that no substantive rights of the Defendant will be compromised by allowing the amended pleading. Defendant's memorandum in support of its Preliminary Objections fails to state how it will be prejudiced if the pleading is allowed to be amended. The Court adopted Plaintiffs' Amended Complaint and Joinder filed into the record.

JAMES M. OHLAND T/D/B/A JAMES OHLAND CUSTOM BUILDERS v. K&E CORPORATION, ORIGINAL OWNER, AND SEAN P. LEARY AND JENNIFER LEARY, HIS WIFE, CURRENT OWNERS

Mechanics' Lien—Five Year Time Limit—Final Judgment—Extension of Time

In the Court of Common Pleas of Northampton County, Civil Division, Law, No. 1998-ML-4299.

Order of Court entered granting Defendants' Motion to Strike Mechanics' Lien.

Peter C. Layman, Esquire for Plaintiff.

Ronald J. Reybitz, Esquire for Defendants, Sean P. Leary and Jennifer Leary.

Order of Court entered March 29, 2004 by F.P. Kimberly McFadden, Judge.

DESCRIPTION OF DECISION

Defendants Sean P. Leary and Jennifer Leary filed a Motion to Strike Mechanics' Lien, arguing that over five years has passed from the date of filing the mechanics' lien claim, with nothing qualifying for a time extension, and therefore the claim should be dismissed. Plaintiff argues that Plaintiff granted Defendants a time extension to file an Answer, and therefore this time should not be calculated in the five year limitation. 49 P.S. 1701(d) states that when a mechanics' lien claim is filed, a verdict must be recovered within five years from the date of filing the claim, or the claim is lost. The statute allows, in certain circumstances, exclusion of time from the calculation.

The Court found that the Plaintiff's allowance of a time extension to file an answer did not qualify as a time exclusion under the statute. Therefore, the Court dismissed the mechanics' lien claim

LJL TRANSPORTATION, INC. ET. AL. v. PILOT AIR FREIGHT CORP.

Motion To Compel—Documents—Request for Production of Documents

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Law Division, No. C0048CV2001000413.

Order of Court entered denying Plaintiff's Amended Motion to Compel.

James G. Wiles, Esquire for Plaintiff.

Daniel D. Haggerty, Esquire for Defendant Pilot Air Freight.

Order of Court entered April 14, 2004 by F.P. Kimberly McFadden, Judge.

DESCRIPTION OF DECISION

Plaintiffs filed an Amended Motion to Compel production of documents requested in paragraphs 11, 12, 13 and 14 of the Third Request for Production of Documents. The Court denied this motion, finding that Plaintiff is merely arguing the merits of the case rather than arguing why the documents should be compelled. Despite this, the Court

considered the documents requested and found that it was the Plaintiff's counsel himself who initially supplied the Court with two of the Hartford Documents at oral argument on October 28, 2003, thereby indicating access to these documents. At oral argument on March 2, 2004, Plaintiff's counsel argued that he is unsure if he has copies of all of the Hartford Documents and therefore wishes to compel discovery. However, the Court finds that Defendants have not concealed these documents from the Plaintiffs. The Court agrees with Plaintiffs that the documents, which deal with out-of-territory shipments, are irrelevant to the current matter. The underlying issue in the current matter is not the out-of-territory shipments, but rather the concealing of royalties and failure of Plaintiffs to report shipments. Therefore the Court denied this motion.

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