

Northampton County Reporter

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EASTON, PA March 9, 2006

NO. 62

Northampton County Reporter Digest—2006-3

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2. "A Legal Nurse ... What?"
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4. 2006 Calendar of Events
Cream: 36th Annual Reception for the Court

NOTICE TO THE BAR ...

Due March 31, 2006

Second installment of Bar Association Dues

**NORTHAMPTON COUNTY BAR ASSOCIATION
2006 BAR ASSOCIATION OFFICERS**

Richard P. Kovacs President
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Ronald W. Shipman

Northampton County Reporter

Attorney Referral & Information Service

155 South Ninth Street, Easton, PA 18042-4399

Phone (610) 258-6333 Fax (610) 258-8715

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BAR ASSOCIATION STAFF

Mary Beth Leeson Executive Director
Stephanie Pasquel Accounting
Heather Rizzotto-Stefanik Legal Journal
Gloria A. Robison Attorney Referral
Deborah J. Flanagan Attorney 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.

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Robert C. Brown, Jr., Esquire

Editor

NOTICES TO NCBA MEMBERS—BAR NEWS

ADMISSION TO U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT AND U.S. DISTRICT COURT FOR EASTERN DISTRICT, PA—

For anyone interested in obtaining admission to the U.S. Court of Appeals for the Third Circuit and/or the U.S. District Court for Eastern District, PA, Judge Franklin S. Van Antwerpen (3d.Cir.) has indicated that he would be willing to perform the swearing-in ceremony locally if there are enough interested attorneys. It would probably occur sometime in the spring.

The admission costs/fees are \$190 for the Third Circuit and \$175 for the E.D. PA. Additional information is available from each court's website and administrator's office.

If you would like to participate, please notify the Northampton County Bar Association office at 610-258-6333 or by email to marybeth@norcobar.org no later than MARCH 15, 2006. When responding, indicate which court (or both) you are interested in.

Northampton County Outstanding Seniors Awards 2006—

The Advisory Council of the Northampton County Area Agency on Aging is requesting nominations of individuals who are contributing their time and talents for the benefit of others in our community through outreach, personal action, inspiration, public service, sports/educational efforts and civic humanitarian efforts. The requirement is that the nominee be a Northampton County resident aged 60 or over. If you would like to nominate an NCBA member, please call the NCBA Office for more information.

Northampton County College needs your help! We are currently assessing paralegal employment in the local community by means of an employer survey conducted approximately once every four years. The survey results will assist us in the evaluation of our Paralegal Associate Degree program and help fulfill requirements of the ABA which has approved our program. We are interested in responses from all attorneys who employ paralegals, not just those who are NCC graduates.

If you have not yet had the opportunity to complete the questionnaire previously mailed to you, we hope that you can do so no later than March 15th. To those who have already returned the survey—thanks! If you have any questions, please contact Professor John Thomas at (610) 861-4546 or Institutional Researcher Alison Bast at (610) 861-4585.

Real Fact: In 1900, 1/3 of all automobiles in New York City were powered by electricity.

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**AHN, GIZELLA K.,** dec'd.

Late of the Township of Allen, Northampton County, PA

Executrix: Judith G. Korpics, 2152 Seigfried Avenue, Northampton, PA 18067

Attorney: John L. Obrecht, Esquire, 1731 Main Street, Northampton, PA 18067-1544

BENNETCH, ALICE B. a/k/a ALICE E. BENNETCH, dec'd.

Late of Bethlehem, Northampton County, PA

Executrix: Joanna B. Maurer, 2255 New Street, Orefield, PA 18069

Attorneys: Richard J. Schaedler, Esquire, Majczan-Schaedler-Kelleher, 901 West Lehigh Street, Suite 200, Bethlehem, PA 18018

CRESSMAN, THOMAS L., dec'd.

Late of the City of Bethlehem, Northampton County, PA

Administratrix: Debra E. Cressman c/o Kevin Frank Danyi, Esquire, Danyi Law Offices, P.C., 133 East Broad Street, Bethlehem, PA 18018

Attorneys: Kevin Frank Danyi, Esquire, Danyi Law Offices,

P.C., 133 East Broad Street, Bethlehem, PA 18018

GOWER, LARRY G., dec'd.

Late of the Township of Washington, Northampton County, PA

Executrix: Beverly Reimer, 1199 Candlewood Drive, Pen Argyl, PA 18072

Attorneys: Anthony J. Martino, Esquire, Zito, Martino and Karasek, 641 Market Street, Bangor, PA 18013

JULSTEDT, ERIC C., dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Administratrix: Jennifer L. Julstedt c/o Rebecca A. Craggs, Esquire, 11 North 8th Street, Stroudsburg, PA 18360

Attorney: Rebecca A. Craggs, Esquire, 11 North 8th Street, Stroudsburg, PA 18360

LIBERTO, LEWIS J., dec'd.

Late of the Borough of Bath, Northampton County, PA

Administratrix: Kathryn Liberto c/o Beth A. Dobis Beers, Esquire, 315 E. Main Street, Bath, PA 18014

Attorney: Beth A. Dobis Beers, Esquire, 315 E. Main Street, Bath, PA 18014

MARTIN, CHARLES T., SR., dec'd.

Late of Lower Saucon Township, Northampton County, PA

Co-Executors: Charles T. Martin, Jr. and Shirley A. Martin 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

**MINEO, MARIANNE I. a/k/a
MARIANNE I. EMBARDINO,** dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Executor: Richard J. Mineo 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

MUSICK, PAULINE, dec'd.

Late of the Borough of Northampton, Northampton County, PA

Executor: John Strasser c/o Frank M. Skrapits, Esquire, Affiliated with Steckel and Stopp, 2152 Main Street, Northampton, PA 18067-1211
Attorneys: Frank M. Skrapits, Esquire, Affiliated with Steckel and Stopp, 2152 Main Street, Northampton, PA 18067-1211

PETERS, PERMA T., dec'd.

Late of Bath, Northampton County, PA

Executrix: Jane P. Hammel, 124 Ashley Road, Newtown Square, PA 19073

Attorneys: Robert W. Brown, Esquire, Brown, Brown, Solt & Ferretti, 1425 Hamilton Street, Allentown, PA 18102

**POSAVEK, ROSEMARY a/k/a
ROSEMARY P. POSAVEK,** dec'd.

Late of Bethlehem Township, Northampton County, PA

Executor: William J. Posavek, Sr. 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

SAVAGE, JOHN E., JR., dec'd.

Late of the City of Easton, Northampton County, PA

Executrix: Jackie Ann Savage c/o Theresa Hogan, Esquire, Attorney-at-Law, 340 Spring Garden Street, Easton, PA 18042

Attorney: Theresa Hogan, Esquire, Attorney-at-Law, 340 Spring Garden Street, Easton, PA 18042

**SHAFER, ALENE a/k/a M.
ALENE SHAFER,** dec'd.

Late of the Township of Allen, Northampton County, PA

Executor: John J. Shafer, 5711 Trails Edge Court, Arlington, TX 76017

Attorney: John L. Obrecht, Esquire, 1731 Main Street, Northampton, PA 18067-1544

TRITTENBACH, WAYNE L., dec'd.

Late of the Borough of Hellertown, Northampton County, PA

Executrix: Linda L. Weaver 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

YOCHUM, MARY A., dec'd.

Late of Bethlehem, Northampton County, PA

Executor: George H. Yochum c/o Constantine M. Vasiliadis Esquire, Kolb, Vasiliadis and Florenz, 74 W. Broad Street, Suite 170, Bethlehem, PA 18018-5738

Attorneys: Constantine M. Vasiliadis Esquire, Kolb, Vasiliadis and Florenz, 74 W. Broad Street, Suite 170, Bethlehem, PA 18018-5738

SECOND PUBLICATION

CHAY, JOHN E., dec'd.

Late of Northampton, Northampton County, PA

Executor: John Edward Chay, 55 Bridle Path Rd., Bethlehem, PA 18017

Attorney: Steven B. Molder, 904 Lehigh Street, Easton, PA 18042

DeFULVIO, JOSEPH a/k/a JOSEPH DeFULVIO, JR., dec'd.

Late of the City of Bethlehem, Northampton County, PA

Co-Executors: Cheryl Ann Conard and Douglas DeFulvio c/o Frank J. Danyi, Jr., Esquire, Maloney, Danyi, Sletvold & O'Donnell, 901 West Lehigh Street, Bethlehem, PA 18016-1279

Attorneys: Frank J. Danyi, Jr., Esquire, Maloney, Danyi, Sletvold & O'Donnell, 901 West Lehigh Street, Bethlehem, PA 18016-1279

DOMANSKI, AUDREY E. a/k/a AUDREY DOMANSKI, dec'd.

Late of Bethlehem Township formerly of Bath, Northampton County, PA

Executrix: Janice M. Braun, 893 Gate St., Phillipsburg, NJ 08865

FEIST, LAURA H. a/k/a LAURA FEIST, dec'd.

Late of Bethlehem, Northampton County, PA

Administratrix CTA: Tammy Melchoir c/o Eric R. Strauss, Esquire, Worth. Magee &

Fisher, P.C., 515 Linden Street, 3rd Floor, Allentown, PA 18101

Attorneys: Eric R. Strauss, Esquire, Worth. Magee & Fisher, P.C., 515 Linden Street, 3rd Floor, Allentown, PA 18101

JONAS, FLORIAN, dec'd.

Late of Bethlehem, Northampton County, PA

Executor: Florian M. Jonas c/o John W. Rybak, Esquire, 408 Adams Street, Bethlehem, PA 18105

Attorney: John W. Rybak, Esquire, 408 Adams Street, Bethlehem, PA 18105

KOVACS, MARGARET S., dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executrix: Louise Wisser c/o Mary Ann Snell, Esquire, Suite 311, 3400 Bath Pike, Bethlehem, PA 18017

Attorney: Mary Ann Snell, Esquire, Suite 311, 3400 Bath Pike, Bethlehem, PA 18017

KUBIK, MARY, dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executor: Eugene M. Kubik, 1113 Elm Street, Bethlehem, PA 18018

Attorney: Paul J. Harak, Esquire, 1216 Linden Street, P.O. Box 1409, Bethlehem, PA 18016

LILLY, ALLEN S., dec'd.

Late of Upper Nazareth Township, Northampton County, PA

Executrix: Barbara A. Bok, 411 Bank Street, Nazareth, PA 18064

Attorneys: Peters, Moritz, Peischl, Zulick & Landes, LLP,

1 South Main Street, Nazareth, PA 18064-2083

PECSI, IRENE, dec'd.

Late of the Township of Bethlehem, Northampton County, PA

Co-Executors: Frank Pecs and Frances Bush c/o Mary Ann Snell, Esquire, Suite 311, 3400 Bath Pike, Bethlehem, PA 18017

Attorney: Mary Ann Snell, Esquire, Suite 311, 3400 Bath Pike, Bethlehem, PA 18017

PEFFER, RONALD W., dec'd.

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

Executrix: Tracy A. Peffer c/o Frank J. Danyi, Jr., Esquire, Maloney, Danyi, Sletvold & O'Donnell, 901 West Lehigh Street, Bethlehem, PA 18016-1279

Attorneys: Frank J. Danyi, Jr., Esquire, Maloney, Danyi, Sletvold & O'Donnell, 901 West Lehigh Street, Bethlehem, PA 18016-1279

PRITCHARD, VELMA S. a/k/a VELMA E. PRITCHARD, dec'd.

Late of Washington Township, Northampton County, PA

Co-Executors: Jean A. D'Imperio, 452 Messinger Street, Bangor, PA 18013 and Judith L. Strouse, 339 Washington Blvd., Bangor, PA 18013

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

PYATT, DOROTHY M., dec'd.

Late of the Township of Palmer, Northampton County, PA

Co-Executrices: Jean D. Pyatt, Carol A. Peake and Joan M. Gadwell c/o Daniel E. Cohen, Attorney, Laub, Seidel, Cohen, Hof & Reid, L.L.C., 8 Centre Square, Easton, PA 18042

Attorneys: Daniel E. Cohen, Attorney, Laub, Seidel, Cohen, Hof & Reid, L.L.C., 8 Centre Square, Easton, PA 18042

RAMUNNI, ANTHONY, dec'd.

Late of the Township of Palmer, Northampton County, PA
Co-Administrators: Anthony Ramunni, Jr., 50 Mariska Lane, Easton, PA 18045 and Michele P. Hashem, 450 Biery's Bridge Road, Bethlehem, PA 18017

SERFASS, JEFFREY, dec'd.

Late of Easton, Northampton County, PA

Executrix: Jean A. Hyrowich a/k/a Jean A. Serfass, 668 Youngs Hill Rd., Easton, PA 18040

Attorneys: Gary M. Miller, Esquire, Miller & Davison, 210 E. Broad Street, Bethlehem, PA 18018

VANDERGRIFT, PRESTON F., III, dec'd.

Late of East Allen Township, Northampton County, PA

Executrix: Michelle L. Bollinger, 249 Nazareth Pike, Bethlehem, PA 18020

VERBA, STEPHANIE M., dec'd.

Late of the Borough of Hellertown, Northampton County, PA

Co-Executors: Karen L. Shirk, Lorraine F. Martin and William S. Verba 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

ZIEGENFUS, RAYMOND L., SR. a/k/a RAYMOND L. ZIEGENFUS, dec'd.

Late of the Borough of Walnutport, Northampton County, PA

Executor: Raymond L. Ziegenfus, III, P.O. Box 3, Walnutport, PA 18088

THIRD PUBLICATION CAPOZZOLO, HENRY, dec'd.

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

Executrix: Ruthann Capozzolo c/o James R. Clark, Esquire, 277 Millwood Road, Lancaster, PA 17603

Attorney: James R. Clark, Esquire, 277 Millwood Road, Lancaster, PA 17603

HARMAN, HELEN R., dec'd.

Late of the City of Easton, Northampton County, PA

Executrix: Ms. Helen Mae Harman, 838 W. Wilkes-Barre Street, Easton, PA 18042

Attorneys: Robert A. Nitchkey, Jr., Esquire, Hemstreet, Nitchkey & Freidl, 730 Washington Street, Easton, PA 18042

JONES, HELEN HARVEY, dec'd.

Late of 1702 Cloverleaf St., Bethlehem, Northampton County, PA

Executrix: Christine S. Davin, 1120 Park Ave., New York, NY 10128

Attorney: Eric R. Shimer, Esquire, 1 Bethlehem Plz., Ste. 830, Bethlehem, PA 18018

KOHL, GLADYS H., dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executrix: Denise Beruta, 132 Chase Hollow Dr., Nazareth, PA 18064

Attorney: Brian R. Tipton, Esquire

KULL, NADINE J., dec'd.

Late of the Borough of Pen Argyl, Northampton County, PA

Executrix: Lisbeth A. Kull c/o John Molnar, Esquire, The Molnar Law Offices, Wind Gap Professional Center, 6697 Sullivan Trail, Wind Gap, PA 18091

Attorneys: John Molnar, Esquire, The Molnar Law Offices, Wind Gap Professional Center, 6697 Sullivan Trail, Wind Gap, PA 18091

LIPARI, GRACE M. a/k/a M. GRACE LIPARI a/k/a GRACE LIPARI, dec'd.

Late of the Township of Palmer, Northampton County, PA
Executor: Santa Wright, 2815 Hope Ridge Road, Easton, PA 18045

Attorneys: Herbert G. Litvin, Esquire, 151 S. 7th Street, Easton, PA 18042

McCARD, JAMES M., dec'd.

Late of the City of Bethlehem, Northampton County, PA

Co-Executors: Patricia A. McCARD and Robert James McCARD c/o Fox Williamson Mattioli, P.C., 1012 W. Broad Street, Bethlehem, PA 18018

Attorneys: Fox Williamson Mattioli, P.C., 1012 W. Broad Street, Bethlehem, PA 18018

OTT, ALBERT L., dec'd.

Late of the Township of Mount Bethel, Northampton County, PA

Executor: Richard L. Ott Sr.
c/o Raymond J. DeRaymond,
Esquire, Gross, McGinley, La-
Barre & Eaton, LLP, 717
Washington Street, Easton, PA
18042-4386

Attorneys: Raymond J. DeRay-
mond, Esquire, Gross, McGin-
ley, LeBarre & Eaton, LLP, 717
Washington Street, Easton, PA
18042-4386

PALIK, IRENE, dec'd.

Late of Lower Saucon Town-
ship, Northampton County,
PA

Co-Executors: Christine A.
Mann and Robert A. Palik 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

PORS, LAURA B., dec'd.

Late of the Borough of Wal-
nutport, Northampton Coun-
ty, PA

Administratrix: Judy A. Hand-
ley c/o Victor F. Cavacini, Es-
quire, Gross, McGinley, La-
Barre & Eaton, LLP., 33 South
7th Street, P.O. Box 4060,
Allentown, PA 18105

Attorneys: Victor F. Cavacini,
Esquire, Gross, McGinley,
LaBarre & Eaton, LLP., 33
South 7th Street, P.O. Box
4060, Allentown, PA 18105

**RUMFIELD, JOAN C. a/k/a
JOAN C. FREDERICKSON**,
dec'd.

Late of the Township of Forks,
Northampton County, PA

Administrator: Robert D.
Rumfield, 6 Aspen Court,
Easton, PA 18040

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

RYBAK, MICHAEL, dec'd.

Late of Bethlehem, Northamp-
ton County, PA

Executrix: Carol Ann Frye
c/o John W. Rybak, Esquire,
408 Adams Street, Bethlehem,
PA 18105

Attorney: John W. Rybak, Es-
quire, 408 Adams Street,
Bethlehem, PA 18105

TILLMAN, MARION B., dec'd.

Late of the Township of Bush-
kill, Northampton County, PA
Executrix: Patricia Supplee
c/o Steven N. Goudsouzian,
Esquire, 2925 William Penn
Highway, Suite 301, Easton,
PA 18045-5283

Attorney: Steven N. Goud-
souzian, Esquire, 2925 Wil-
liam Penn Highway, Suite 301,
Easton, PA 18045-5283

NOTICES OF INCORPORATION

NOTICE IS HEREBY GIVEN that
Articles of Incorporation have been
filed with the Department of State
of the Commonwealth of Pennsyl-
vania, at Harrisburg, Pennsylvania,
for the purpose of obtaining a Cer-
tificate of Incorporation of a pro-
posed business corporation to be
organized under the provisions of
the Pennsylvania Business Corpo-
ration Law of 1988, approved De-
cember 21, 1988, P.L. 1444, No.
177, as amended.

The name of the corporation is:
BRADEN CONTRACTORS, INC.

Robert H. Jacobs, Esquire
Jacobs & Jacobs
214 Bushkill Street
Easton, PA 18042-1892

Mar. 9

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on February 27, 2006, in the Pennsylvania Department of State for:

CHE MECHANICAL SERVICES, INC.

in accordance with the provisions of the Pennsylvania Business Corporation Law of 1988.

DANIEL E. COHEN, ATTORNEY LAUB, SEIDEL, COHEN, HOF & REID, L.L.C.

8 Centre Square
Easton, PA 18042-3606

Mar. 9

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State for:

HARSHA PA INC.

a corporation organized under the Pennsylvania Business Corporation Law of 1988.

Mar. 9

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, 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:
INDUSTRIAL COMPRESSOR SERVICES, INC.

Robert H. Jacobs, Esquire
Jacobs & Jacobs
214 Bushkill Street
Easton, PA 18042-1892

Mar. 9

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been

filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, 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:

STONE GATE REAL ESTATE, LLC

Craig A. Dally, Esquire
Pierce & Dally, LLP
124 Belvidere Street
Nazareth, PA 18064

Mar. 9

NOTICE OF NONPROFIT INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed and approved on January 12, 2006 with the Department of State of the Commonwealth of Pennsylvania, Harrisburg, Pennsylvania, for the purpose of incorporating a non-profit 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 corporation is:

BRIARWOOD, A PLANNED COMMUNITY

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 the management and maintenance of common areas within Briarwood, A Planned Community and the imposition and collection of

assessments to further that purpose.

Markward Group Property Management and Maintenance
1001 East Highland Street
Allentown, PA 18109
(610) 432-2000

Mar. 9

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 January 17, 2006, for the purpose of creating a limited liability company pursuant to the Limited Liability Company Law of 1994, P.L. 703 No. 106.

The name of the limited liability company is:

ENGLER & SON TRUCKING, LLC

David J. Jordan, Jr., Esquire
McFall, Layman & Jordan, P.C.
134 Broadway
Bangor, PA 18013
(610) 588-0484

Mar. 9

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

FLORENCE T. CRESSSMAN;
Darlene D. Cressman a/k/a
Darlene Cressman Kowtko, Executrix

EUGENIA S. DONCHEZ a/k/a
GENEVIEVE DONCHEZ; Christy J.,
Wickmann a/k/a Christy J.
Scarborough and Paul A. Wickmann,
Co-Executors

ELLEN E. GEHRET; Doris E. Keller, Executrix

ELMERN. KEYSER JR.; Norman Brian Keyser, Administrator

AURELIA A. MATEY, TRUST; Wachovia Bank, N.A., Trustee

WALTER J. McCOY; Joanne F. McDonald, Administratrix

ANNA R. TEEL; Richard A. Teel and Judith Ann Moore, Co-Executors

MARGARET WALTERS a/k/a
MAGGIE E. WALTERS a/k/a
MAGGIE WALTERS; Theresa Hogan,
Guardian

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, MARCH 31, 2006 AT 9:00 A.M. IN COURTROOM #1. Dorothy L. Cole

Clerk of Orphans' Court

Mar. 2, 9

ASSOCIATE POSITION

Minimum of 3-4 yrs. experience preferred. Easton general practice with emphasis on Civil Litigation and Municipal Law. Salary commensurate with experience. Please send resumes to Charles Bruno, Esquire, 203 South Seventh Street, Easton, PA 18042.

Mar. 9, 16

ATTORNEY

Expanding firm with principal offices located in Bethlehem is seeking attorney to concentrate on transactional and general business matters. 3 to 5 years experience preferred, but all qualified applicants will be considered. Full benefits provided. Please forward a Resume, together with a letter of interest, to King, Spry, Herman, Freund & Faul, by e-mail to donna@kingspry.com.

Mar. 9, 16

LEGAL SECRETARY

General civil practice law firm has immediate opening PT, possibly leading to FT. Experience preferred. Computer, organizational and general clerical skills required. Send letter of interest and resume to: Hill Law Offices, P.C., 3141 Main Street, P.O. Box 197, Springtown, PA 18081.

Mar. 9, 16

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1509 EASTON AVENUE BETHLEHEM, PA 18017 ■ PHONE: 610-865-4950 ■ FAX: 610-865-5630

THE LAW OFFICE

of

Mary Ann Snell

takes pleasure in announcing that

MICHAEL A. ONDILLA, ESQUIRE

is an Associate Attorney with the firm

located at

Park Plaza Professional Center

3400 Bath Pike Suite 311

Bethlehem, PA 18017

Mar. 9

The Law Offices of
LAUER & SLETVOLD, P.C.

701 Washington Street
Easton, PA

Is pleased to announce that

Bethany S. Zampogna, Esquire

has joined

Philip D. Lauer, Robert E. Sletvold
and Gregorio W. Paglianite

in their growing regional Criminal Defense
and Civil Litigation practice.

Mar. 9

James J. Holzinger and Paul J. Harak
ARE PLEASED TO ANNOUNCE THAT

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Mar. 9

NORTHAMPTON COUNTY REPORTER DIGEST—2006-3
RECENT DECISIONS OF THE COURTS OF COMMON PLEAS
OF NORTHAMPTON COUNTY

COMMONWEALTH OF PENNSYLVANIA v. SANFORD YEOMANS

Motion to Suppress and Motion for Habeas Corpus

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division—OTN K 242386-4.

Order of the Court denying Defendant's Motion to Make a Video Record of his Preliminary Hearing and granting Defendant's Motion to Make an Audio Record of his Preliminary Hearing subject to the restriction that it may be used only as an aid to the preparation of the written record for subsequent use in the case, not for the purpose of playing its contents at trial.

Patricia C. Broscius, Esquire for the Commonwealth.

George A. Heitzman, Esquire for Defendant.

Order of Court entered on September 27, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Because Pa. R.C.P. 112 specifically prohibits making a video of judicial proceedings, the Court denied Defendant's Motion to make a video record of his preliminary hearing. The Court held that Defendant could make an audio record of the preliminary hearing in order to ensure the accuracy of the written record, but not to be played at trial.

ABN AMRO MORTGAGE GROUP, INC., F/K/A ATLANTIC MORTGAGE & INVESTMENT CORPORATION v. RALPH R. FERRIZZI AND VANESSA S. FERRIZZI

Summary Judgment Motion

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2005000252.

Order of Court granting Plaintiff's Motion for Summary Judgment.

Thomas I. Peleo, Esquire and Christopher A. DeNardo, Esquire for Plaintiff.

Vanessa S. Ferrizzi, Pro Se, for Defendants.

Order of Court entered on September 27, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Plaintiff, ABN AMRO Mortgage Group, filed a Motion for Summary Judgment for which no response was filed. The Court granted Plaintiff's Summary Judgment Motion on that basis.

ARBOR FENCE COMPANY, INC. OF BETHLEHEM, PENNSYLVANIA v. M.S.G. ASSOCIATES, INC. AND NESTLE WATERS NORTH AMERICA, INC.

Preliminary Objections

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2005004176.

Order of Court sustaining the Preliminary Objections filed by M.S.G. Associates, Inc., Defendant, and striking the Complaint filed on behalf of Arbor Fence Company, Plaintiff.

William W. Matz, Jr., Esquire for Plaintiff.

Domenic P. Sbrocchi, Esquire for Defendant, M.S.G. Associates, Inc.

R. Timothy Weston, Esquire and Christopher R. Nestor, Esquire for Defendant, Nestle Waters North America, Inc.

Order of Court entered on September 16, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Defendant, M.S.G. Associates, Inc. filed Preliminary Objections pursuant to Pa. R.C.P. 1028(c)(6), asserting that the parties' contract required all claims arising under the contract to be resolved by arbitration if mediation is unsuccessful. Because the Court found that the parties' contract specifically laid out a hierarchy of how disputes are to be resolved and Plaintiff has filed a Complaint without adhering to the alternative dispute resolution procedures mandated by the contract, the Court held that the Complaint must be stricken and that the dispute was beyond its jurisdiction.

COMMONWEALTH OF PENNSYLVANIA v. JUSTIN HOWARD

Motion to Suppress—Motion for Habeas Corpus

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division—No. 2005-642.

Order of Court denying Defendant's Motion to Suppress Evidence obtained pursuant to search of property at 621 Walnut Street and Mr. Howard's coat, and denying Motion for Habeas Corpus.

Robert Eyer, Esquire for the Commonwealth.

Karl F. Longenbach, Esquire for Defendant.

Order of Court entered on September 12, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

The Court denied Defendant's Motion to Suppress Evidence obtained from the searches of the apartment at 621 Walnut Street and Defendant's coat because consent was given to search both. Furthermore, the Court denied Defendant's Habeas Corpus Motion because the Commonwealth of Pennsylvania has established a prima facie case against Defendant, Justin Howard, for all of the charges against him.

COMMONWEALTH OF PENNSYLVANIA v. ODIS MITCHELL, LAWRENCE PRETOPAPA, DENISE SMITH AND JUSTIN HOWARD

Motion to Consolidate Separate Informations

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division—No. 2005-698, No. 2005-703, No. 2005-1108, No. 2005-642.

Order of Court granting the Commonwealth's Pretrial Omnibus Motion to Consolidate the Separate Informations of Odis Mitchell, Lawrence Pretopapa, Denise Smith and Justin Howard pursuant to Pennsylvania Rule of Criminal Procedure 582(A)(2) and (B)(2).

Robert Eyer, Esquire for the Commonwealth.

Victor E. Scmillio, Esquire for the Defendant, Odis Mitchell.

Matthew C. Potts, Esquire for Defendant, Lawrence Pretopapa.

Nuria Sjolund, Esquire for Defendant, Denise Smith.

Karl F. Longenbach, Esquire for Defendant, Justin Howard.

Order of Court entered on September 12, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

The Commonwealth filed a Motion to Consolidate Separate Informations of Odis Mitchell, Lawrence Pretopapa, Denise Smith, and Justin Howard for trial pursuant to Rule of Criminal Procedure 582(A)(2) and (B)(2). Justin Howard was the only Defendant to oppose the Motion, arguing that the consolidation would prejudice his case. Because the Court disagreed, the Commonwealth's Motion was granted.

**FAUST FAMILY LIMITED PARTNERSHIP #4 v. LOWER
NAZARETH TOWNSHIP ZONING HEARING BOARD v.
LOWER NAZARETH TOWNSHIP
LOWER NAZARETH TOWNSHIP v. LOWER NAZARETH
TOWNSHIP ZONING HEARING BOARD v. FAUST FAMILY
LIMITED PARTNERSHIP #4**

Appeals From Zoning Hearing Board Decisions

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2004002423 and No. C0048CV2004006718.

Order of Court denying Faust Family Limited Partnership #4's Appeal from the February 11, 2004 Decision of the Lower Nazareth Township Zoning Hearing Board, which denied approval of a special exception application for a 1.43 acre lot, and denying Lower Nazareth Township's appeal from the Zoning Hearing Board Decision of August 6, 2004, which granted approval of a special exception application on the 3.34 acre lot.

Alfred S. Pierce, Esquire for Appellant/Intervenor, Faust Family Limited Partnership #4.

Gary Neil Asteak, Esquire and Matthew C. Potts, Esquire for Intervenor/Appellant, Township.

James L. Zulick, Esquire for Appellee/Appellee, Lower Nazareth Township Zoning Hearing Board.

Order of Court entered on September 8, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Faust Family Limited Partnership #4 appealed from the February 11, 2004 decision of the Lower Nazareth Township Zoning Hearing Board, a decision which denied approval of a special exception application for a 1.43 acre tract of land. The Court affirmed the Zoning Hearing Board decision, denying Faust Family Limited Partnership #4's appeal, holding that the two separate lots merged.

Lower Nazareth Township filed an appeal to the Zoning Hearing Board decision of August 6, 2004, which granted approval of a special exception application on the 3.34 acres. The Township's appeal was consolidated with the Faust appeal. Because the Zoning Hearing Board did not commit a manifest abuse of discretion or an error of law, the Court affirmed the Zoning Hearing Board's decision and denied the Township's appeal.

**THE CONVERSATION, INC. v. MAKOTO NAGAI AND THE DANCING
FISH CO., INC. v. ADISAK SAKDIPONEPHONG AND PATTIE
SAKDIPONEPHONG, ADD'L DEFENDANTS**

Action for Payment on Promissory Note and for Payment of Utilities

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2002003067.

Order of Court awarding a Judgment in the amount of \$25,000.00 plus legal interest pursuant to a promissory note and the sum of \$5,568.37 for utility costs in favor of Plaintiff, The Conversation, Inc., and Additional Defendants, Adisak Sakdiponephong and Pattie Sakdiponephong, against Defendants, Makoto Nagai and The Dancing Fish Co., Inc.

James C. Omdahl, Esquire for Plaintiff and Additional Defendants.

Megan M. McDonald, Esquire for Defendants.

Order of Court entered on September 8, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Plaintiff, The Conversation, Inc., sought judgment in the amount of \$25,000.00 plus interest for money due and owing from Defendants, Makoto Nagai and The Dancing Fish Co., Inc., on an unpaid promissory note. Because the parties agreed the note was in default, the Court awarded the damages requested.

Furthermore, Additional Defendants, Adisak Sakdiponephong and Pattie Sakdiponephong, sought judgment in the amount of \$5,568.37 from Defendants, Makoto Nagai and The Dancing Fish Co., for unpaid utility bills. The Court awarded \$5,568.37 in damages because a fair reading of the Complaint drafted by Defendant Nagai's Attorney established that the parties intended utility charges to be apportioned by tenants who actively consumed the utilities.

The Court denied Defendants' request that damages be offset by rental costs paid when restaurant was inoperable due to fire, costs for exit sign, and cost of occupational license from the City of Bethlehem.

**BETHLEHEM AREA SCHOOL DISTRICT v.
WHITE BROTHERS CONSTRUCTION, INC.**

Motion for Partial Summary Judgment

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2002002968.

Order of Court denying Bethlehem Area School District's Motion for Partial Summary Judgment.

Paul A. Logan, Esquire and David M. Doto, Esquire for Plaintiff.

Michael J. Revness, Esquire and Marsha E. Flora, Esquire for Defendant.

Order of Court entered on September 8, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Plaintiff, Bethlehem Area School District, filed a Motion for Partial Summary Judgment on the issue of indemnification for attorneys' fees and litigation costs pursuant to its contract with Defendant, White Brothers Construction, Inc. Because the liability of White Brothers Construction, Inc. has not yet been determined, the Court held that the Bethlehem Area School District cannot pursue indemnification at this time. The Court denied Bethlehem Area School District's Motion for Partial Summary Judgment without prejudice.

**JOSEPH E. BIRKEL v. ARTHUR F. BARWICK
AND SUZANNE J. BARWICK**

Title Action

**DONALD J. LERCH AND ELIZABETH K. LERCH v. ARTHUR F.
BARWICK AND SUZANNE J. BARWICK AND JOSEPH E. BIRKEL**

Complaint for Declaratory Judgment

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2002006049 and No. C0048CV2003003536

Order of Court Recognizing that Plaintiff, Joseph E. Birkel, has title to the 50-foot wide strip, described in the March 24, 1997 Declaration of Easement, by and between Joseph E. Birkel, Grantor, and Donald J. Lerch and Elizabeth K. Lerch, Grantees, recorded in Northampton County Deed Book Vol. 1997-1, Page 045575, and that Donald J. Lerch and Elizabeth K. Lerch have title to an easement for use of the 50-foot strip.

Richard R. Jacobs, Esquire for Plaintiff, Birkel.

Erich J. Schock, Esquire for Plaintiffs, Lerch.

Alfred S. Pierce, Esquire for Defendants, Barwick.

Order of Court entered on June 28, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Plaintiff, Joseph E. Birkel, brought a Slander of Title Action against Defendants, Arthur F. Barwick and Suzanne J. Barwick, which was consolidated with an action filed by Donald J. Lerch and Elizabeth K. Lerch alleging either an express easement or prescriptive easement. The Court found that the record clearly established that the 50-foot wide strip in question was not conveyed to Arthur F. Barwick and Suzanne J. Barwick when Lot 8 was purchased from Joseph E. Birkel. Joseph E. Birkel retained title to the 50-foot strip and conveyed a valid easement to Donald J. Lerch and Elizabeth K. Lerch.

**ROLAND F. RAPPE v. MATTHEW D. DYSART AND
JAMIE A. DYSART, H/W**

Preliminary Objections

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2005001836.

Order of Court overruling Defendant's Demurrer to Count II of Plaintiffs Complaint, which seeks recovery of damages in unjust enrichment, and sustaining Defendant's Demurrer as to Count III of Plaintiff's Complaint, which seeks recovery of Damages under a Mechanics' Lien.

John L. Obrecht, Esquire for Plaintiff.

Stuart T. Schmookler, Esquire and Thomas M. Caffrey, Esquire for Defendant, Matthew D. Dysart.

Order of Court entered on July 29, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Preliminary Objections in the nature of a Demurrer as to Counts II and III of Plaintiffs Complaint, counts seeking damages under the theory of unjust enrichment and under a Mechanics' Lien respectively, were filed on behalf of Defendant, Matthew D. Dysart. Defendant, Ms. Jamie A. Dysart, did not join in on the preliminary objections. Because Plaintiff failed to comply with the Mechanics' Lien Act, 49 P.S. §1503, in providing a statement of the exact sum due under the contract, the Court sustained Defendant's

Preliminary Objections as to Count III. Furthermore, Plaintiff is permitted to plead in the alternative and Plaintiff has alleged sufficient facts to support a claim for unjust enrichment. Thus, the Court overruled Defendant's Preliminary Objections as to Count II.

**ROLAND F. RAPPE v. MATTHEW D. DYSART AND
JAMIE A. DYSART, H/W**

Preliminary Objections

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2005001322.

Order of Court striking Plaintiff's Mechanics' Lien for failure to conform to law.

John L. Obrecht, Esquire for Plaintiff.

Stuart T. Schmookler, Esquire and Thomas M. Caffrey, Esquire for Defendant, Matthew D. Dysart.

Order of Court entered on July 29, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Preliminary Objections in the nature of a Motion to Strike against the Mechanics' Lien filed by Plaintiff, Ronald F. Rappe, were filed on behalf of Defendants, Matthew D. Dysart and Jamie A. Dysart. Because Plaintiff failed to comply with the Mechanics' Lien Act, 49 P.S. §1503, in providing a statement of the kind and character of the labor and materials furnished, a statement of the exact sum due under the contract, and a description of the property and the improvement, the Court held that the Mechanics' Lien must be stricken.

**FLEET NATIONAL BANK v. BLUE RIDGE ERECTORS, INC.
AND FRANK IMPECIATI**

Motion To Dismiss Defendants' Petition To Open and/or To Strike Judgment and Lift Stay

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2005001744.

Order of Court denying Plaintiff's Motion to Dismiss Defendants' Petition to Open and/or Strike Judgment and Lift Stay, granting Defendants' Petition to Open Judgment as it pertains to interest, attorneys' fees, and costs, but denying Defendants' Petition to Open Judgment as to the underlying principal debt.

Phillip D. Berger, Esquire for Plaintiff.

Anthony J. Martino, Esquire for Defendants.

Order of Court entered on September 6, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

In considering Plaintiff's Motion to Dismiss Defendants' Petition to Open Judgment for untimely filing, the Court found that Defendants acted promptly, negotiated with Plaintiff in good faith and believed that a settlement proposal would resolve the dispute. While the Pennsylvania Rules of Civil Procedure require that a Petition to Open Judgment must be filed within thirty days of service of Judgment, a Petition may be accepted by the Court if Defendant can demonstrate compelling reasons for the delay. Furthermore, trial courts may exercise discretion in permitting late filings where the late filings do not prejudice a party. The Court denied Plaintiff's Motion to Dismiss

Defendants' Petition to Open Judgment. Defendants' Petition to Open Judgment as to the underlying principal debt was denied by the Court, but was granted as to the interest, attorneys' fees and costs.

BRIJ MOHAN, M.D. v. EASTON RADIOLOGY ASSOCIATES, P.C.

Motion for Post-Trial Relief

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2002003239.

Order of Court denying Defendant's Motion for Post-Trial Relief pursuant to Pa. R.C.P. 227.1(a).

Richard L. Orloski, Esquire and Thomas P. Brennan, Esquire for Plaintiff.

Bruce Bellingham, Esquire for Defendant.

Order of Court entered on June 24, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Defendant, Easton Radiology Associates, P.C. brought a Motion for Post-Trial Relief pursuant to Pa. R.C.P. 227.1(a) seeking reconsideration of the directed verdict entered in favor of Plaintiff, Dr. Brij Mohan, M.D., at the conclusion of the civil jury trial held on January 31, 2005 and February 1, 2005. Since the language of the "Stock Purchase Agreement" was clear and unambiguous that the purchase price of the corporation's shares shall be determined in accordance with the Certificate of Value and the valuations asserted by Defendant did not comport with the requirements of a Certificate of Value, the Court denied Defendant's Motion for Post-Trial Relief.

EILEEN G. ROSS v. GLENMOOR, L.P.

Preliminary Objections

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2005001205.

Order of Court Overruling in part and Sustaining in part Defendant's, Glenmoor, L.P., Preliminary Objections against Plaintiff's, Eileen G. Ross', Complaint.

William P. Coffin, Esquire for Plaintiff.

Scott B. Allinson, Esquire and Wendy R. S. O'Connor, Esquire for Defendant.

Order of Court entered on July 20, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Defendant, Glenmoor, L.P., brought Preliminary Objections in the nature of a Demurrer against Plaintiff's, Eileen G. Ross, claim for punitive damages for Breach of Express Warranty under the Uniform Condominium Act ("UCA"), damages for Breach of the Implied Warranty of Habitability and Reasonable Workmanship, and for Treble Damages for violation of the Unfair Trade Practice and Consumer Protection Law ("UTPCPL").

The Court Sustained Defendant's Demurrer with respect to Plaintiff's claim for punitive damages for Breach of Express Warranty as provided in the UCA. The Court held that while the UCA permits a party to seek punitive damages for breach of the warranties provided by the UCA, the Law of Pennsylvania does not permit punitive damages where Plaintiff's claim for recovery is based in contract and Plaintiff's Complaint pleads no more than ordinary negligence.

The Court Overruled Defendant's Demurrer with respect to Plaintiff's claim for Breach of the Implied Warranty of Habitability and Reasonable Workmanship. Defen-

dant argued that the Implied Warranty did not extend to defects of which the buyer had actual notice of before settlement. Generally, under the Implied Warranty, a builder of a new home warrants that the home is fit for habitation and was constructed in a workmanlike manner. Furthermore, Plaintiff could properly claim a violation of the Implied Warranty, because Plaintiff notified Defendant of the damage to the home and refused to accept the home with the defects.

Lastly, the Court Sustained Defendant's Demurrer with respect to Plaintiff's claim for Treble Damages for violation of the UTPCPL. Plaintiff failed to make allegations of common-law fraud against the Defendant, and, as a result, Plaintiff failed to state a claim under the UTPCPL.

JOSEPH GREGGO, SR. v. DONNA M. SANDT

Motion for Summary Judgment

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2004007519.

Order of Court denying Defendant's, Donna M. Sandt, Motion for Summary Judgment.

Alfred S. Pierce, Esquire for Plaintiff.

Lawrence B. Fox, Esquire for Defendant.

Order of Court entered on July 6, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

The Court denied Defendant's, Donna M. Sandt, Motion for Summary Judgment. Defendant argued that Plaintiff, Joseph Greggo, Sr., gifted to her monies deposited into joint bank accounts that were held in the Plaintiff's and Defendant's name. The Court, in relying on Section 6303 of the Decedents, Estates, and Fiduciaries Code, held that there was a material issue of fact present as to whether the Plaintiff intended to gift the monies deposited into the bank account, and therefore Summary Judgment was not appropriate.

COMMONWEALTH OF PENNSYLVANIA v. CLAYTON T. HECKMAN

Motion To Suppress Identification Evidence

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division, No. C0048CV2004002258.

Order of Court Denying the Motion to Suppress Identification Evidence filed on behalf of the Defendant, Clayton T. Heckman.

Abraham P. Kassis, Esquire for the Commonwealth.

Gilbert J. Negrete, Esquire for Defendant.

Order of Court entered on July 6, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Defendant sought to suppress on-the-scene identification evidence provided by an eyewitness as being unreliable and unduly suggestive. The Court held that the identification of the Defendant at the scene did not infringe on the Defendant's due process rights. The circumstances surrounding the Defendant being identified by the eyewitness 30 minutes after the Defendant was observed by the witness fleeing the scene coupled with the description provided by witness to the police were sufficiently reliable for the witness to properly identify the Defendant. The Court further noted that the

witness' prompt one-on-one identification of the Defendant while in custody was not unduly suggestive.

**KENNETH E. CONAHAN v. COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION**

License Suspension Appeal

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2005002397.

Order of Court Denying the License Suspension Appeal filed by Petitioner, Kenneth E. Conahan and Affirming the decision of the Pennsylvania Department of Transportation.

Paul M. Aaroe, II, Esquire for Petitioner.

Robert J. Kopacz, Esquire for PennDOT.

Order of Court entered on July 8, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Petitioner argued that the decision of the Pennsylvania Department of Transportation ("PennDOT") to suspend his Driver's License should be reversed because he did not refuse to submit to a chemical test after being charged for Driving After Imbibing. Petitioner contended that because of his medical condition he would not submit to a blood test, but would submit to a urine test. The Court held that, under decided Pennsylvania Case Law interpreting the Implied Consent Law (75 Pa. C.S.A. §1547), the choice of whether an individual is to submit to either a blood, urine, or breath test to ascertain a charged individual's Blood Alcohol Content is within the arresting Officer's discretion. As a result, Petitioner's failure to submit to a blood test was a refusal.

STEVEN PASTERNAK v. DAVID E. BURNS AND C. KEITH BURNS

Petition To Strike Off Confessed Judgment

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2004003287.

Order of Court granting Defendants'/Petitioners', David E. Burns and C. Keith Burns, Petition to Strike Off Confessed Judgment.

Steven Pasternak, Pro Se.

Steven Goudsouzian, Esquire for Defendants/Petitioners.

Order of Court entered on May 26, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Petitioners filed a Petition to Strike Off the Confessed Judgment obtained by Respondent, Steven Pasternak. The Court granted Petitioners' Petition because Respondent failed to provide proper notice of the Confessed Judgment to Petitioners pursuant to 42 Pa. C.S.A. §2737.1 and Pa. R.C.P. 2958.1 and 2973.2.

**BETHLEHEM AREA SCHOOL DISTRICT v. WHITE BROTHERS
CONSTRUCTION, INC., JOSEPH MIORELLI COMPANY, INC.,
AND SHIPPEE MECHANICAL, INC.**

Motion for Partial Summary Judgment

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2002002968.

Order of Court denying Defendant's, White Brothers Construction, Inc., Motion for Partial Summary Judgment with regards to damages for "Temporary Site Costs" and for the replacement value of "Textbooks/Supplies."

Paul A. Logan, Esquire for Plaintiff.

Michael J. Revness, Esquire and Marsha E. Flora, Esquire for Defendant White Brothers Construction.

R. Eric Hall, Esquire for Defendant Miorelli.

Frederick T. Lachat, Jr., Esquire for Defendant, Shippee Mechanical.

Order of Court entered on May 26, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Defendant, White Brothers Construction, Inc., moved for Partial Summary Judgment on the issue of damages as it related to "Temporary Site Costs" and the replacement value of "Textbooks/Supplies." With regards to "Temporary Site Costs" the Defendant argued that Plaintiff had waived the right to these consequential losses by contract. The Court disagreed and held that when reading the waiver clause relied upon by Defendant in context to the entire agreement entered into by the parties, the waiver clause did not act to waive Plaintiff's right to seek consequential losses resulting from Defendant's negligence. Second, as to damages for the replacement value of "Textbooks/Supplies," Defendant argued that Plaintiff should only be entitled to the fair market value of the supplies at the time they were damaged. In denying Defendant's Motion, the Court held that the issue of whether Plaintiff was entitled to replacement value was a question for the jury, as it is the exclusive province of the fact-finder to determine whether goods are unique such that replacement value is just compensation.

**JAYNE GUADAGNINO AND VICTOR GUADAGNINO v. THE
PENNSYLVANIA REAL ESTATE INVESTMENT TRUST D/B/A
PALMER PARK MALL v. CONTROL BUILDING SERVICES, INC.,
AND BARANOWSKI, INC.**

Motion for Summary Judgment

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2003009183.

Order of Court denying the Motion for Summary Judgment filed by Additional Defendant, Control Building Services, Inc., which Defendant, The Pennsylvania Real Investment Trust d/b/a Palmer Park Mall, and Additional Defendant, Baranowski, Inc., joined.

Richard D. Gorski, Esquire for Plaintiffs.

William H. Resch, Jr., Esquire for Defendant.

Howard D. Kauffman, Esquire for Additional Defendant, Control Building Services, Inc.

Robert G. Feldman, Esquire for Additional Defendant, Baranowski, Inc.

Order of Court entered on May 31, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Additional Defendant, Control Building Services, Inc., filed a Motion to Summary Judgment to which Defendant, The Pennsylvania Real Investment Trust d/b/a Palmer Park Mall, and Additional Defendant, Baranowski, Inc., joined, arguing that there are no material issues of fact present, and, as a result of the Hills and Ridges Doctrine, they

are entitled to judgment as a matter of law. When general slippery conditions exist in the community, the Hills and Ridges Doctrine requires that in order for a party to recover for a slip and fall the following three elements must be proven: (1) that snow and ice had accumulated on a walkway in ridges or elevations of such size and character as to unreasonably obstruct travel and constitute a danger to pedestrians traveling thereon; (2) that the property owner had notice, either actual or constructive, of the existence of such condition; (3) and that it was the dangerous accumulation of snow and ice which caused the Plaintiff to fall. The Court held that Summary Judgment was not appropriate under the Hills and Ridges Doctrine because there was a question of fact present as to whether general slippery conditions existed in the community when Plaintiff was injured.

BEAN, INC., 1800 WOOD AVENUE, EASTON, PA 18042 v. ANCHOR ENVIRONMENTAL, INC., 1304 CONSHOHOCKEN ROAD, SUITE 110, CONSHOHOCKEN, PA 19428 AND CONTRACTORS BONDING & INSURANCE COMPANY, 630 FREEDOM BUSINESS CENTER, SUITE 404, KING OF PRUSSIA, PA 19406

Preliminary Objections—Motion To Dismiss Plaintiff's Complaint

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2005000949.

Order of Court sustaining Defendants', Anchor Environmental and Contractors Bonding & Insurance Company, Preliminary Objections pursuant to Pa. R.C.P. Rule 1028(a)(6). Plaintiff's, Bean, Inc., Complaint is dismissed.

Steven N. Goudsouzian, Esquire for Plaintiff.

Andrew V. Schantz, Esquire for Defendants.

Order of Court entered on May 25, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Defendants, Anchor Environmental and Contractors Bonding & Insurance Company, filed Preliminary Objections pursuant to Pa. R.C.P. 1028(a)(6) to compel Plaintiff, Bean, Inc., to participate in mediation/arbitration as provided in their contract. In response, Plaintiff claimed that Defendants' Preliminary Objections were untimely and filed Preliminary Objections to Defendants' Preliminary Objections under Pa. R.C.P. 1026(a). The Court found that there was a prior agreement between the parties to submit to alternative dispute resolution and therefore Plaintiff's Complaint was dismissed. Furthermore, the Court, as a result of the Coordinate Jurisdiction Rule, would not overrule a prior ruling issued by another Judge of this Bench dismissing Plaintiff's Preliminary Objections to Defendants' Preliminary Objections.

BETHLEHEM AREA SCHOOL DISTRICT v. WHITE BROTHERS CONSTRUCTION, INC., JOSEPH MIORELLI COMPANY, INC., AND SHIPPEE MECHANICAL, INC.

Motion for Leave to Join an Additional Defendant

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Action—Law, No. C0048CV2002002968.

Order of Court denying Defendant's, White Brothers Construction, Inc., Motion for Leave to Join an Additional Defendant pursuant to Pennsylvania Rule of Civil Procedure 2253.

Paul A. Logan, Esquire for Plaintiff.

Michael J. Revness, Esquire and Marsha E. Flora, Esquire for Defendant, White Brothers Construction.

R. Eric Hall, Esquire for Defendant, Joseph Miorelli Company, Inc.

Frederick T. Lachat, Jr., Esquire for Defendant, Shippee Mechanical.

Order of Court entered on May 26, 2005 by Stephen G. Baratta, Judge.

DESCRIPTION OF DECISION

Defendant, White Brothers Construction, Inc. ("WBC"), joined by Defendant, Shippee Mechanical, sought Leave to Join D'Huy Engineering as an Additional Defendant pursuant to Pa. R.C.P. 2253. WBC was seeking to join D'Huy more than 60 days after the initial pleadings, and argued that they should be permitted to join D'Huy as an additional defendant under the Uniform Contribution Among Joint Tort-feasors Act because: 1) D'Huy is a joint tort-feasor; 2) WBC was not aware of D'Huy's potential liable until recently; and 3) the joining of D'Huy would not prejudice Plaintiff.

In this case, WBC did not support its claim that D'Huy was a joint tort-feasor. The factual record provided supported only that D'Huy breached an independent and separate duty to Plaintiff, and thus WBC and D'Huy could not be considered joint tort-feasors. Furthermore, the record clearly did not support that WBC did not know that D'Huy was a joint tort-feasor until recently as the contract between Plaintiff and WBC named D'Huy as project engineer. Lastly, joinder at this late stage would prejudice Plaintiff as Plaintiff planned to call D'Huy as an expert at trial.

COMMONWEALTH OF PENNSYLVANIA v. JANICE HAWK

Restitution

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division, No. 2001-3154.

Order of Court entered in favor of Commonwealth.

Constance K. Nelson, Esquire for Commonwealth.

Robert E. Sletvold, Esquire for Claimant, Dr. Delp.

Order of Court entered on October 28, 2005 by F.P. Kimberly McFadden, Judge.

DESCRIPTION OF DECISION

This Court Ordered Defendant to pay restitution on December 4, 2002, as a result of Defendant forging checks on the account of Ms. Winkler in order to pay for drugs prescribed by the Claimant, Dr. Delp. Dr. Delp has asserted in this claim that restitution should still be paid to him, albeit Dr. Delp was illegally prescribing the medications to Defendant.

Upon considering all the evidence, this Court held that Dr. Delp should not be permitted to benefit from his illegal actions. The Court agreed with the Attorney General's Office and the Commonwealth, as represented by the District Attorney's Office, that should restitution be paid to Dr. Delp the Court would be condoning a crime and also that the contract between Defendant and Dr. Delp was illegal. Therefore, this Court held that Dr. Delp's claim for restitution is denied.

MATTHEW ROTH v. RAYMOND C. FOLWEILER*Summary Judgment—Negligence Per Se*

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division, No. C48CV2002006068.

Order of Court entered in favor of Defendant.

Robert E. Sletvold, Esquire for Plaintiff.

Richard D. Adamson., Esquire for Defendant.

Order of Court entered on October 28, 2005 by F.P. Kimberly McFadden, Judge.

DESCRIPTION OF DECISION

Plaintiff filed the instant action in negligence against Defendant as a result of an accident that occurred between Plaintiff and another individual. Plaintiff asserts that Defendant was negligent *per se* as a result of temporarily stopping in front of a driveway, in violation of 75 Pa.C.S.A. 3353.

In order for an individual to be liable in negligence, the plaintiff must establish a 1) duty, 2) breach, 3) causation, and 4) damages. *Reilly v. Tiergarten Inc.*, 430 Pa. Super. 10, 633 A.2d 208, 210 (1993). In this case, Plaintiff attempts to assert the aforementioned statute imposed a duty on Defendant and he breached that duty. However, in order for the violation of a statute to constitute negligence *per se*, the statute's purpose must be found to be exclusively or in part: (a) to protect a class of persons which includes the one whose interest is invaded, and (b) to protect the particular interest which is invaded, and (c) to protect that interest against the kind of harm which has resulted, and (d) to protect that interest against the particular hazard from which the harm results. *Ennis v. Atkin*, 354 Pa. 165, 47 A.2d 217, 219 (1946), (citing Restatement (Second) of Torts, Section 286).

This Court held, in the first instance, that Defendant was not negligent *per se*, as the above elements were not met. Furthermore, this Court held that Defendant's actions fell within the exception provision of the statute, which permits the standing or stopping of a vehicle when necessary to avoid conflict with other traffic or protect the safety of any person or vehicle. Finally, this Court held that assuming, *arguendo*, that Defendant was negligent *per se*, Plaintiff's injuries were not the proximate cause of Defendant's breach, as the remoteness of the negligent act to the injury was great.