

Northampton County Reporter

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EASTON, PA October 5, 2006

NO. 92

Northampton County Reporter Digest—2006-10

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INSERT: Yellow: 1. "Should I Sell My House to the Kids for \$1.00?"

Elder Law Issues for the Non-Practitioner"

2. 2006 Calendar of Events
3. Quarterly Association Meeting
4. Website Information

Green: 1. Bridge the Gap Program

2. "2006 DUI Updates"
3. "The Appeals Process Following an Adverse Decision of the Social Security Administration"
4. PBI/CLE Seminars—NCBA Office: October-December 2006

NOTICE TO THE BAR...

Administrative Order 2006-12—Preliminary Hearings-Criminal Homicide Presecutions, Crimes Code Ch.25—see page 13.

Change in Miscellaneous Court Date

Kindly be advised that due to the Bench/Bar Conference being held on Friday, October 27, 2006, Miscellaneous Court will be held on Thursday, October 26, 2006 at 9:00 a.m. If you have any questions, please call the Court Administrator's Office at (610) 559-6701.

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Northampton County Reporter

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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

INCLUDED IN THIS ISSUE:

- Lunch Lectures:
 - “Should I Sell My House to the Kids for \$1.00? Elder Law Issues for the Non-Practitioner”—Wednesday, October 18, 2006
 - “2006 DUI Updates”—Tuesday, November 7, 2006
 - “The Appeals Process Following an Adverse Decision of the Social Security Administration”—Wednesday, November 8, 2006
- Bridge the Gap Seminar: Friday, November 3, 2006
- Quarterly Association Meeting Registration—Thursday, November 9, 2006
- NCBA Calendar of Events
- PBI/CLE Seminar Schedule

The buyer needs a hundred eyes, the seller not one.—George Herbert,
1593-1633

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**BEERS, MILDRED E.,** dec'd.

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

Executrix: Nancy L. George c/o Dennis A. DeEsch, Esquire, Minotti & DeEsch, 2240 Northampton Street, Easton, PA 18042

Attorneys: Dennis A. DeEsch, Esquire, Minotti & DeEsch, 2240 Northampton Street, Easton, PA 18042

BELLIS, HARRY K., dec'd.

Late of the Borough of Portland, Northampton County, PA

Executor: Harry Jack Bellis c/o David J. Ceraul, Esquire, 22 Market Street, P.O. Box 19, Bangor, PA 18013-0019

Attorney: David J. Ceraul, Esquire, 22 Market Street, P.O. Box 19, Bangor, PA 18013-0019

BOGER, WILLARD J., JR. a/k/a WILLARD J. BOGER, dec'd.

Late of the Township of Lehigh, Northampton County, PA

Executrix: Lois M. Warner, 3779 Mountain View Drive, Danielsville, PA 18038

Attorneys: Louis S. Minotti, Jr., Esquire, Minotti & DeEsch, 2240 Northampton Street, Easton, PA 18042

HOFER, THERESA J., dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Executrix: Monica L. Macy c/o Alfred S. Pierce, Esquire, Pierce & Dally, LLP, 124 Belvidere Street, Nazareth, PA 18064

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

RODRIGUEZ, MARIA, dec'd.

Late of Bethlehem, Northampton County, PA

Co-Administrators: Victor Locadia and Friselina Locadia, 632 South Bishopthorpe Street, Bethlehem, PA 18015

SELL, PAUL R. a/k/a PAUL RAYMOND SELL, SR., dec'd.

Late of 3864 Cedar Drive, Walnutport, Northampton County, PA

Co-Executors: Paul R. Sell, Jr., Jamin S. Sell and Melody L. Sell c/o Larry R. Roth, Esquire, The Roth Law Firm, 123 North Fifth Street, Allentown, PA 18102

Attorneys: Larry R. Roth, Esquire, The Roth Law Firm, 123 North Fifth Street, Allentown, PA 18102

SECOND PUBLICATION**COFFIN, CLAIRE E.,** dec'd.

Late of Bethlehem Township, Northampton County, PA

Executor: Thomas P. Stitt, Sr.
c/o Thomas P. Stitt, Esquire,
576 Nazareth Pike (Rt. 191),
Nazareth, PA 18064-8400
Attorney: Thomas P. Stitt, Es-
quire, 576 Nazareth Pike (Rt.
191), Nazareth, PA 18064-8400

GILL, JOYCE F., dec'd.

Late of the City of Bethlehem,
Northampton County, PA
Co-Executors: William B. Gill
and Carol E. Strong c/o Jus-
tin 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

HARTZELL, RUTH L., dec'd.

Late of Allen Township, North-
ampton County, PA
Executrix: Judith A. Mengel
c/o Bradford D. Wagner, Es-
quire, 662 Main Street, Heller-
town, PA 18055-1726
Attorney: Bradford D. Wagner,
Esquire, 662 Main Street,
Hellertown, PA 18055-1726

HOFER, STELLA M., dec'd.

Late of the Borough of Naza-
reth, Northampton County,
PA
Co-Executrices: Florence M.
Horvath, 328 Cherry Hill
Road, Nazareth, PA 18064-
8847 and Stella A. Gordon, 251
Cherry Hill Road, Nazareth,
PA 18064-8839
Attorneys: Peters, Moritz,
Peischl, Zulick & Landes, LLP,
1 South Main Street, Naza-
reth, PA 18064-2083

KENNEDY, RACHEL K., dec'd.

Late of Palmer Township,
Northampton County, PA
Co-Executors: James V. Ken-
nedy and John P. Kennedy

c/o Robert C. Brown, Jr., Es-
quire, Fox, Oldt & Brown, 940
West Lafayette Street, Suite
100, Easton, PA 18042-1412
Attorneys: Robert C. Brown,
Jr., Esquire, Fox, Oldt &
Brown, 940 West Lafayette
Street, Suite 100, Easton, PA
18042-1412

KURISCO, MARIE, dec'd.

Late of the City of Bethlehem,
Northampton County, PA
Administratrix d.b.n.c.t.a:
Marlene Kurisco 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

MacARTHUR, WILLIAM G.
a/k/a WILLIAM G. McAR-
THUR, dec'd.

Late of the City of Easton,
Northampton County, PA
Administrator: Michael A.
Ondilla c/o 3400 Bath Pike,
Suite 311, Bethlehem, PA
18017

OPLINGER, GRACE I., dec'd.

Late of the City of Easton,
Northampton County, PA
Co-Executrices: Shirley A.
Kuntz and Audrey J. Blick-
ensderfer c/o Joel H. Ziev, Es-
quire, 700 Washington Street,
Easton, PA 18042
Attorney: Joel H. Ziev, Es-
quire, 700 Washington Street,
Easton, PA 18042

RISK, DeLLOYD J., dec'd.

Late of the City of Bethlehem,
Northampton County, PA
Executor: Warren J. Risk c/o
Jacob S. Kolb, Esquire, Kolb,
Vasiliadis and Florenz, 74
West Broad Street, Ste. 170,
Bethlehem, PA 18018-5738

Attorneys: Jacob S. Kolb, Esquire, Kolb, Vasiliadis and Florenz, 74 West Broad Street, Ste. 170, Bethlehem, PA 18018-5738

ROBERTS, BETTY P., dec'd.

Late of 1569 Teels Road, Pen Argyl, Plainfield Township, Northampton County, PA
Co-Executrices: Susan J. Wise and Ellen M. Counterman c/o Kirby G. Upright, Esquire, King Spry Herman Freund & Faul LLC, One West Broad Street, Suite 700, Bethlehem, PA 18018

Attorneys: Kirby G. Upright, Esquire, King Spry Herman Freund & Faul LLC, One West Broad Street, Suite 700, Bethlehem, PA 18018

SAUERWINE, RONALD C., dec'd.

Late of W 31 Walnutport Court #1, Walnutport, Northampton County, PA
Executrix: Ronda Wirth, 2023 N. 1st Ave., Whitehall, PA 18052

Attorney: Brian R. Joyce, Esquire, 2895 Hamilton Blvd., Ste. 203, Allentown, PA 18104

SCHWENK, CHARLES W., dec'd.

Late of 13 Seyfried Avenue, Nazareth, Northampton County, PA

Co-Executors: Jeffrey M. Schwenk and Douglas C. Schwenk c/o Sandor Engel, Esquire, 825 N. Twelfth Street, Allentown, PA 18102

Attorney: Sandor Engel, Esquire, 825 N. Twelfth Street, Allentown, PA 18102

TUROCY, DOROTHY G., dec'd.

Late of Northampton Borough, Northampton County, PA

Co-Executors: David Turocy and Steven Turocy c/o Bruce W. Weida, Esquire, 245 Main Street, Emmaus, PA 18049

Attorney: Bruce W. Weida, Esquire, 245 Main Street, Emmaus, PA 18049

WEAVER, DOROTHY M., dec'd.

Late of the Borough of Hellertown, Northampton County, PA

Executrix: Barbara A. Weaver 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

YOUNG, EVANTHIA P. a/k/a EVE YOUNG, dec'd.

Late of the Township of Hanover, Northampton County, PA
Administratrix: Stacy R. Young, 573 Kevin Drive, Bethlehem, PA 18017

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

THIRD PUBLICATION

ARBIZZANI, DOROTHEA R., dec'd.

Late of Bethlehem, Northampton County, PA

Executrix: Martha L. Stear, 1840 Millard Street, Bethlehem, PA 18017

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

BENTZ, DANIEL J., dec'd.

Late of the Borough of Wilson, Northampton County, PA

Executrix: Barbara L. Cox, 228 Poplar Drive, Centreville, MD 21617

BOWERS, SHAWN R., dec'd.

Late of Moore Township, Northampton County, PA
 Administratrix: Kathryn L. Brace, 241 W. Beil Avenue, Nazareth, PA 18064
 Attorneys: Peters, Moritz, Peischl, Zulick & Landes, LLP, 1 South Main Street, Nazareth, PA 18064-2083

BRENNAN, LEON J. a/k/a LEON JOSEPH BRENNAN, JR., dec'd.

Late of Palmer Township, Northampton County, PA
 Executor: Alexander Gale c/o Thomas P. Stitt, Esquire, 576 Nazareth Pike (RT 191), Nazareth, PA 18064-8400
 Attorney: Thomas P. Stitt, Esquire, 576 Nazareth Pike (RT 191), Nazareth, PA 18064-8400

DUBBS, CHARLES WILLIAM, SR., dec'd.

Late of Bethlehem, Northampton County, PA
 Executor: Charles W. Dubbs, Jr. c/o William W. Matz, Jr., Esquire, 211 W. Broad Street, Bethlehem, PA 18018-5517
 Attorney: William W. Matz, Jr., Esquire, 211 W. Broad Street, Bethlehem, PA 18018-5517

HATFIELD, OPHELIA REBECCA a/k/a O. REBECCA HATFIELD, dec'd.

Late of the City of Bethlehem, Northampton County, PA
 Executrix: Nettie Jayne Hatfield Robinson a/k/a Jayne Febbraro c/o Ellen M. Kraft, Esquire, 3400 Bath Pike, Suite

311, Bethlehem, PA 18017-2485

Attorney: Ellen M. Kraft, Esquire, 3400 Bath Pike, Suite 311, Bethlehem, PA 18017-2485

ISKANDARIAN, LARISA, dec'd.

Late of the Township of Forks, Northampton County, PA
 Executor: Marvin Turetsky, 200 Madison Avenue, Suite 2210, New York, NY 10016
 Attorneys: Patrick Naessens, Esquire, Dillworth Paxson, LLP, Mellon Bank Center, 1735 Market Street, Suite 3200, Philadelphia, PA 19103-7595

KNECHT, WILSON W., dec'd.

Late of Lower Nazareth Township, Northampton County, PA
 Co-Executors: Barbara A. Knecht, 4005 Newburg Road, Easton, PA 18045-8222 and Randy W. Knecht, 3987 Newburg Road, Easton, PA 18045-8220

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

KOLMAR, THERESA R., dec'd.

Late of Bethlehem Township, Northampton County, PA
 Executor: Stephen J. Kolmar c/o Dianne C. Magee, Esquire, Grim, Biehn & Thatcher, P.O. Box 380, Quakertown, PA 18951

Attorneys: Dianne C. Magee, Esquire, Grim, Biehn & Thatcher, P.O. Box 380, Quakertown, PA 18951

KRAJCZAR, THERESA, dec'd.

Late of the Borough of Free-mansburg, Northampton County, PA

Executor: Donald Krajczar
c/o Harry Newman, Esquire,
3897 Adler Place, Suite 180C,
Bethlehem, PA 18017

Attorney: Harry Newman, Es-
quire, 3897 Adler Place, Suite
180C, Bethlehem, PA 18017

**RUYAK, EDWARD G. a/k/a ED-
WARD GEORGE RUYAK,**
dec'd.

Late of the City of Bethlehem,
Northampton County, PA

Executrix: Grace F. Ruyak
c/o Joseph F. Leeson, Jr., Es-
quire, Leeson, Leeson & Lee-
son, 70 E. Broad Street, P.O.
Box 1426, Bethlehem, PA
18016-1426

Attorneys: Joseph F. Leeson,
Jr., Esquire, Leeson, Leeson &
Leeson, 70 E. Broad Street,
P.O. Box 1426, Bethlehem, PA
18016-1426

**SIEGFRIED, OLGA M. a/k/a
OLGA SIEGFRIED,** dec'd.

Late of the City of Bethlehem,
Northampton County, PA

Executor: Paul M. Siegfried
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

**STOFAN, MARY M. a/k/a
MARY MARGARET STOFAN,**
dec'd.

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

Executrix: Dolores A. Fartel
c/o Bradford D. Wagner, Es-
quire, 662 Main Street, Heller-
town, PA 18055-1726

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

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 pursuant to
the provisions of the Business Cor-
poration Law of the Commonwealth
of Pennsylvania, Act of December
21, 1988 (P.L. 1444, No. 177), as
amended.

The name of the corporation is:
MILLSTONE REALTY, INC.

The Articles of Incorporation
were filed on August 31, 2006.

JAMES L. BROUGHAL, ESQUIRE
BROUGHAL & DeVITO, L.L.P.
38 West Market Street
Bethlehem, PA 18018

Oct. 5

NOTICE IS HEREBY GIVEN that
Articles of Incorporation were filed
in the Department of State of the
Commonwealth of Pennsylvania, at
Harrisburg, Pennsylvania, for the
purpose of obtaining a Certificate
of Incorporation of a proposed busi-
ness corporation to be organized
under the provisions of the Penn-
sylvania Business Corporation Law
of 1988, P.L. 1444, No. 177, as
amended.

The name of the corporation is:
RAMOS ELECTRIC

The Articles of Incorporation
were filed on September 18, 2006.

KARL F. LONGENBACH,
ESQUIRE
Attorney at Law

5285 Maple Street
P.O. Box 1920
Bethlehem, PA 18016-1920

Oct. 5

**FICTITIOUS NAME
REGISTRATION NOTICE**

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Act 295 of 1982, as amended, of the filing of, in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, a Certificate for the conduct of a business in Northampton County, Pennsylvania, under the assumed or fictitious name, style or designation of:

TANTASTIC II

with its principal place of business at: 2279 Schoenersville Road, Bethlehem, Pennsylvania 18017.

The name and address of the entity owning or interested in said business is: Devinkodi, Inc., 2279 Schoenersville Road, Bethlehem, Pennsylvania 18017.

The Certificate was filed on July 17, 2006.

STEPHEN M. MOWREY,
ESQUIRE
STEPHEN MOWREY, P.C.

4501 Bath Pike
Bethlehem, PA 18017

Oct. 5

**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 August 14, 2006, 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:

**TEGWYN HUGHES WILDLIFE
PEST CONTROL, LLC**

Jennifer R. Sletvold, Esquire
Maloney, Danyi, Sletvold
& O'Donnell

901 West Lehigh Street
P.O. Box 1279
Bethlehem, PA 18016-1279

Oct. 5

NOTICE

NOTICE IS HEREBY GIVEN that the Tax Claim Unit, Fiscal Affairs, Northampton County, Pennsylvania, did present to the Court of Common Pleas of Northampton County, Pennsylvania, its consolidated return of the sale of properties conducted by the said Unit on September 11, 2006. Confirmation Nisi of said return was entered by the Court of Common Pleas on the 27th day of September 2006. Section 607(b) of the Act of Assembly of July 7, 1947, P.L. 1369, provides that objections thereto may be filed by any owner or lien creditor within thirty (30) days after date of Confirmation Nisi of the consolidated return and if no objections or exceptions are made thereto, a Decree of Absolute Confirmation shall be entered as of course by the Prothonotary of Northampton County, Pennsylvania.

Cindy M. Hoffer
Supervisor Tax Claim Unit
Fiscal Affairs
Northampton County

ADMINISTRATOR WANTED

Heckscher, Teillon, Terrill & Sager, P.C. (www.htts.com), an 11 lawyer trusts and estates boutique located in West Conshohocken, Montgomery County, is looking for a Firm Administrator. Hands-on skills in financial management/analysis, human resources, facilities management, technology, marketing, and ability to work with and lead a diverse group of professionals required. Prior law firm administration experience required. Send resumes, in confidence, to Kim Fetrow (kfetrow@htts.com or fax (610) 940-6042). Salary commensurate with experience.

Oct. 5, 12

ATTORNEY WANTED

Heckscher, Teillon, Terrill & Sager, P.C. (www.htts.com), an 11 lawyer trusts and estates boutique with 5 ACTEC Fellows located in West Conshohocken, Montgomery County, is looking for an energetic associate with 2-6 years experience in trust and estate work. Our firm practices in all areas of estate and trust planning, administration, and litigation, and in the related tax, charitable, and business-planning fields. Competitive salary and benefits. Send resumes, in confidence, to Tom Hiscott (tohiscott@htts.com or fax (610) 940-6042).

Oct. 5, 12

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**IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, PENNSYLVANIA
CRIMINAL DIVISION**

IN RE: PRELIMINARY :
HEARINGS—CRIMINAL : **AD-322-2006**
HOMICIDE PROSECUTIONS, :
CRIMES CODE CH.25 :

ADMINISTRATIVE ORDER 2006-12

AND NOW, this 26th day of September, 2006, it is hereby ordered that all preliminary hearings in criminal homicide prosecutions, Crimes Code Ch. 25, shall be held at the Northampton County Courthouse.

BY THE COURT:

/s/Robert A. Freedberg

ROBERT A. FREEDBERG, P.J.

Oct. 5

NORTHAMPTON COUNTY REPORTER DIGEST—2006-10
RECENT DECISIONS OF THE COURTS OF COMMON PLEAS
OF NORTHAMPTON COUNTY
MICHELLE FLANNERY McKENNA INDIVIDUALLY AND AS GUARDIAN
OF MATTHEW FLANNERY, MINOR, PLAINTIFFS v. CHILDREN'S HOME
OF EASTON AND MICHELLE H. DANJCZEK, DEFENDANTS

Preliminary Objections

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division, No. 0048-CV2006-1757.

Order of Court denying defendants' preliminary objections.

Dean H. Malik, Esquire, for Plaintiffs.

Sean V. Kemether, Esquire, for Defendants.

Order of Court entered on May 19, 2006, by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Defendants raised preliminary objections to plaintiffs' complaint, contending that paragraphs 109(p) and 115(q), failed to comply with Pa.RC.P. 1019(a), which states, "[t]he material facts on which a cause of action or defense is based shall be stated in a concise and summary form." Defendants contended that by failing to state the specific statute, plaintiffs failed to provide the material facts on which the negligence cause of action is based. In civil actions where the facts pled constitute the cause of action, the plaintiff need not specify the statute plaintiff contends the defendant violated. Rather, he must only allege the material facts which form the basis of the cause of action which raise a violation of the statute. *City of New Castle v. Uzamere*, 829 A.2d 763, 772-773 (Pa. Cmwlth. 2003). The Court held that although plaintiffs did not specify that statute(s) that they contended defendants violated, paragraphs 109(p) and 115(q) accompanied with the other averments in the complaint provided sufficient notice to the defendants and sufficient material facts to form the basis of a negligence cause of action.

COMMONWEALTH OF PENNSYLVANIA
v. 548 LINE STREET, CITY OF EASTON

Motion to Permit Occupancy

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division—No. CR 2005-4541.

Order of Court denying claimant's motion to permit occupancy.

Sandra Foster-McClure, Esquire, for Commonwealth.

Leonard M. Mellon, for Defendant.

Order of Court entered on March 20, 2006, by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Defendant filed a motion to permit occupancy of a residence of a property that the Commonwealth seized pursuant to 42 Pa.C.S.A. §6801. 42 Pa.C.S.A. §6801(d) provides that law enforcement has custody over seized property. The Commonwealth had maintained the property since its seizure and placed the property under the Northampton County's insurance policy. The claimant was also given an opportunity to remove personal items from the property that were not subject to the forfeiture action. The statute provides law enforcement authority with custody over the property pending a

forfeiture action subject only to an order of this court, the district attorney, or Attorney General. 42 Pa.C.S.A. §6801(d). The Court held that claimant did not demonstrate sufficient basis for the court to exercise any discretion it might have to rule in his favor.

**ALAN AND DIONNE VEST, PLAINTIFFS
v. SHIRLEY RASELY, DEFENDANT**

Action for Waste

In the Civil Court of Common Pleas of Northampton County, PA, Civil Division—Law, No. C4800CV2003-6555.

Order of Court denying Plaintiffs' cause of action seeking termination of defendant's life estate for waste; denying Defendant's request for reimbursement of expenses for permanent improvement made on the property; and granting Plaintiffs' request for payment of the 2005 real estate taxes and the 2005 garbage bills for the property.

Anthony J. Martino, Esquire, for Plaintiff.

Donald B. Corriere, Esquire, for Defendant.

Order of Court entered on July 20, 2006, by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Plaintiffs filed a complaint seeking termination of defendant's life estate for waste and reimbursement for taxes and garbage fees. Defendant filed a counter-claim seeking reimbursement for expenses she incurred to repair the property. In an action for waste the remainderman bears the burden of proof to show that the life tenant committed waste against the remainder interest. *Morris v. Knight*, 14 Pa. Super. 324 (1900). The measure of damages in a cause of action for waste is the injury to the remainder estate. *Id.* The Court held that because plaintiffs purchased their remainder interest "as is," their cause of action for waste can only be prospective from the date of acquiring title. After reviewing the evidence the court held that when plaintiffs purchased the property in March 2003, the structures on the property were so deteriorated that it was not economically feasible to repair them; thus, any further deterioration of the structures did not injure plaintiffs. Additionally, the Court held that since the general rule is that a life tenant is responsible for ordinary repairs and maintenance for the property, *In re Estate of Hewitt*, 721 A.2d 1082, 1085 (Pa. 1998), and because plaintiffs justifiably refused to consent to the improvements that defendant made to the structures, defendant alone bore the expense of those improvements.

**SABRINA L. McKERNAN-ROYAL, PLAINTIFF
v. DOUGLAS MALTBY, DEFENDANT**

Custody Determination

In the Civil Court of Common Pleas of Northampton County, PA, Civil Division—Law, No. C4800CV2004-8563.

Order of Court awarding shared legal custody; plaintiff was awarded primary physical custodian with the defendant retaining partial physical custody of the child.

Anne K. Manley, Esquire, for Plaintiff.

Victor Scomillio, Esquire, for Defendant.

Order or Court entered on February 27, 2006, by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Plaintiff filed a complaint seeking to confirm primary physical custody. In Defendant's answer he asserted that it was in the best interests of the child for him to have primary physical custody in Washington State. The Plaintiff and child lived in Pennsylvania for approximately two and one half years. The paramount concern in all custody cases is the best interest of the child. *Tripathi v. Tripathi*, 787 A.2d 436, 439 (Pa. Super. 2001). "The determination of a child's best interest involves the consideration of *all* relevant factors that legitimately affect the child's physical, intellectual, moral and spiritual well-being." *Clapper v. Harvey*, 716 A.2d 1271, 1274 (Pa. Super. 1998). "When the petitioning parent is not the custodial parent and, as here, never has been the custodial parent, short of a determination that the custodial parent is unfit or that there is some unique and highly beneficial benefit to the child in relocation, the burden faced by the non-custodial parent seeking relocation of the child is a very heavy one." *Tripathi*, supra at 441-442. The Court held that Defendant failed to sustain his "very heavy" burden of proving that the relocation to Washington would provide a "unique and highly beneficial benefit" to the child.

**COMMONWEALTH OF PENNSYLVANIA v.
KENNETH MURAWSKI, DEFENDANT***Omnibus Pretrial Motion*

In the Court of Common Pleas of Northampton County, PA, Criminal Division—
Docket No. 2005-2375.

Order of Court denying Defendant's omnibus pretrial motion.

Michael J. Thompson, Esquire, for the Commonwealth.

Matthew C. Potts, Esquire, for Defendant.

Order of Court entered on October 18, 2005, by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Defendant's omnibus pretrial motion raised two issues. The first issue was whether police officer's seizure of the drug paraphernalia without a search warrant was a violation of defendant's constitutional rights which would trigger the exclusionary rule. The second issue was whether the Commonwealth failed to present sufficient evidence to establish a prima facie case for possession of drug paraphernalia. One of the limited circumstances, in which a warrantless search is reasonable under the Federal Constitution, "is a situation in which voluntary consent has been obtained, either from the individual whose property is searched ... , or from a third party who possesses common authority over the premises" *Illinois v. Rodriguez*, 497 U.S. 177, 181 (1990). The Court recognized that the Supreme Court of Pennsylvania has not decided whether the "apparent authority exception" is applicable in situations involving the average citizen, it believed that the dictum of *Commonwealth v. Hughes*, 836 A.2d 893, 904 (Pa. 2003), was instructive, and therefore, applied the same standard as the Federal Constitution to determine whether the "apparent authority exception" to a warrantless search was applicable. After reviewing the facts, the Court held that the "apparent authority exception" to a warrantless search was applicable; thus, the search was legally conducted. As for the second issue, the crime possession of drug paraphernalia, 35 P.S. §780-113(a)(32), requires the Commonwealth to establish that the defendant had knowing or intentional possession of the drug paraphernalia. The Court held that when

drawing all reasonable inferences in the light most favorable to the Commonwealth, the fact that the drug paraphernalia was located in two areas of the apartment indicates that the resident of the apartment, and not a guest, was the owner of the contraband.

**WILLIAM ELEK LIMITED, PLAINTIFF v. DOMENICO CENTOFANTI
AND DEBORAH CENTOFANTI, DEFENDANTS**

Motion for Judgment on the Pleadings

In the Civil Court of Common Pleas of Northampton County, PA, Civil Action—Law, No. C4800CV2005002576.

Order of Court denying Defendant Domenico Centofanti's motion for judgment on the pleadings. Leo V. DeVito, Jr., Esquire, for Plaintiff.

Stuart T. Cottee, Esquire, for Defendant Domenico Centofanti.

Order of Court entered on April 10, 2006, by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Defendant Domenico Centofanti brought a motion for judgment on the pleadings contending that plaintiff failed to allege that he entered into the contract it could not maintain the causes of action of breach of contract and unjust enrichment against him. Under Pennsylvania law there is, with respect to property held by married persons as tenants in the entirety, "a well established presumption that during the term of a marriage either spouse had the power to act for both, without specific authorization, so long as the benefits of such action inure to both." *J.R. Christ Construction Co v. Olevsky*, 426 Pa. 343, 232 A.2d 196, 199 (1967). "Thus, either spouse has authority to contract for improvements to entireties property so long as the contract inures to the benefit of both spouses. *Miller v. Benjamin Coal Co.*, 425 Pa. Super. 316, 625 A.2d 66, 67 (1993). The Court held that there were several issues of material fact in dispute that were for determination by the fact-finder upon hearing the evidence.

**JOANN WAGNER AND MARK WAGNER, PLAINTIFFS v.
HAROLD M. BLACKER GENERAL CONTRACTORS, AND
HAROLD M. BLACKER, JOHANN MICHAEL WILLIAMS, AND
ESTATE OF WAYNE BLACKER, DEFENDANTS**

Preliminary Objections

In the Civil Court of Common Pleas of Northampton County, PA, Civil Action—Law, No. C4800CV2005-3919.

Order of Court denying Defendants' preliminary objections.

Mark R. Strauss, Esquire, for Plaintiffs.

R. Eric Hall, Esquire, for Defendants.

Order of Court entered on October 6, 2005, denying defendants' preliminary objections.

DESCRIPTION OF DECISION

Defendants brought a preliminary motion to strike the plaintiff's cause of action for punitive damages for failure to plead averments of fact to support such a cause of action. Pennsylvania law provides that punitive damages may be awarded for outrageous conduct, *i.e.*, acts done with a bad motive or with a reckless indifference to the interests of others. *Focht v. Rabada*, 217 Pa. Super. 35, 268 A.2d 157, 159 (1970). According to plaintiff's averments defendant, Johann Williams, drove intoxicated at a high rate of speed on Easton Avenue, causing a head-on collision. The Court held that

the facts as stated in plaintiff's complaint were sufficient to show Williams' outrageous conduct for purposes of allowing the issue of punitive damages to proceed to trial. *See Long v. Ohler*, 1 D. & C. 4th 402, 406 (1988); *Moll v. Fehnel*, 70 D. & C. 2d 295, 297 (1971).

**HELEN R. CAPPARELL, PLAINTIFF v. KEPHART TRUCKING COMPANY,
GURPRETT S. CHAHAL, A/K/A GURPRETT SINGH AND KEPHART
TRANSPORTATION SERVICES, INC., DEFENDANTS**

Motion for Bifurcation

In the Civil Court of Common Pleas of Northampton County, PA, Civil Action—Law, No. C4800CV2003-1247.

Order of Court denying Defendants' Motion for Bifurcation.

Anthony S. Sallavanti, Esquire, for Plaintiff.

John J. Delany, Esquire, for Defendants.

Order of Court entered on April 10, 2006, by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Defendants brought a motion for bifurcation of trial requesting the Court to bifurcate the trial in order to determine defendant Chahal's liability and total damages prior to the determination of liability for the negligent entrustment causes of action. The accident in the instant matter was a rear-end collision, in which the negligence of defendant Chahal did not appear to be contested. The Court held that any potential prejudice that the jury may have from hearing testimony about defendant Chahal's past driving record could be forestalled by appropriate instructions to the jury that they are not to consider the poor driving record of defendant Chahal in determining his liability. *Christiansen v. Silfies*, supra at 400 n.4.

**WIND-DRIFT REAL ESTATE ASSOCIATES, PLAINTIFF v.
BLUE RIDGE REALTY ASSOCIATES, L.P., DEFENDANT**

Motion for Judgment on the Pleadings

In the Civil Court of Common Pleas of Northampton County, PA, Civil Action—Law, Nos. C-48-CV-2006-376, C-48-CV-2006-374.

Order of Court denying Defendant's motion for judgment on the pleadings, granting plaintiff's cross motion for judgment on the pleadings, and denying defendant's petition to strike lis pendens.

Leonard N. Zito, Esquire for Plaintiff.

Nicholas R. Sabatine, III, Esquire for Defendant.

Order of Court entered on March 27, 2006, by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

On April 1, 2005, the parties entered into an agreement pursuant to which the plaintiff agreed to purchase 57.6 acres of land located in Bushkill Township, Northampton County from the defendant. A dispute arose between the parties as to the interpretation of the term "Additional Deposit," and whether the payments made as "Additional Deposits" were to be credited toward the purchase price or be considered interest payments to the Defendant. The Plaintiff filed the action seeking a declaratory judgment that the payments made as "Additional Deposits" were to be credited toward the purchase price. Thereafter, both parties filed motions for judgment on the pleadings.

The Court held the choice of the word deposit and the definition of deposit clearly supports the conclusion that the payment in dispute is a “deposit” to be preserved and applied to the purchase price. Additionally, the Court held that because of its decision regarding the term “Additional Deposit” and the fact that the subject agreement involved title to the real estate at issue, the petition to strike lis pendens must be denied.

**IRVIN B. KRUKENKAMP, PLAINTIFF v.
DENISE J. KRUKENKAMP, DEFENDANT**

Preliminary Objections

In the Civil Court in the Court of Common Pleas of Northampton County, PA, Civil Action—Law, No. C48CV2003-7542.

Order of Court granting defendant's preliminary objections and dismissing plaintiff's complaint.

Anthony M. Muir, Esquire for Plaintiff.

Richard Shiroff, Esquire for Defendant.

Order of Court entered on March 20, 2006, by Robert A. Freedberg, President Judge.

Pending Appeal to the Superior Court of Pennsylvania.

DESCRIPTION OF DECISION

Defendant, Denise Krukenkamp filed preliminary objections to plaintiff, Irvin Krukenkamp's complaint, which sought modification of a property settlement which he and defendant entered into in the Commonwealth of Massachusetts. Defendant's preliminary objection contended that this court lacked jurisdiction to modify the property settlement because it was a spousal support agreement; therefore, pursuant to the Uniform Interstate Family Support Act, Massachusetts retained continuing, exclusive jurisdiction. Plaintiff asserted that although the payment provision was referred to as “alimony” for tax benefits, it was actually a child support provision and not subject to the jurisdictional rules governing spousal support agreements. The Court held that the language of the agreement clearly referred to the provision as alimony and the Plaintiff and Defendant treated the provision as alimony for tax purposes; thus, the provision was clearly alimony and not child support. Therefore, the Court held that under 23 Pa.C.S.A. §7205(f), it could not properly assert jurisdiction because Massachusetts retained continuing, exclusive jurisdiction

