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INSERT: Blue: 1. 2008 Calendar of Events
2. Annual Association Meeting

NOTICE TO THE BAR....

Kindly be advised that Wednesday, February 27, 2008, has been scheduled as an additional day for telephone status conferences.

If you have any questions concerning this change, please call the Court Administrator's Office at (610) 559-6700.

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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

NOTICE TO NCBA MEMBERS – BAR NEWS

Mark Your Calendars

NCBA Annual Association Meeting: scheduled for Thursday, January 17, 2008, at the Best Western, Bethlehem. Registration form enclosed.

Annual Reception for the Court: scheduled for Friday, April 4, 2008, at the Northampton Country Club.

Summer Outing—Thursday, July 24, 2008. This is a week later than usual. Please clear the date on your calendars now so you are available to attend!

It took me seventeen years to get three thousand hits in baseball. I did it in one afternoon on the golf course.—Hank Aaron

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**DEPEW, ELOIS J.,** dec'd.

Late of Northampton, Northampton County, PA
Executor: Eugene D. Ujvary, Jr.,
232 Park Ridge Drive, Easton, PA
18040

FILIPEK, MARY REITER, dec'd.

Late of Hellertown, Northampton County, PA
Executrix: Maryann Orwan c/o
Laura M. Scanlon, Esquire, 3407
West Chester Pike, Newtown
Square, PA 19073
Attorney: Laura M. Scanlon,
Esquire, 3407 West Chester Pike,
Newtown Square, PA 19073

FRABLE, ROY G., dec'd.

Late of the Borough of Nazareth,
Northampton County, PA
Executor: Mr. Robert Roy Frable
c/o Barbara A. Hollenbach, Es-
quire, Tallman, Hudders & Sor-
rentino, P.C., The Paragon Cen-
tre, 1611 Pond Road, Suite 300,
Allentown, PA 18104-2258
Attorneys: Barbara A. Hollen-
bach, Esquire, Tallman, Hudders
& Sorrentino, P.C., The Paragon
Centre, 1611 Pond Road, Suite
300, Allentown, PA 18104-2258

GILROY, SHERRY A., dec'd.

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

Executor: James Velopolcak c/o
Karl H. Kline, Esquire, Karl Kline
P.C., 2925 William Penn High-
way, Suite 301, Easton, PA
18045-5283

Attorneys: Karl H. Kline, Esquire,
Karl Kline P.C., 2925 William
Penn Highway, Suite 301, Eas-
ton, PA 18045-5283

KLOTZ, MABEL, dec'd.

Late of Lower Saucon Township,
Northampton County, PA
Co-Executors: Robert L. Klotz
and Dorothy K. Woodyatt c/o
Bradford D. Wagner, Esquire,
662 Main Street, Hellertown, PA
18055-1726
Attorney: Bradford D. Wagner,
Esquire, 662 Main Street, Hell-
ertown, PA 18055-1726

LILLY, ELIZABETH, dec'd.

Late of Nazareth, Northampton
County, PA
Executor: Wayne T. Lilly c/o
Kimberly G. Krupka, Esquire,
Gross, McGinley, LaBarre &
Eaton, LLP, P.O. Box 4060, Al-
lentown, PA 18105-4060
Attorneys: Kimberly G. Krupka,
Esquire, Gross, McGinley, La-
Barre & Eaton, LLP, P.O. Box
4060, Allentown, PA 18105-
4060

MEIXSELL, JOHN D., JR., dec'd.

Late of the Borough of Nazareth,
Northampton County, PA
Co-Executors: James M. Meix-
sell, 499 Midland Road, Naza-
reth, PA 18064 and Michael A.
Meixsell, 2519 Monocacy Ave.,
Bath, PA 18014
Attorneys: Peters, Moritz, Pei-
schl, Zulick, Landes & Brienza,
LLP, 1 South Main Street, Naza-
reth, PA 18064

SECOND PUBLICATION**FULS, VIRGINIA B.**, dec'd.

Late of Bethlehem, Northampton County, PA

Co-Executors: Robert H. Fuls and Joy A. Palmisano 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

KINTNER, ADELE, dec'd.

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

Administrator: Steven N. Goudsouzian, 2925 William Penn Highway, Suite 301, Easton, PA 18045-5283

LEBBING, RICHARD FRED, SR. a/k/a RICHARD F. LEBBING, SR., dec'd.

Late of Easton, Northampton County, PA

Executor: Richard F. Lebbing, Jr. c/o Richard Hale Pratt, Esquire, Pratt, Brett & Luce, P.C., 68 East Court Street, P.O. Box 659, Doylestown, PA 18901-0659

Attorneys: Richard Hale Pratt, Esquire, Pratt, Brett & Luce, P.C., 68 East Court Street, P.O. Box 659, Doylestown, PA 18901-0659

MORRIS, DOROTHY NAOMI, dec'd.

Late of the Borough of Bangor, Northampton County, PA

Executor: Patrick H. Morris, IV, 14683 Country Place, Alexander, AR 72002

Attorney: Samuel P. Murray, Esquire, 720 Washington Street, Easton, PA 18042

THIRD PUBLICATION**BARTHOLOMEW, ALBERTA M.**, dec'd.

Late of the Township of Moore, Northampton County, PA

Co-Executors: Luther H. Bartholomew and Geraldine M. Itterly 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

CREAMER, FLORENCE M., dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executor: Gerald J. Creamer c/o Joseph A. Corpora, III, Esquire, Sovereign Bank Building, 100 North Third Street, Suite 502, Easton, PA 18042

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

KLINE, PAUL W., dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Executor: Stanley V. Kline, 509 Old Mill Road, Easton, PA 18040-1128

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

LAWRENCE, ELIZABETH B. a/k/a ELIZABETH V. LAWRENCE, dec'd.

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

Executrix: Jessie Buddock c/o Haber, Corriere and Backenstoe, 433 East Broad Street, P.O. Box 1217, Bethlehem, PA 18016-1217

Attorneys: Haber, Corriere and Backenstoe, 433 East Broad Street, P.O. Box 1217, Bethlehem, PA 18016-1217

SARTZ, JACOB P., JR., dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executor: Jacob Peter Sartz, III 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

SEIER, ALFRED J., dec'd.

Late of the Borough of Northampton, Northampton County, PA

Co-Administrators: Joanne Dottery, Alfred J. Seier, Jr. and Jeffrey P. Seier c/o Harry Newman, Esquire, Harry Newman & Associates, P.C., 3897 Adler Place, Suite 180C, Bethlehem, PA 18017

Attorneys: Harry Newman, Esquire, Harry Newman & Associates, P.C., 3897 Adler Place, Suite 180C, Bethlehem, PA 18017

NOTICES OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, 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, ap-

proved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is:

ALL ABOUT BEAUTY, INC.

Stephen J. Palopoli, III, Esquire
1425 Hamilton Street
Allentown, PA 18102

Jan. 10

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed by:

DOMINION MORTGAGE, INC.

with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, under the provisions of the Business Corporation Law of 1988.

TERENCE L. FAUL, ESQUIRE
KING, SPRY, HERMAN,
FREUND & FAUL, LLC

One West Broad Street
Suite 700
Bethlehem, PA 18018

Jan. 10

NOTICE IS HEREBY GIVEN that the Articles of Incorporation—For Profit Company have been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the purpose of obtaining an Articles of Incorporation for a For-Profit Company to be organized under the provisions of Title 15, Corporations and Unincorporated Associations at 15 Pa. C.S.A. 8901 et al., approved December 7, 1994, P.L. 703, No. 106 §4, effective in sixty (60) days.

The name of the incorporation is:

LEHIGH VALLEY FRANCHISE CORPORATION

The corporation shall have unlimited power to engage in and to do any lawful act concerning any and all lawful business for which corpora-

tions may be incorporated under the 1988 Business Corporation Law.

MICHAEL F. CORRIERE, ESQUIRE
I.D. No. 62255
HABER, CORRIERE
& BACKENSTOE
A Professional Corporation
433 East Broad Street
P.O. Box 1217
Bethlehem, PA 18016-1217
(610) 865-5566

Jan. 10

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed by:

PMCS TWO, INC.

with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, under the provisions of the Business Corporation Law of 1988.

TERENCE L. FAUL, ESQUIRE
KING, SPRY, HERMAN,
FREUND & FAUL, LLC

One West Broad Street
Suite 700
Bethlehem, PA 18018

Jan. 10

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on December 13, 2007. For the purpose of obtaining a Certificate of Incorporation pursuant to the provisions of the Business Corporation Law of 1988, 15 Pa.C.S. Section 1101. The name of the corporation is:

**RICHARD AND EMILY TAYLOR
SCHOLARSHIP FUND, INC.**

The purpose for which the corporation is organized: to Provide Educational Assistance.

Jan. 10

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed by:

**WILLOW SETTLEMENT
SERVICES, INC.**

with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, under the provisions of the Business Corporation Law of 1988.

TERENCE L. FAUL, ESQUIRE
KING, SPRY, HERMAN,
FREUND & FAUL, LLC

One West Broad Street
Suite 700
Bethlehem, PA 18018

Jan. 10

**LIMITED LIABILITY COMPANY
NOTICES**

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 November 29, 2007, 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:

**BELLA BAGS BY
KAREN MILLER LLC**

Jan. 10

NOTICE IS HEREBY GIVEN that on December 21, 2007, Certificate of Organization was filed in the Department of State of the Commonwealth of Pennsylvania for:

ZAWARSKI PROPERTIES, LLC

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

JAMES L. BROUGHAL, ESQUIRE
BROUGHAL & DeVITO, L.L.P.

38 West Market Street
Bethlehem, PA 18018

Jan. 10

NOTICE

NOTICE IS HEREBY GIVEN that on December 21, 2007, the Petition

of KATERINA M. KIPRISLIS a/k/a KATERINA KIPRIZLIS a/k/a KATHERINE M. KIPRIZLIS was filed in Northampton County Court of Common Pleas at No. C-48-CV-2007-11213, seeking an Order of Court to change her name to KATRINA MIKAYLA KIPRIZLIS.

The Court has fixed February 22, 2008 at 9:00 a.m. in Courtroom 4 of the Northampton County Courthouse, 669 Washington St., Easton, PA 18042 as the date of the hearing of the Petition. All persons interested in the proposed change of name may appear and show cause, if any, why the prayer of the Petitioner should not be granted.

GAIL WEINER SHEARER,
ESQUIRE

Attorney for Petitioner

70 E. Broad St.

P.O. Box 1426

Bethlehem, PA 18018-1426

Jan. 10

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

IN THE MATTER OF PETITION FOR
THE CHANGE OF NAME OF
CHRISTOPHER HERBERT
VAUGHN, Petitioner

No. C-48-CV-2007-CM-11373

NOTICE

NOTICE IS HEREBY GIVEN that on December 31, 2007, the Petition of Christopher Herbert Vaughn, Petitioner, was filed in the above-named Court to change his name to CHRISTOPHER DAVID SCHNABLE.

The Court has fixed January 31, 2008 at 9:00 a.m. in Courtroom Number 4 at the Northampton County Courthouse, 669 Washington Street, Easton, Pennsylvania 18042, as the time and place for the hearing on said Petition, when and where all

interested parties may appear and show cause, if any, why the request of the Petitioner should not be granted.

GREGORY R. REED, ESQUIRE

I.D. No. 21450

Attorney for Petitioner

P.O. Box 299

Nazareth, PA 18064

Jan. 10, 17, 24

**COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY,
PENNSYLVANIA**

CHANGE OF NAME NOTICE

No. C0048CV2008000014

NOTICE IS HEREBY GIVEN that on January 2, 2008, the petition of SETYOWATI HERLINA was filed, praying for a decree to change her name to HERLINA SETYOWATI HABIBULLAH. The Court has fixed March 6, 2008 at 9:00 a.m. in Courtroom #4 of Northampton County Courthouse, for hearing. All persons interested may appear and show cause, if any they have, why the prayer of the petitioner should not be granted.

Jan. 10

**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

PAOLA G. CIANCI a/k/a PAULINE CIANCI a/k/a PAOLA CIANCI; Raymond J. DeRaymond, Esquire, Executor

SOPHIA L. LAUDENSLAYER a/k/a SALLY LAUDENSLAYER; Keystone Nazareth Bank & Trust Co., formerly Nazareth National Bank & Trust Co., Executor

ALFRED W. RUMBOLD; Christine L. Meizanis, Executrix

GINO SAVELLI; Robert J. Savelli and Anthony D. Savelli, Co-Executors

AUDIT NOTICE

All Parties interested are notified that an audit list will be made up of all Accounts and the said list will be called for audit at the Northampton County Government Center, Easton, PA on: FRIDAY, JANUARY 25, 2008 AT 9:00 A.M. IN COURTROOM #1.

Dorothy L. Cole
Clerk of Orphans' Court
Jan. 10, 17

ASSOCIATE

Established law firm in Pottsville seeks attorney for immediate opening. General practice experience, practice in state court or in land use preferred. Strong research, writing and communication skills desired. Excellent full benefits package. Salary negotiable. Please reply to Firm Administrator, P.O. Box 450, Pottsville, PA 17901.

Jan. 10

**The Law Office of
PETERS, MORITZ,
PEISCHL, ZULICK,
LANDES & BRIENZA, LLP
is accepting applications for a
LEGAL ASSISTANT POSITION IN
ESTATE ADMINISTRATION**

Skills needed: Excellent written and verbal communication skills; Computer skills, including profi-

ciency in MS Word; Bookkeeping or accounting background a plus; Ability to handle sensitive and confidential information. Position involves detail-oriented tasks that require multi-tasking and organizational skills. Prior Estate Administration experience is preferred.

Send Resume to:

Annette P. Landes, Esquire
Mail: 1 S. Main St.
Nazareth, PA 18064
Fax: (610) 759-3892
E-mail:

aplantes@choiceonemail.com

Jan. 10, 17

LEGAL ASSISTANT

Needed for busy Easton Office. Bankruptcy experience a major plus. Fax resume to (610) 258-4353 or e-mail to rgja@entermail.net.

Jan. 10, 17, 24

**POST & SCHELL, P.C.
ALLENTOWN, PENNSYLVANIA
ASSOCIATE**

Post & Schell, P.C. is seeking to add an associate with up to two years experience to its Lehigh Valley Workers' Compensation Department. Interested candidates should forward a cover letter and resume directly to Jim Burkhardt, Esquire, at Post & Schell P.C., 1245 South Cedar Crest Blvd., Suite 300, Allentown, PA 18103 or via e-mail to:

jburkhardt@postschell.com.

Jan. 10, 17

David B. Shulman, Esquire and Barry C. Shabbick, Esquire and the Law Firm of **Shulman & Shabbick, a Professional Corporation**, are pleased to announce that **Joseph Sebelin, Jr. Esquire** and **Jane Seigendall Sebelin, Esquire**, have become shareholders of the firm.

The firm is also please to announce that, as of January 1, 2008, the firm will be known as **Shulman Shabbick & Sebelin** with offices located as follows:

CARBON COUNTY OFFICE

533 Delaware Avenue
Palmerton, Pennsylvania 18071
(610) 826-3122
Fax (610) 826-3123

NORTHAMPTON COUNTY OFFICE

1935 Center Street
Northampton, PA 18067
(610) 261-9000
Fax (610) 262-2239

LEHIGH COUNTY OFFICE

1325 Chestnut Street, Suite 106
Emmaus, PA 18049
(610) 967-0700
Fax (610) 967-0800

Jan. 10

**ASSOCIATE LAWYER POSITION
COMMERCIAL TRANSACTIONS AND CORPORATE MATTERS**

Full-service Lehigh Valley firm with a regional client base has an immediate opportunity in its commercial real estate/corporate transactions group for a motivated and practically-oriented attorney. Candidate should possess exceptional credentials and a minimum of 3 years relevant experience with business and real estate documentation, transactions and financing, along with counseling corporate and small business clients. Competitive compensation and the opportunity for growth and advancement exist for the right candidate in a collegial work environment. Benefits include health care and 401(k). Forward resume to: Fitzpatrick Lentz & Bubba, P.C., 4001 Schoolhouse Lane, P.O. Box 219, Center Valley, PA 18034-0219.

Jan. 10, 17

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NORTHAMPTON COUNTY REPORTER DIGEST—2008-1
RECENT DECISIONS OF THE COURTS OF COMMON PLEAS
OF NORTHAMPTON COUNTY

**ANGELYN BEGOVICH, PLAINTIFF v. MILLSTONE CONDOMINIUM
ASSOCIATION, SUNBURST PROPERTY MANAGEMENT, INC.,
ANTHONY GONZALEZ D/B/A FRESH CUT LAWN CARE, AND FRESH
CUT LAWN CARE, DEFENDANTS**

Summary Judgment—Pa. R.C.P. No. 1035.2

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. C-48-CV-2004-8897.

Opinion and Order of Court granting Defendant Anthony Gonzalez d/b/a Fresh Cut Lawn Care's Motion for Summary Judgment.

John R. Vivian, Jr., Esquire for Plaintiff.

Michael P. Shay, Esquire for Defendants Millstone Condominium Association and Sunburst Property Management.

Paul G. Lees, Esquire for Defendants Anthony Gonzalez d/b/a Fresh Cut Lawn Care and Fresh Cut Lawn Care.

Opinion and Order of Court entered November 15, 2006 by Anthony S. Beltrami, J.

DESCRIPTION OF DECISION

This action arose out of the plaintiff's slip and fall on ice on her condominium front porch on December 11, 2002. The plaintiff's complaint raised a claim for negligence against each of the defendants. Defendant Gonzalez moved for summary judgment based upon Pennsylvania's "hills and ridges" doctrine.

The hills and ridges doctrine barred the plaintiff's negligence claim against the moving defendant. In order to recover for a fall on ice or snow, the plaintiff is required to show that snow and ice had accumulated on the surface in ridges or elevations of such size and character as to unreasonably obstruct travel and constitute a danger to pedestrians traveling thereon, that the property owner had notice of the condition, and that it was the dangerous accumulation of snow and ice that caused the plaintiff to fall.

The plaintiff's deposition testimony was the only evidence as to how the fall occurred and that testimony clearly established that the plaintiff was unable to meet her burden of proof in light of the hills and ridges doctrine. The plaintiff's testimony established that there was no dangerous condition caused by ridges or elevations that were allowed to accumulate, but rather that the plaintiff slipped and fell on a smooth, uniform sheet of naturally occurring ice. Therefore, the defendant was entitled to judgment as a matter of law and the defendant's motion for summary judgment was granted.

**PALISADES COLLECTION, L.L.C, ASSIGNEE OF BANK ONE,
PLAINTIFF v. MEVELENE HANKERSON, DEFENDANT**

Demurrer, Pa. R.C.P. No. 1028(a)(4)—Preliminary Objection—More Specific Pleading, Pa. R.C.P. No. 1028(a)(3)—Motion to Strike Impertinent Material, Pa. R.C.P. No. 1028(a)(2)

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. C-48-CV-2006-4858.

Order of Court overruling in part and sustaining in part Plaintiff/Counterclaim Defendant's Preliminary Objections to Defendant/Counterclaim Plaintiff's Counterclaim.

Andrew C. Spears, Esquire for Plaintiff.

William P. Coffin, Esquire for Defendants.

Order of Court entered November 17, 2006 by Anthony S. Beltrami, J.

DESCRIPTION OF DECISION

The plaintiff/counterclaim defendant filed its complaint in an attempt to collect upon an allegedly unpaid credit card account. The plaintiff's assignor had issued the credit card to the defendant/counterclaim plaintiff, who had subsequently stopped making payments on account. The plaintiff purchased the account from the assignor.

The defendant's counterclaim alleged that the plaintiff and its assignor charged her a usurious rate of interest, excessive late fees, excessive penalties, and that the total amount due and owing was usurious. The counterclaim also alleged that the actions of the plaintiff and its assignor had been malicious, wanton and outrageous, and that the defendant was entitled to punitive damages.

The plaintiff's first objection was in the form of a demurrer, arguing that the counterclaim was improperly raised against the plaintiff, but rather was directed at actions of the assignor, and that the plaintiff could not be held liable for any possible violations of the assignor. This argument failed, as it is well established that an assignee's right against an obligor is subject to all of the limitations of the assignor's right, is subject to all the defenses thereto, as well as to all set-offs and counterclaims which would have been available against the assignor had there been no assignment.

The plaintiff's second objection was in the form of a motion for a more specific pleading, claiming that the defendant's failure to include the specific statutes or laws which she claims were violated rendered the counterclaim legally insufficient. The defendant pleaded facts sufficient to put the plaintiff on notice of the claims against which it must defend. The absence of the particular laws or statutes in the counterclaim did not render it legally insufficient.

The plaintiff's final objection was in the form of a demurrer. The plaintiff argued that the defendant's claim for punitive damages should be dismissed. While this was an inappropriate method of challenging the legality of the damages sought in the complaint, we treated the motion as a motion to strike impertinent matter. This motion was granted as the defendant failed to set forth sufficient facts such that the fact-finder could conclude that the plaintiff or its assignor acted with "reckless disregard" toward the defendant.

**LIDIA GREGORIO, PLAINTIFF v. EASTON HOSPITAL,
INDIVIDUALLY AND T/A COMMUNITY CARE CLINIC AND
NORTHAMPTON HOSPITAL CORPORATION, INDIVIDUALLY
AND T/A EASTON HOSPITAL, A FICTITIOUS NAME, AND/OR
COMMUNITY CARE CLINIC, DEFENDANTS**

Demurrer; Pa. R.C.P. No. 1028(a)(4)—Preliminary Objection, Pa. R.C.P. No. 1028(a)(2)

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. C-48-CV-2006-6876.

Order of Court overruling the Preliminary Objections of Defendants, Easton Hospital, Individually and t/a Community Care Clinic and Northampton Hospital Corporation, Individually and t/a Easton Hospital, a Fictitious Name and/or Community Care Clinic to Plaintiff's Complaint.

Charles J. Schleifer, Esquire for Plaintiff.

Stuart T. O'Neal, Esquire for Defendants.

Order of Court entered November 20, 2006 by Anthony S. Beltrami, J.

DESCRIPTION OF DECISION

The plaintiff's complaint sought to recover damages arising out of a slip and fall accident that occurred on the premises of the Community Care Clinic. The complaint alleged negligence on the part of the defendants in allowing a dangerous condition to remain on the premises.

The defendants raised an objection in the form of a demurrer to the complaint, arguing that the plaintiff failed to sufficiently plead a claim in negligence. The complaint properly pleaded a legal duty owed by each of the defendants to the plaintiff, a breach of that duty, a causal connection between the breach and the injury and damages actually sustained. Based upon the proper pleading of a claim in negligence, the defendants' preliminary objection in the form of a demurrer was overruled.

The defendants' objection that the complaint failed to conform to law or rule of court was also denied. While the verification attached to the complaint originally contained the signature of the plaintiff's attorney, the plaintiff subsequently filed a praecipe substituting the plaintiff's verification for that of her attorney.

**SINGER FINANCIAL CORP., PLAINTIFF v. STEVEN AND EVE
PASTERNAK, AND POG INDUSTRIES, INC. A/K/A CLARENCE K.
BURNS, DAVID E. BURNS, AND K & R BURNS, INC., DEFENDANTS**

Motion to Strike, 42 Pa. C.S.A. §8103(e)—Satisfaction of Judgment, 42 Pa. C.S.A. §8103(d)—Summary Judgment, Pa. R.C.P. No. 1035.2

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. C-48-CV-2004-4094.

Opinion and Order of Court granting the Motion to Strike Partial Settlement/Agreement of additional defendants, C. Keith Burns a/k/a Clarence K. Burns, David E. Burns, and K & R Burns, Inc., granting additional defendants' petition to mark the judgment satisfied, and denying the Motion for Summary Judgment of defendants Steven and Eve Pasternak.

Matthew B. Weisberg, Esquire for Plaintiff

Steven N. Goudsouszian, Esquire for Defendants C. Keith Burns, David E. Burns and D & R Burns, Inc.

Steven Pasternak, Pro Se for Eve Pasternak and POG Industries, Inc.

Order of Court with Statement of Reasons entered November 28, 2006 by Anthony S. Beltrami, J.

DESCRIPTION OF DECISION

Defendants Steven and Eve Pasternak owned certain real property that was rented by the Burns defendants. Pasternak signed a mortgage in favor of the plaintiff in August 2002. When Pasternak failed to make the required payments under the mortgage, the plaintiff filed a complaint for confession of judgment, judgment was entered, a writ of execution was filed, and the property was sold at sheriff's sale to the plaintiff's assignee.

The plaintiff filed a petition to fix fair market value but failed to appear at the scheduled hearing, at which point the Honorable Leonard N. Zito dismissed the petition. The plaintiff's motion to reconsider the dismissal was denied. The plaintiff appealed

the dismissal to the Superior Court, but the appeal was quashed. The plaintiff's motion for leave to appeal *nunc pro tunc* was denied. In that same order, the court denied an application by defendant Pasternak to fix the fair market value. The court granted Pasternak leave to petition the court to mark the judgment satisfied pursuant to 42 Pa. C.S.A. §8103.

Pasternak filed a motion to reconsider the denial of his application. That motion was denied. Pasternak appealed that decision to the Superior Court. The plaintiff filed a separately docketed cross-appeal. While the case was on appeal, Pasternak filed a "Motion for Summary Judgment," which never made it onto a list to be heard by the court.

While the case was on appeal, Pasternak and the Burns defendants filed an application to have the judgment marked as satisfied. That application was denied without prejudice because the case was on appeal.

Pasternak and the plaintiff filed a document entitled "Partial Settlement" which outlined an agreement between them purporting to dismiss all claims against the Burns defendants, stating that the court will hold an evidentiary hearing to establish the fair market value of the property, and stating that if a deficiency judgment was entered that judgment could not be used against any assets of the Pasternaks or the Burns defendants, other than a right to execute upon a liquor license used on the property, the ownership of which was in dispute between Pasternak and the Burns defendants. This agreement was made without the consent of the Burns defendants. Both the appeals were discontinued and the Burns defendants filed the petition and motion to strike the settlement agreement.

In reviewing the deficiency judgment statute, the court found that none of the scenarios set forth in 42 Pa. C.S.A. §8103(c) applied to the procedural history of the case. Instead, the court held that it was more appropriate to proceed under Section 8103(d), as the judgment creditor had failed to present a petition to fix the fair market value of the real property sold. The plaintiff failed to carry his burden to demonstrate his compliance with the deficiency judgment act. As additional defendants, the Burns defendants would have been liable, directly or indirectly, to the plaintiff. Therefore, they were entitled to petition to mark the judgment satisfied, and that petition was granted.

The Burns defendants' motion to strike the partial settlement was granted in accordance with 42 Pa. C.S.A. §8103(e), as the plaintiff and Pasternak were attempting to waive the rights and/or duties of the Burns defendants, that being specifically prohibited in that section.

Pasternak's motion for summary judgment was denied. The matter was never placed upon a list for argument, was never briefed in accordance with local rules, and was never argued. Furthermore, based upon the granting of the Burns defendants' motion to strike the partial settlement, as well as the granting of their petition to have the judgment marked as satisfied, Pasternak's motion for summary judgment was rendered moot.

COMMONWEALTH OF PENNSYLVANIA v. TAMIR HALL, DEFENDANT
Suppression of Evidence

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division, No. 2006-CR-557.

Opinion and Order of Court denying defendant's Motion to Suppress Evidence.

Robert Eyer, Esquire for the Commonwealth.

John P. Karoly, Esquire for Defendant.

Opinion and Order of Court filed on November 29, 2006 by Anthony S. Beltrami, J.

DESCRIPTION OF DECISION

The defendant was charged with possession and possession with intent to deliver cocaine, possession of drug paraphernalia, criminal conspiracy, and former felon not to own a handgun as the result of the execution of several search warrants by the Easton Police Department. The defendant withdrew all of his motions with the exception of his motion to suppress evidence obtained as a result of a search of 38-2 South Fifth Street in Easton. The defendant argued that there was not sufficient probable cause to support the issuance of the warrant, requiring any evidence obtained as a result of the search to be suppressed.

The defendant, being charged with possessory offenses, had automatic standing to litigate a suppression motion. However, as a threshold requirement, the defendant had to demonstrate a privacy interest in the place searched that was actual, societally sanctioned as reasonable, and justifiable. The evidence presented at the preliminary hearing was insufficient to establish that the defendant had a cognizable expectation of privacy in searched premises. The evidence failed to establish a possessory interest, a legitimate presence, or any other factor showing a reasonable and justified expectation of privacy.

The defendant's argument that mere storage of property in a friend's apartment establishes a reasonable expectation of privacy was without merit. The defendant did not present any evidence to suggest that the drugs, guns, or other items discovered belonged to him or that he was storing them in the premises. Therefore, the defendant's motion to suppress evidence was denied.

**WOODROW HARTZELL AND WOODROW HARTZELL,
ADMINISTRATOR OF THE ESTATE OF JOANN HARTZELL,
DECEASED, PLAINTIFFS v. PENNSYLVANIA PROPERTY AND
CASUALTY INSURANCE GUARANTY ASSOCIATION AND EASTON
HOSPITAL, DEFENDANTS**

Motion for Summary Judgment, Pa. R.C.P. No. 1035.2—Pennsylvania Property and Casualty Insurance Guaranty Assoc.—Duties, 40 P.S. 991.1803(b)

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. C-48-CV-2005-8173.

Opinion and Order of Court granting plaintiffs' motion for summary judgment, granting defendant Easton Hospital's motion for summary judgment against cross-claim defendant, Pennsylvania Property and Casualty Insurance Guaranty Association, and denying the motion for summary judgment of the Pennsylvania Property and Casualty Insurance Guaranty Association.

Theodore J. Caldwell, Jr., Esquire for Plaintiffs.

Lise Luborsky, Esquire for Pennsylvania Property and Casualty Insurance Guaranty Association.

Philip H. Lebowitz, Esquire for Easton Hospital.

Opinion and Order of Court entered December 7, 2006 by Anthony S. Beltrami, J.

DESCRIPTION OF DECISION

This was a declaratory judgment action in which the plaintiff was seeking a declaration that the Pennsylvania Property and Casualty Insurance Guaranty Association ("PP-

CIGA”) was liable for the balance due on a judgment entered against defendant Easton Hospital following a jury verdict in an underlying medical malpractice case.

The facts in the matter were undisputed as was the liability of PPCIGA to the plaintiffs. 40 P.S. §991.1803 states that the obligation of the association to defend an insured will be terminated upon the association’s payment or tender of an amount equal to the lesser of the association’s covered claim obligation or the applicable policy limit. The applicable subsection of the statute states that PPCIGA’s obligation would be satisfied by paying to the claimant an amount not exceeding \$300,000 dollars per claimant. PPCIGA had previously made a payment to the plaintiffs in the amount of \$300,000, taking the position that the plaintiffs represented one claimant. PPCIGA refused to make further payment to the plaintiffs which resulted in the filing of the declaratory judgment action.

The sole issue to be decided was the extent, if any, that PPCIGA remained liable to the plaintiffs on the judgment in the underlying action. At issue was the interpretation and application of 40 P.S. §991.1803(b) and the use of the term “claimant” in that section. The plaintiffs claimed that there were in fact two claimants, the decedent’s husband in the wrongful death action and the decedent’s estate in the survival action. PPCIGA claimed that the decedent’s husband, as an individual and as the representative of the decedent’s estate, was a single claimant under the statute. Easton Hospital aligned itself with the plaintiffs, claiming that PPCIGA was required to make further payments on the judgment in the underlying action. All three parties moved for summary judgment.

The motions for summary judgment of the plaintiffs and Easton Hospital were granted, and the motion for summary judgment of PPCIGA was denied. The term claimant was defined as “one possessed with a ‘covered claim.’” There was no dispute between the parties that the claims that formed the basis of the action were “covered claims.” In Pennsylvania when an individual dies as a result of another’s negligence, two separate and distinct causes of action arise, a survival action and a wrongful death action. Since there were two separate and distinct causes of action, with two distinct plaintiffs, each possessing a distinct covered claim, the claims of the decedent’s husband and the claims of the decedent’s estate were separate enforceable rights against Easton Hospital. Therefore, each was a separate claimant under the statute, creating a statutory limitation of \$600,000, rather than \$300,000.

PPCIGA’s argument that this was a single medical incident was without merit. The underlying policy did not limit coverage to damages suffered by the decedent, but rather stated a coverage limit for damages arising out of a single medical incident. The single medical incident in this case gave rise to two separate claims

PPCIGA was also held liable for delay damages and post-judgment interest. The underlying policy clearly provided for the payment of post-judgment interest and delay damages.

PPCIGA’s liability in this matter was the lesser of the statutory cap or the amount that the now insolvent insurer would have been liable for had it not become insolvent. The statutory cap was \$600,000 while the amount the insolvent insurer would have been liable for exceeded that amount. As PPCIGA had made a previous payment of \$300,000 to the plaintiffs, PPCIGA’s remaining liability to the plaintiffs was \$300,000

**ROSEMARY HOLDEN, INDIVIDUALLY, AND AS TRUSTEE FOR
RONALD HUGH HOLDEN II AND MICHAEL EDWARD HOLDEN, AND
AS PARENT AND NATURAL GUARDIAN OF MICHAEL EDWARD
HOLDEN AND RONALD HUGH HOLDEN II, INDIVIDUALLY,
PLAINTIFFS v. HARRIET ASH, EXECUTRIX OF THE ESTATE
OF RONALD HUGH HOLDEN, DECEASED, AND HARRIET ASH,
INDIVIDUALLY, DEFENDANTS**

Demurrer, Pa. R.C.P. No. 1028(a)(4)

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. C-48-CV-2006-5533.

Order of Court sustaining Defendant's Preliminary Objections to Plaintiffs' Complaint.

Gary Neil Asteak, Esquire for Plaintiffs.

Joel H. Ziev, Esquire for Defendants.

Order of Court entered December 11, 2006 by Anthony S. Beltrami, J.

DESCRIPTION OF DECISION

The plaintiffs' amended complaint alleged that pursuant to a final decree of divorce and property settlement entered in the year 2000, the decedent was obligated to secure and maintain life insurance in the amount of \$150,000.00 naming Ronald Hugh Holden II and Michael Edward Holden as joint beneficiaries, with Rosemary Holden as the trustee thereon. The complaint alleged that the decedent died and that decedent failed to maintain the required life insurance.

The plaintiffs' amended complaint claimed breach of contract and promissory estoppel against defendant Ash as the executrix of the estate. The complaint also purported to state a claim for unjust enrichment against Ash individually as the sole beneficiary of the estate. The defendant made a preliminary objection in the form of a demurrer to the unjust enrichment claim.

The elements of unjust enrichment are benefits conferred on a defendant by the plaintiff, appreciation of those benefits by the defendant, and acceptance and retention of such benefits under circumstances that it would be inequitable for defendant to retain the benefit without payment of value. No facts were pleaded that Ash had or would appreciate any benefits from the plaintiffs. Likewise, no facts were pleaded that showed that Ash had appreciated any benefit from the estate. As the plaintiffs failed to establish the necessary elements of a claim of unjust enrichment, the defendant's demurrer was sustained.

NEW JERSEY LAW

JAMES L. PFEIFFER, ESQ.

*** Former New Jersey Superior Court Judge ***
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Municipal Solicitor
Greenwich Township, Warren County, NJ

Municipal Prosecutor
Allamuchy Township, Warren County, NJ

Former Municipal Prosecutor
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and Blairstown Township, Warren County, NJ

Former Planning Board Member
Pohatcong Township Planning Board, Warren County, NJ

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