

Lawrence Law Journal

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February 20, 2023

No. 321

In re: Estate of Merle William Klobetanz

Owned and Published By

THE LAWRENCE COUNTY BAR ASSOCIATION

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MOTION COURT

Civil, Criminal and Family Motion Court will be held on an emergency basis only the following dates:

February 22, 23 and 24, 2023

Please contact Court Administration.

NOTICE

A vacancy having occurred in the office of County Commissioner of Lawrence County, the vacancy shall be filled for the balance of the unexpired term by the Court of Common Pleas of Lawrence County. Any interested applicant shall submit a Letter of Interest and a Resume to Dominick Motto, President Judge, Court of Common Pleas of Lawrence County, Lawrence County Government Center, New Castle, PA 16101, by February 28, 2023. The applicant must be a registered elector of Lawrence County who was a member of the Republican Party as of the November 2019 General Election.

Dominick Motto, P.J.
President Judge
Court of Common Pleas of Lawrence County
53rd Judicial District

ESTATE NOTICES

Notice is hereby given that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims against the estate of the decedent shall make known the same to the person(s) named or to his/her/their attorney and all persons indebted to the decedent shall make payment to the person(s) named without delay.

FIRST PUBLICATION

Attisano, Marc C.

Late of Bessemer Borough, Lawrence County, Pennsylvania
Executor: Florence Attisano
Attorney: Clark & Clark Law, P.C., Robert D. Clark, Jr., 201 N. Market St., New Wilmington, PA 16142

Bowers, Helen Marie

Late of Lawrence County, Pennsylvania
Administratrix: Deborah L. Gonzalez
Attorney: Edward Leymarie, Jr., Leymarie Clark Long, P.C., 423 Sixth St., Ellwood City, PA 16117

Brown, Mark Raymond

Late of Ellport, Lawrence County, Pennsylvania
Administratrix: Maryjo Brown, 312 Hazen Ave., Ellwood City, PA 16117
Attorney: Sarah G. Hancher, 101 N. Green Lane, Zelenople, PA 16063

Colatruglio, Carmella

a/k/a Colatruglio, Carmela

Late of Shenango Township, Lawrence County, Pennsylvania
Executor: Pasquale Colatruglio, 409 Karon Dr., New Castle, PA 16101
Attorney: John R. Seltzer, 713 Wilmington Ave., New Castle, PA 16101, 724-652-0821

Cook, Linda Lee

Late of New Castle, Lawrence County, Pennsylvania
Administrator: John O'Neill, 213 North Walnut St., New Castle, PA 16101
Attorney: DON Legal, PLLC, Attn: David DeRosa, II, 101 South Mercer St., Ste. 210, New Castle, PA 16101

Costa, Vincent A.

Late of Neshannock Township, Lawrence County, Pennsylvania
Executor: Catherine Costa, 142 Shenango Rd., New Castle, PA 16105
Attorney: Paula J. Cialella, 113 North Mercer St., New Castle, PA 16101

Forster, George H., Sr.

Late of Neshannock Township, Lawrence County, Pennsylvania
Executor: Michele A. Riedlin, 4436 Idigo Lane, Hartwood, MD 20776 and Nadine A. Kirkwood, 196 Green Meadows, Volant, PA 16156
Attorney: Matthew T. Mangino, 315 N. Mercer St., New Castle, PA 16101, 724-658-8535

Gannon, Grahel V.

a/k/a Gannon, Grahel Vernon, Jr.

Late of Lawrence County, Pennsylvania
Executrix: Linda Gannon
Attorney: Phillip L. Clark, Jr., Leymarie Clark Long, P.C., 423 Sixth St., Ellwood City, PA 16117

George, Duane M.

a/k/a George, Duane Mason

Late of Wilmington Township, Lawrence County, Pennsylvania
Executor: Curtis George
Attorney: Clark & Clark Law, P.C., Robert D. Clark, Jr., 201 N. Market St., New Wilmington, PA 16142

Grossman, Jack D.

Late of New Castle, Lawrence County, Pennsylvania
Administratrix: Freeda Grossman, 412 7th St., New Castle, PA 16102
Attorney: Daniel I. Herman, Geer and Herman, P.C., 2100 Wilmington Rd., New Castle, PA 16101

Kozak, Leslie Diana

a/k/a Kozak, Leslie Ann Diana

Late of Shenango Township, Lawrence County, Pennsylvania
Executor: Luke R. Kozak
Attorney: M. Elizabeth Williams, 108 Lexington Ave., Pittsburgh, PA 15215

Linton, William C.

Late of Pulaski Township, Lawrence County, Pennsylvania
Executrix: Patricia E. Linton, 1281 Maple Lane, Pulaski, PA 16143
Attorney: Peter E. Horne, 713 Wilmington Ave., New Castle, PA 16101

McKinley, Margaret L.

Late of Neshannock Township, Lawrence County, Pennsylvania
Executors: Timothy P. McKinley, 6275 Lakewood Ct., Mentor, OH 44060, William L. McKinley, PO Box 13, 11647 State Hwy 618, Conneaut Lake, PA 16316, and Michelle

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L. Burns, 1001 Service St., New Castle, PA 16101

Attorney: John R. Seltzer, 713 Wilmington Ave., New Castle, PA 16101, 724-652-0821

Orras, Lottie B.

a/k/a Orras, Lottie Belle

Late of New Castle, Lawrence County, Pennsylvania

Executrix: Cindy Ann Bucey, 1580 Frew Mill Rd., New Castle, PA 16101

Attorney: Louis M. Perrotta, 229 S. Jefferson St., New Castle, PA 16101, (724) 658-9980

Schooley, Wanda L.

a/k/a Schooley, Wanda Laverne

Late of New Wilmington, Lawrence County, Pennsylvania

Executor: Linda Carpenter

Attorney: Clark & Clark Law, P.C., Robert D. Clark, Jr., 201 N. Market St., New Wilmington, PA 16142

Waters, Charlotte F.

a/k/a Waters, Charlotte Minor

Late of New Castle, Lawrence County, Pennsylvania

Executor: Aaron Edward Minor, 406 Park Ave., New Castle, PA 16101

Attorney: Louis M. Perrotta, 229 S. Jefferson St., New Castle, PA 16101, (724) 658-9980

SECOND PUBLICATION

Agostinelli, Deborah M.

Late of Fombell, Lawrence County, Pennsylvania

Administratrix: Cari A. Marker, 126 First St., Ellwood City, PA 16117

Attorney: Edward Leymarie, Jr., Leymarie Clark Long, P.C., 423 Sixth St., Ellwood City, PA 16117

Dove, Caleb M.

Late of New Castle, Lawrence County, Pennsylvania

Administrator: Lewis Michael Dove, 475 Scenic Ave., Bloomsburg, PA 17815

Attorney: Reed D. Hennon, 224 W. Northview Ave., New Castle, PA 16105

Falatko, John M., Jr.

Late of Lawrence County, Pennsylvania

Executor: John Conwell, 2435 Sumatran Way #29, Clearwater, FL 33763

Attorney: Louis Pomerico, 2910 Wilmington Rd., New Castle, PA 16105, 724-658-7759

McConnell, Margaret A.

Late of Lawrence County, Pennsylvania

Executor: Andrew Bruno

Attorney: Brian F. Levine, Levine Law, LLC, 22 E. Grant St., New Castle, PA 16101-2279

THIRD PUBLICATION

Hoye, Anna K.

Late of Lawrence County, Pennsylvania

Executrix: Amy H. Warner

Attorney: Phillip L. Clark, Jr., Leymarie Clark Long, P.C., 423 Sixth St., Ellwood City, PA 16117

Marzula, Wanda W.

Late of the City of New Castle, Lawrence County, Pennsylvania

Executor: Samuel A. Marzula, Jr., 190 Ridgeview Drive, Wexford, PA 15090

Attorney: William J. Manolis, Verterano & Manolis, 2622 Wilmington Rd., New Castle, PA 16105-1530

Scocchera, Jodi L.

Late of New Castle, Lawrence County, Pennsylvania

Executor: Eric Scocchera, 783 Ridge Rd., Wethersfield, CT 06109

Attorney: Louis Pomerico, 2910 Wilmington Rd., New Castle, PA 16105, 724-658-7759

CERTIFICATE OF ORGANIZATION

Notice is hereby given that on December 15, 2022, a Certificate of Organization - Domestic Limited Liability Company was filed with the Commonwealth of Pennsylvania, Department of State, Harrisburg, Pennsylvania for **Ely & Son, LLC**, which Limited Liability Company has been organized under the provisions of the Limited Liability Company Law of 1994, as amended.

Leymarie Clark Long, P.C.

Ryan C. Long, Esquire

423 Sixth St.

Ellwood City, PA 16117

L.C.L.J. - February 20, 2023

SHERIFF SALES

Wednesday, March 8, 2023 at 10:00 AM

By virtue of various Writs of Execution issued out of the Court of Common Pleas of Lawrence County, Pennsylvania, there will be exposed to sale by public auction at the Lawrence County Government Center, Commissioners Meeting Room, First Floor, 430 Court St., New Castle, PA 16101 at the above date and time, the following described real estate, subject to the following TERMS OF SALE:

The following terms shall be complied with for

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each sale or continuation thereof:

1. All bidders must identify themselves prior to submitting a bid. Attorneys of record shall be presumed to be bidding for their client(s). No bid may be withdrawn.

2. If the defendant intends to bid, prior to the bidding they must submit to the Sheriff satisfactory proof that they will be able to comply with the bid. No bids will be accepted in excess of the submitted proof.

3. At the request of the plaintiff, any sale may be continued, postponed or cancelled.

4. All bids must be paid in full. The successful bidder shall pay unto the Sheriff, by cash, certified or cashiers' check, 10% within one hour after the sale and the balance within 7 days thereafter. If terms of sale are not met within the required time period, the property will be resold at 12:00 noon on the Third business day following the payment deadline at the Lawrence County Sheriff's Office, Government Center, 430 Court Street, New Castle, PA at the expense and risk of the person to whom it was struck off, who in case of deficiency on such sale shall make good the same.

5. Prior to the delivery of the Sheriff's deed, a successful bidder may assign their bid to a third party, in which case the realty transfer taxes shall be paid as if the assignee were the original successful bidder.

6. If a Third Party is the successful bidder, a Schedule of Distribution will be filed by the Sheriff in the Prothonotary's Office on the Wednesday following the date of sale and that distribution will be made in accordance with the Schedule unless exceptions are filed within TEN days thereafter.

7. Anyone placing a bid should check with an attorney for legal advice. The property you are bidding upon may be subject to unpaid taxes, liens or mortgages.

8. Any current & delinquent real estate taxes will be paid as part of the costs and before distribution to the plaintiff or any other party.

Sale No. 1

No. 2022-10721; Newrez LLC d/b/a Shellpoint Mortgage Servicing., Plaintiff vs. Taylor Boak-Burgess and Courteney Metts, Defendants. All those certain lots or pieces of ground situate in the Mahoning Township, Lawrence County, Pennsylvania. Property address: 275 Rich Avenue, Hillsville, PA 16132. Parcel ID: #24-007400 (Mahoning Township). Judgment

amount: \$53,959.21 plus interest, costs and attorney fees. Attorney: RAS Citron

Sale No. 2

No. 2022-10788; Reliance First Capital, LLC, Plaintiff vs. Frances A. Huff, Defendant. Property address: 3453 Old Pittsburgh Rd, New Castle, PA 16101. Parcel ID: #31-170600 (Shenango Township); Improvements thereon: Residential Dwelling. Judgment amount: \$136,809.31 plus interest, costs and attorney fees. Attorney: Brock & Scott, PLLC

Sale No. 3

No. 2022-10699; Towd Point Mortgage Trust 2019-1, U.S. Bank National Association, as Indenture Trustee, Plaintiff vs. Robert J. Tanner, Defendant. Property address: 910 Vogan Street, New Castle, PA 16101. Parcel ID: #04-265300 (4th Ward New Castle); Improvements consist of a residential dwelling. Judgment amount: \$38,902.66 plus interest, costs and attorney fees. Attorney: KML Law Group P.C.

Sale No. 4

No. 2022-10402; Freedom Mortgage Corporation, Plaintiff vs. Darryl Yanssens, Defendant. Property address: 800 Todd Avenue, Ellwood City, PA 16117. Parcel ID: #14-067500 (4th Ward Ellwood City Borough); Improvements thereon: Residential Dwelling. Judgment amount: \$164,074.07 plus interest, costs and attorney fees. Attorney: Brock & Scott, PLLC

Sale No. 5

No. 2022-10750; HSBC Bank USA, National Association as Trustee for Renaissance Home Equity Loan Asset-Backed Certificates, Series 2007-3, Plaintiff vs. Larry E. Wisor; Deborah L. Wisor, Defendants. Property address: 2947 West State Street, New Castle, PA 16101. Parcel ID: #34-352600 (Union Township); Improvements thereon: Residential Dwelling. Judgment amount: \$99,867.93 plus interest, costs and attorney fees. Attorney: Brock & Scott, PLLC

Sale No. 6

No. 10429-2022; Flagstar Bank, FSB, Plaintiff vs. Justin A. Joseph, Defendant. All that certain lot or piece of ground situate in New Castle, County of Lawrence, and Commonwealth of Pennsylvania. Improvement: a Residential Dwelling. Property Address: 1215 Huron Avenue, New Castle, Pennsylvania 16101. Parcel ID: #04-110700 (4th New Castle). Judgment amount: \$36,179.46 plus interest, costs and attorney fees. Attorney: Powers

Kirn, LLC

Sale No. 7

No. 2020-10236; PNC Bank, National Association, Successor by Merger to National City Bank, Plaintiff vs. Kimberly J. Dengler as Executrix of the Estate of Marilyn J. Fye, Deceased, Defendant. Property address: 827 East Pearl Street, New Castle, PA 16101. Parcel ID: #04-173200 (4th Ward New Castle); Improvements consist of a residential dwelling. Judgment amount: \$29,006.49 plus interest, costs and attorney fees. Attorney: KML Law Group P.C.

Sale No. 8

No. 2022-10821; Pennsylvania Housing Finance Agency, Plaintiff vs. Megan Brown and Charles R. Brown, III, Defendants. Lots Nos. 19 and 20, Lawrence County Plot Book Volume 11, page 56. Property address: 115 South Lee Avenue, New Castle, PA 16101. Parcel ID: #34-241200 (Union Township); Improvements thereon: a residential dwelling house as identified above. Judgment amount: \$78,248.80 plus interest, costs and attorney fees. Attorney: Purcell, Krug & Haller

Sale No. 9

No. 10774-2022; The Huntington National Bank, Plaintiff vs. Timothy R. Widdowfield, Jr., Defendant. All that certain piece or parcel of land situate in the Borough of New Beaver, County of Lawrence and Commonwealth of Pennsylvania, bounded and described as follow to wit: Being the same property conveyed to Timothy R. Widdowfield, Jr., single, who acquired title, as tenants by the entirety, by virtue of a deed from Faith A. Mcanlis, Administratrix of the Estate of Howard L. Widdowfield, deceased, dated May 10, 2006, recorded May 11, 2006, at Document Number 2006-005099, Office of the Recorder of Deeds, Lawrence County, Pennsylvania. Property Address: 136 Widdowfield Lane AKA Widow Field Lane, New Galilee, PA 16141. Parcel ID: #17-076600 (New Beaver Borough). Judgment amount: \$176,292.69 plus interest, costs and attorney fees. Attorney: Manley Deas Kochalski LLC

Sale No. 10

No. 10778-2022; Towd Point Mortgage Trust 2015-6, U.S. Bank National Association as Indenture Trustee, Plaintiff vs. Tracy L. Ierino, Individually and as Administrator of the Estate of Suzanne Ierino a/k/a Suzanne M. Ierino, Deceased, Defendant. All that certain

piece, parcel or tract of land situate in the Fifth Ward of the Borough of Ellwood City, Lawrence County, Pennsylvania, known and designated as Lot no. 41 in the Forest Hills Plan of Lots as the same is recorded on the Recorder's Office of Lawrence County in Plot Book Volume 10, page 39. Under and subject to all reservations, restrictions, easements, covenants, conditions, building lines, rights of ways, oil and gas leases, if any, as shown on prior instruments of record or on the recorded plan. Being the same premises which Suzanne Ierino, by Deed dated November 3, 1997 and recorded November 13, 1997, in the Lawrence County Recorder of Deeds Office at Deed Book Volume 1389 at Page 045, as Instrument No. 199712164, granted and conveyed unto Suzanne Ierino and Tracy L. Ierino. The said Suzanne Ierino departed this life on or about December 28, 2020. Decedent's Estate was raised and Letters of Testamentary were issued to heir Tracy L. Ierino at File No. 37-21-0264 by the Lawrence County Register of Wills, appointing Tracy L. Ierino as administrator of the Estate and as representative of the heirs of Suzanne Ierino. Property address: 212 Evans Drive, Ellwood City, PA 16117. Parcel ID: #15-034700 (5th Ward Ellwood City Borough); Judgment amount: \$74,999.19 plus interest, costs and attorney fees. Attorney: Hladik, Onorato & Federman, LLP

Sale No.11

No. 10688-2022; First National Bank of Pennsylvania, Plaintiff vs. Wendy Carey, Defendant. All the right, title, interest and claim of Wendy Carey of, in and to the following described property: All the following described real estate situated in the Second Ward, City of New Castle, County of Lawrence, and Commonwealth of Pennsylvania. Having erected thereon a dwelling. Deed Document No. 2019-000341. Property Address: 339 Laurel Boulevard, New Castle, Pennsylvania 16101. Parcel ID: #02-035100 (2nd New Castle). Judgment amount: \$34,733.67 plus interest, costs and attorney fees. Attorney: Grenen & Birsic PC

Sale No. 12

No. 2022-10749; U.S. Bank National Association, not in its individual capacity but solely as Trustee for Merrill Lynch First Franklin Mortgage Loan Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-2, Plaintiff vs. Shelly Beatty-Davis aka Shelly Betty aka Shelly Davis, Defendant. Property address: 2402 State Rt 351, Enon Valley,

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PA 16120. Parcel ID: #23-003301 (Little Beaver Township); Improvements thereon: Residential Dwelling. Judgment amount: \$127,138.50 plus interest, costs and attorney fees. Attorney: Brock & Scott, PLLC

Sale No. 13

No. 2021-10841; The Huntington National Bank, Plaintiff vs. Aaron J. Bame, AKA Aaron Bame (deceased), Defendant. All that certain piece or parcel of land situate in the City of New Castle, County of Lawrence and Commonwealth of Pennsylvania, bounded and described as follow to wit: Being the same property conveyed to Aaron J. Bame, unmarried, who acquired title, by virtue of a deed from Julia J. Salamon, widow by her Agent, Eva Mazur, dated Mach 12, 2012, recorded March 19, 2012, at document Number 2012-004161, Office of the Recorder of Deeds, Lawrence County, Pennsylvania. Property Address: 1005 Warren Avenue, New Castle, PA 16101. Parcel ID: #04-227200 (New Castle 4th Ward). Judgment amount: \$23,008.91 plus interest, costs and attorney fees. Attorney: Manley Deas Kochalski LLC

Sale No. 15

No. 10433-2022; Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust as Trustee for PNPMS Trust III, Plaintiff vs. Patricia S. Quigley and William C. Quigley, Defendants. All that certain piece, parcel or tract of land situate, lying and being in the Seventh Ward of the City of New Castle, County of Lawrence, Commonwealth of Pennsylvania, known and designated as City Lot no. 259 on Section 92 of the Official Survey of the City of New Castle, and also known as Lot No. 68 in Raney's Fourth Addition to Mahoningtown, as recorded in the Recorder's Office of Lawrence County in Plot Book Volume 1, page 31, and being more particularly bounded and described as follows: Bounded on the Northeast by Clayton Street; ON the Southeast by Bolt Street; On the Southwest by a 15 foot alley; and ON the Northwest by land now or formerly Dominico DiBacco; having a frontage of 45 feet on the said Clayton Street and extending back of even width 125 feet to said alley. Being the same premises that James A. Krause, a/k/a James Arthur Krause, single individual by deed dated 2/28/2006 and recorded 3/1/2006 in the office of the Recorder of Deeds in the County of Lawrence, Commonwealth of Pennsylvania as Instrument No. 2006-002107, granted and conveyed to William C. Quigley and Patricia S. Quigley, his wife. Property address: 220 East Clayton Street,

New Castle, PA 16102. Parcel ID: #07-055700 (7th Ward New Castle); Judgment amount: \$10,356.82 plus interest, costs and attorney fees. Attorney: Richard M. Squire & Associates, LLC

Sworn to and subscribed before me this 30th day of January 2023.
Perry L. Quahliero, Sheriff

L.C.L.J.: February 6, 13 & 20, 2023

In re: Estate of Merle William Klobetanz**Estate Rights – Interpretation of Deed – Nature of Co-tenancy -
Interpretation of Will – Possessory Interest in Home – Possessory
Interest in Personal Property**

The designation of title to real estate as “tenants in common with right of survivorship” is contradictory, and where a deed characterizes title as such but does not contain the words “joint tenants” and contains the term “their heirs and assigns forever,” the grant will be construed as a tenancy in common.

The provision contained in a will that a person is “permitted to remain in the home and on my property for three years following my death or until she has made other living arrangements” constitutes a mere license or personal privilege to occupy the decedent’s home for a maximum of three years without interfering with the right of the owners in fee from living or using the home at the same time.

The provision contained in a will that a person “is to retain all furnishings and property not bequeathed to others as long as she wishes” constitutes a right to a possessory interest in the furnishings and property for as long as the possessor wishes.

Petition to Interpret Will and Determine Rights in Estate Assets – Court of Common Pleas of Lawrence County, Pennsylvania, No. 76 of 2022, O.C.

John J. DeCaro, Jr., Attorney for the Petitioner

Frank G. Verterano, Attorney for the Respondent

OPINION

J. ACKER

November 18, 2022

Before this Court is the Petition to Interpret Will and Determine Rights in Estate Assets in the Estate of Merle William Klobetanz filed on behalf of Linda Klobetanz as Executrix for the Estate of Merle William Klobetanz. Merle William Klobetanz (hereinafter referred to as the “Decedent”) died on April 13, 2022, leaving a Last Will and Testament dated March 25, 2015. On July 25, 2022, the Lawrence County Register of Wills appointed the Petitioner, Linda Klobetanz, as the Executrix of the Estate. The Estate consisted of a one-half interest in real property located at 581 Patterson Road, New Galilee, Pennsylvania 16141. The Estate also consisted of an automobile, two motorcycles, various canoes, Civil War era rifles, an IRA valued at approximately \$1,500.00, and miscellaneous household furnishings. At the time of his death, the Decedent was survived by his significant other, Faith M. Watson (hereinafter referred to the “Respondent”), his son, William J. Klobetanz, his grandson, William M. Klobetanz, and his

granddaughter, Nina Klobetanz. On August 04, 2022, the Executrix, Linda Klobetanz, filed a Petition to Interpret Will and Determine Rights in Estate Assets. The Respondent, Faith M. Watson, filed an Answer to the aforesaid Petition on August 19, 2022. An argument was held on September 20, 2022. Both parties filed Memorandums of Law on the issues. Each issue will be addressed separately in this Opinion.

The Property was held by the Decedent and his son as tenants in common at the time of the Decedent's death.

The real property located at 581 Patterson Road, New Galilee, Pennsylvania 16141 (hereinafter referred to as the "Property") was transferred to the Decedent and his son, William J. Klobetanz by Special Warranty Deed dated February 15, 2012. The deed was between "MERLE W. KLOBETANZ, single, of New Beaver Borough, Lawrence County, Pennsylvania; and MERLE W. KLOBETANZ AND WILLIAM J. KLOBETANZ, as tenants in common with right of survivorship, of New Beaver Borough, Lawrence County, Pennsylvania."

"The terms ['tenants in common' and 'right of survivorship'] are patently contradictory." Margarite v. Ewald, 381 A.2d 480, 481 (Pa. Super. 1977). "It is basic property law that "a right of survivorship" is not associated with "tenancy in common," such a conveyance is a legal impossibility. Id. "[I]n order to engraft the right of survivorship on a co-tenancy which might otherwise be a tenancy in common, the intent to do so must be expressed with sufficient clarity to overcome the statutory presumption that survivorship is not intended." In Re Michael's Estate, 218 A.2d 338, 341 (Pa. 1966).

The deed in In Re Michael's Estate contained similar language as the deed in the instant case. The Court interpreted the intent of the grantor as follows:

Nowhere in the deed is the term 'joint tenants' employed. To create a right of survivorship, the normal procedure is to employ the phrase 'joint tenants, with a right of survivorship, and not as tenants in common' in describing the manner in which the grantees are to take or hold the property being conveyed or transferred. The deed herein involved also uses the term 'their heirs and assigns forever.' The use of the plural would tend to indicate a tenancy in common. If 'his or her' heirs and assigns had been used a strong argument could be made that the grantor intended a right of survivorship and that the survivor of the four named grantees would have an absolute undivided fee in the property.

In the instant case, the deed does not contain sufficient language to express a clear intention of creating a joint tenancy with a right of survivorship as the deed did not contain the words "joint tenants" at all. Ad-

ditionally, the deed contained the terms “their heirs and assigns forever,” diminishing the intent to create a joint tenancy with a right of survivorship. Based on the foregoing, at the time of his death, the Decedent owned the Property as tenants in common with his son, William Klobetanz, with no right of survivorship.

In accordance with the Decedent’s Last Will and Testament, the Decedent’s one-half (1/2) share of the Property passes through his residuary estate because the Last Will and Testament contained no specific bequest of the Property. The Decedent’s residuary clause states, “I direct the distribution of the remainder of my estate to be divided as follows: A. Fifty (50%) to my son, William J. Klobetanz [address omitted], if living, and if not, unto his then living issue per stirpes; B. Fifty (50%) percent to be divided equally among his living issue.”

Therefore, one-half (1/2) share of the Decedent’s interest in the Property passes to the Decedent’s son, William J. Klobetanz, and one-half (1/2) share of the Decedent’s interest in the Property passes to the Decedent’s two grandchildren, William M. Klobetanz and Nina Klobetanz. Thus, assuming the estate is solvent and the Decedent’s interest does not need to be sold to pay the Estate’s obligations, William J. Klobetanz holds a three-fourths (3/4) interest in the Property, William M. Klobetanz holds a one-eighth (1/8) interest in the Property and Nina Klobetanz holds a one-eighth (1/8) interest in the Property.

The Respondent has a possessory interest in the Property.

The Decedent’s Last Will and Testament contained the following language, “I direct that Faith M. Watson, my significant other, to be permitted to remain in the home and on my property for three years following my death or until she has made other living arrangements.”

In accordance with the Decedent’s Last Will and Testament, the Respondent has a nonexclusive right to reside in the house for up to three years, or until she vacates the house, whichever first occurs. Estate of Culig v. Appeal of Culig, 134 A.3d 463, 467 (Pa. Super. 2016), *citing In Re Shipley’s Estate*, 45 Pa. Super 570, 574 (1911), in which the Court interpreted the decedent’s will as devising “a mere license or personal privilege to continue the occupancy of decedent’s home rent free after the death of the testator, as she had occupied it during his lifetime,” rather than a life estate in the property. The Decedent’s son, William J. Klobetanz, and the Decedent’s grandchildren, William M. Klobetanz and Nina Klobetanz, can live in and/or use the house as well since the Decedent cannot, as a cotenant, interfere with his cotenant’s use of the property. In Peterson v. McNeely, 189 A. 765, 767 (Pa. Super. 1937), the Court held that, “each tenant has an equal right to the possession of the whole but not to the exclusion of his cotenants.” The Respondent, having only a possessory

interest in the Property, cannot exclude the owners of the Property or interfere with their use of the Property. The Decedent's son and grandchildren inherited the Decedent's one-half (1/2) interest in the Property *subject to* the Respondent's possessory interest, as was intended by the Decedent in drafting his Last Will and Testament. The Court in In Re Estate of Rider, 711 A.2d 1018, 1021-1022 (Pa. Super. 1998), held that "ascertaining the intent of the testator is the ultimate goal when interpreting a will." However, the Respondent's possessory interest cannot interfere with the owner's interest to reside in or use of the Property, as cotenants of the Property.

The owners of the Property have the right to sell their interest in the Property, but the Property would remain subject to the Respondent's right to continue to reside in the Property for up to three years.

Respondent only has a possessory interest in the Property for a maximum period of three years.

The Decedent's Last Will and Testament contained the following language, "I direct that Faith M. Watson, my significant other, to be permitted to remain in the home and on my property for three years following my death or until she has made other living arrangements."

"When possible, construction of [a] Will must give effect to each word and clause and avoid rendering any word or clause mere surplusage," In Re Wilton, 921 A.2d 509 (Pa. Super. 2007). In the instant case, this Court interprets the Decedent's Will as devising to the Respondent a right to reside on the property for a maximum of three years; if the Decedent intended for the Decedent to reside on the property "until she has made other living arrangements," the Decedent would not have included the language permitting the Respondent to "remain in the home and on my property for three years following my death."

The Respondent is permitted to use all tangible property as long as she wants but does not hold any ownership interest in the property.

The Decedent's Last Will and Testament contained the following language, "Also, [Faith M. Watson] is to retain all furnishings and property not bequeathed to others as long as she wishes."

"The pole star long fixed for the guidance of courts in interpreting wills is a testator's intention." In Re Keefer's Estate, 45 A.2d 31 (Pa. 1946). In the instant case, it was clearly the intention of the Decedent to permit the Respondent to remain in the home for a period of three years, as discussed above. The Decedent, in accordance with that intention, also intended the Respondent to "retain the household furnishings as long as she wishes." The Decedent "bequeathed" other property throughout his Last Will and Testament, and if the Decedent intended for the Respondent to own the

“furnishings and property not bequeathed to others,” he would have specifically made that bequest. Instead, the Decedent permitted the Respondent to “retain” them, giving her only a possessory interest.

Accordingly, the Respondent is permitted to retain and use all household furnishings not specifically bequeathed to others as long as she wishes, but does not own them and may not sell, transfer, or dispose of them. As to the other property that has not been specifically bequeathed to others in the Decedent’s Will, such as vehicles or cash, or bank accounts, this Court finds that the Respondent has a right to use any tangible property such as a vehicle so long as it has not been specifically bequeathed to someone else. However, as to intangible property such as cash or bank accounts, there is no way to “use” them without transferring or disposing of them. There is quite simply no way to “retain” these items of intangible property without spending them.

Accordingly, this Court finds that the Respondent was given a possessory interest in all tangible property not specifically bequeathed others in the Decedent’s Last Will and Testament. This Court further finds that the Respondent holds no interest in the intangible property, which passes through the Decedent’s residuary estate.

The Prothonotary shall be responsible for properly serving a copy of this Opinion upon counsel of record; and if a party has no counsel, then upon said party at their last known address as contained in the Court’s file, in accordance with Pa.R.C.P. 236 and Rule L236.

BY THE COURT:
David H. Acker, Judge
