

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

JENNIFER FOSTER

VS.

NO. 2023-18907

THE BOARD OF SUPERVISORS TOWAMENCIN TOWNSHIP

COVER SHEET OF MOVING PARTY

Date of Filing September 12 2023

Moving Party THE BOARD OF SUPERVISORS TOWAMENCIN TOWNSHIP

Counsel for Moving Party JAMES J RODGERS, Esq., ID: 21635

Document Filed (Specify) PRELIMINARY OBJECTIONS OF DEFENDANT

Matter is: = (Appealable)	<u>X</u> (Interlocutory)
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Discovery Needed: (Yes) | (No)

If applicable, Civil Case Management Order Discovery Deadline: _____

CERTIFICATIONS - Check **ONLY** if appropriate:

= Counsel certify that they have conferred in a good faith effort to resolve the subject discovery dispute. (Required by Local Rule 208.2(e) on motions relating to discovery.)

Counsel for moving party certifies that the subject civil motion is uncontested by all parties involved in the case. (If checked, skip Rule to Show Cause section below.)

By: JAMES J. RODGERS,

ESQUIRE _____
Counsel for Moving Party

RULE TO SHOW CAUSE - Check **ONE** of the Choices Listed Below:

_____ Respondent is directed to show cause why the moving party is not entitled to the relief requested by filing an **answer** in the form of a **written response** at the **Office of the Prothonotary** on or before the _____ day of _____ 20____.

_____ Respondent is directed to show cause, in the form of a **written response**, why the attached Family Court Discovery Motion is not entitled to the relief requested. Rule Returnable and Argument the _____ day of _____, 20____ at **1:00 p.m. at 321 Swede Street, Norristown, PA.**

_____ Respondent is directed to file a **written response** in conformity with the Pennsylvania Rules of Civil Procedure.

Rule Returnable at time of trial.

By: _____
Court Administrator

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Attorneys for Defendant
THE BOARD OF SUPERVISORS,
TOWAMENCIN TOWNSHIP

NOTICE TO PLEAD

TO PLAINTIFFS:

You are hereby notified to file a written response to the enclosed PRELIMINARY OBJECTIONS within twenty (20) days from service hereof or judgment may be entered against you.

DILWORTH PAXSON LLP

BY: /s/ James J. Rodgers
James J. Rodgers

COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA - CIVIL DIVISION

JENNIFER FOSTER
AND KOFI OSE

Plaintiffs,

v.

THE BOARD OF SUPERVISORS OF
TOWAMENCIN TOWNSHIP

Defendant.

No. 2023-18907

PRELIMINARY OBJECTIONS OF DEFENDANT THE BOARD OF SUPERVISORS, TOWAMENCIN TOWNSHIP TO PLAINTIFF'S COMPLAINT

Plaintiffs Jennifer Foster and Kofi Osei ("Plaintiffs") filed this Action seeking a Writ of Mandamus (Count I), in the alternative for a Declaratory Judgment (Count II), and for alleged past and continuing violations of the Sunshine Act (Count III). Plaintiffs seek relief precluding Towamencin Township ("the Township") from performing its obligations under a contract to sell

the Towamencin sanitary sewer system (the "Sewer System") to Pennsylvania American Water, Inc. ("PAAW").

I. BACKGROUND.

1. Plaintiffs allege that they are residents of the Township.

2. The Township is governed by a Board of Supervisors, elected at large, as provided in the Second Class Township Code, 53 P.S. § 65101, *et seq.*

3. In 2016, the General Assembly enacted Act 12, which made certain amendments to the Public Utility Code (66 PA. Cons. Stat. §1329 (2016)) (Act 12 of 2016), including implementing an expedited process for consideration by the Pennsylvania Public Utility Commission ("PUC") of applications to approve the acquisition of water and sewage treatment assets owned by municipalities (including municipal authorities) by investor owned utilities. In doing so, the General Assembly expressed a legislative purpose to encourage such transactions, subject to the oversight of the Public Utility Commission.

4. Many municipalities in Pennsylvania which operated their own water or sewage treatment systems have elected to explore the opportunity created by Act 12 to sell their systems on favorable economic terms to investor-owned utilities regulated by the PUC, which would allow municipalities to shift increasingly burdensome management responsibilities and the cost of the replacement of aging infrastructure to investor owned utilities and their broader rate bases, thus avoiding future borrowings and/or tax increases.

5. On or about May 25, 2022, the Board of Supervisors held a public meeting to decide whether to approve a sale of the Sewer System to NextEra Energy, Inc. ("NextEra"), and voted to approve such a sale of the Township System and adopted Ordinance 22-04 (the "Sewer Sale Ordinance").

6. On or about June 14, 2022, the Township entered into an Asset Purchase Agreement ("APA") with NextEra.

7. NextEra subsequently decided to withdraw from the wastewater business and sell its Pennsylvania rights and assets. As a result of NextEra's decision, NextEra entered into negotiations with PAAW to sell its Pennsylvania rights and assets. Once PAAW and NextEra agreed to the sale of those assets, they notified the Township and proposed the approval of the assignment of the APA by NextEra to PAAW.

8. On March 8, 2023, the Board of Supervisors provided an update on the sewer sale alerting the public to NextEra's intention to sell its Pennsylvania assets to PAAW and the need to consider the approval of an assignment agreement (the "Assignment Agreement"), an amendment to the APA (the "Amendment to the APA") and an amendment to the Sewer Sale Ordinance (the "Amendment to the Sewer Sale Ordinance"). After public comment, the Board authorized the Township Solicitor and Special Counsel to take all needed steps to prepare the Assignment Agreement, the Amendment to the APA and the Amendment to the Sewer Sale Ordinance, for consideration at the Board's March 22, 2023 meeting.

9. At the Board's meeting on March 22, 2023, the Board of Supervisors approved the Assignment Agreement and the Amendment to the APA, and adopted the Amendment to the Sewer Sale Ordinance.

10. On May 16, 2023, PAAW filed with the Public Utility Commission ("PUC") an Application to Acquire the Towamencin Sewer System, seeking approval of the transfer of assets to PAAW and the rights of PAAW to begin to offer or furnish wastewater service, Docketed at No. A-2023-3039900.

11. A slim majority of electors voting in the primary election from the Township voted to approve by referendum the Home Rule Charter (“HRC”) on May 16, 2023. The HRC, which went into effect on July 1, 2023, contains provisions upon which Plaintiffs rely as prohibiting the Township from performing its pre-existing obligations under the APA and transferring the Sewer System assets to PAAW.

II. PRELIMINARY OBJECTION NO. 1: THE MANDAMUS CLAIM IS INSUFFICIENT AS A MATTER OF LAW (Pa. R.C.P. 1028(a)(4)).

Plaintiffs seek an order of mandamus to compel the Board of Supervisors to terminate the Asset Purchase Agreement with Pennsylvania American Water on the ground that the Board of Supervisors’ failure to do so violates the HRC.

A. THE DEMURRER STANDARD

12. The Pennsylvania Rules of Civil Procedure authorize preliminary objections to a pleading for legal insufficiency – a demurrer. Pa. R.C.P. 1028(a)(4).

13. A demurrer is an assertion that a complaint or counterclaim does not set forth a cause of action or a claim on which relief can be granted. A complaint must not only give the defendant notice of what the plaintiff’s claim is and the grounds upon which it rests, but it must also formulate the issues by summarizing those facts essential to support the claim. *Lerner v. Lerner*, 954 A.2d 1229, 1235 (Pa. Super. 2008); *Alpha Tau Omega Fraternity v. University of Pennsylvania*, 464 A.2d 1349, 1352 (Pa. Super. 1983).

14. Pleadings are legally insufficient when, presuming the facts alleged and all reasonable inferences taken therefrom to be true, the allegations do not permit recovery. *See Hess v. Fox Rothschild LLP*, 925 A.2d 798, 807 (Pa. Super. 2007).

15. In ruling on preliminary objections in the nature of a demurrer, the court should consider as true “all of the well pleaded material facts set forth in [the preceding pleading] and all

reasonable inferences that may be drawn from those facts.” *Bower v. Bower*, 611 A.2d 181, 182 (Pa. 1992); see also Pa. R.C.P. 1028(a)(4).

16. The court should not, however, accept as true argumentative allegations or expressions of opinion, See *Gaster v. Nether Providence*, 556 A.2d 947, 948-49 (Pa. Cmwlth. 1989), nor should it accept any conclusions of law. See *Gekas v. Shapp*, 364 A.2d 691, 693 (Pa. 1976).

17. Where a complaint fails to set forth a valid cause of action, a preliminary objection in the nature of a demurrer is properly sustained. See *Lerner*, 954 A.2d at 1235; *Greenspan v. United Services Automobile Association*, 471 A.2d 856, 858 (Pa. Super. 1984).

B. COUNT I OF THE COMPLAINT IS LEGALLY INSUFFICIENT BECAUSE IT FAILS TO ALLEGE A LEGALLY SUFFICIENT CLAIM ON THE PART OF PLAINTIFFS FOR THE RELIEF SOUGHT, I.E., AN ORDER IN MANDAMUS.

18. Mandamus is an extraordinary writ and is a remedy used to compel performance of a ministerial act or mandatory duty. *Borough of Plum v. Tresco*, 606 A.2d 951 (Pa. Cmwlth. 1992).

19. As Plaintiffs acknowledge in their Complaint (¶ 78), mandamus is a proper remedy only where the petitioner demonstrates (1) a clear legal right to the relief sought, (2) a corresponding duty in the respondent, and (3) absence of any other appropriate or adequate remedy. *Equitable Gas Co. v. City of Pittsburgh*, 488 A.2d 270, 271 (1985).

20. "Mandamus will not issue unless the right of the petitioner is clear and specific; it can never be invoked in a doubtful case." *Commonwealth ex rel. McLaughlin v. Erie County*, 100 A.2d 601, 604, (1953). Where doubt as to the petitioner's right or the respondent's duty exists, the remedy is neither appropriate nor available. *Leff v. N. Kaufman's, Inc.*, 20 A.2d 786, 789 (1941).

21. Plaintiffs' purported right to force the Township to breach a prior contractual agreement due to prohibitions in a subsequently adopted Home Rule Charter is neither well-

defined nor clear. Indeed, any such claim is without merit because such an action by the Court would enforce the HRC to impair the obligations of the APA in violation of the Constitutions of the Commonwealth and of the United States.

C. BREACH OR REPUDIATION OF THE APA PREDICATED ON THE HRC WOULD VIOLATE THE CONTRACTS CLAUSES OF THE PENNSYLVANIA AND UNITED STATES CONSTITUTIONS.

22. The Contracts Clause of the Pennsylvania constitution states “No ... law impairing the obligation of contracts... shall be passed.” Pa. Const. art. I, § 17.

23. The PA Constitution’s Contract Clause mirrors its federal counterpart. The Contract Clause of the United States Constitution provides, in relevant part, that ‘[n]o state shall enter into any ... Law impairing the Obligation of Contracts.’ U.S. Const. art. I, § 10.

24. The Contracts Clause of the Pennsylvania Constitution is generally applied in the same manner as its federal counterpart. *Workers' Comp. Judges Prof'l Ass'n v. Exec. Bd. of Commonwealth*, 39 A.3d 486, 493 (Pa. Cmwlth. 2012), *aff'd*, 66 A.3d 765 (2013).

25. A violation of the Contracts Clause is demonstrated where a change in state law would effect a substantial impairment of a contractual relationship. Thus, Contract Clause analysis requires three inquiries: (1) whether there is a contractual relationship; (2) whether a change in a law has impaired that contractual relationship; and (3) whether the impairment is substantial. *Corman v. Nat'l Collegiate Athletic Ass'n*, 74 A.3d 1149, 1170 (Pa. Cmwlth. 2013).

26. There is no doubt here that a contract exists between the Township and PAAW. There is no doubt that plaintiffs invoke a change in the law, *i.e.*, the adoption of the HRC and its purported prohibition on the consummation of the asset sale to prevent the performance of the contract. Nor can there be any doubt that the impairment of contractual rights that plaintiffs seek is not only substantial, but total.

27. In interpreting the federal Contracts Clause the United States Supreme Court stated that, “With like uniformity [SCOTUS] has regarded [the Contracts Clause] as reaching every form in which the legislative power of a State is exerted, whether it be a constitution, a constitutional amendment, an enactment of the legislature, a by-law or ordinance of a municipal corporation, or a regulation or order of some other instrumentality of the State exercising delegated legislative authority’.” *Delaware Cnty. Prison Emps. Indep. Union v. Delaware Cnty.*, 671 A.2d 1202, 1205 (Pa. Cmwlth. 1996) (citing *Ross v. Oregon*, 227 U.S. 150 at 162–163 (1913)).

28. Any law which enlarges, abridges, or in any manner changes the intention of parties as evidenced by their contract, imposing conditions not expressed therein or dispensing with performance of those which are a part of it, “impairs obligation of contract” regardless of whether the law affects the validity, construction, duration, or enforcement of the contract. *Delaware Cnty. Prison Emps. Indep. Union v. Delaware Cnty.*, 671 A.2d 1202, 1205 (Pa. Cmwlth. 1996) (citing *Beaver County Building and Loan Association v. Winowich*, 323 Pa. 483 (1936)).

29. Total destruction of contractual expectations is not necessary, but unquestionably sufficient, for a finding of substantial impairment. *Energy Reserves Group, Inc. v. Kansas Power and Light Company*, 459 U.S. 400, 410 (1983) (citing *U.S. Trust Co. of New York v. New Jersey*, 431 U.S. 1, 26–27 (1977)).

30. The constitutional prohibition against impairment of contracts applies to the state or its subdivisions as obligor.” *Walsh v. Sch. Dist. of Philadelphia*, 343 Pa. 178, 178 (1941).

31. If the state regulation constitutes a substantial impairment, to survive a challenge under the Contracts Clause, the State, in justification, must have a significant and legitimate public purpose behind the regulation, for example, if there the intent behind the governmental action was

to remedy a broad and general social or economic problem. *EmergyCare, Inc. v. Millcreek Twp.*, 68 A.3d 1, 4–5 (Pa. Cmwlth. 2013). There is no such allegation here.

32. Moreover, it would be impossible to make such a showing given the legislative declaration of policy embodied in Act 12 favoring the acquisition of public sewer systems by investor-owned utilities.

33. The Contracts Clause prohibition on the impairment of contracts is particularly applicable where a government entity uses its lawmaking powers to avoid its own contracts, as opposed to interfering with the contracts of third parties for a separate public purpose.

34. A municipality acting in its corporate capacity (as a party to a commercial contract) is subject to the same duties and liabilities as any private corporation and it may not violate the obligations of a contract entered into by it in its capacity as a private corporation because it deems it to be for the benefit of its citizens to do so. *Cumru Twp. Auth. v. Snekul, Inc.*, 618 A.2d 1080, 1084 (Pa. Cmwlth, 1992) (citing *Philadelphia v. Fidelity Philadelphia Trust Co.*, 56 A.2d 99, 102-03 (Pa. 1947).

35. The APA, APA Amendment, and Assignment Agreement, all of which predated the adoption of the HRC, establish an existing contractual relationship between PAAW and the Township.

36. An absolute prohibition on performing the transfer of the assets in the APA would be total impairment, let alone “substantial.” The new Home Rule Charter flatly prohibits the sale of the municipal wastewater system, thus destroying the entire purpose of the contract at issue.

37. Whether or not the public interest is being served by the APA will be determined by the PUC, whose approval is still required to complete the purchase. This weighing of the public interest is statutorily designated and has been affirmed numerous times.

38. Accordingly, any exception to the “substantial impairment” prong concerning an exercise of state police power securing the public interest is a matter for determination solely by the PUC, rather than by Plaintiff, or the court in this present action.

39. The Home Rule Charter’s prohibition of the sale of assets under the APA satisfies all three prongs of a violation of the Commerce Clause of the Pennsylvania Constitution and the United States Constitution and therefore cannot be enforced.

40. Case law has drawn a “governmental” versus “proprietary” distinction using a three-part test: (1) whether the activity in which the unit is engaged is one that it is statutorily required by law to perform; (2), whether the activity one that may be conducted by a private actor, and (3), whether the activity is used as a means of raising revenue. *Program Admin. Services v. Dauphin Cty. Gen. Auth.*, 874 A.2d 722, 726 (Pa. Cmwlth. 2005), *aff’d* on other grounds, 928 A.2d 1013 (Pa. 2007) (citing *Boyle v. Mun. Auth. Westmoreland Cnty.*, 796 A.2d 389 (Pa. Cmwlth. 2002), *appeal den.*, 812 A.2d 1231 (2002) (authority providing water and wastewater services is engaged in proprietary activity.)

41. Provision of wastewater service is not a statutory duty of the Township.

42. Wastewater service is regularly provided to the public by private actors, such as PAAW.

43. The provision of wastewater service has generated revenue for municipalities, including the Township, which do not customarily provide those services without charge.

44. Sewage treatment services have been recognized as a proprietary function. *MacCalman v. County of Bucks*, 191 A.2d 265 (1963).

45. Because the Board of Supervisors acted in a proprietary capacity in entering into the APA, APA Amendment, and Assignment Agreement, those actions remain binding despite the subsequent adoption of the Home Rule Charter.

46. There is no exception to the application of the Contracts Clause to preclude the impairment of a contract simply because it is executory, *i.e.*, not fully performed.

47. Consummation of the APA is subject to the approval of the PUC in the proceeding referenced in paragraph 10 above, and will require a determination by the PUC that the proposed transaction is in the public interest. Plaintiffs are free to oppose the approval of the application in the PUC proceedings. This opportunity demonstrates the availability to Plaintiffs of an alternate remedy that precludes relief in mandamus.

48. Plaintiffs fail to allege that if the requested relief is denied they will suffer injury that is specific and different from any alleged harm to the public at large. “A public duty can be enforced only ...by a private citizen who has a specific and independent legal right or interest in himself different from that of the public at large or who has suffered an injury special and peculiar to himself.” *Wm. Penn Parking, Inc. v. City of Pittsburgh*, 346 A.3d 269 (Pa. 1975, quoting *Dombrowski v. Philadelphia*, 245 A.2d 238, 245 (Pa. 1968).

III. PRELIMINARY OBJECTION NO. 2: THE DECLARATORY JUDGMENT CLAIM IS INSUFFICIENT AS A MATTER OF LAW (Pa. R.C.P. 1028(A)(4)).

49. As an alternative ground for relief, Plaintiffs request an order framed as a “declaratory judgment” directing the Township not to execute the asset transfer documents.

50. Such an order would in effect be an injunction, which is not appropriate as a declaratory judgment.

51. Plaintiffs are not parties to the contracts at issue, and otherwise lack an individual interest that is specific and different from any alleged harm to the public at large.

52. Plaintiffs cite no facts, case law or legal principle that would support a conclusion that they have a direct and substantial interest in the declaration they purport to seek.

53. In their Complaint, Plaintiffs cite the recent decision of the Commonwealth Court in *Cicero v. Penna. Public Utility Comm'n*, No. 910 C.D. 2022 (Pa. Cmwlth. July 31, 2023)) as if it provided precedential support for their ability to obtain mandamus or declaratory relief. It does not. In *Cicero* a panel of the Commonwealth Court vacated a decision of the PUC approving the acquisition of a municipal sewer system by an investor owned utility, based on a conclusion that the PUC applied an incorrect legal standard in evaluating the evidence concerning whether the acquisition at issue there would serve the public interest. That decision is the subject of applications for reargument *en banc*. The *Cicero* decision was also based on a factual record developed before the PUC, which is necessarily different from the factual record the PUC will evaluate in ruling on PAAW's application in this matter. If anything, the citation to *Cicero* proves the point that it is the PUC that has the responsibility to weigh the public interest factors in deciding whether or not to approve a given acquisition.

IV. PRELIMINARY OBJECTION NO. 3: PLAINTIFFS LACK STANDING OR CAPACITY TO MAINTAIN THEIR MANDAMUS AND DECLARATORY JUDGMENT CLAIMS (Pa. R.C.P. 1028(a)(5).

54. Plaintiffs fail to allege that they have suffered, or will suffer, injury if the requested relief is denied that is specific and different from any alleged harm to the public at large. See paragraphs 48, 51 and 52 above.

55. Absent such a particular, individual injury, Plaintiffs' lack standing or, stated differently, lack the capacity to bring these claims. "[An] action brought under the DJA 'must allege an interest by the party seeking relief which is direct, substantial and present, ...and must demonstrate the existence of an actual controversy related to the invasion or threatened invasion

of one's legal rights." *Bowen v. Mt. Joy Twp.*, 644 A.2d 818, 821 (Pa. Cmwlth 1994) [get Atl. cite] Plaintiff must assert a substantial interest in the outcome of a dispute "which surpasses the common interest of all citizens in seeking obedience to the law. *Id.* at ____ (quoting *Empire Coal Mining Def., Inc. v. Dept. of Envir. Resources*, 623 A.2d 897, 899 (Pa. Cmwlth), appeal denied, 629 A.2d 1384 (1993)).

V. PRELIMINARY OBJECTION NO. 4: PLAINTIFFS' SUNSHINE ACT CLAIM IS INSUFFICIENT AS A MATTER OF LAW

56. In Count III, Plaintiffs allege a claim for violations of the Sunshine Act. Plaintiffs complain that the agenda for the March 8, 2022 meeting did not refer to consideration of these actions at the meeting, and that the Township engaged in a willful violation of the Sunshine Act when it considered at the March 8 meeting, matters relating to the APA and its assignment which were not properly noticed to the public and published in the agenda of the meeting.

57. At the outset of the March 8 meeting, which was fully open to the public, the Board approved an amendment to the agenda to include a Sewer Sale Update. At the conclusion of the update, the Board authorized the Township Solicitor and Special Counsel to take all needed steps to prepare the Assignment Agreement, the Amendment to the APA and the Amendment to the Sewer Sale Ordinance, for consideration at the Board's March 22, 2023 meeting.

58. At the March 22 meeting (as to which no notice issue has been raised), which was fully open to the public, the Board approved the Assignment Agreement, the Amendment to the APA and the Amendment to the Sewer Sale Ordinance.

59. Under this count, Plaintiffs seek an order striking the Supervisors' votes on March 8 and March 22) thus invalidating the Assignment Agreement, the Amendment to the APA and voiding the Amendment to the Sewer Sale Ordinance which is Ordinance No. 23-03.

60. The Complaint contains no allegation of a Sunshine Act violation in connection with the March 22, 2023 Board meeting. Indeed, the actions of the Board on March 22, approving the Assignment Agreement, and the Amendment to the APA, have the effect of curing any violation that may have occurred in connection with the actions taken by the Board on March 8. The Commonwealth Court has repeatedly held “that official action taken at a later, open meeting cures a prior violation of the Sunshine Act.” *Ass’n of Cmty. Orgs. for Reform v. SEPTA*, 789 A.2d 811, 813 (Pa. Cmwlth. 2002) (internal citations omitted), See *Smith v. Twp. of Richmond*, 82 A.3d 407, 417, fn 10 (Pa. 2013)(“[I]t is the prevailing law of this Commonwealth that the Sunshine Act does not authorize courts to invalidate official action taken at a subsequent public meeting that conforms to the Act's requirements, based on an earlier, improper closed-door meeting.”).

61. Plaintiffs’ Sunshine Act arguments are legally insufficient and are expressly barred by statute. “A legal challenge under The Sunshine Act shall be filed within 30 days from the date of a meeting which is open, or within 30 days from the discovery of any action that occurred at a meeting which was not open at which this chapter was violated, provided that, in the case of a meeting which was not open, no legal challenge may be commenced more than one year from the date of said meeting.” 65 Pa.C.S. § 713.

62. Plaintiffs’ seek to avoid this result by emphasizing the language that permits a challenge “within 30 days from the discovery of any action that occurred” However, this “discovery” window expressly applies only where the action being challenged was taken “at a meeting that was not open.” *Id.*

63. The Complaint also contains many allegations concerning the “Sewer Committee” and an alleged lack of transparency, however, there is no allegation connecting any implied

Sunshine Act violation regarding the Sewer Committee to any basis for the relief sought by Plaintiffs.

VI. CONCLUSION

For the reasons set forth herein, the Court should dismiss the Complaint with prejudice. For all of the foregoing reasons, the Board of Supervisors respectfully request that this Court enter an Order (i) sustaining its Preliminary Objections, (ii) dismissing the Plaintiffs' claims with prejudice, and (iii) granting Defendant such other and further relief as is just, proper and equitable.

DILWORTH PAXSON LLP

Date: September 12, 2023

By: /s/ James J. Rodgers
James J. Rodgers, Esq.
Attorney for Defendant

DEASEY MAHONEY & VALENTINI, LTD.

Date: September 12, 2023

By: /s/ Rufus A. Jennings
Rufus A. Jennings, Esq.
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a true and correct copy of the foregoing Preliminary Objections to be served on the following via the Court's ECF system:

Lauren A. Gallagher, Esquire
Gregory R. Heleniak, Esquire
Samantha L. Newell, Esquire
Rudolph Clarke, LLC
Seven Neshaminy Interplex, Suite 200
Trevose, PA 19053

Date: September 12, 2023

DILWORTH PAXSON LLP

/s/ James J. Rodgers
James J. Rodgers, Esq.
Attorney for Defendant