Ricci Tyrrell Johnson & Grey

ATTORNEYS AT LAW

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RTJG completed its 2022 **Summer Associate Program**. This Summer, RTJG welcomed **Dre'Sha Kelly, Vincent Melara, James McCauley and Kevin Ricard** to its program. The Summer Associates had the opportunity to work with many of the Members and Associates and were immersed in the firm's culture and practice. We thank the Summer Associates for their hard work and wish them well as they continue their endeavors in law school.

RTJG continues to grow and welcomes Associate **Nicholas E. Sulpizio** to the Firm.

Ricci Tyrrell congratulates Members **Bill Ricci**, **Francis J. Grey** and **Michael Droogan** for selection as 2022 Pennsylvania Super Lawyers®. Associate **Laquan Lightfoot** was also recognized as a Rising Star™. Super Lawyers uses a patented multiphase selection process involving peer nomination, independent research and peer evaluation.

Bill Ricci
Member

Fran Grey
Member

Mike Droogan
Member

Laquan Lightfoot
Associate

BLAZING A TRAIL: FORMER RTJG MEMBER MARY MALEY REMEMBERED AS A TRAILBLAZER

The Inquirer took an in-depth look at Title IX and the impact it had on Philadelphia women's sports since it was signed into law 50 years ago this month. **Read here**

Members of St. Joseph's first women's basketball team: (from left) **Chrissy McGoldrick Zabel, Mary Sue Garrity Simon, Muffet O'Brien McGraw, Mary Maley, and Kathy Langley**.

SUPERIOR COURT'S HELPFUL REFRESHER: SERVICE OF PROCESS, DEFAULT JUDGMENT, AND PETITIONS TO OPEN A DEFAULT JUDGMENT

Alexander M. Shaen is an Associate at **Ricci Tyrrell Johnson and Grey**

On April 12, 2022, a three-judge panel of the Pennsylvania Superior Court in *Roy v. Robert Rue*, Civ. A. No. 1598 EDA 2021, 2022 Pa. Super. LEXIS 162 (Pa. Super. 2022) unanimously affirmed an order denying a defendant's petition to open and strike the default judgment entered against him. The decision provides insight into not only default judgments, but service of process and service of legal papers. In reaching this decision, the Superior Court noted that the proper procedures were followed in seeking a default judgment. Specifically, the court noted that to properly seek default judgment a party must: (1) ensure the defaulting party is properly served with the complaint; (2) the defaulting party has failed to enter an appearance or file an answer within the proper time allotted by the Pennsylvania Rules of Civil Procedure; (3) a ten-day notice of intent to enter default judgment pursuant to Pennsylvania Rule of Civil Procedure 237.1 is filed and served upon the defaulting party; and (4) a praecipe to enter default judgment is filed and served upon the defaulting party. The Superior Court's review of the record confirmed that the defendant was properly served, that the plaintiff's procedure for seeking default judgment was proper and thus affirmed the trial court's ruling denying the defendant's petition to open and strike the default judgment.

Roy is a negligence and intentional tort action that arises from a physical altercation between the defendant and plaintiff's decedent at a bar and restaurant in Philadelphia. *Id*. at *1. The bar and restaurant was also named in the complaint and was alleged to have overserved the defendant at the time of the incident. *Id*. at *1. A "disturbance" broke out and several patrons were escorted out of the establishment, including a friend of plaintiff's decedent. *Id*. at *1-2. Plaintiff's decedent was not involved in the disturbance nor was he escorted out of the bar. *Id*. Plaintiff's decedent voluntarily left the bar and stood near his friend, when an argument broke out. *Id*. Plaintiff's decedent then claims that the defendant violently struck the decedent in the back of the head causing injuries that resulted in the decedent being in a permanent vegetative state and later dying of his injuries. *Id*.

Plaintiff filed and served her complaint, via a process server on March 11, 2011. *Id*. The defendant's mother accepted service for the defendant. *Id*. The defendant bar was properly served, counsel entered his appearance, and the bar filed an answer. *Id*. at *3. The defendant who struck plaintiff's decedent neither entered his appearance nor filed an answer. *Id*. Plaintiff then filed a ten-day notice of intent to enter default judgment pursuant to Pennsylvania Rule of

Civil Procedure 237.1. *Id*. Plaintiff served the ten-day notice on the defendant on June 9, 2012 via certified mail return receipt requested and by regular mail at the address where the defendant was served with the complaint. *Id*.

Pennsylvania Rule of Civil Procedure 237.1 states:

> (1) As used in this rule,
>
> "judgment of non pros" means a judgment entered by praecipe pursuant to Rules 1037(a) and 1659;
>
> "judgment by default" means a judgment entered by praecipe pursuant to Rules 1037(b), 1511(a), 3031(a) and 3146(a).
>
> (2) No judgment of non pros for failure to file a complaint or by default for failure to plead shall be entered by the prothonotary unless the praecipe for entry includes a certification that a written notice of intention to file the praecipe was mailed or delivered
>
> ---
>
> (ii) in the case of a judgment by default, after the failure to plead to a complaint and at least ten days prior to the date of the filing of the praecipe to the party against whom judgment is to be entered and to the party's attorney of record, if any.
>
> The ten-day notice period in subdivision (a)(2)(i) and (ii) shall be calculated forward from the date of the mailing or delivery, in accordance with Rule 106.
>
> (3) A copy of the notice shall be attached to the praecipe.
>
> (4) The notice and certification required by this rule may not be waived.
>
> (b) This rule does not apply to a judgment entered
>
> (1) by an order of court,
>
> (2) upon praecipe pursuant to an order of court, or
>
> (3) pursuant to a rule to show cause.

Pa.R.C.P. 237.1.

The defendant did not respond within the ten days. Roy, 2022 Pa. Super. LEXIS 162 at *3. On June 22, 2012, the plaintiff filed a praecipe to enter default judgment against the defendant, which the court granted. *Id*. The notice of entry of default judgment was served upon the defendant on June 22, 2012 by certified mail return receipt requested and by regular mail at the address where the defendant was previously served. *Id*.

On January 7, 2013, the trial court filed an order indicating that an assessment of damages trial against the defendant would take place on January 16, 2013 and the order indicated that if the defendant failed to appear, the damages trial would take place in his absence. *Id*. at *4. Notice of this order was provided to the defendant on January 8, 2013 pursuant to Pennsylvania Rule of Civil Procedure 236. *Id.* The defendant failed to appear for the assessment of damages trial on January 18, 2013, wherein a verdict of damages was entered against the defendant in the amount of $23,206,444.85. *Id*. Notice of the verdict was provided to the defendant pursuant to Pennsylvania Rule of Civil Procedure 236 on January 18, 2013. *Id*. Following the assessment of damages verdict, the plaintiff settled with the bar defendant. *Id.*

On February 18, 2021, more than eight years after the verdict of damages was entered, the defendant filed a petition to open the default judgment. *Id*. The defendant contended that he was incarcerated when the trial court held the assessment of damages trial and that he did not appear because he had notice of it. *Id*. The defendant was being served by both the court and the plaintiff at the original address where he was served with the complaint and the defendant claimed that all service should have been sent to him in prison. *Id*. The defendant additionally claimed that the original service was improper because he was not residing at the address where his mother accepted service for him, so he was never properly served. *Id*. The defendant further claimed that his mother was not competent to accept service and that his father has the same name as him, which created confusion. *Id.*

The defendant claimed that he first learned of the default judgment on December 29, 2020 when he was served with post-judgment interrogatories. *Id*. at *7. He then "promptly" filed a petition to open the default judgment. *Id.* The defendant's petition to strike the default judgment was filed on February 18, 2021 and the plaintiff filed an answer on March 11, 2021. *Id*.

The trial court denied the defendant's petition and he appealed. *Id*. The main issue on appeal was whether "the trial court erred in denying the defendant's motion to open and strike the default judgment based on fatal defects appearing on the face of the record as it relates to the service of the complaint, the ten-day notice of intent to enter default judgment, and the notice of the assessment of damages trial." *Id*. at *8-9.

The Superior Court first examined whether the defendant had been properly served with the complaint. *Id*. at *10. The defendant claimed that his mother was served with the complaint, but the affidavit of service does not specify that the person served was the defendant's mother or that the defendant resided there. *Id*. The court first looked to the applicable case law addressing a defect in the affidavit of service:

Thus, improper service is not merely a procedural defect that can be ignored when a defendant subsequently learns of the action....However, the absence of or a defect in a return of service does not necessarily divest a court of jurisdiction of a defendant who was properly served. [T]he fact of service is the important thing in determining jurisdiction and...proof of service may be defective or even lacking, but if the fact of service is established jurisdiction cannot be questioned.

See *Cintas Corp. v. Lee's Cleaning Services, Inc.*, 549 Pa. 84, 700 A.2d 915, 917-18 (1997).

Based on the Court's review of the case law and rules, it determined that there was no defect in the affidavit of service and the process server was not required to determine the familial relationship between the person accepting service and the defendant. Roy, 2022 Pa. Super. LEXIS 162 at *12-13.

The Superior Court next evaluated whether the trial court properly denied the defendant's motion to strike the default judgment given his claim that he was in prison when the default was served. *Id*. at *13. The Court looked at Rule 237.1 and the applicable case law, specifically that the purpose of Rule 237.1 "is to ensure that default judgments are not entered without a defendant's prior knowledge, and to provide the defaulting party with an opportunity to cure the defect prior to the entry of default judgment." *Id*. at *15 (quoting Green Acres Rehab. & Nursing Cntr. V. Sullivan, 113 A.3d 1261, 1271-72 (Pa. Super. 2015). The Court also looked to Rule 440 governing the service of legal papers other than original process, which states:

> (a)(1) Copies of all legal papers other than original process filed in an action or served upon any party to an action shall be served upon every other party to the action....
>
> (2)(i) If there is no attorney of record, service shall be made by handing a copy to the party or by mailing a copy to or leaving a copy for the party at the address endorsed on an appearance or prior pleading or the residence or place of business of the party, or by transmitting a copy by facsimile as provided by subdivision (d).
>
> (ii) If such service cannot be made, service shall be made by leaving a copy at or mailing a copy to the last known address of the party to be served.

Pa.R.C.P. 440(a)(1), (2)(i) and (2)(ii).

Applying the case law and rules to the defendant's case, the Superior Court held that the defendant was properly served with the praceipe to enter a default judgment. *Roy, 2022 Pa. Super. LEXIS 162 at *17-18.* The Court further stated that there was no indication in the record that the defendant did not reside at the address where his mother was personally served and where he had been receiving all correspondence concerning the case. *Id*.

Lastly, the Superior Court examined whether the trial court properly denied the defendant's petition to open the default judgment. *Id*. at *19-20. In order to open a default judgment in Pennsylvania, the moving party must that it has "(1) promptly filed a petition to open the default judgment, (2) provided a reasonable excuse or explanation for failing to file a responsive pleading, and (3) pleaded a meritorious defense to the allegations contained in the complaint." *Myers v. Wells Fargo Bank*, N.A., 2009 PA Super 241, 986 A.2d 171, 175-76 (Pa. Super. 2009). The Superior Court reviewed the record in light of these factors and determined that the defendant received notice of the default in 2013 while he was in prison and not in 2020 when additional documents were served on him. *Roy*, 2022 Pa. Super. LEXIS 162 at *26-27. Even had the defendant not received notice in

prison, he claimed that he received notice of the default on December 29, 2020, but did not file a petition to open until 51 days later on February 18, 2021. *Id*. at *28. In general, the timely period of delay for filing a petition to open a default judgment is less than one month. *Id*. at *26; see also *Duckson v. Wee Wheelers, Inc*., 423 Pa. Super. 251, 620 A.2d 1206 (Pa.Super. 1993) (one day is timely); Alba v. Urology Associates of Kingston, 409 Pa. Super. 406, 598 A.2d 57 (Pa.Super. 1991) (fourteen days is timely); *Fink v. General Accident Ins. Co.*, 406 Pa. Super. 294, 594 A.2d 345 (Pa.Super. 1991) (period of five days is timely). For these reasons, the Superior Court affirmed the trial court's order denying the defendant's petition to open the default judgment.

The *Roy* opinion provides a helpful refresher on service of process, default judgment, and the process for petitioning to open a default judgment. In seeking a default judgment, the moving party must ensure that the defaulting party has been properly served and then fully comply with Pennsylvania Rule of Civil Procedure 237.1 to ensure that the defaulting party first receives a ten-day notice of intent to enter the default judgment and then filing a praecipe for entry of default judgment is filed at the expiration of the ten days. Adherence to the rules is crucial in ensuring that a default judgment is properly entered. Conversely, when filing a petition to open a default judgment, perhaps the most important consideration is that the petition be filed promptly as soon as it is learned that a default judgment has been entered.

INTELLECTUAL PROPERTY PROTECTION: PATENTS VERSES TRADE SECRETS

Stuart M. Goldstein is the head of **RTJG's Intellectual Property practice.**

In some of my prior articles, I addressed the benefits of patent protection for new products, product improvements and processes. Specifically, an individual who receives a United States patent obtains a valuable property right to exclude others from making, using, selling and distributing an invention for a given period of time, normally 20 years from the date a patent application is filed. During this period, the inventor has a viable weapon against potential competitors who improperly infringe on this property right. However, after 20 years passes, the patent lapses and the inventive subject matter in the patent becomes part of the public domain; that is, anyone can now make, use, sell and distribute the invention. So how does an inventor who wants to secure his or her property rights for longer than the period allowed by the patent accomplish this objective? An alternative form of intellectual property protection is by maintaining the invention as a trade secret.

Trade secret protection was originally established by common law, dating back to the nineteenth century. Over the years, trade secret law developed inconsistently by means of a variety of different state common law and random state statutes. In order to reconcile these differences and create a more uniform body of trade secret law, in 1979 the National Conference on Uniform State Laws adopted the Uniform Trade Secrets Act (UTSA). Since that time, almost all of the states have adopted some form of trade secret statute based on the USTA, thereby bringing a measure of uniformity to trade secret law. For instance, New Jersey's version of the USTA is the New Jersey Trade Secrets Act, N.J.S.A.§56:15-1, et seq. and Pennsylvania's statute is the Pennsylvania Trade Secrets Act, 12 Pa. C.S.§5301 et seq.

The trade secret statutes generally define a trade secret as any information "that derives independent economic value . . . from not being generally known to, and not being readily accessible by proper means by other persons who can obtain economic value from its disclosure or use." A trade secret can be "a formula, drawing, pattern, compilation including a customer list, program, device, method, technique or process." Thus, this broad language includes just about any type of subject matter whose disclosure can literally be kept secret. Specific examples include chemical and commercial product compositions, manufacturing methods, computer software, engineering blueprints or data and business information, such as a business plan or corporate strategy. This proprietary subject matter must also be "the subject of efforts that are reasonable under the circumstances to maintain its secrecy." As long as the secrecy of a trade secret is properly maintained by a business through "reasonable efforts," its misappropriation by third parties is prohibited. In 2016, the Defend Trade Secrets Act was signed into law, allowing a party the option of bringing its civil cause of action for trade secret misappropriation in federal court.

As a result, trade secrets do not have to meet the stricter criteria of a patented invention. For instance, trade secrets do not have to fall into the category of inventions which are permitted by patents. In other words, they are not restricted to processes, machines, products, or compositions of matter, the only types of inventions allowed by the patent statutes. Trade secrets also do not need to be new or unobvious improvements of prior products, which are also requirements of patents. However, trade secrets have disadvantages. Most critically, an individual who independently develops subject matter which is the trade secret of another can legally use that subject matter. In contradistinction, a patent protects the owner of the patent from any individual who, even independently, invents the subject matter of the patent.

The most famous example of a trade secret is the formula for Coca-Cola®, which has remained a trade secret for over 100 years. The ingredient in Coca-Cola® which gives it its distinctive taste is a secret combination of flavoring oils and ingredients known as Merchandise 7X. The formula for Merchandise 7X is tightly guarded and has been since it was invented by Coca-Cola®. The formula and the only written record of the secret formula is actually kept in a security vault in a bank in Atlanta which can only be opened upon a resolution from the board of directors of Coca-Cola®. As the court commented in the case of *Coca-Cola Bottling Co. of Shreveport, Inc. v. The Coca-Cola Co.*, 107 F.R.D. 288 (D. Del. 1985), "the complete formula for Coca-Cola® is one of the best-kept trade secrets in the world."

In summary, an inventor is advised to be aware of the comparative advantages and disadvantages of seeking patent protection versus keeping the invention as a trade secret. Inventors must realize that when filing for a patent, which truly does afford a valuable, protected property right, all subject matter in the patent will ultimately be disclosed to the public and the protection has a limited timeframe. In maintaining a trade secret, the public does not obtain access to the invention and it can be maintained for an indefinite period of time; but the trade secret is subject to being lost if its subject matter is independently developed by a third party.

REEXAMINING DUTIES OWED BY UNIVERSITIES TO THEIR ATHLETES

Jacob F. Kratt is an Associate at **Ricci Tyrrell Johnson & Grey**

Over the past few years, courts in Pennsylvania have been called upon to examine duties owed by colleges and universities to their student-athletes and related issues such as waivers executed by student athletes in connection with their participation in university athletics.1 Recently the Superior Court issued its decision in *Baumbach v. Lafayette College*, 272 A.3d 83 (Pa. Super. 2022), holding that a college had a duty to protect a student-athlete traveling back to campus from practice for the college's crew team. This was an expansion of an earlier decision F*eleccia v. Lackawanna College*, 215 A.3d 3 (Pa. 2019), which addresses liability for injuries suffered by athletes at practice. The basis for both holdings is that the college/university assumes

a duty regarding the care of the student-athletes under these circumstances, a finding which could have broader implications beyond college athletes.

Before analyzing the details of Baumbach, it is important to review the prior state of the law in this area, most notably the Pennsylvania Supreme Court's 2019 decision in Feleccia and the earlier federal court decision in *Kleinknecht v. Gettysburg College*, 989 F.2d 1360 (3d Cir. 1993).

In 1993, the Third Circuit decided Kleinknecht which predicted that the Pennsylvania Supreme Court "would hold that a special relationship existed between the [c]ollege and [student-athlete] that was sufficient to impose a duty of reasonable care on the [c]ollege." This "special relationship" holding would, if generally applied, have serious implications for colleges and universities with athletic teams. This decision, however, was not binding precedent in Pennsylvania, and was not fully tested until 2019, when the Pennsylvania Supreme Court issued its decision in Feleccia.

In Feleccia, the Supreme Court held that universities assume a duty to student-athletes to provide trained medical personnel by reason of the "special relationship" created by the student's participation in connection with a university athletic team. This holding did not create a new duty, in the Court's opinion, but was based on the application of existing standards in a new context. Feleccia involved a pair of players trying out for the Lackawanna College football team who both suffered injuries in the same drill in the same practice, at which the university's only medical staff were not certified "athletic trainers," as neither had passed the athletic training examination (in fact, both had failed the examination, causing the college to change their titles from "athletic trainer" to "first responder"). In connection with plaintiffs' participation with the football team, both had signed a consent form by which they each gave "voluntary consent to receive emergency medical services in the event of an injury during an athletic event provided by the athletic trainer, team physician or hospital staff." The Supreme Court held that the college had a duty to provide medical staff because it had undertaken to do so. In support of this finding of an undertaking, it cited several acts by the university: having the players, including plaintiffs, execute the consent to treatment by "athletic trainers"; holding the employees out as athletic trainers despite knowing they were not certified; and allowing these employees to provide care to injured athletes despite their not being so certified. Whether or not the provision of these uncertified employees at a football practice satisfied the duty was a question for the jury. It is noteworthy that the basis for the Court's finding existence of a duty was the college having taken actions for the safety of its student-athletes, which could incentivize some to do less rather than more to protect-student athletes since taking more protective actions could lead to increased duties and potential liability as well.

In March 2022, the Superior Court confronted another university/student-athlete duty question in *Baumbach v. Lafayette College*, 272 A.3d 83 (Pa. Super. 2022). Baumbach involved a student-athlete who was injured when she was hit by a drunk driver while traveling back from practicing off campus with the college's crew team. The college's crew team operated out of a boathouse leased from the City of Easton located on Lehigh Drive, a road which did not have sidewalks or other pedestrian walkways and the college did not provide transportation for the athletes attending practice at the boathouse. There was a parking lot adjacent to the boathouse, but when it was full or otherwise unavailable, the athletes parked at a remote lot down Lehigh Drive and walked along the side of the road to access the boathouse. In addition, the coaches had previously led runs along Lehigh Drive, instructing team members to run in single-file as far from the road as possible and to watch for cars, despite knowing a fatal accident had recently occurred along that stretch of road involving a pedestrian. The plaintiff was severely injured when she was struck by the drunk driver's vehicle while walking back along Lehigh Drive to the remote lot after practice, by which time the sun had set. The trial court granted summary judgment on behalf of the school and coaches, but the Superior Court reversed and reinstated these claims, finding that the college's affirmative actions taken for the safety of plaintiff imposed on it a duty to protect plaintiff against an unreasonable risk of harm arising from that conduct. Specifically, the Court referenced the management agreement into which the college entered for the boathouse, providing a parking lot adjacent to the boathouse, and hiring coaches to supervise the athletes, including instructing

the athletes regarding their conduct along Lehigh Drive as support for its finding that the university assumed a duty regarding this potential danger. This created a jury question as to whether the college breached that duty.

The decisions in *Feleccia and Baumbach* have redefined the scope of potential liabilitieso of educational institutions with regards to athletes. *Feleccia*, at a minimum, should cause extra thought to be given to the medical care provided for/available to intercollegiate athletes, including provision of licensed personnel. While the Supreme Court did not explicitly hold that such personnel needs to be physically present at events, a cautious reading of the opinion would counsel at least having a licensed athletic trainer present at such events. *Baumbach* went a step further in holding that less affirmative conduct could support a conclusion that the university had assumed a duty. Barring a further review of *Baumbach* by the Superior Court en banc or granting of allocotur by the Supreme Court, these decisions should cause athletic departments of colleges and universities in Pennsylvania to reexamine how they provide for student-athletes, including provision of medical personnel, supervision of coaches, and even transportation arrangements to and from practices and other activities.

HILLS AND RIDGES DOCTRINE, EXCULPATORY CLAUSE IN AMANDA LOWER V. COLLEEN M. NEVIL AND TRACE J. NEVIL

Matthew S. Cioeta is an Associate at **RTJG**

On May 6, 2022, the Snyder County Court of Common Pleas issued an Opinion and Order denying Defendants' Motion for Summary Judgment in a slip and fall case in the parking lot of an apartment building. The court held there were genuine issues of material fact as to the condition of the premises, and that the exculpatory clause in Plaintiff's lease did not apply to the parking lot, but only to Plaintiff's own apartment.

On January 21, 2019, at approximately 3:30 p.m., Plaintiff/Tenant Amanda Lower slipped and fell in the parking lot of Defendants/Landlords Colleen and Trace Nevil. Lower v. Neville, No. CV-153-2020, at 1 (C.P. Snyder Co. May 6, 2022). Plaintiff alleged that she slipped on a patch of ice and fell, resulting in personal injury. *Id*.

The Defendants filed a Motion for Summary Judgment, arguing that under the "hills and ridges" doctrine, Plaintiff failed to produce evidence that the Defendants allowed snow and ice to form a hill and ridge in their parking lot. *Id*. Defendants further argued that Plaintiff failed to offer evidence that Defendants had actual or constructive notice of the condition in the parking lot. *Id*. at 1-2.

The Hills and Ridges Doctrine provides that the owner or occupier of land is not liable for general slippery conditions, but they have a duty to remove snow or ice from pavement within a reasonable time after notice of the dangerous condition. *Id*. at 3 (citing Harmotta v. Bender, 601 A.2d 837, 841 (Pa.Super. 1992). The rationale for this doctrine was that imposing a duty on an owner or occupier of land to always keep their premises free of ice and snow would be an impossible burden to keep up with.

The parties offered contradictory evidence to assert when exactly the snow fell which created the dangerous condition. *Id*. at 3. Plaintiff argued that the Hills and Ridges Doctrine did not apply in this case as the Defendants had notice of the condition of the parking lot and that they owed Plaintiff a duty to maintain a safe parking lot to walk in. *Id*. at 4.

The court held that a finder of fact may have found that the Defendants had notice of the conditions of the parking lot. *Id*. The court reasoned that a finder of fact could have found that the Defendants did not sufficiently clear the parking lot. *Id*. There was also a factual question as to whether the surface was treated with ice melt. *Id*.

After addressing Plaintiff's argument that her lease was a contract of adhesion (and holding that it was not), the court assessed Plaintiff's claim that the exculpatory clause in her lease only applied to her specific unit and not the facility's parking lot or common areas. *Id*. at 6.

The lease entered into by the parties contained the following language: "[l]andlord is not legally responsible for any injury or damage to Tenant, Tenant's family, or Tenant's guests that occurs on the Property." *Id*. In the lease, "Property" is defined with the specific unit number of the apartment Plaintiff rented. *Id*.

The court relied on the PA Superior Court's opinion in Thomas v. Ott, 255 A.3d 1273 (Pa. Super. 2021) to strictly construe the exculpatory clause against the landlords. *Id*. As the lease clearly indicated that the exculpatory clause pertained only to Plaintiff's specific apartment, Defendants were not entitled to Summary Judgment for the incident that took place in the parking lot. *Id*.

The opinion in this case illustrates the difficulty for owners and occupiers of land to win a case on Summary Judgment, as there are a number of factors involved that may present genuine issues of material fact. In addition, this Opinion also indicates Pennsylvania Courts' preference to strictly construe provisions of Landlord/Tenant leases against the Landlord.

IN THE COMMUNITY

"In the Community" is edited by Ricci Tyrrell Member **Tracie Bock Medeiros**

On May 21, 2022, **Team RTJG** participated in the 2022 **Eagles Autism Challenge (EAC).** EAC is dedicated to raising funds for innovative research and programs to help unlock the mystery of autism. EAC is a combined bike event and family friendly 5K Run/Walk that begins and ends at **Lincoln Financial Field.** Over the past four years, through sponsorship and fundraising, RTJG has contributed over $100,000 to EAC and **Eagles Autism Foundation.**

RTJG served as a Birdie Sponsor at the **Inaugural Barristers' Golf Classic** on July 18th. Partner, Tracie Medeiros and Associates, Kelly Woy and Matthew Cioeta participated in the event. Established in 1950, **The Barristers' Association of Philadelphia, Inc.'s** purpose, then and now, has been to address the professional needs and development of Black lawyers in the City of Philadelphia through programs such as seminars, cultural events, and publications. The theme of the Barristers' this year is Meaningful Engagement and True Service.

RTJG Members **John E. Tyrrell** and **Patrick J. McStravick** have agreed to provide continuing pro bono representation to **First Tee Philadelphia**, whose mission is to provide experiences that build character. First Tee exists to enable kids to build the strength of character that empowers them through a lifetime of new challenges by seamlessly integrating the game of golf with life skills curriculum. **First Tee Philadelphia** creates learning experiences that bring out inner strength, self-confidence, and resilience in participating children.

Yolanda Jenkins, RTJG Legal Assistant and **Jessica Harm**, Literacy Lead, Joseph Pennell Elementary School

As part of our Spring community service project, RTJG hosted a two-part fundraiser to benefit the **Joseph Pennell Elementary School** which is in dire need of a library rehab and books. The first part of the fundraiser was participation in **March Madness** brackets to benefit the school, followed by a book drive. RTJG Administrative Assistant **Yolanda Jenkins'** granddaughter, Faith, is a student at **Joseph Pennell**

which provided RTJG with a personal connection to the school and its worthy fundraiser.

RTJG Associates **Matt Cioeta** and **Kelly Woy** with **Amanda Hartman**, Senior Counsel, Litigation for Speedway/7-11.

RTJG Associates **Kelly J. Woy** and **Matthew Cioeta** participated in the 31st Annual **Speedway Miracle Tournament** on June 13th and 14th. The tournament benefits the **Children's Miracle Network Hospitals** (CMN Hospitals). Since 1991, the Speedway Miracle Tournament has served as the centerpiece of Speedway's fundraising efforts for CMN Hospitals and continues to be one of the largest charity golf tournaments in the nation. Funds raised to help CMN Hospitals advance pediatric healthcare by providing critical lifesaving equipment and much needed resources to help treat sick and injured children.

As part of our Summer community service project RTJG employees purchased golf balls for **The Philadelphia Ronald McDonald House's** (PRMH) 2022 **Hit 'em for the House Ball Drop.**, with $10,000 going back to help support the families staying there. The **PRMH** provides a comfortable room to sleep, home cooked meals, and other supportive services to families who travel to Philadelphia to obtain medical treatment for their children. These services allow parents to comfort their children around the clock, in the hospital or after an outpatient treatment. By staying at the House, the families also get support from a community of other parents in similar situations, finding comfort and hope.

RTJG was a sponsor of **Conflict Prevention and Resolution's** (CPR) **Corporate Leadership Award Dinner** on June 8, 2022 in New York City honoring **Amgen, Inc.** and **Jonathan Graham.** CRP is an independent nonprofit organization whose mission is to harness the insights and experiences of its members to prevent and resolve business disputes.

RTJG was again a sponsor of the annual **Perlman Cup-Women's Golf Tournament** which benefits the **Special Olympics**.

In late Spring, RTJG Member **Tracie Bock Medeiros** worked with her children Zach, Naomi, and Nathan to organize a neighborhood Toy Drive for Ukrainian Children. They collected toys from neighborhood friends that were delivered to the **United Ukrainian American Relief Fund in Philadelphia**, and ultimately delivered overseas to children in need. They also hosted a **Lemonade Stand** fundraiser to benefit **Har Zion Temp**.

GETTING TO KNOW RTJG

DID YOU KNOW.....

RTJG Associate **Matt Cioeta** is a Mummer with the Bryson Wench Brigade and has been since January 1, 2014. The Mummers Parade is a Philadelphia New Year's Day event that dates to 1901.

RTJG Associate **Jacob Kratt** played Division 1 soccer at Rider University and still plays in recreational leagues. Wishing Jacob a speedy recovery from his recent knee injury suffered while playing in a league game.