IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

DEREE J. NORMAN, ADMINISTRATOR FOR ESTATE OF LYDIA F. SHEARLDS, DECEASED, Petitioner v. TEMPLE UNIVERSITY HEALTH SYSTEM D/B/A TEMPLE UNIVERSITY HOSPITAL, SCOTT R. BEAUDOIN, M.D., BRIAN BRADY, M.D., DANIEL J. BURKE, M.D., CHANDRA DASS, M.D., EDWARD DORAZIO, M.D., DAVID J. EDWARD, M.D., TAMIM S. KHADDASH, M.D., CHUL KWAK, M.D. AND JANE C. YOON, M.D., Respondents	:	No. 380 EAL 2019 Petition for Allowance of Appeal from the Order of the Superior Court

ORDER

PER CURIAM

AND NOW, this 23rd day of January, 2020, the Petition for Allowance of Appeal is **DENIED**.

IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

DEREE J. NORMAN, ADMINISTRATOR FOR ESTATE OF LYDIA F. SHEARLDS, DECEASED,	:	No. 380 EAL 2019
	:	Application for Reconsideration
Petitioner	:	
v.	:	
TEMPLE UNIVERSITY HEALTH SYSTEM d/b/a TEMPLE UNIVERSITY HOSPITAL, SCOTT R. BEAUDOIN, M.D., BRIAN BRADY, M.D., DANIEL J. BURKE, M., CHANDRA DASS, M.D., EDWARD DORAZIO, M.D., DAVID J. EDWARD, M.D., TAMIM S. KHADDASH, M.D., CHUL KWAK, M.D. AND JANE C. YOON, M.D.,	:	
Respondents	:	

ORDER

PER CURIAM

AND NOW, this 4th day of March, 2020, the Application for Reconsideration is denied.

APPENDIX A2

2019 PA Super 135

DEREE J. NORMAN, ADMINISTRATOR FOR ESTATE OF LYDIA F. SHEARLDS, DECEASED Appellant v. TEMPLE UNIVERSITY HEALTH SYSTEM D/B/A TEMPLE UNIVERSITY HOSPITAL, SCOTT R. BEAUDOIN, M.D., BRIAN BRADY, M.D., DANIEL J. BURKE, M.D., CHANDRA DASS, M.D., EDWARD DORAZIO, M.D., DAVID J. EDWARD, M.D., TAMIM S. KHADDASH, M.D., CHUL KWAK, M.D. AND JANE C. YOON, M.D.	:	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 2456 EDA 2018

Appeal from the Order Entered July 13, 2018
In the Court of Common Pleas of Philadelphia County Civil Division at No(s): 170303647

BEFORE: KUNSELMAN, J., MURRAY, J., and PELLEGRINI*, J.

OPINION BY MURRAY, J.: Filed: April 29, 2019

Deree J. Norman (Appellant), Administrator of the Estate (Estate) of Lydia F. Shearlds, Deceased (Decedent), appeals *pro se* from the order dismissing his complaint because, as a *pro se* individual, he is precluded from representing Decedent's estate. We affirm.

Appellant is Decedent's son and the administrator of her estate.

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* Retired Senior Judge assigned to the Superior Court.

Appellant has two brothers. Trial Court Opinion, 10/31/18, at 1. On or about April 4, 2015, Decedent was admitted to Temple University Hospital, "possibly . . . due to complications with emphysema," and she died the following day. ***Id.*** at 2. The trial court summarized:

> Appellant claimed that [Appellee] Dr. Jane C. Yoon committed medical malpractice by improperly inserting [the Decedent's] feeding tube [and] that [Appellee] Temple University Health System edited [the Decedent's] medical records to censor her treatment history. Appellant sought representation from two law firms in pursuit of a medical malpractice claim [but they both declined representation.] Appellant filed this lawsuit *pro se* on March 31, 2017.

Id.

Appellant's complaint named ten defendants — Temple University Health System d/b/a/ Temple University Hospital; Scott R. Beaudoin, M.D.; Brian Brady, M.D.; Daniel J, Burke, M.D.; Chandra Dass, M.D.; Edward Dorazio, M.D.; David J. Edward, M.D.; Tamim S. Khaddash, M.D.; Chul Kwak, M.D.; and Dr. Yoon (collectively, Appellees) — and raised claims of negligence and fraud. "Appellant included documentation of the . . . Estate's insolvency as well as Appellant's failure to procure legal representation," and the trial court granted Appellant *in forma pauperis* status. Trial Court Opinion, 10/31/18, at 2; Order, 4/12/17. Over the next nine months, Appellees and Appellant filed, respectively, alternating preliminary objections and amended complaints. Appellees also filed an answer to the amended complaint.

On January 3, 2018, the trial court entered an order stating that no individual may represent an estate *pro se*, and staying the case for 60 days

to allow the Estate to retain an attorney or prove that Appellant is its sole beneficiary. Order, 1/3/18, *citing* ***In re Estate of Rowley***, 84 A.3d 337, 341-342 (Pa. Cmwlth. 2013) (discussed ***infra***).

Appellant filed a notice of appeal, and on February 27, 2018 — while the appeal was pending — filed a petition in the trial court to extend the stay. On March 12, 2018, this Court *sua sponte* quashed the appeal because the January 3, 2018 order was not final or appealable. ***Norman v. Temple University Health System***, 466 EDA 2018 (*per curiam* order) (Pa. Super. Mar. 12, 2018).

On March 27, 2018, the trial court granted Appellant's petition to extend the stay and permitted him an additional 60 days to obtain counsel.[1] Order, 3/27/18. On May 30th, however, Appellees filed a motion to dismiss, averring that: (1) more than 60 days had passed since the trial court's March 27th order; (2) Appellant's third amended complaint indicated that he was not the Estate's sole beneficiary; and (3) Appellant had failed to secure counsel. Appellant filed a response along with a memorandum of law, arguing that: (1) the trial court improperly relied on ***In re Estate of Rowley***, which was

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[1] It was improper for Appellant to file his March 27, 2018 petition to extend the stay because his appeal before this Court was pending. ***See*** Pa.R.A.P. 1701(a) (generally, after an appeal is taken, the trial court may no longer proceed further in the matter). Nevertheless, we do not disturb the trial court's March 27, 2018 order, which was issued after the appeal was quashed and jurisdiction remanded to the trial court.

both outdated and distinguishable from this case; and (2) the trial court should have considered ***Rellick-Smith v. Rellick***, 147 A.3d 897 (Pa. Super. 2016), which Appellant interpreted to permit *pro se* representation of an estate. Appellant also inferred, without explanation, that he had a First Amendment "right to redress the charges in his Complaint." Appellant's Memorandum of Law in Support of Response in Opposition to Appellees' Motion to Dismiss, 6/19/18, at 6.

On July 13, 2018, the court entered the underlying order granting Appellees' motion to dismiss and dismissing all of Appellant's claims. Appellant filed a timely notice of appeal, and Appellant and the trial court have complied with Pa.R.A.P. 1925. The trial court issued an opinion on October 31, 2018.

Appellant presents five issues for this Court's review:

> 1. Did the Trial Court fail to fully analyze, conceptualize and or comprehend that the decision in ***Estate of*** [***Rowley***] when applied to a personal injury matter instead of an Estate matter it violates [sic] . . . Appellant's rights established by the First Amendment of the Constitution?
>
> 2. Did the Trial Court fail to fully analyze, conceptualize and or comprehend that the decision in ***Rellick-Smith v. Rellick*** more accurately addresses the representation of an Estate Administrator in a personal injury matter involving a deceased testator?
>
> 3. Did the Trial Court fail to fully analyze, conceptualize and or comprehend the vast difference between a personal injury matter and an inheritance matter[?]
>
> 4. Is the appearance of impropriety pertinent in relation to the Court's overzealous assertion of an affirmative defense on behalf

> of Appellees only after Appellant identified the insufficiency of Appellees' answer to a complaint?
>
> 5. Did the Trial Court fail to exercise an equal level of due diligence in seeking out a precedent that would not restrict Appellant's representation of his mother[?]

Appellant's Brief at 1.

Preliminarily, we note that Appellant's *pro se* brief fails to discuss pertinent legal authority. ***See*** Pa.R.A.P. 2119(a) (argument section of brief shall present such discussion and citation of authorities as are deemed pertinent); ***see also Wilkins v. Marsico***, 903 A.2d 1281, 1284 (Pa. Super. 2006) ("This Court may quash or dismiss an appeal if the appellant fails to conform to the requirements set forth in the Pennsylvania Rules of Appellate Procedure. [Pa.R.A.P. 2101.]"). Although Appellant's five-page argument includes a few citations to legal authority, it does not explain what legal principles are embodied in the citations, or how they apply to this appeal. Furthermore, although Appellant's statement of questions involved raises five issues, the argument section of his brief presents eight issues. ***See*** Pa.R.A.P. 2119(a) (argument shall be divided into as many parts as there are questions to be argued). We remind Appellant: "Although this Court is willing to liberally construe materials filed by a *pro se* litigant, *pro se* status confers no special benefit upon the appellant. To the contrary, any person choosing to represent himself in a legal proceeding must, to a reasonable extent, assume that his lack of expertise and legal training will be his undoing." ***Wilkins***, 903 A.2d at 1284-1285 (citations omitted).

On appeal, Appellant first avers that "the airing of grievances is a constitutional [First Amendment] right" and a "requirement" imposed by the court "without the unfettered access to a means to fulfill said requirement is a contradiction of an individual's constitutional rights." Appellant's Brief at 5. Appellant further asserts that "the subjective requirement that imposed on Appellant to hire counsel [in order to represent the Estate] violates Appellant's *In Forma Pauperis* status." ***Id.*** at 7. Appellant states that he is "not attempting to invoke a Sixth Amendment right," but is "challenging the Court to provide the Amendment to the Constriction [*sic*] that requires any person to hire an attorney in the course of redressing a civil matter." ***Id.***

In rejecting Appellant's claim that his constitutional rights were violated, the trial court noted that Appellant cited "no evidence in support of the argument that [the] Order violated his First Amendment rights." Trial Court Opinion, 10/31/18, at 4. The court also observed that while the Sixth Amendment guarantees legal representation in a criminal matter, that right does not extend to civil law suits. ***Id.*** at 7.

Upon review, we conclude that Appellant's constitutional claims are waived because they are undeveloped and lack citation to pertinent legal authority. ***See*** Pa.R.A.P. 2101, 2119(a); ***Wilkins***, 903 A.2d 1284. As noted above, Appellant has not cited any authority suggesting that a litigant has a constitutional right to representation by an attorney in a civil matter.

Appellant additionally contends that the trial court erred in finding that

Appellant could only represent the Estate *pro se* if he were the only beneficiary, and reasons, "the number of beneficiaries should have no effect on the ability to proceed." Appellant's Brief at 6. Appellant further claims that because this case is not an inheritance matter, but instead a personal injury case, the trial court erred in relying on ***Estate of Rowley***, and should have applied ***Rellick-Smith***. ***Id.*** at 9. Although only marginally developed, we discern the essence of this argument; in addition, Appellant has provided some legal authority. Accordingly, we will address the merits. ***See Wilkins***, 903 A.2d at 1284.

Our standard of review of a trial court's dismissal of a complaint is an abuse of discretion. ***Coulter v. Ramsden***, 94 A.3d 1080, 1086 (Pa. Super. 2014) (citation omitted).

> Judicial discretion requires action in conformity with law on facts and circumstances before the trial court after hearing and consideration. Consequently, the court abuses its discretion if, in resolving the issue for decision, it misapplies the law or exercises its discretion in a manner lacking reason. Similarly, the trial court abuses its discretion if it does not follow legal procedure.

Id. (citation omitted).

In ***In re Estate of Rowley***, an individual who was the administrator of his late mother-in-law's estate, filed a *pro se* petition in the trial court to vacate a county judicial tax sale of the decedent's property. ***In re Estate of Rowley***, 84 A.3d at 339. The trial court dismissed the petition on the basis that the *pro se* son-in-law/administrator was engaging in the unauthorized

practice of law by representing the estate.[2] ***Id.***

On appeal, the Pennsylvania Commonwealth Court affirmed.[3] The Court first noted that generally, "non-attorneys may not represent parties before the Pennsylvania courts and most administrative agencies." ***In re Estate of Rowley***, 84 A.3d at 340. The Court considered ***Harkness v. Unemployment Compensation Board of Review***, 920 A.2d 162 (Pa. 2007), in which our Supreme Court set forth factors for determining whether a person could represent another's interests before an administrative agency:

> whether the proceedings by design are intended to be brief and informal, not intended to be intensely litigated; whether the evidentiary rules apply; the amounts generally at issue in proceedings of that type; whether there is prehearing discovery; whether normally only questions of fact and not complex legal issues are involved; and whether the fact-finder is not required to be a lawyer.

Id. at 341 (footnote omitted). The Commonwealth Court also considered two federal decisions which held that a non-attorney could not represent a family member's estate. ***Id.***, *citing* ***Pridgen v. Andresen***, 113 F.3d 391, 393 (2nd Cir. 1997) (administratrix of an estate "may not proceed *pro se* when the

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[2] The trial court first granted the administrator/son-in-law 60 days to retain counsel before dismissing his petition. ***In re Estate of Rowley***, 84 A.3d at 339.

[3] While "[t]his Court is not bound by decisions of the Commonwealth Court[,] such decisions provide persuasive authority, and we may turn to our colleagues on the Commonwealth Court for guidance when appropriate." ***Petow v. Warehime***, 996 A.2d 1083, 1089 n.1 (Pa. Super. 2010) (citation omitted).

estate has beneficiaries or creditors other than the litigant [as] the action cannot be described as the litigant's own, because 'the personal interests of the estate, other survivors, and possible creditors will be affected by the outcome' of the proceedings"); ***Williams v. USP-Lewisburg***, 2009 WL 4921316 at *2 (M.D. Pa. 2009) ("Like a corporation, an estate can only act through an agent; in this case, and administrator."). The ***Rowley*** Court concluded: "Given the complex legal issues that may arise during the representation of an estate . . . prohibiting a non-attorney from representing an estate is essential to protecting the interests of the public." ***In re Estate of Rowley***, 84 A.3d at 342.

In ***Rellick-Smith***, the two defendants gained power of attorney over the affairs of their relative prior to the relative's death. ***Rellick-Smith***, 147 A.3d at 899. Five months later, the relative created two certificate of deposit (CD) accounts, in the names of herself, the two defendants, and a third relative (the plaintiff). ***Id.*** Three years later, unbeknownst to the plaintiff, the defendants acted under their power of attorney and removed the plaintiff's name from the CDs. ***Id.*** The relative subsequently died — becoming the decedent — and the two defendants withdrew all of the money in the CDs. ***Id.*** The plaintiff filed a complaint in the Orphans' Court, alleging that she was entitled to one-third of the value of the CDs. ***Id.*** at 898-899. The Orphans' Court dismissed her complaint, finding that the plaintiff lacked standing to sue, as she had "not pled that she is the personal representative of the

[decedent's] estate, which would allow [her] to request an accounting and audit of the [defendants'] use of [their] authority under the [power of attorney]." ***Id.*** at 903. On appeal, this Court disagreed and vacated the Orphans' Court order. ***Id.*** at 904. We held that "the Orphans' Court erred in ruling that only the decedent or her personal representative had standing to challenge the [d]efendants' change of the beneficiary designation under the CDs," and concluded that the plaintiff "had standing to challenge the propriety of the [d]efendants' unilateral action, as agents under the" power of attorney. ***Id.***

Instantly, the trial court observed that ***Rellick-Smith*** did not reverse ***Rowley***, and was factually distinguishable. Trial Court Opinion, 10/31/18, at 12-13. The court observed that in ***Rellick-Smith***, "the plaintiff had standing to file her suit *pro se* because she was enforcing her own rights as a beneficiary of the trust [and] not enforcing or asserting any rights of the trust or estate itself." ***Id.*** at 12. Conversely, the trial court determined that Appellant's case is controlled by ***In re Estate of Rowley***, where "the Commonwealth Court held that the **estate itself** could not be represented in a lawsuit by a beneficiary *pro se* where other beneficiaries and creditors existed." ***Id.*** at 12-13 (emphasis in original).

On appeal, Appellant does not address the trial court's discussion of ***Rellick-Smith***, and instead presents the same conclusion — without a developed legal argument — that the trial court rejected. Upon review, we

hold that the trial court did not abuse its discretion in applying ***In re Estate of Rowley*** — even though that case addressed a *pro se* administrator's standing to litigate before a state agency — to preclude Appellant's *pro se* representation of the Estate. ***See Coulter***, 94 A.3d at 1086.

Appellant additionally argues that because he has not claimed to be a lawyer, he cannot "be accused of practicing law." Appellant's Brief at 7. The trial court rejected his argument:

> This claim is the exact definition of the unauthorized practice of law. Appellant is attempting to represent the . . . Estate. Appellant is not a licensed attorney. As such, Appellant's attempts to represent the . . . Estate constitute an unauthorized practice of law.

Trial Court Opinion, 10/31/18, at 8. Consonant with ***In re Estate of Rowley***, we agree. It is irrelevant whether Appellant held himself out to be a licensed attorney; the dispositive fact is that Appellant, who is not an attorney, filed a complaint on behalf of, and endeavored to represent, the Estate in this litigation. Accordingly, Appellant's claim does not merit relief.

Appellant's final issues concern an alleged deficiency in Appellees' answer to Appellant's amended complaint. Appellant argues that the answer "contain[ed] mere denials of" his complaint's averments, and that Appellees untimely filed a verification by Appellee Dr. Edward. Appellant's Brief at 7-8. The trial court acknowledged that Appellees' answer did not initially include Dr. Edward's verification, but found that where nine physicians were sued, and Appellees subsequently praeciped to attach Dr. Edward's verification to

subsequent filings, "the failure to attach the verification of one doctor out of the nine involved in this matter was *de minimus* in nature." Trial Court Opinion, 10/31/18, at 10 (also noting "Pennsylvania jurisprudence allows a party to correct verification errors."). Although we discern no abuse of discretion in the trial court's determination, we decline to address it further because of our holding that the trial court properly dismissed Appellant's complaint on the basis that he was precluded from representing the Estate *pro se*.

For the reasons stated above, we affirm the order of the trial court. ***See In re Estate of Rowley***, 84 A.3d at 341-342.

Order affirmed.

Judgment Entered.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 4/29/19

APPENDIX C1

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

DEREE J. NORMAN **ADMINISTRATOR FOR ESTATE OF** **LYDIA F. SHEARLDS, DECEASED** **Plaintiff/Appellant** **vs.** **TEMPLE UNIVERSITY HEALTH SYSTEM** **(d/b/a)** **TEMPLE UNIVERSITY HOSPITAL,** **SCOTT R. BEAUDOIN, M.D.,** **BRIAN BRADY, M.D.,** **DANIEL J. BURKE, M.D.,** **CHANDRA DASS, M.D.,** **EDWARD DORAZIO, M.D.,** **DAVID J. DWARD, M.D.,** **TAMIM S. KHADDAS, M.D.** **CHUL KWAK, M.D. and** **JANE C. YOON, M.D.** **Defendants/Appellees**	**PHILADELPHIA COUNTY** **COURT OF COMMON PLEAS** **MARCH TERM, 2017** **NO. 03647** **2456 EDA 2018** Shearlds Etal Vs Temple University Health Sy-OPFLD 17030364700109

OPINION

Patrick, J. **October 31, 2018**

Plaintiff/Appellant, Deree J. Norman, filed an appeal from this Court's Order dated July 13, 2018, dismissing Appellant's complaint and affirming The Honorable Abbe Fletman's January 3, 2018, Order granting Appellant leave to procure counsel. This Court now submits the following Opinion in support of its ruling and in accordance with the requirements of Rule 1925(a) of the Pennsylvania Rules of Appellate Procedure. For the reasons set forth below, this Court's decision should be affirmed.

FACTUAL HISTORY

Deree J. Norman ("Appellant") is the son and estate administrator of decedent Lydia F. Shearlds ("Shearlds"). Appellant has two brothers: Haile Shearlds and Khalil Shearlds. On or

before April 4, 2015, Shearlds was admitted to Temple University. Shearlds was possibly admitted due to complications with emphysema. Shearlds passed away on April 5, 2015, after suffering cardiac arrest while at Temple University Hospital. Appellant claimed that Dr. Jane C. Yoon committed medical malpractice by improperly inserting Shearlds' feeding tube. Appellant further claimed that Temple University Health System edited Shearlds' medical records to censor her treatment history. Appellant sought representation from two law firms in pursuit of a medical malpractice claim: McCann & Wall, LLC, declined representation sometime in August, 2016, and Kline & Specter, PC, similarly declined representation sometime in March, 2017. Both law firms informed Appellant that a claim needed to be filed before April 4, 2017, before the statute of limitations expired. Appellant filed this lawsuit *pro se* on March 31, 2017.

PROCEDURAL HISTORY

On March 30, 2017 (docketed March 31, 2017), Appellant filed a complaint *pro se* against Temple University Health System and their physicians. Appellant included documentation of the Shearlds Estate's insolvency as well as Appellant's failure to procure legal representation.

On April 19, 2017, Appellees filed preliminary objections to Appellant's complaint and on May 8, 2017 (docketed May 9, 2017), Appellant filed an Amended Complaint. Both parties filed a series of amended complaints and preliminary objections back and forth until January 3, 2018, when Judge Fletman ordered "because no individual may represent an estate *pro se*, all matters will be STAYED for 60 days to allow the estate to find an attorney or prove to this court that Deree J. Norman is its only beneficiary." On February 2, 2018, Appellant filed both a motion for reconsideration and an appeal to the Superior Court of Pennsylvania of Judge Fletman's January 3, 2018, Order. On February 6, 2018 (docketed February 7, 2018), Judge Fletman denied Appellant's Motion for Reconsideration and on February 27, 2018, Appellant filed an emergency

motion seeking a thirty (30) day extension of the January 3, 2018, Order. On March 23, 2018 (docketed March 27, 2018), Judge Fletman ordered an additional sixty (60) day stay for Appellant to find counsel. On May 2, 2018, the Superior Court of Pennsylvania quashed Appellant's February 2, 2018, appeal of Judge Fletman's initial Order. On May 30, 2018, Appellees filed a motion to dismiss Appellant's complaint, arguing that, 1) Appellant could not represent the Shearlds Estate *pro se* because Appellant was not the only beneficiary, and 2) that Appellant failed to secure counsel as per Judge Fletman's January 3, 2018, and March 27, 2018, orders.

On July 12, 2018 (docketed July 13, 2018), this Court granted Appellees' motion to dismiss. On August, 10, 2018, Appellant appealed that Order to the Superior Court of Pennsylvania. On August 13, 2018 (docketed August 14, 2018), this Court ordered Appellant to file a Concise Statement of Matters Complained of on Appeal pursuant to Pa.R.A.P. 1925(b). Appellant filed a timely Statement of Matters Complained of on September 3, 2018 (docketed September 4, 2018).

ISSUES

Appellant raised the following issues in his 1925(b) Statement of Matters Complained of on Appeal:

I. The trial court erred by denying Appellant his First Amendment rights.

II. The trial court erred by failing to recognize Appellant's status as Lydia F. Shearlds' Estate Administrator.

III. The trial court erred by failing to recognize Appellant's *Pro Se* status.

IV. The trial court erred by failing to recognize Appellant's *In Forma Pauperis* status.

V. The trial court erred in determining Client Attorney relationship.

VI. The trial court erred by denying Appellant's request for default judgement.

VII. The trial court erred by imposing sanctions on Appellant.

VIII. The trial court erred by failing to acknowledge more recent legal precedents.

DISCUSSION

I. THE COURT DID NOT DENY APPELLANT'S FIRST AMENDMENT RIGHTS

On appeal, Appellant claims the Court erred by issuing Orders that "effectively deny the Appellant the Constitutional Right to redress the issues of a Medical Malpractice action where negligence and subsequent fraud were exhibited by Appellees' and subsequently by Appellees' counsel."[1] Appellant's claim must fail.

Appellant argues that the January 3, 2018, Order granting Appellant leave to seek counsel is unconstitutional. Appellant cites to no evidence in support of the argument that Judge Fletman's Order violated Appellant's First Amendment rights. Moreover, Appellant's argument is undermined by his February 27, 2018, Motion to Extend the stay for sixty (60) days. At the time, Appellant seemed to agree with the Court that finding counsel would be in his, and the estate's, best interest. Otherwise, Appellant would not have asked the Court for such an extension. However, Appellant's refusal to comply with these requirements is his own failure, not the Court's failure. Accordingly, Appellant's claim must fail.

II. THE COURT PROPERLY RECOGNIZED APPELLANT'S STATUS AS THE ESTATE ADMINISTRATOR FOR LYDIA F. SHEARLDS

On appeal, Appellant claims the Court erred by failing to recognize Appellant's status as administrator of the Shearlds Estate. Appellant's claim must fail.

Appellant claims this Court "has failed to acknowledge, conceptualize and understand that Appellant is the only person who has standing to bring a lawsuit on behalf of Shearlds."[2] Appellant

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[1] Appellant's *1925(b) Statement of Matters Complained of on Appeal*, ¶7.
[2] September 4, 2018, *Statement of Matters*, at 3.

cites to Judge Fletman's January 3, 2018, Order to support the claim that the Court failed to recognize Appellant's status. Appellant's argument is unpersuasive. On January 3, 2018, Judge Fletman Ordered: "because no individual may represent an estate *pro se*, all matters will be STAYED for 60 days to allow the estate to find an attorney or prove to this court that Deree J. Norman is its only beneficiary." Judge Fletman's Order cited to *In re Estate of Rowley*, 84 A.3d 337 (Pa.Cmwlth. 2013). In that Case, the Pennsylvania Commonwealth Court determined that "[a] non-attorney could not represent a family member's estate... [a]n estate by its very nature cannot represent itself and, therefore, must be represented by a licensed attorney, regardless of the relation between the administrator and the decedent. To permit an unlicensed law administrator to appear *pro se* would be to permit the unauthorized practice of law." *Id.* at 341.

In this case, the Court properly recognized Appellant's status as administrator for the Shearlds Estate. Judge Fletman's Order simply instructed Appellant to: 1) prove he is the only beneficiary of Shearlds Estate or, 2) if Appellant is not the only beneficiary, to secure counsel to represent the estate.

Therefore, simply because Appellant is the administrator for Shearlds Estate, does not abrogate the rule in *Rowley* that where an estate, as here, has beneficiaries, the estate must be represented by counsel for purposes of filing a law suit. Accordingly, Appellant's claim must fail.

III. THE COURT PROPERLY DENIED APPELLANT'S *PRO SE* STATUS

On appeal, Appellant claims the Court erred by failing to properly observe Appellant's status as a *pro se* litigant in this matter. Appellant's claim must fail.

As discussed *supra*, "an administratrix or executrix of an estate may not proceed *pro se* when the estate has beneficiaries or creditors other than the litigant." *In re Estate of Rowley*, 84 A.3d 337, 342 (Pa.Cmwlth. 2013); see also *Pridgen v. Andresen*, 113 F.3d 391, 393 (2d Cir. 1997)

("We now hold that an administratrix or executrix of an estate may not proceed *pro se* when the estate as beneficiaries other than the litigant").

Here, Appellant argues that because he is the administrator of the Shearlds Estate, he "is the only living individual with 'Standing' to redress legal issues."[3] Appellant also argues that "if the Court believes that Appellant's *pro se* status is inappropriate to proceed, the number of beneficiaries should have no effect on the ability to proceed."[4] Appellant fails to recognize that the number of beneficiaries is the precise reason he cannot proceed *pro se*. Appellant's brothers are beneficiaries who have not signed away their interest to the Shearlds Estate. Further, as noted in Appellant's April 10, 2017, Motion for Reconsideration, the Shearlds Estate has an outstanding debt owed to creditors in excess of $12,000.00.[5] Even if Appellant's brothers were to sign away their interest in the Shearlds Estate, Appellant could not *pro se* represent the estate due to the claims of creditors.

Therefore, because the Shearlds Estate has more than one beneficiary (Appellant's brothers and the Shearlds Estate's creditors), Appellant is disqualified from representing the estate *pro se*. Accordingly, Appellant's claim must fail.

IV. THE COURT PROPERLY RECONIZED APPELLANT'S *IN FORMA PAUPERIS* STATUS

On appeal, Appellant claims the Court erred by failing to properly observe his i*n forma pauperis* status. Appellant claims the Court granted him i*n forma pauperis* but did not appoint him an attorney. Appellant further claims that the Court is required to assign counsel to assist him

[3] September 4, 2018, *Statement of Matters*, at 4.
[4] September 4, 2018, *Statement of Matters*, at 4.
[5] April 10, 2017, Appellant's *Motion for Reconsideration*, at 3.

due to the insolvency of the Shearlds Estate and due to the January 3, 2018, Order requiring Appellant to find counsel. Appellant's claim must fail.

On March 31, 2017, Appellant filed a motion to proceed *In Forma Pauperis*. On April 4, 2017, The Honorable Idee C. Fox denied Appellant's motion. On April 10, 2017, Appellant filed a second motion to proceed *In Forma Pauperis* and filed a motion for reconsideration of Appellant's first motion. In Appellant's motion for reconsideration, Appellant certified that: the Shearlds Estate was insolvent; the Shearlds Estate had no source of income; the Shearlds Estate had an available balance of $5,800.00; and the Shearlds Estate had an outstanding debt in excess of $12,000.00. On April 12, 2017, Judge Fox vacated the April 4, 2017, order and permitted Appellant to proceed *In Forma Pauperis*.

Appellant argues the Court has an obligation to appoint him counsel. Appellant cites to no evidence in furtherance of this claim, but argues: "If the government requires that a child receive a basic level of education, then the government must provide an institution in which that requirement can be met at no cost to the individual."[6]

Appellant appears to be under the belief that this Court is required to appoint legal representation based on the January 3, 2017, Order prohibiting Appellant from representing the Shearlds Estate *pro se* in the medical malpractice suit. Assuming, *arguendo*, that Appellant is attempting to invoke the Constitution's Sixth Amendment Right to Counsel, Appellant's claim still fails. While the Constitution's Sixth Amendment Right to Counsel guarantees legal representation in a lawsuit and requires the court to appoint counsel, that right applies to criminal matters, not civil law suits. Accordingly, Appellant's claim must fail.

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[6] June 19, 2018, Appellant's *Response in Opposition to Appellees' Motion to Dismiss,* at 10-11.

V. THE COURT PROPERLY DENIED APPELLANT'S UNAUTHORIZED PRACTICE OF LAW

On Appeal, Appellant claims this Court erred by 1) failing to recognize the difference between a legal representative and a *pro se* administrator; 2) failing to recognize that Appellant is representing the Shearlds Estate for a personal injury claim, not an estate issue; and 3) failing to recognize the difference between personal injury law and estate law. Appellant's claims must fail.

Pennsylvania law defines the unauthorized practice of law as "any person... who within this Commonwealth shall practice law... without being an attorney at law... commits a misdemeanor of the third degree upon a first violation." 42 Pa. Stat. Ann. § 2524 (West). The Superior Court has stressed that the "protection of the public is accomplished by preventing those who are not attorneys from practicing law. *Commonwealth v. Pilchesky*, 151 A.3d 1094, 1100 (Pa.Super. 2016).

Here, Appellant's three arguments do not shield him from the unauthorized practice of law. Appellant's first argument is that he cannot commit an unauthorized practice of law because he is not an attorney. This claim is the exact definition of the unauthorized practice of law. Appellant is attempting to represent the Shearlds Estate. Appellant is not a licensed attorney. As such, Appellant's attempts to represent the Shearlds Estate constitute an unauthorized practice of law.

Appellant's second argument is that because he is representing the Shearlds Estate in a personal injury, claim and not an estate claim, that he cannot commit an unauthorized practice of law. This argument fails on its face. Appellant's attempt to *pro se* represent the Shearlds Estate constitutes the unauthorized practice of law because he is not an attorney. Regardless of what sort of claim Appellant has attempted to bring, this is the exact sort of scenario this law prohibits in order to provide such public protection.

Appellant's third argument is that there is a distinct difference between estate law and personal injury law and that such difference protects him from any unauthorized practice of law. Again, Appellant's argument fails on its face due to the fact that differentiating between two areas of law, no matter how distinct, does not alleviate Appellant from committing an unauthorized practice of law. To date, Pennsylvania law only permits an individual who has not been admitted to the bar to represent himself in court. An individual cannot represent another person and there is no special allowance depending on the area of law involved.[7] As such, Appellant's attempts to represent the Shearlds Estate *pro se* constitute an unauthorized practice of law.

As delineated *supra*, Appellant does not explain why his *pro se* claim does not violate Pennsylvania Laws prohibiting the unauthorized practice of law. Rather, Appellant states unrelated facts about his current claim that do nothing but prove that he is committing an unauthorized practice of law. Accordingly, Appellant's claim must fail.

VI. THE COURT PROPERLY DENIED DEFAULT JUDGMENT

On appeal, Appellant claims this Court erred by denying default judgment because, 1) Appellees failed to execute required verifications; 2) Appellees did not submit a complete answer to Appellant's Third Amended Complaint; and 3) Judge Fletman's January 3, 2018, Order showed "bias/impropriety" towards Appellees. Appellant's claim must fail.

First, Under Pa.R.C.P. 126, "[t]he court at every stage of any such action or proceeding may disregard an error or defect of procedure which does not affect the substantial rights of the parties." Further, "[t]he Rules of Civil Procedure are designed to achieve the ends of justice and are not to be accorded the status of substantive objectives requiring rigid adherence." *Lewis v.*

[7] It is noteworthy that Pilchesky attempted to appeal this decision regarding his unauthorized practice of law and that his appeal was denied by the Pennsylvania Supreme Court. 174 A.3d 1028 (Pa. 2017).

Erie Ins. Exch., 421 A.2d 1214, 1217 (Pa.Super. 1980). "Since appellant attempted to comply with the rules and the error was of a *de minimus* technical nature that did not prejudice the substantive rights of Erie, we do not believe it is necessary to remand this matter for a purely formal amendment." *Id.*

On July 11, 2017, Appellant filed his Third Amended Complaint. On September 29, 2017, Appellees filed their Answer and New Matter. Appellees did not attach the verification of David J. Edwards, M.D., to their Answer and New Matter. On October 23, 2017, and November 13, 2017, Appellant filed his response to Appellees' Answer and his Motion to Strike Appellees' Answers, respectively. In both filings, Appellant mentioned David J. Edwards' missing verification in footnotes and in the conclusion paragraph requested default judgment. On December 26, 2017, Appellees filed a Praecipe to Attach David J. Edwards' verification to their September 29, 2017, Answer and New Matter. On January 3, 2018, Judge Fletman denied Appellant's Motion to Strike Appellees' Answers, granted Appellees' Motion to Strike Appellant's Answer, and struck Appellant's October 23, 2017, response. On February 2, 2018, Appellant filed a Motion for Reconsideration of Judge Fletman's January 3, 2018, Orders. On February 7, 2018, Judge Fletman denied Appellant's Motion for Reconsideration.

Therefore, Pennsylvania jurisprudence allows a party to correct verification errors. Here, Appellant argues that allowing Appellees to correct a verification is prejudicial to his claim. On December 26, 2017, Appellees filed their Praecipe to Attach Doctor David J. Edwards' verification to their September 29, 2017, Answer and New Matter. The failure to attach the verification of one doctor out of the nine involved in this matter was *de minimus* in nature. Because this was not an error fatal to Appellant's substantive rights, Appellant's Motion to Strike and Appellant's Motion for Reconsideration were properly denial. Accordingly, Appellant's claim must fail.

Second, Pa.R.C.P. 1029 provides that "in every action seeking monetary relief for bodily injury, death or property damage, averments in a pleading to which a responsive pleading is required may be denied generally except the following averments of fact which must be denied specifically: averments relating to the identity of the person by whom a material act was committed, the agency or employment of such person and the ownership, possession or control of the property or instrumentality involved."

Appellant argues that Appellees needed to specifically deny the averments in Appellant's Third Amended Complaint. Appellant's averments, however, are conclusions of law that do not trigger Pa.R.C.P. 1029. Any factual statements made by Appellant in his Third Amended Complaint are mixed with an accusation, speculation, or conclusion of law that permit Appellees to generally deny the averments. For example, in Appellant's Third Amended Complaint, ¶ 39, Appellant claimed that two different law firms refused to represent him because of Appellees' "misrepresentation and/or concealment of facts in Decedent's medical records." These are not factual statements that require specific denial by Appellees. Therefore, Appellees' Answer and New Matter was sufficient and Appellant's claim must fail.

Third, Appellant never once filed a Motion for Default Judgment. Appellant only requested that the Court find Appellees in default and render judgment in Appellant's favor in the conclusion paragraph of his November 13, 2017, Motion to Strike. As stated *supra*, Judge Fletman denied Appellant's Motion to Strike. Accordingly, Appellant's claim must fail.

Finally, Appellant's claim that Judge Fletman was biased towards Appellees is completely unfounded and without merit. Appellant cites to no evidence in support of the claim that the Court acted with bias. Accordingly, Appellant's claim must fail.

VII. THE COURT PROPERLY IMPOSED SANCTIONS ON APPELLANT

On appeal, Appellant claims the Court erred by "unlawfully imposing unjustifiable sanctions" for failure to provide medical records. Appellant's claim must fail.

On December 6, 2017, the Court granted Appellees' Motion to Compel Appellant to Sign HIPAA Compliant Authorizations. On December 20, 2017, Appellees filed a Motion for Sanctions to compel Appellant to comply with the December 6, 2017, Order. On March 22, 2018 (docketed March 26, 2018), Judge Shirdan-Harris granted Appellees' Motion for Sanctions and ordered Appellant to comply with the December 6, 2017, Order.

Appellant had from December 6, 2017, to March 22, 2018, to comply with the initial Order to release medical records to Appellees. Appellant failed to do so and the Court properly granted Appellee's Motion for Sanctions. Accordingly, Appellant's claim must fail.

VIII. THIS COURT PROPERLY ACKNOWLEDGED LEGAL PRECEDENTS

On appeal, Appellant claims the Court erred by citing to *In re Estate of Rowley*, 84 A.3d 337 (Pa.Cmwlth. 2013) in the January 3, 2018, Order. Appellant claims the Court failed to acknowledge "more recent precedent" set out in *Rellick-Smith v. Rellick*, 147 A.3d 897 (Pa.Super. 2016). Appellant's claim must fail. The holding in *Rellick* did not reverse the holding in *Rowley*.

In *Rellick*, the plaintiff was a beneficiary of a Totten Trust who claimed she was deprived of due inheritance and brought suit *pro se* to enforce her rights. *Rellick-Smith v. Rellick*, 147 A.3d 897, 899 (Pa.Super. 2016). In that case the Superior Court held that the plaintiff had standing to file her suit *pro se* because she was enforcing her own rights as a beneficiary of the trust, she was not enforcing or asserting any rights of the trust or estate itself. *Id.* at 904. On the other hand, in *Rowley* the Commonwealth Court held that the *estate itself* could not be represented in a lawsuit

by a beneficiary *pro se* where other beneficiaries and creditors existed. Therefore, *Rellick* is distinguished from *Rowley*.

In this case, Appellant admits in his 1925(b) Statement that the lawsuit is "on behalf of Lydia F. Shearlds" and is not being filed to enforce his own rights or interests in the estate.[8] Therefore, Appellant acknowledges he is attempting to represent the estate, in direct contradiction to the holding in *Rowley*. The January 3, 2018, Order compelled Appellant to seek counsel because Appellant cannot *pro se* represent the Shearlds Estate in a medical malpractice lawsuit. Appellant's reliance on *Rellick* is misplaced because, as stated *supra*, Appellant is not attempting to represent his own interests but rather the interests of the Shearlds Estate. As such, Appellant's reliance on *Rellick* is unpersuasive and the holding in *Rowley* is controlling in this case.[9] Accordingly, Appellant's claim must fail.

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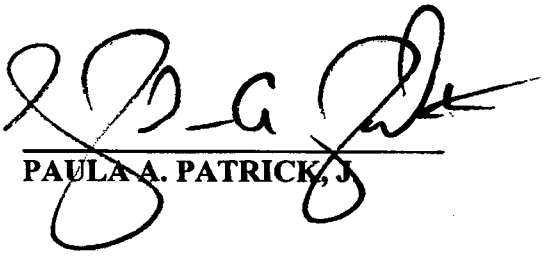
[8] September 4, 2018, Appellant's *Statement of Matters Complained of on Appeal,* at 3.

[9] *Rowley* received negative treatment in only one case: *Madlyn & Leonard Abramson Ctr. For Jewish Life v. Novitsky*. No. 2933 EDA 2016, 2017 WL 3328127 (Pa.Super. 2017). However, *Madlyn* is non-precedential. Even if *Madlyn* is persuasive in the present matter, the holding in *Madlyn* distinguished itself from *Rowley* in several ways. First, in *Madlyn*, the personal representatives were involved in a discovery matter post-litigation. *Id* at *6. The issues involved only questions of fact, "none of which require[d] a lawyer to resolve." *Id.* Second, *Madlyn* did not attempt to dispute the findings of *Rowley*, but instead distinguished itself from *Rowley*. *Id.* As such, the holding in *Rowley* is still good law and Appellant's claim must fail.

CONCLUSION

For all the foregoing reasons, this Court respectfully requests that its judgment be affirmed in its entirety.

BY THE COURT:



PAULA A. PATRICK, J.

APPENDIX D1

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Reply to Philadelphia office

August 18, 2016

Khalil Shearlds
19 Linden Avenue
Lansdowne, PA 19050

Certified Mail-Return Receipt Requested
Certified # 7015 1520 0003 0899 5470
Green Card #: 9590 9402 1362 5285 3270 35
And First Class Mail

RE: Your Wrongful Death - Estate of Lydia Shearlds
DOI: 04/04/2015

Dear Mr. Shearlds:

Thank you for the opportunity to review the documentation related to the above referenced case. Unfortunately, after considering all of the information available to us, **we have elected not to represent you.**

It is important for you to understand that there is a specific time limitation in which to file a lawsuit. **In the State of Pennsylvania, a medical malpractice lawsuit must be filed within two (2) years from the date of your incident or when you were made aware of the condition which means that in your case a lawsuit must be filed on or before April 3, 2017 or it is time-barred.** If you still wish to investigate these matters further, we urge that you seek alternative legal representation as soon as possible.

I have enclosed some of my business cards and firm magnets. If I can be of any assistance to you, your family or friends in the future, please do not hesitate to contact me.

Very truly yours,

ROBERT E. McCANN

REM/mv
Cc: Rodney Oglesby, Esq.

APPENDIX D2

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March 8, 2017

Sent via regular
and certified mail
Mr. Deree Norman
5367 Thomas Avenue
Philadelphia, PA 19143

RE: Lydia Sherald, dec'd

Dear Mr. Norman:

We have had the records we obtained in this potential case reviewed by a board certified physician. Based on the doctor's evaluation, we have determined that this is not a matter in which we are able to undertake representation. The records we have obtained are being sent to you under separate cover.

You should be aware the law of Pennsylvania provides that should you decide to pursue this matter, a claim must be brought before the statute of limitation expires which, according to the facts you have told us, may expire as early as April 4, 2017.

Very truly yours,

Amy L. Guth

ALG/dp