

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

KARL D. FAZLER,	:	No. 01-00419
Plaintiff	:	
	:	
vs.	:	CIVIL ACTION - LAW
	:	
KAREN L. PLANKENHORN,	:	
Defendant	:	Preliminary Objections

ORDER

AND NOW, this 4th day of December 2001, the Court GRANTS the Preliminary Objections filed by defendant Karen Plankenhorn.

The Court believes that the estate of Daniel L. Fazler is a necessary party to this action. Thus, the plaintiff will need to raise the estate and appoint a personal representative. Myers v. Estate of Robert Wilks, Sr., 655 A.2d 176, 178 (Pa.Super 1995) ("Appellant's remedy is to secure the appointment of a personal representative by applying to the Register of Wills for the issuance of letters testamentary or letters of administration to a qualified individual, such as the person designated as the executor in the decedent's will or the decedent's children").

The Court believes the Plaintiff may include the current defendant as a party defendant because one may sue a personal representative alone or with other parties as though the decedent were alive. See 20 Pa.C.S. Section 3373.

Therefore, the Court DISMISSES this action without prejudice to the right of the plaintiff to raise the estate and refile the action. The plaintiff will also have to consider the appropriate venue for this action. See 20 Pa.C.S. Section 3150.

By The Court,

Kenneth D. Brown, J.

cc: Robert Wise, Esquire
Rhonda Davis, Esquire
Gary Weber, Esquire (Lycoming Reporter)
Work File