IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

SUSQUEHANNA LEGAL AID FOR ADULTS AND YOUTH D/B/A/ SLAAY, Plaintiff,	:	NO. CV-2024-01041
vs.	:	
	:	CIVIL ACTION - LAW
MARK AND SUZANNE WINKELMAN and THE PAJAMA FACTORY, LLC AND P.J. HOLDING, LLC, Defendants.	:	Order on Petition to Open or Strike

OPINION AND ORDER

BACKGROUND

This matter came before the Court on September 22, 2025, for hearing on Plaintiff's Petition to Open or Strike Default Judgment, filed August 14, 2025. Plaintiff and counsel for Plaintiff appeared, and Defendant Mark Winkelman appeared, with counsel.

This matter has been vigorously litigated since the filing of Plaintiff's original Complaint on September 30, 2024. The Court has conducted at least three (3) hearings on motions seeking preliminary injunctions, and oral argument on many sets of preliminary objections. Among those many hearings, the matter came before the Court on October 9, 2024, for hearing on the Plaintiff's Amended Petition seeking a preliminary injunction and Amended Motion for Expedited Consideration. After a full hearing on October 9, 2024, the Court—per it's Opinion and Order of October 11, 2024—entered the following:

FINDINGS OF FACT:

1. Defendants Mark and Suzanne Winkelman (hereinafter collectively "Winkelman") are the members of a limited liability company named P.J. Holdings, LLC, which in turn is the owner of one or more parcels of real property situate at 1307 Park Avenue, Williamsport, Pennsylvania 17701. Winkelman are the members of a separate limited liability company known as the Pajama Factory, LLC, which is the operating entity for the real estate. For ease of reference, both limited liability companies will hereinafter be referred to as the "Pajama Factory" and the real property owned and operated by those limited liability companies will be referred to as the "Premises."

2. The Premises contains eight (8) buildings, several of which have been leased to commercial tenants. The Plaintiff is one of those tenants.
3. According to Winkelman, the Premises contains approximately 300,000 square feet of leasable space, of which approximately 240,000 has a functional sprinkler system, and 60,000 does not.
4. According to Winkelman, all but three (3) of the commercial tenants at the Premises are occupying space which is sprinklered.
5. As a result of an inspection conducted by an agency of the City of Williamsport (hereinafter the "City"), the City served Winkelman with a notice—dated July 18, 2024—introduced into evidence at Exhibit G, which directed the Defendants to vacate the Premises, unless and until the entire Premises is served by a functional sprinkler system. The notice gave Defendants an option, in the interim, of providing a "fire watch" defined as in person security by trained personnel, alert for signs of a potential fire, on a twenty-four (24) hour per day, seven (7) days per week basis (hereinafter the "Eviction Notice").
6. Defendants have filed a timely appeal to the Notice, which has been the subject of an appeal hearing before an agency of the City (hereinafter the "Eviction Appeal"). Defendants have received no response from the City on the eviction appeal.
7. During the pendency of the Eviction Appeal, Defendants have engaged fire watch services at the Premises. Because of the fire watch service, the effect of the Eviction Notice has been stayed.
8. Plaintiff introduced no testimony to suggest that the Defendants intend to terminate the fire watch service. Thus, there is no testimony that Plaintiff is currently threatened with eviction.
9. In the event that the fire watch service is terminated by Defendants, and unless the City withdraws or modifies the Eviction Notice, Plaintiff may be threatened with eviction.
10. When questioned by the Court regarding the eventual outcome of the Eviction Appeal, Mark Winkelman responded that he hoped for an outcome which involved some compromises regarding the position taken by the City in the Eviction Notice.
11. Plaintiff contends that local media coverage of issues related to the Eviction Notice and the Eviction Appeal have had a negative effect upon the reputation of the Plaintiff.
12. The Court finds that local media have reported issues related to the Eviction Notice and the Eviction Appeal, including the hearing conducted before an agency of the City. Those reports have centered around the position taken by the City in connection with the Eviction Notice, and Defendants' response and the Eviction Appeal. Those reports have not been directed at Plaintiff, or

Plaintiff's business operations. Thus, Plaintiff's claim of negative effect upon Plaintiff's business reputation is speculative.

13. The City representative testified that the Eviction Notice was issued based upon concerns about the size of the buildings at the Premises, the lack of a functional sprinkler system, and the fact that the Premises is situated in a residential neighborhood.
14. Winkelman's testimony regarding the potential for compromise between Winkelman and the City appears reasonable, since some aspects of the testimony in support of the Eviction Notice were unclear to the Court. By way of example:
    a. It is unclear why the residential neighborhood surrounding the Premises is safer if the eight (8) buildings were vacant. While a large fire at the Premises could certainly have catastrophic results, occupancy during daytime hours might reduce, rather than increase, the risk of such a fire.
    b. It is undisputed that the Defendants have operated commercial leasing at the Premises for many years. The urgency of the Eviction Notice is unclear.
    c. The commercial leases appear to be limited to retail and offices uses, which would not require residential occupancy. Thus, the Court is unclear why the Eviction Notice was not calculated to forbid residential or overnight use.
    d. Eighty percent (80%) of the Premises is protected by a sprinkler system. It is unclear why the Eviction Notice was not directed at the unprotected areas.

During the course of the hearing conducted on October 9, 2024, Winkelman testified that the Plaintiff had been offered a renewal lease for 2025, which had not yet been reduced to writing. The fact that Plaintiff enjoyed continued, uninterrupted use of their lease space was among the many considerations which led this Court to deny Plaintiff's first Motion seeking injunctive relief.

At the hearing conducted on January 22, 2025, it was undisputed that—despite his assurances to Plaintiff during the course of his testimony on October 9, 2024—Winkelman elected to notify the Plaintiff by email on November 19, 2024, of his intention to evict them, effective December 31, 2024. To that end, Winkelman commenced eviction proceedings.

Based upon the testimony presented during the hearing conducted on January 22, 2025, the Court entered the following Order, dated January 24, 2025:

> **AND NOW**, this 24th day of January, 2025, for the reasons more fully set forth above, Plaintiff's Motion for a Preliminary Injunction is granted, in part, as follows:
>
> 1. Defendant's eviction action filed before Magistrate District Judge Biichle, to docket number 29102-LT-4-2025, is STAYED, until May 1, 2025, or further Order of Court.
> 2. Defendants are enjoined from taking any action to evict Plaintiff from its current leased premise at 1307 Park Avenue, Williamsport, PA 17701, until April 30, 2025, provided the Plaintiff complies with the rental payment terms of this Order.
> 3. Plaintiff is ordered and directed to make timely payment of rent to Defendants, as follows:
>   a. Rent in the amount of $1071.00 per month on February 1, March 1, and April 1, 2025.
>   b. "Catch-up" rent for January, 2025, by payment of the additional sum of $357.00 per month to Defendants on February 1, March 1, and April 1, 2025.
>   c. Thus, the total amount of rental per month paid by Plaintiff to Defendants on February 1, March 1, and April 1, 2025, will be in the amount of $1,428.00 per month.
>   d. Plaintiff's occupancy of its current leased premise at 1307 Park Avenue, Williamsport, PA 17701, until April 30, 2025, will be subject to the same terms and conditions as its written lease in effect during the calendar year 2024.
>   e. Nothing set forth herein will be interpreted to prevent Defendants from proceeding to evict Plaintiff, on or after May 1, 2025, pursuant to applicable law.

Pursuant to the Order dated January 24, 2025, Plaintiff paid interim rent in the amount of $1,428.00 per month for the months of January through April of 2025. Defendants filed their Answer and New Matter to Plaintiff's Fourth Amended Complaint on May 13, 2025, along with a Counterclaim and a Motion to Join counsel for the Plaintiff and Ryan Williams as Additional Defendants in this action. Plaintiff failed to file a timely response to the Counterclaim. On June 16, 2025, just thirty-four (34) days after Defendants filed their Counterclaim, Defendants electronically filed a "snap" default judgment against the Plaintiff for possession of the leased premises, and money damages in the amount of $31,216.40. At the time that Defendants entered that judgment by default, Defendants had actual notice that Plaintiff vigorously disputed their claims, that Plaintiff was actively represented on the record by counsel, and that counsel for Plaintiff and counsel for Defendants had participated in multiple hearings.

Forty-one (41) minutes after Defendants electronically filed their default judgment, Plaintiff electronically filed their preliminary objections to Defendants' Counterclaim. After

those preliminary objections were dismissed as moot due to the default judgment, Plaintiff filed a Petition to Open or Strike the Default Judgment, on August 14, 2025.

After filing its Petition to Open or Strike, Plaintiff sought injunctive relief pending the hearing on the Petition. The Court entered its Order of August 27, 2025, enjoining the Defendants from taking any action to evict Plaintiff from its current leased premise at 1307 Park Avenue, Williamsport, PA 17701, until September 8, 2025, provided the Plaintiff complies with the rental payment terms of that Order. The Court conducted an evidentiary hearing on Plaintiff's Petition to Open or Strike on September 22, 2025. No testimony was introduced by any party on the issue of whether the injunction established by the Order of August 27, 2025, should continue in force, or terminate effective the date of hearing. Thus, the injunction issued by that Order terminated at the conclusion of the hearing.

DISCUSSION

Pennsylvania Law Applicable to Plaintiffs' Petition to Open or Strike

It is settled Pennsylvania law that Courts must consider the following three factors when rendering its decision on whether to open or strike a default judgment: (1) whether the default was excusable; (2) whether the party seeking to open the judgment has shown a meritorious defense, and (3) whether the petition to open has been promptly filed. *Queen City Electric Supply Company, Inc., v. Solties Electric Company, Inc*. 491 Pa. 354, 421 A.2d 174, 177 (Pa. 1980).

The Pennsylvania Rules of Civil Procedure are replete with deadlines. This Court sincerely believes, however, that those Rules are not intended to become a "bag of tricks." In fact, Rule 126 of the Pennsylvania Rules of Civil Procedure provides that:

> **(a) Application.** The rules shall be liberally applied to secure the just, speedy, and inexpensive determination of every action or proceeding to which they are applicable. The Court at every stage of any action or proceeding may disregard any error or defect of procedure which does not affect the substantive rights of the parties.

In construing the Rule, our the Superior Court has observed that it "allows an equitable exception for parties who commit a misstep when attempting to do what any particular rule requires." *Deek Inv. L.P. v. Murray*, 157 A.3d 491, 494 (Pa. 2017). While the Rule does not

excuse total noncompliance, "Rule 126 is available to a party who makes a substantial attempt to conform." Id. (citing *Green Acres Rehab. and Nursing Ctr. Sullivan*, 113 A.3d 1261, 1272 (Pa. Super. 2015)).

It is similarly well-settled law of this Commonwealth that "snap judgments" are heavily disfavored.

> The true purpose of the entry of a default is to speed the cause thereby preventing a dilatory or procrastinating defendant from impeding the plaintiff in the establishment of his claim. It is not (a) procedure intended to furnish an advantage to the plaintiff so that a defense may be defeated or a judgment reached without the difficulty that arises from a contest by the defendant. Id. at 111, 277 A.2d at 147. See also *Safeguard Investment Co. v. Energy Services Associates, Inc.* 258 Pa.Super. 512, 515-16, 393 A.2d 476, 477-78 (1978); *Ashton v. Ashton*, 257 Pa.Super. 134, 138-40, 390 A.2d 282, 285 (1978); *Silverman v. Polis*, 230 Pa.Super. 366, 370-71, 326 A.2d 452, 454-55 (1974).
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> *Queen City Electric Supply Company, Inc., v. Solties Electric Company, Inc*. 491 Pa. 354, 421 A.2d 174, 178 (Pa. 1980), quoting *Kraynick v. Hertz*, 443 Pa. 105, 111, 277 A.2d 144, 147 (1971).

The Procedural History Leading up to the Default

This matter has been vigorously (perhaps even bitterly) litigated for nearly one entire year. Nevertheless, the pleadings are not yet closed. Plaintiff has filed multiple petitions seeking injunctive relief. Some of the petitions were granted in part. Defendants filed preliminary objections, which resulted in multiple "re-writes" of the Complaint. Defendants filed their Answer and New Matter to Plaintiff's Fourth Amended Complaint on May 13, 2025, along with a Counterclaim and a Joinder of both counsel for the Plaintiff and Ryan Williams as Additional Defendants. Plaintiff failed to file a timely response to the Counterclaim. On June 16, 2025, just thirty-four (34) days after Defendants filed their Counterclaim, Defendants electronically filed a "snap" default judgment against the Plaintiff for possession of the leased premises, and money damages in the amount of $31,216.40. Forty-one (41) minutes after Defendants electronically filed their default judgment, Plaintiff electronically filed their preliminary objections to Defendants' Counterclaim.

This Court's Findings

Given the procedural history, this Court finds that Defendants' counsel was well aware of the identity and contact information of counsel for Plaintiff. A simple email or telephone call inquiring about the status of Plaintiff's response to the Counterclaim would almost certainly have triggered a prompt response. Plaintiff prepared and filed (albeit untimely) lengthy preliminary objections to the Counterclaim. Those preliminary objections were not addressed on the merits, however, because of the default judgment.

Had counsel for Defendants made any effort to contact counsel for Plaintiff before taking the default judgment, counsel would have learned that a responsive pleading was only minutes away from filing. In fact, Defendant's default was filed only forty-one (41) minutes before Plaintiff's responsive pleading. Under these circumstances, the Court finds that Plaintiff's delay in responding to the Counterclaim is excusable.

Plaintiff contends that it was never properly served with the Counterclaim, and intends to re-file their preliminary objections to the Counterclaim. At this stage of the proceedings, the Court is dubious about the outcome of Plaintiff's proposed preliminary objections. That fact notwithstanding, Plaintiff sincerely asserts multiple defenses to Defendant's Counterclaim. The Court has no evidence upon which to base any premature finding that Plaintiff cannot succeed on the merits of their planned defenses.

As previously stated, forty-one (41) minutes after Defendants electronically filed their default judgment, Plaintiff electronically filed their preliminary objections to Defendants' Counterclaim. When those preliminary objections came before the Court for oral argument, the parties recognized that the entry of the default rendered those preliminary objections moot. Thereafter, Plaintiff promptly filed its Petition to Open or Strike the Default Judgment. Defendants have introduced no evidence upon which the Court could base any finding that the delay between the filing of the default and the filing of Plaintiff's Petition to Open or Strike caused any prejudice to the Defendants. Thus, the Court finds that the Petition to Open or Strike was promptly filed.

ORDER

AND NOW, this 23rd day of September, 2025, for the reasons more fully set forth above, Plaintiff's Petition to Open Defendants' Default Judgment filed on June 16, 2025, is hereby **GRANTED**. Defendants' default judgment on Defendants' Counterclaim is opened. Plaintiff is directed to file a responsive pleading not later than October 10, 2025.

BY THE COURT,

William P. Carlucci, Judge

WPC

cc: Court Administrator
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