

STATE OF MICHIGAN
COURT OF APPEALS

JASMINE ANDREWS,

Plaintiff/Counterdefendant-Appellee,

v

PATRICIA ELAINE SWAN BROWN, GEORGE
W. SWAN III, and KIM MCNAMARA,

Defendants,

and

IDG HOLDINGS, LLC,

Intervening
Defendant/Counterplaintiff-Appellant.

UNPUBLISHED

October 22, 2020

No. 350659

Wayne Circuit Court

LC No. 16-002233-CH

Before: GADOLA, P.J., and RONAYNE KRAUSE and O'BRIEN, JJ.

PER CURIAM.

Plaintiff filed this action to quiet title to residential property she purchased, allegedly from defendant Kim McNamara, in 2015, pursuant to a quitclaim deed. IDG Holdings, LLC, later intervened as a defendant, claiming it acquired superior title to the property in November 2016 and also traced its chain of title to Kim McNamara. IDG Holdings attacked the validity of plaintiff's 2015 deed, arguing that it was a bona fide purchaser for value when it acquired the property in 2016. Both parties moved for summary disposition under MCR 2.116(C)(10). The trial court granted plaintiff's motion and quieted title in favor of plaintiff. IDG Holdings appeals as of right, and we now affirm.

I. RELEVANT FACTS AND PROCEDURAL HISTORY

In August 2015, plaintiff interacted with a woman who identified herself as Kim McNamara, offering to sell plaintiff a particular vacant residential property with a “for sale” sign on it. Plaintiff recalled the woman being 5 feet, 7 inches tall, with sandy brown hair and a European

accent. The property at issue is located at 18072 Woodingham in Detroit. Plaintiff entered into a purchase agreement with the woman and made two cash payments totaling \$13,000 in exchange for a quitclaim deed. The deed was signed by Kim McNamara, dated August 24, 2015, and notarized by Robin Hall. In relevant part, the deed recited as follows:

For valuable consideration, the Grantor hereby quitclaims and transfers all right, title, and interest held by the Grantor in the following described real estate and improvements to the Grantee, and his or her heirs and assigns, to have and hold forever, located at 18072 Woodingham Drive, City of Detroit, State of Michigan.

Property Description: E Woodingham Drive N 36 ft 817 and E Woodingham Drive N 36 ft 817 and W 9 ft of Vac alley ADJ Centerbury Gardens No 2145 P86 Plats, WCR 16/327 36 x 129 Neah ceet #2007-2528. Parcel #27072528.

It is undisputed that although the deed lists the correct address, the property description was incorrect; the correct legal description of the property should have been:

The North 20 feet of Lot 477 and the South 20 feet of Lot 478, Palmer Boulevard Estates Subdivision, according to the plat thereof as recorded in Liber 35, Page 42 of Plats, Wayne County Record; Tax ID: 16-028457; Commonly known as: 18072 Woodingham, Detroit, MI 48221.

Plaintiff recorded her deed on September 21, 2015. Plaintiff now resides on the property, and she contends that she spent over \$50,000 repairing and improving the property.

In February 2016, plaintiff filed this quiet title action against, in relevant part, Kim McNamara. The two other named individual defendants are not at issue in this appeal. None of the defendants responded to plaintiff's complaint, and the trial court entered a default against them. However, the trial court then set aside the default against Kim McNamara, subject to Kim McNamara paying costs to plaintiff and responding to plaintiff's complaint. Plaintiff filed an amended complaint. Shortly thereafter, IDG Holdings intervened, claiming to be a subsequent bona fide purchaser of the property and likewise seeking to quiet title in its favor.

IDG Holdings claimed superior title based on a quitclaim deed that had been executed on June 2, 2015, by Gary McNamara, acting as Kim McNamara's attorney-in-fact, and notarized by Nathan A. White. That deed conveyed 18072 Woodingham, including a correct legal description of the property, to Apollo Estates, LLC. On November 1, 2016, Apollo Estates conveyed the property to Zeus Holdings, LLC, which in turn conveyed it to Invest Detroit, LLC. On November 10, 2016, Invest Detroit conveyed the property to IDG Holdings. None of these deeds were recorded until December 2016. In the meantime, however, the Wayne County Treasurer had recorded a certificate of forfeiture for the property on May 14, 2015 (i.e., before plaintiff's deed), and Kim McNamara paid the taxes on December 4, 2015. On April 6, 2016, the Wayne County Treasurer entered another certificate of forfeiture for failure to pay property taxes in 2014. IDG Holdings admits that plaintiff is listed as the grantor on that 2016 certificate on the basis of the deed plaintiff recorded in September 2015, notwithstanding the incorrect legal description in plaintiff's deed.

The gravamen of IDG Holdings’s argument is that plaintiff’s deed was invalid because both Kim McNamara’s and the notary’s names on the deed were forged; and because it contained an incorrect legal description, it did not put IDG Holdings on notice of plaintiff’s interest. After plaintiff moved for summary disposition, the trial court entered an order compelling Kim McNamara to appear in person or by video for a deposition, or the trial court would consider entering a default judgment against “all” defendants. Kim McNamara never appeared, so the trial court entered a default judgment against her. The trial court observed, among other things, that “it is on record that she is the—the title holder of this property and the proper address of 18072 Woodingham has been recorded and that’s what she was relying on and that’s what the city of Detroit has been relying on, to provide her with the tax bills.” The trial court granted plaintiff’s request to quiet title in her favor and ordered that her deed should be reformed.

II. STANDARDS OF REVIEW

A trial court’s decision on a motion for summary disposition is reviewed de novo. *Spiek v Dep’t of Transp*, 456 Mich 331, 337; 572 NW2d 201 (1998). The trial court granted plaintiff’s motion under MCR 2.116(C)(10). A motion under MCR 2.116(C)(10) tests the factual support for a claim. A court must consider the pleadings, affidavits, depositions, and any other documentary evidence submitted by the parties, and view that evidence in the light most favorable to the non-moving party to determine if a genuine issue of material fact exists. MCR 2.116(G)(5); *Maiden v Rozwood*, 461 Mich 109, 118-120; 597 NW2d 817 (1999). Summary disposition is appropriate if, except as to the amount of damages, there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Babula v Robertson*, 212 Mich App 45, 48; 536 NW2d 834 (1995). Moreover, an action to quiet title is equitable in nature. MCL 600.2932(5). “When reviewing a grant of equitable relief, an appellate court will set aside a trial court’s factual findings only if they are clearly erroneous, but whether equitable relief is proper under those facts is a question of law that an appellate court reviews de novo.” *McDonald v Farm Bureau Ins Co*, 480 Mich 191, 197; 747 NW2d 811 (2008).

The issue on appeal is whether plaintiff met the burden of proving that title to the property should be quieted in her name. In an action to quiet title, the claimant must establish a prima facie case of title in the subject property. The burden then shifts to the adverse party to prove a superior interest. *Beulah Hoagland Appleton Qualified Personal Residence Trust v Emmet Co Rd Comm*, 236 Mich App 546, 550; 600 NW2d 698 (1999). Prima facie evidence to support a claim requires the plaintiff to show she acquired and now possesses some interest, legal or equitable, in the property. *Id.* Summary disposition in favor of the defendant is appropriate if the plaintiff fails to carry this burden. *Trademark Props of Mich, LLC v Fed Nat’l Mtg Ass’n*, 308 Mich App 132, 138; 863 NW2d 344 (2014). Furthermore, a court sitting in equity “looks at the whole situation, and grants or withholds relief as good conscience dictates.” *Thill v Danna*, 240 Mich 595, 597; 216 NW 406 (1927). Thus, a party seeking equitable relief must have “clean hands” and must have acted fairly and in good faith, irrespective of the conduct of any other party. See *Rose v Nat’l Auction Group, Inc*, 466 Mich 453, 462-467; 646 NW2d 455 (2002).

III. VALIDITY OF PLAINTIFF'S DEED

IDG Holdings first argues that plaintiff never acquired a valid interest in the property from the outset, because the August 24, 2015, quitclaim deed contained an erroneous legal description of the property, and because the grantor's and the notary's names were forged. We disagree.

A. NOTARIAL ACKNOWLEDGEMENT

Addressing these arguments in inverse order, IDG Holdings provided an affidavit from Robin Hall, who is named as the notary on plaintiff's deed, averring that her notary stamp had been stolen and used in numerous fraudulent real estate transactions. Hall denied meeting either plaintiff or Kim McNamara. However, a notarial acknowledgement is a statutory, rather than a common law, requirement for a valid deed. Cf., 1 Cameron, Michigan Real Property Law, p 342; MCL 565.8. A notarial acknowledgement is required for a deed to be recordable; but an invalid or absent notarial acknowledgment does not "void an otherwise valid conveyance of real estate," because "an instrument of conveyance is good as between the parties even though not executed with such formalities as to permit it to be recorded." *In re Duke Estate*, 312 Mich App 574, 586-587; 887 NW2d 1 (2015) (quotation omitted).

MCL 565.201(1)(c) provides that the register of deeds shall not accept an instrument for recording unless: "[t]he name of any notary public whose signature appears on the instrument is legibly printed, typewritten, or stamped on the instrument and appears on the same page near the signature of the notary public." If an instrument offered for recording complies with this requirement, the register of deeds may not reject it for recording on the basis of its content. MCL 565.201(5). "[A]ny instrument received and recorded by a register of deeds . . . is conclusively presumed to comply with [the requirements of the recording] act." MCL 565.201(4). Finally, a defective notarization does not invalidate a deed if the plaintiff had a good-faith belief that it was properly notarized. MCL 565.603, MCL 565.604.

Here, there is no evidence to suggest that plaintiff had, or should have had, any reason to believe that the named notary was not the person who actually notarized the deed. Furthermore, on its face, the notarization appears to comply with all statutory requirements. Thus, even if the notarial acknowledgement *was* forged, that forgery does not affect the validity of the conveyance as between the grantor and plaintiff, nor does it affect the deed's recordability. The trial court correctly declined to invalidate the deed on the basis of any alleged defect in the notarial acknowledgement.

B. KIM MCNAMARA'S SIGNATURE

IDG Holdings next argues that Kim McNamara's name was forged. A claim to property cannot be made by a bona fide holder of a forged deed. "Where a deed is forged, those innocently acquiring interests under the forged deed are in no better position as to title than if they had purchased with notice." *Special Prop VI, LLC v Woodruff*, 273 Mich App 586, 591; 730 NW2d 753 (2007). Further, the recording of an invalid document does not make it valid. *Id.*

It is presumed that signatures affixed to a deed are accurate and valid. *Boothroyd v Engles*, 23 Mich 19, 21 (1871). This presumption may be overcome by clear and convincing evidence that the deed was fraudulently executed. *Mtynarczyk v Zyskowski*, 191 Mich 213, 224; 157 NW 566

(1916). The burden of proving fraud is on the party claiming fraud. *Groth v Singerman*, 328 Mich 615, 619; 44 NW2d 155 (1950); *Mtynarczyk*, 191 Mich at 224.

It is not disputed that Kim McNamara was the record titleholder to the disputed property at the time this deed was executed. Plaintiff produced the 2015 quitclaim deed that contained the signature of Kim McNamara, as grantor. Thus, IDG Holdings had the burden of proving that the signature was a forgery. However, IDG Holdings only proffered an un-notarized affidavit purporting to be from an attorney who worked for Kim McNamara, averring that Kim McNamara had never visited the United States. Because that affidavit was not verified by oath or affirmation, it need not be considered evidence. MCR 1.109(D)(1)(f); *Sherry v E Suburban Football League*, 292 Mich App 23, 32; 807 NW2d 859 (2011). Equally significantly, the trial court entered a default judgment against Kim McNamara after she refused to comply with discovery. Consequently, there is no competent evidence that Kim McNamara's signature was forged. The trial court properly declined to invalidate the deed on the basis of the alleged but unproved forgery of Kim McNamara's signature.

C. LEGAL DESCRIPTION

Finally, IDG Holdings argues plaintiff did not acquire a valid interest in the property because the deed contained an incorrect legal description for the property. We disagree.

Importantly, the deed did not omit a property description or lack any reference to the correct address of the property. Rather, there was a variance between the address and the legal description for the property being conveyed. However, the variance did not render the deed invalid and unenforceable. The common-law requirements for a deed include:

a competent grantor and a grantee who has capacity to hold title and include a recital of consideration, a description of the property being conveyed, and words of conveyance. It must also be executed by all grantors, delivered, and accepted. To be valid under the Michigan statute of frauds, a deed must be in writing. *See* MCL 566.106-.109. [1 Cameron, Michigan Real Property Law (3d ed), § 10.1, p 342.]

Plaintiff's deed, on its face, satisfied all of these requirements. The deed did not *fail to describe* the property being conveyed, but instead contained inconsistent descriptions of the property. "The most common mistake in real estate contracts is a misdescription of the property that the parties intend to convey." 2 Cameron, Michigan Real Property Law (3d ed), § 30.11, p 1784. Identifying a property by its street address is generally sufficient to prove a valid conveyance if the property can be identified. *Tandy v Knox*, 313 Mich 147, 155; 20 NW2d 844 (1945).

The property could be identified by the common street address for the property that was described in the deed, and it was undisputed that Kim McNamara was the record titleholder of the property at that address at the time of the conveyance. Plaintiff also produced parol evidence to show that she had possessed, occupied, and maintained the property at that address since the 2015 conveyance. Although the legal description in plaintiff's deed did not match the common address, the common address *was* correctly included, and there was no evidence suggesting that the parties did not intend for the deed to convey the property at the described common address. The property description in the deed was, moreover, clearly sufficient for Wayne County to know that plaintiff

was the taxpayer for the property in 2016. Thus, the variance between the described property's common address and its legal description did not render the deed unenforceable, but instead created an ambiguity. The trial court properly declined to invalidate the deed due to the ambiguity.

IDG Holdings also raises an unpreserved argument that plaintiff's deed is invalid under MCL 560.255 because it did not include the property's plat and lot information. See *Tomecek v Bavas*, 276 Mich App 252, 262; 740 NW2d 323 (2007), aff'd in part and rev'd in part on other grounds 482 Mich 484 (2008). However, plaintiff's deed did contain a subdivision plat and lot number; the problem is that they were incorrect, not that they were absent. As previously explained, the incorrect description did not prevent the trial court from reforming the deed. There is nothing in MCL 560.255 that prevented the trial court from reforming the deed to correct the subdivision plat and lot numbers in the legal description. The trial court's reformation was proper.

IV. IDG HOLDINGS'S STATUS AS A BONA FIDE PURCHASER

Because plaintiff met her burden of establishing a prima facie case of title in the subject property, the burden shifted to IDG Holdings to prove a superior interest. Thus, IDG Holdings argues that it was a bona fide purchaser for value because it did not have notice of plaintiff's possible interest in the property. We disagree.

This state's race-notice statute, MCL 565.29, provides, in pertinent part:

Every conveyance of real estate within the state hereafter made, which shall not be recorded as provided in this chapter, shall be void as against any subsequent purchaser in good faith and for a valuable consideration, of the same real estate or any portion thereof, whose conveyance shall be first duly recorded.

A good-faith purchaser is one who purchases without notice of a defect in the vendor's title. *Mich Nat'l Bank & Trust Co v Morren*, 194 Mich App 407, 410; 487 NW2d 784 (1992). Also, "the holder of a real estate interest who first records his or her interest generally has priority over subsequent purchasers." *Richards v Tibaldi*, 272 Mich App 522, 539; 726 NW2d 770 (2006).

MCL 565.29 only protects a later interest holder who purchases in "good faith" without actual or constructive notice of a defect in the grantor's title. *Coventry Parkhomes Condo Ass'n v Fed Nat'l Mtg Ass'n*, 298 Mich App 252, 256; 827 NW2d 379 (2012). Presumably, IDG Holdings lacked actual notice of plaintiff's claim to title. However, notice of properly recorded documents will be imputed to subsequent buyers, irrespective of their actual knowledge. *Richards*, 272 Mich App at 39-540. Furthermore, subsequent buyers may not engage in willful ignorance:

"When a person has knowledge of such facts as would lead any honest man, using ordinary caution, to make further inquiries concerning the possible rights of another in real estate, and fails to make them, he is chargeable with notice of what such inquiries and the exercise of ordinary caution would have disclosed. *Richards*, 272 Mich App at 539, quoting *Kastle v Clemons*, 330 Mich 28, 31; 46 NW2d 450 (1951).]

See also *Royce v Duthler*, 209 Mich App 682, 690; 531 NW2d 817 (1995). Notice does not require actual knowledge of another's interest in property; the mere possibility of the rights or equities

held by another will suffice. *Penrose v McCullough*, 308 Mich App 145, 153; 862 NW2d 674 (2014).

As discussed, the deed ostensibly from Kim McNamara to Apollo Estates was made before plaintiff recorded her deed. However, all of the subsequent deeds leading from Apollo Estates to IDG Holdings occurred (and were recorded) after plaintiff had recorded her deed. IDG Holdings contends that notwithstanding plaintiff's first recording, the incorrect legal description in her deed precluded it from effectively providing constructive notice of her interest in the property. We disagree.

IDG Holdings concedes that the grantor-grantee indexing system is the only official recording system in Michigan. MCL 565.28(2). In *First Nat'l Bank of Chicago v Dep't of Treasury*, 280 Mich App 571, 581; 760 NW2d 775 (2008), rev'd on other grounds 485 Mich 980 (2009), this Court explained:

MCL 565.28(1) requires every register of deeds to keep a general index to each set of books by alphabetically entering the name of each party to each recorded instrument. This grantor-grantee index creates the chain of title to a particular property. A person is on constructive notice of those instruments appearing within a chain of title.

In *First Nat'l Bank*, 280 Mich App at 581, this Court held that a search of the former owners' names would have revealed information about a mortgage that was originally filed with an incorrect lot number to provide constructive notice of the mortgage for the property. Accordingly, if a search of the grantor-grantee index would have revealed plaintiff's property interest, it would constitute constructive notice of her claim of interest to the property, thereby precluding IDG Holdings from claiming bona-fide-purchaser status.

IDG Holdings does not contend that it would not have discovered plaintiff's deed by searching the grantor-grantee index, but argues that this deed would not have revealed plaintiff's possible interest in the subject property because the deed contained the wrong legal description. As discussed above, plaintiff's deed was properly recorded. Also as discussed, notice may be sufficient if it would induce a reasonable person to make further inquiries. The fact that plaintiff's deed *did* contain the correct address, which, as noted, was sufficient for Wayne County, should have induced a reasonable person to make further inquiries into the possibility of competing interests. Indeed, IDG Holding's own evidence, a "DataTrace" report, shows that plaintiff's name appeared in the chain of title and was identified as the taxpayer of record for the property. IDG Holdings had, at a minimum, an obligation to investigate further. If IDG Holdings had followed up on this information, it would have learned of plaintiff's status as the taxpayer of record for the property. If it had visited the property, it would have discovered that plaintiff was occupying the property.

IDG Holdings argues that the incorrect plat and lot information in plaintiff's deed rendered the deed invalid for purposes of providing notice under MCL 565.29. However, once again, except as to affidavits, MCL 565.28 does not require property to be indexed according to the platted description. IDG Holdings relies on *In re Brandt*, 434 BR 493 (WD Mich, 2010), to support its argument that plaintiff's deed is a legal nullity because it did not contain a legal description that

included the property subdivision plat and lot number. However, we are not bound by decisions of lower federal courts. See *Abela v Gen Motors Corp*, 469 Mich 603, 606-607; 677 NW2d 325 (2004). Furthermore, *Brandt* is clearly distinguishable, because the mortgage in that case contained no reference whatsoever to a recorded plat, and indeed did not even include a legal description of the property. *Brandt*, 434 BR at 495. Thus, *Brandt* would have no relevance to the significance of an erroneous, rather than entirely missing, description. In a somewhat closer case, an incorrect legal description was deemed to invalidate a mortgage, but, critically, there was no evidence that any flaws in the property description or title were apparent or discoverable by any amount of effort. *In re Hudson*, 455 BR 648, 651-652 (WD Mich, 2011). Again, in this case, plaintiff's claim to title would have been readily apparent had IDG Holdings looked.

For these reasons, the trial court did not err by ruling that IDG Holdings failed to prove a superior interest in the property.

V. POWER TO REFORM THE DEED

IDG Holdings contends that the trial court erred in reforming plaintiff's deed, in part based on the arguments we have rejected above, and in part because plaintiff did not explicitly request reformation in her complaint. We disagree.

Although plaintiff's amended complaint did not include a specific request to reform the deed, such a request was implicit in her claim to quiet title. In any event, a court sitting in equity has "broad and flexible jurisdiction . . . to afford remedial relief, where justice and good conscience so dictate." *Tkachik v Mandeville*, 487 Mich 38, 46; 790 NW2d 260 (2010), quoting 30A CJS, Equity, § 93, at 289 (1992). "Equity allows 'complete justice' to be done in a case by 'adapt[ing] its judgment[s] to the special circumstances of the case.'" *Id.*, quoting 27A Am Jur 2d, Equity, § 2, at 520-521.

The court's equitable powers include the authority to reform contracts. "Michigan courts sitting in equity have long had the power to reform an instrument that does not express the true intent of the parties as a result of fraud, mistake, accident, or surprise." *Johnson Family Ltd Partnership v White Pine Wireless, LLC*, 281 Mich App 364, 371-372; 761 NW2d 353 (2008). "[T]he general rule is that courts will follow the plain language in a deed in which there is no ambiguity." *Id.* at 373 (citation omitted). However, "if the deed fails to express the obvious intention of the parties, the courts will try to arrive at the intention of the parties." *Id.* (citation omitted). In *Farabaugh v Rhode*, 305 Mich 234, 240; 9 NW2d 562 (1943), the Court stated that if there is doubt regarding the meaning of an instrument, the courts will consider the situation, acts, conduct, and dealings of the parties with regard to the instrument and the subject matter. Accordingly, parol evidence may be used to prove the parties' intentions when a court is asked to reform a deed.

In this case, plaintiff's deed was ambiguous because there was a variance between the address and the legal description for the property being conveyed. The variance did not render the deed invalid and unenforceable. Rather, the trial court was permitted to reform the deed to comport with the parties' intentions. Plaintiff produced a deed, purchase agreement, and receipts to support her claim that she purchased the property from Kim McNamara in 2015. Plaintiff fixed the property to make it habitable for her family and paid the taxes on the property. IDG Holdings

conceded that tax notices were sent by the county treasurer to plaintiff because she filed her deed. On these facts, plaintiff met her burden of proof on her claim to the property and the trial court properly ordered the deed to be corrected to reflect the intent to convey the subject property to plaintiff.

VI. FINDINGS OF FACT

IDG Holdings argues that the trial court erred by making findings of fact when granting plaintiff's motion for summary disposition and by reforming plaintiff's deed when plaintiff did not expressly request that relief in her complaint. As explained earlier, plaintiff's complaint included a request to quiet title in her name, which required the trial court to determine whether plaintiff acquired any interest in the disputed property pursuant to the August 2015 quitclaim deed from Kim McNamara to plaintiff. The court was permitted to reform the deed as necessary "where justice and good conscience so dictate." *Tkachik*, 487 Mich at 46, quoting 30A CJS, Equity, § 93, at 289 (1992). Contrary to what IDG Holdings argues, the trial court did not decide disputed facts, but rather determined whether undisputed facts of record were sufficient to place a prospective purchaser on notice of plaintiff's possible interest in the property. Furthermore, the court did not rely on any questionable history of IDG Holdings' or its predecessors' involvement in real estate transactions to conclude that plaintiff was entitled to summary disposition.

VII. CONCLUSION

Plaintiff's evidence established that she acquired title to the disputed property pursuant to an August 24, 2015 quitclaim deed from Kim McNamara, which plaintiff recorded on September 14, 2015. Although the deed contained an inaccurate legal description of the property, it also described the property by reference to its common address, and the evidence demonstrated that the parties intended for the deed to be operative with respect to the property at that common address. The trial court was permitted to reform the deed to comport with this intent. Further, IDG Holdings failed to establish that the error in the property's legal description or that an alleged forgery of the notary's signature affected the validity of the conveyance as between plaintiff and Kim McNamara, as grantor. IDG Holdings also failed to provide factual support for any claim that Kim McNamara's name on the deed was forged. Therefore, plaintiff met her burden of establishing a prima facie case of title to the subject property. The evidence also established that IDG Holdings had constructive notice of facts sufficient to trigger further inquiry of plaintiff's possible interest in the property. In addition, an appropriate inquiry would have revealed the prior conveyance from Kim McNamara to plaintiff in August 2015, and plaintiff's occupancy of the property after that date. Therefore, IDG Holdings cannot be considered a bona fide purchaser under MCL 565.29. Accordingly, the trial court did not err by ruling that IDG Holdings did not establish a superior interest in the property and by quieting title in favor of plaintiff.

Affirmed.

/s/ Michael F. Gadola
/s/ Amy Ronayne Krause
/s/ Colleen A. O'Brien