

DELAWARE COUNTY COURT OF COMMON PLEAS

CIVIL ACTION – LAW

ARBITRATION NOTICE

This is to notify you
that an Arbitration
is scheduled for:

16-5384
ARBITRATION HEARING DATE:

ARBITRATION

NOV 17 2017

HEARING

TIME: 9:30 AM

Please report to the Arbitration Assembly Room,
Delaware County Courthouse, Media, Pennsylvania.
No further notice of the trial date will be given.

This matter will be heard by a board of arbitrators at the time
date and place specified above but if one or more of the parties
is not present at the hearing, the matter may be heard at the
same time and date before a Judge of the Court without the
absent party or parties. There is no right to a trial de novo or
appeal from a decision entered by a Judge.

All pretrial motions with the exception of continuance
applications must be filed thirty (30) days prior to the Hearing
Date under Delaware County Local Rule 1303 (f).

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

Delaware

County

For Prothonotary Use Only:

Docket No:

16-5384

2016 JUN 20 AM 10:59

OFFICE OF
JUDICIAL SUPPORT
DELAWARE COUNTY, PA

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by the rules of court.

SECTION A

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:
Larry Healy

Lead Defendant's Name:
Joseph P. Possenti, P.C.

Are money damages requested? ☒ Yes ☐ No

Dollar Amount Requested: ☒ within arbitration limits
(check one) ☐ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Charles V. Curley

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☐ Other:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other

☐ Employment Dispute:
Discrimination
☒ Employment Dispute: Other
Wages

☐ Other:

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other

- ☐ Zoning Board
☐ Other:

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

HEARING

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

CURLEY & ROTHMAN, LLC

By: Charles V. Curley / Kelle A. Kilgarriff

Attorney I.D. No. 60486 / 205976

Spring Mill Corporate Center

1100 E. Hector Street, Suite 425

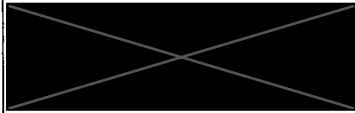
Conshohocken, PA 19428

610 834 8819 (ph)

610 834 8813 (fx)

Attorneys for Plaintiff

LARRY HEALY



Plaintiff,

v.

JOSEPH P. POSSENTI, P.C.

5160 Pennell Road

Media, PA 19063

JOSEPH P. POSSENTI, JR.

5160 Pennell Road

Media, PA 19063

YEADON BOROUGH

600 Church Lane

Yeadon, PA 19050

Defendants.

COURT OF COMMON PLEAS
DELAWARE COUNTY, PA

NO.

JURY TRIAL DEMANDED

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERENCE AND INFORMATION SERVICE
Delaware County Bar Association
355 W. Front Street
Media, PA 19063
(610) 566-6625

AVISO


Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ES CRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

○ **LAWYER REFERENCE AND INFORMATION SERVICE**
Delaware County Bar Association
355 W. Front Street
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CURLEY & ROTHMAN, LLC
By: Charles V. Curley / Kelle A. Kilgarrieff
Attorney I.D. No. 60486 / 205976
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Conshohocken, PA 19428
610 834 8819 (ph)
610 834 8813 (fx)
Attorneys for Plaintiff

FILED
2016 JUN 20 AM 10:59
OFFICE OF
JUDICIAL SUPPORT
DELAWARE CO. PA.

<p>LARRY HEALY  Plaintiff, v. JOSEPH P. POSSENTI, P.C. 5160 Pennell Road Media, PA 19063 JOSEPH P. POSSENTI, JR. 5160 Pennell Road Media, PA 19063 YEADON BOROUGH 600 Church Lane Yeadon, PA 19050 Defendants.</p>	<p>COURT OF COMMON PLEAS DELAWARE COUNTY, PA NO. 16-5384 JURY TRIAL DEMANDED ARBITRATION MAR 17 2017 HEARING</p>
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COMPLAINT

1. Plaintiff herein is Larry Healy ("Healy"), an adult individual residing at the above-captioned address.
2. Defendant herein is Joseph P. Possenti, P.C., ("Company"), a Pennsylvania professional corporation with a principal place of business at the above-captioned address.

3. Defendant herein is Joseph P. Possenti, Jr. ("Possenti"), the President of the Company, and an adult individual with a principal place of business at the above captioned address.

4. Defendant herein is Yeadon Borough (the "Borough") is a local governmental entity located at the above captioned address.

5. Jurisdiction and venue are proper in this Commonwealth and in this judicial district because the Company, Possenti and the Borough are headquartered in this county and the events giving rise to this dispute occurred in this county.

Background

6. In or about January 2014 the Borough, at a Council reorganization meeting, hired the Company, and in particular, Possenti to be Finance Director.

7. The Borough agreed to pay the Company, which in turn, would supply a Borough Manager, an executive assistant, and a receptionist.

8. The Borough had the power to determine whether to accept or reject the applicants put forth by the Company.

9. The Borough subsequently held a meeting and voted to appoint each of the Company's candidates to their positions, thereby installing Healy as Borough Manager.

10. Healy worked hard for the Borough and was repeatedly praised by Possenti, who called Healy the hardest working employee he ever had.

11. Healy generally got along with the Borough residents and the Council members with some exception.

12. Most notably, Council Member, Learin Johnson was frustrated by the fact that Healy would not agree to take shortcuts and do favors.

13. When Johnson encountered Healy's steadfast nature, she criticized him and told him that he was "stuck in his ways," and "too old" for the job.

14. Nonetheless, Healy continued to work hard and conduct himself according to the rules and policies established by the Borough.

15. From time to time, Healy would discuss Johnson's criticisms with Possenti. But Possenti assured Healy that he was doing a great job and he was secure in his position. In fact, in late 2015 Possenti discussed making Healy a partner in the Company.

16. On or about January 2, 2016 Possenti asked Healy to meet with him at LaPorta restaurant.

17. With no prior warning or negative evaluation, Possenti told Healy that he was getting pressure from the Borough and he had no choice but to terminate Healy.

18. Healy was shocked and he asked Possenti for a reason. Possenti told Healy that the council thought he was "too old and set in his ways to do the job."

19. When Healy asked for examples of what he had failed to do, Possenti had no response. Possenti told Healy that he was the hardest working employee he had ever had but the Company needed to do what the Borough told him to do because Possenti could not jeopardize the revenue to his Company.

20. On January 20, 2016 the Company called Healy to ask him to sign a resignation letter. When Healy refused, because the truth was that he had been terminated, Possenti screamed at Healy and told him he must sign. Healy asked Possenti to send the letter for his review but it was never sent.

21. Under the Yeadon Borough applicable Ordinance, Borough Code §§ 222.01 et seq., (the “Ordinance”) when a Borough Manager declines to resign, the Council must adopt a final resolution of removal and make it effective by a majority vote.

22. Upon information and belief, the Council did adopt the final resolution on or about March 19, 2016.

23. Although the Company ultimately delivered the news of his termination, it was the Borough which had the ultimate control over whether Healy was permitted to work for the Borough. Further, the Borough had the power to compel that the Company terminate Healy’s employment, and in fact did so. At the Borough’s request, the Company provided the Borough with a replacement for Healy.

24. The Borough provided Healy with the equipment and materials necessary for his services, and Healy’s services were rendered on the Borough’s property.

25. The Borough assigned Healy his work.

26. The Borough had the authority to promulgate work rules and policies which Healy was required to adhere to. By way of example, the Borough required Healy to comply with all applicable laws.

27. The Borough had the authority to set the conditions of employment for Healy.

28. In compliance with the Ordinance, Healy was to be paid “forthwith his... salary for the next four weeks plus one additional week of salary for each year of service...”

29. In addition, Healy was to be paid his salary up until the time of the final resolution, which was, in this case, eight additional weeks.

30. Healy has demanded that he be paid his salary and severance in accordance with the Ordinance but the Defendants have refused.

COUNT I
Violation of the Pennsylvania Wage Payment and
Collection Law, 43 P.S. § 260.1 et seq.
(Plaintiff v. all Defendants)

31. Healy hereby incorporates the foregoing allegations as if set forth at length herein.

32. As set forth above, Defendants' refusal to pay his salary and the applicable Ordinance Severance is a violation of The Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1 *et seq.* (the "WPCL").

33. At all relevant times, Healy was an employee of the Defendants, as defined by the WPCL.

34. At all relevant times, Joseph P. Possenti, P.C. was an employer as defined by the WPCL.

35. At all relevant times, Joseph P. Possenti, Jr. was an employer, as defined by the WPCL, as he actively participated in corporate decision making including decisions related to paying compensation.

36. At all relevant times, the Borough was a joint employer, and as defined by the WPCL, the Borough actively participated in corporate decision making including decisions related to paying compensation.

37. Healy's severance payment of \$13,000 constitutes wages as defined by the WPCL.

38. Defendants' failure and refusal to pay Healy's wages is a violation of the WPCL, and has caused Healy damages.

39. Under the WPCL, Defendants are liable for the principal amount of the unpaid wages, liquidated damages in an amount equal to 25% of the unpaid wages, and reasonable attorney's fees incurred in collecting same.

WHEREFORE, plaintiff Larry Healy demands judgment in his favor and against defendants Joseph P. Possenti, P.C., Joseph P. Possenti, Jr. and Yeadon Borough jointly and severally, and prays for the following relief:

- a. An award of monetary damages for unpaid wages in the sum certain amount of \$13,000;
- b. An award of liquidated damages equal to 25% of the principal amount owed totaling \$3,250;
- c. An award of pre-judgment interest at the statutory rate of 6% per annum;
- d. An award of attorneys fees and costs of suit; and
- e. Such other and further relief as this Court deems appropriate.

COUNT II

Breach of Contract

(Plaintiff v. Joseph P. Possenti, P.C. and Yeadon Borough)

40. The allegations of the foregoing paragraphs are hereby incorporated as if set forth at length herein.

41. Healy and the Company entered into a contract where the Company agreed to compensate Healy for the services which he performed for the Borough.

42. The Borough acknowledged and ratified the Company's hiring of Healy to act as Borough Manager in accordance with the Borough Code.

43. The Company and the Borough's failure to pay Healy his severance in accordance with the Borough Code, as set forth more fully above, constitutes a breach of contract.

44. As a result of the Company's and the Borough's breach, as more fully set forth above, Healy has suffered significant harm in the amount of \$13,000.

45. Despite demand, the Company and the Borough have refused and failed to satisfy its obligation to Healy.

WHEREFORE, Plaintiff Larry Healy demands judgment in his favor and against the defendants Joseph P. Possenti, P.C. and Yeadon Borough in the principal amount of \$13,000 plus such other and further relief as this Court deems appropriate.

Date: 6/16/2016

CURLEY & ROTHMAN, LLC

By: _____

Charles V. Curley

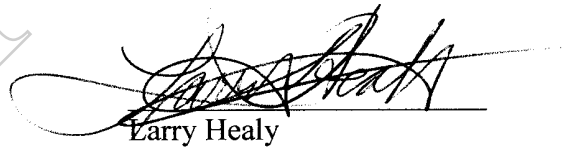
Kelle A. Kilgarriff

Attorneys for Plaintiff

VERIFICATION

I, Larry Healy hereby verify that I am a Plaintiff in this action; that the factual statements contained in foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S.A. Sections 4904 relating to unsworn falsification to authorities.

Date: 5-23-16


Larry Healy