

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

TOM FOSTER, ADMINISTRATOR OF THE
ESTATE OF KENNETH W. FOSTER,
DECEASED

IN THE SUPERIOR COURT OF
PENNSYLVANIA

v.

GOLDEN GATE NATIONAL SENIOR CARE,
LLC; ERIE OPERATING, LLC D/B/A
GOLDEN LIVINGCENTER - WALNUT
CREEK; ERIE ACQUISITION, LLC; GGNSC
EQUITY HOLDINGS, LLC; GGNSC
HOLDINGS, LLC; GGNSC CLINICAL
SERVICES, LLC; GGNSC
ADMINISTRATIVE SERVICES, LLC;
SPECTRA HEALTHCARE ALLIANCE VI,
LLC; SPECTRA HEALTHCARE ALLIANCE
INC; BEVERLY ENTERPRISES, INC.; AND
DENISE CURRY, AN INDIVIDUAL.

Appellants

No. 1147 WDA 2015

Appeal from the Order Entered July 7, 2015
in the Court of Common Pleas of Erie County Civil Division
at No(s): 10202 of 2004

BEFORE: GANTMAN, P.J., OLSON, J., and FITZGERALD,* J.

JUDGMENT ORDER BY FITZGERALD, J.:

FILED MAY 26, 2016

Appellants, Golden Gate National Senior Care, LLC, *et al.* (collectively
"Golden Gate"), appeal from the order entered in the Erie County Court of
Common Pleas overruling their preliminary objections seeking to compel

* Former Justice specially assigned to the Superior Court.

arbitration of their wrongful death and survival actions.¹ The claims arise from the death of Kenneth W. Foster (“Decedent”), a resident at Golden Living Center-Walnut Creek.

The trial court found the arbitration agreement signed by Decedent was not binding upon the non-signatory wrongful death beneficiaries, relying upon this Court’s decisions in ***Pisano v. Extendicare Homes, Inc.***, 77 A.3d 651 (Pa. Super. 2015), ***Taylor v. Extendicare Health Facilities, Inc.***, 113 A.3d 317 (Pa. Super. 2015), *appeal granted*, 122 A.3d 1036 (Pa. 2015), and ***Tuomi v. Extendicare, Inc.***, 119 A.3d 1030 (Pa. Super. 2015).² Additionally, the trial court declined to bifurcate the wrongful death and survival claims, citing Pa.R.C.P. 213(e).³

¹ The court found that the remaining preliminary objections were moot as Appellants and Appellee, Tom Foster, Administrator of the Estate of Kenneth W. Foster, Deceased, “stipulated that those matters would be raised and addressed at a later time.” R.R. at 424a. For the parties’ convenience, we refer to the reproduced record.

² Appellants “acknowledge that the ***Pisano***, ***Taylor*** and ***Tuomi*** decisions are binding precedent on the trial court.” Appellants’ Brief at 4 n.1.

³ Rule 213 provides:

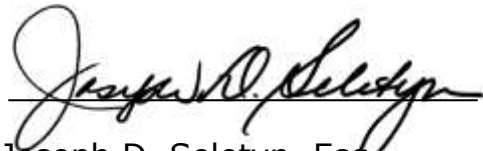
A cause of action for the wrongful death of a decedent and a cause of action for the injuries of the decedent which survives his or her death may be enforced in one action, but if independent actions are commenced they shall be consolidated for trial.

Pa.R.C.P. 213(e).

This matter is controlled by ***Pisano, Taylor, and Tuomi. See Marks v. Nationwide Ins. Co.***, 762 A.2d 1098, 1101 (Pa. Super. 2000) (“[W]e have long held that as long as the decision has not been overturned by our Supreme Court, a decision by our Court remains binding precedent.” (citation omitted)). Accordingly, we affirm the trial court’s order overruling Golden Gate’s preliminary objections based upon ***Pisano, Taylor, and Tuomi.***

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 5/26/2016