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BERNICE MOSER & ALLEN MOSER, : IN THE COURT of COMMON PLEAS
spouses, : COMMONWEALTH of PENNSYLVANIA
Plaintiffs, : MONTGOMERY COUNTY
:
vs. : NO. 2023-21775
:
PENNMARK MANAGEMENT :
COMPANY, INC., et. al. :
Defendants. : CIVIL ACTION – LAW

**PLAINTIFFS’ MOTION FOR LEAVE TO FILE A SECOND
AMENDED COMPLAINT**

Plaintiffs, Bernice and Allen Moser, by and through undersigned counsel, hereby respectfully request leave to file a Second Amended Complaint pursuant to Pa.R.C.P. 1033(a). Plaintiffs first Amended Complaint avers ample facts to support a finding of recklessness, but additional evidence has developed that should rightly be set forth in the pleading. This motion thus seeks to amplify the pleading by: (1) adding factual allegations to present a more coherent narrative; (2) add allegations of willful and/or fraudulent misconduct; and (3) add corporate enterprise theory of liability to resolve issues plaguing this litigation from the outset. No new parties or causes of action are being requested.

In support of this Motion, Plaintiffs aver as follows:

1. This premise liability case arises out of longstanding deteriorating macadam upon a commercial parking lot of the Coventry Mall in Pottstown, Pennsylvania, first opened in 1967.
2. Defendants acquired the distressed asset on April 8, 2016, and thereafter entered a 10-year lease with Plaintiff's employer, a medical facility.
3. Six years later, on June 21, 2022, while in the scope of her employment as a registered nurse, Bernice Moser suffered a mild traumatic brain injury ("mTBI") when the deteriorated macadam crumbled underfoot causing her to fall and strike her head and face on the macadam.
4. During that six year window, Defendants knew the parking surfaces were in a state of disrepair and in need of replacement.
5. Defendants' knowledge is evidenced by contractor bids to resurface the parking lots secured by Defendants in 2015, 2016, 2017, and by a Property Condition Assessment Report ("PCA").¹
6. At issue is why Defendant Penmark Management Company, Inc. ("Penmark") chose not to reasonably maintain and/or replace the parking surfaces of the 50-year-old Coventry Mall despite Penmark's longstanding knowledge that the parking surfaces required replacement.²

NEW EVIDENCE

¹ The PCA comports with ASTM International Standard E 2019-15 and itemizes deficiencies, deferred maintenance issues, and anticipated future capital expenditures. A PCA is required by the lender/bank and is a key document maintained for at least as long as the property is owned. Penmark has declined to produce the PCA, despite a discovery order requiring its production. Counsel for Penmark has thus been advised that if the PCA is not produced, an adverse inference charge will be requested at trial.

² In the year preceding Plaintiffs' loss, Defendants were acutely aware of the safety issue presented by the crumbling macadam of the medical facility parking area. Maintenance man Kelsy Umstead testified that the surface in that area was being "destroyed" by commercial buses driving over the crumbling macadam every hour of every day during normal business hours, and by snowplows tearing it up in the winter. Umstead further testified that he requested help with his assigned task of maintaining the expansive parking surfaces but help was never provided. Further, Penmark assigned Umstead to at least five other commercial properties resulting in Umstead spending approximately one hour per day at the Coventry Mall property. He was also responsible for janitorial duties at all six commercial properties. Unbeknownst even to Umstead, and despite his lack of experience or training, Defendants identified Umstead as the onsite property manager for the Coventry Mall.

7. It is anticipated that Defendants' trial strategy to excuse its reckless disregard will be to appeal to the jury's sense of nostalgia, presenting itself a "good citizen" trying to save America's malls but that the cost of replacing the parking surfaces (approximately \$400,000) was more than it could afford when it "rescued" the mall in 2016, but that it had every intention of replacing the parking surfaces "just as soon as it could afford to pay for it," which was further complicated by the COVID-19 pandemic and the resulting forced shutdown of the mall in 2020.

8. However, available evidence now confirms Defendants had ample capital to replace the parking surfaces in 2016. *See Exhibit "A,"* Penmark Press Release of November 10, 2015, titled "**Penmark Management Company Raises \$60 Million for Sixth Mid-Atlantic U.S. Real Estate Fund,**" and Penmark Press Release of April 12, 2016, titled "**Penmark Management Acquires Pottstown Mall Property.**"

9. Penmark acquired the property for \$15,550,000.

10. Thus, there was more than \$40 million for capital improvements available to Penmark to replace the crumbling macadam when the property was acquired in 2016.

11. The press releases were authenticated by Penmark CEO Robert Sichelstiel. *See Exhibit "B,"* November 26, 2025, Deposition Transcript of Robert Sichelsteil pages 89-96.

12. In an apparent effort to distance Penmark from the \$60 million Fund - identified by Penmark in *multiple* press releases - CEO Sichelstiel testified that there never was a \$60 million capital investment fund. *Id.*

13. Instead, Sichelstiel testified the Coventry Mall was acquired through traditional financing (bank loan) and that the press releases were placed inside marketing packages Penmark provided to potential tenants, including medical facilities such as Plaintiff's employer. *Id.*

14. CEO Sichelstiel further testified that Penmark knew the statements in the press releases were untrue when presented to potential tenants. *Id.*

15. When asked why the false press releases were provided to potential tenants, like Plaintiff's employer, Sichelstiel testified that it was provided to potential tenants because "[t]hey're going to find it anyway. It's online." *Id.* at 96.

16. When asked if Pennmark disclosed that the statements in the enclosed press releases about the \$60 million capital investment fund were false, CEO Sichelstiel conceded that no disclosures were made. *Id.*³

17. Thus, either there was \$40 million remaining in the \$60 million capital investment fund available in 2016 for resurfacing the crumbling asphalt, or Pennmark had engaged in a sham, creating false press releases about a \$60 million capital investment fund and using those false press releases to induce potential tenants, including medical facilities, to sign long term leases on its recently acquired distressed assets.

18. Plaintiffs seek leave to file a second amended complaint to plead and prove these facts which brought Plaintiff, a nurse, to the hazard that caused her mTBI.

CORPORATE ENTERPRISE

19. Pennmark, Inc.'s business model is to acquire commercial properties, have the properties deeded to newly created LLCs (3 LLCs plus a property management LLC for the Coventry Mall), and have the LLCs contracted to Pennmark to manage the property pursuant to a formal Management Agreement.⁴

³ Defendant's deposition was secured on November 26, 2025, only by Court Oder.

⁴ Pennmark deeded the Coventry Mall to three newly created LLCs, and simultaneously created a fourth LLC that is not a deeded owner, Pennmark at Coventry Management Company, LLC. Despite being created contemporaneously with Pennmark's acquisition of the Coventry Mall, it remains unclear whether this LLC ever had anything to do with the Coventry Mall. Pennmark's verified responses to the pleadings, and to written discovery, and to deposition questions, and in a filed Affidavit, have continuously shifted to admitting and denying whether the Coventry Management Company ever managed the Coventry Mall. The only "Management Agreement" produced in this litigation runs between Pennmark and the LLCs. No management agreement with Coventry Management Company has been produced, although it has been requested in pending discovery.

20. Pennmark makes all material financial decisions. *See* November 22, 2024, Deposition of Chris Cafiero, at 44-45, son of Pennmark's principal Don Cafiero.

21. Even sealcoating the subject parking lots required approval from Pennmark's CEO or CFO, Don Cafiero and Robert Sichelsteil, respectively. *Id.* at 23.

22. Defendant LLCs are affiliated "sister" corporations with common ownership and unified control exercised by the CEO and CFO of the parent company, Pennmark.

23. Defendants have the same registered address, the same officers, the same members, share the same employees, share the same office equipment, share the same maintenance equipment, share financial professionals, use the same webpage URL, use the same email addresses, use the same letterhead, receive and pay invoices from the same bank accounts whether credited to or against an LLC owner, and do not reasonably abide by corporate formalities.

24. Despite two years of litigation, Defendants have yet to produce any documents confirming any employees and/or contractors have been paid by any entity other than Pennmark.

25. All LLCs are either undercapitalized or were never capitalized.

26. All LLCs are alter egos of Pennmark.

27. Throughout this litigation, from its inception, Defendants have worked together to sow confusion as to which Defendant was responsible for management operations of the subject property and thus which Defendant was or is liable for Plaintiffs' harms.

28. This confusion generated by Defendants resulted in this Court being forced to grant Plaintiffs leave to file an Amended Complaint joining Pennmark as an additional Defendant - after expiration of the 2-year statute of limitations - pursuant to Pennsylvania's Fraudulent Concealment Doctrine.

29. Even today, after more than two years of litigation, it remains unclear which Management Company was managing the property prior to Plaintiffs' loss; whether both Management

Companies were managing the property simultaneously; and whether Defendants are even able to articulate which Management Company manages the property, or when, due to Defendants' inability to separate each other from each other.

30. The facts set forth more fully in the proposed Second Amended Complaint confirm that: (1) there is a strong unity of interest and ownership such that the separateness of each Defendant no longer exists due to the "administrative nexus" coming down to the LLCs from Pennmark; and (2) adherence to any corporate fiction in this case would sanction fraud and promote injustice.

31. Our courts now recognize enterprise liability – a form of veil-piercing – under which affiliated "sister" corporations with common ownership and unified control can be treated as a single enterprise, so that one entity can be held liable for the debts or judgments of another. *See Mortimer v. McCool*, 255 A.3d 261 (Pa. 2021).

32. Further, despite a discovery order docketed September 17, 2025, mandating production of its liability insurance policy, Defendant Pennmark has declined to produce its liability policy.

33. Specifically, Pennmark verified its discovery responses, but the only insurance policy provided by Pennmark was the policy for the co-defendant LLCs; no insurance policy for Pennmark, Inc. has been provided.

34. Undersigned counsel repeatedly reached out to Pennmark's counsel on this issue in writing, but Pennmark's counsel insisted Pennmark stands by its verified reply, providing only the policy of co-defendants. *See Exhibit "C,"* electronic communications between counsel concluding October 30, 2025.

35. Thus, Pennmark either refuses to produce its liability policy despite a court order, or it has no liability policy.

36. Plaintiffs thus seek to add enterprise theory of corporate liability so that any verdict entered against any of the Defendant LLCs will constitute a verdict against Pennmark, and vice versa.

37. The Pennsylvania Rules of Civil Procedure allow amendments of pleadings with “great liberality” and should be permitted at any stage of the proceedings unless the amendments violate the law or prejudice the rights of the opposing party. *Gutierrez v. Pennsylvania Gas & Water Co.*, 507 A.2d 1230 (Pa. Super. 1986); *see also Frey v. Pennsylvania Electric Co.*, 607 A.2d 796 (Pa. Super. 1992), *appeal denied* 614 A.2d 1142 (Pa. 1992).

38. Amendments should be liberally granted so that cases are decided on their merits. *Fowkes v. Shoemaker*, 661 A.2d 877 (Pa. Super. 1995).

39. Plaintiffs are not seeking leave to add a new cause of action or to add a new party and thus the proposed Second Amended Complaint does not violate the law.

40. Rather, Plaintiffs respectfully request leave to plead and prove enterprise theory of liability and to include recently discovered evidence of fraudulent and willful misconduct that constitute a real factor in causing Plaintiffs’ harms, including a mTBI.

41. Further, Defendants will suffer no prejudice to their rights because discovery deadlines were extended until March 17, 2026, per this Court’s Order of December 4, 2025, extending all Case Management Deadlines by ninety days.

42. Further, of the four Defendants only one deposition has been taken – Pennmark at Coventry Management Company, LLC; any claim by Defendants to unfair prejudice would be meritless.

43. In affirming a trial court’s decision to grant leave to add punitive damages to the complaint *on the day trial began*, the Superior Court affirmed that it is well settled law that “a new cause of action does not exist if plaintiff’s amendment merely adds to or amplifies the original complaint or if the original complaint states a cause of action showing that the plaintiff has a legal right to recover what is claimed in the subsequent complaint.” *See Daley v. John Wanamaker, Inc.*, 464 A.2d 355, 359 (Pa. Super. 1983) *citing Wilson v. Howard Johnson Restaurant*, 219 A.2d 676 (Pa. 1966); *Arner v. Sokol*, 96 A.2d 854 (Pa. 1953).

44. Thus, per Pa. R.C.P. 1033(d), attached as **Exhibit “D”** is a marked up copy of the proposed Second Amended Complaint with new averments underlined and deleted material in red.

45. Per Pa. R.C.P. 1033(d), attached as **Exhibit “E”** is a clean proposed Second Amended Complaint.

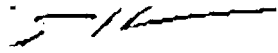
46. If approved by this Honorable Court, Plaintiffs shall file the Second Amended Complaint attached hereto as **Exhibit “E,”** after it is verified by Plaintiffs, Bernice and Allen Moser.

WHEREFORE, Plaintiffs respectfully request the Court enter an order GRANTING leave to file the Second Amended Civil Action Complaint attached hereto as **Exhibit “E.”**

MAYERSON LAW, P.C.

DATE: 12/12/2025

BY:



Benjamin Mayerson
Attorney for Plaintiff

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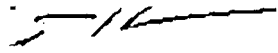
CERTIFICATE OF SERVICE

I, Benjamin J. Mayerson, Esquire, hereby certify that on the 12th day of December, 2025, a true and correct copy of Plaintiffs’ Motion For Leave to File a Second Amended Complaint was sent via electronic mail and as follows:

Jack McGuire, Esquire
Wade, Clark Mulchy, LLP
1515 Market Street, Suite 2050
Philadelphia, PA 19102
*Via Email: rcosgrove@wcmlaw.com
And jmcguire@wcmlaw.com*

William J. Novick IV, Esquire
Thomas, Thomas, & Hafer
1550 Pond Road, Suite 210
Allentown, PA 18104
Via Email: wnovick@tthlaw.com

MAYERSON LAW, P.C.

BY: 

Benjamin J. Mayerson
Attorney for Plaintiffs

Exhibit “A”

EXHIBIT

EXHIBIT-16/NOV 26, 2025/EH

exhibitsticker.com

Pennmark Management Company Raises \$60 Million for Sixth Mid-Atlantic U.S. Real Estate Fund

PRESS RELEASE • UPDATED: NOV 10, 2015

Plymouth Meeting, PA, November 10, 2015 (Newswire.com) -Pennmark founder Donald Cafiero today announced that it has raised \$60 Million for its real estate fund, reaching the fund's hard cap. Focused on the Mid-Atlantic area of the U.S., the Pennmark team of investment professionals makes opportunistic investments across retail centers in secondary and tertiary markets.

Pennmark's five prior funds have been active in most areas of commercial real estate including, retail, office, industrial, flex, the hospitality industry and most recently, conversion of prior uses to first class medical centers in areas such as Beaver Falls, PA, Waynesburg, PA and Sewell, NJ. In commercial real estate, Pennmark has invested in over three million square feet in areas such as Clearfield, Pennsylvania, Washington Courthouse, Ohio, Lancaster, Pennsylvania, and many more Pennsylvania, New Jersey, New York, and Ohio markets.

"The Clearfield area is seeing great benefits from having Pennmark investing in Clearfield County. The improvements Pennmark is making to their commercial retail properties are helping to create jobs and are having a positive impact on our community."

*Mark McCracken, County
Commissioner*

Operated in the U.S. since 1972, Pennmark has been successfully developing commercial properties that bring together superior tenants, prime locations and exciting architectural designs. It is The Pennmark Process that is at the heart of our success in managing numerous commercial properties throughout the

Delaware Valley, which brings together strong site selection, creative leasing solutions and a thorough design and construction implementation. Christopher Cafiero, VP of Construction and Property Management is able to plan and construct medical centers at generally half the cost of major medical agencies.

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"The Clearfield area is seeing great benefits from having Pennmark investing in Clearfield County. The improvements Pennmark is making to their commercial retail properties are helping to create jobs and are having a positive impact on our community." Mark McCracken Clearfield County Commissioner

"The community of Washington Court House is thrilled with a retail tenant for the PennMark property on Columbus Ave. Successful repurposing of former big box retail locations is never easy and requires an owner with vision and a local community willing to work with the property owner. In our case, Washington Court House and PennMark were a great fit." – Joe Denen City Manager Washington Courthouse, Ohio

Robert Sichelstiel, CFO and Broker of Record has been with the team since 1994, said, "We appreciate the strong support of our communities and local government agencies. We believe the robust interest in rural communities is an acknowledgement of our successful focus on opportunistic investments in real estate, and we look forward to continuing to create value in our portfolio."

Dr. William Grigsby Ph.D., Community Development Liason said, "I have always insisted on creating value within small local communities, and rural places where we are invested in. Pennmark gives back and provides direct support to the communities in which it works in."

If there is a property you would like to submit, please contact Robert Sichelstiel at 610-272-6500, X 125. As with all dealings with Pennmark, confidentiality is assured and brokers are always protected.

TAGS

Community investment Real Estate

ABOUT PENMARK REAL ESTATE DEVELOPMENT AND INVESTMENT COMPANY

Penmark is a full service Commercial Real Estate Development and Management Company with a portfolio of approximately two million square feet of retail, and office located throughout Pennsylvania, New Jersey and Ohio.

@ www.penmarkproperties.com

Penmark Real Estate Development and Investment Company
1000 Germantown Pike , #Suite A-2
Plymouth Meeting, PA
19462

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Media Suite

Media Database

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Media Monitoring

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Media Room

Customer Success

Press Release Optimizer

Company

Case# 2023-21775-111 Docketed at Montgomery County Prothonotary on 12/12/2025 12:58 PM. Fee = \$0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

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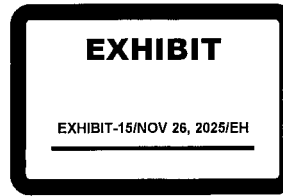
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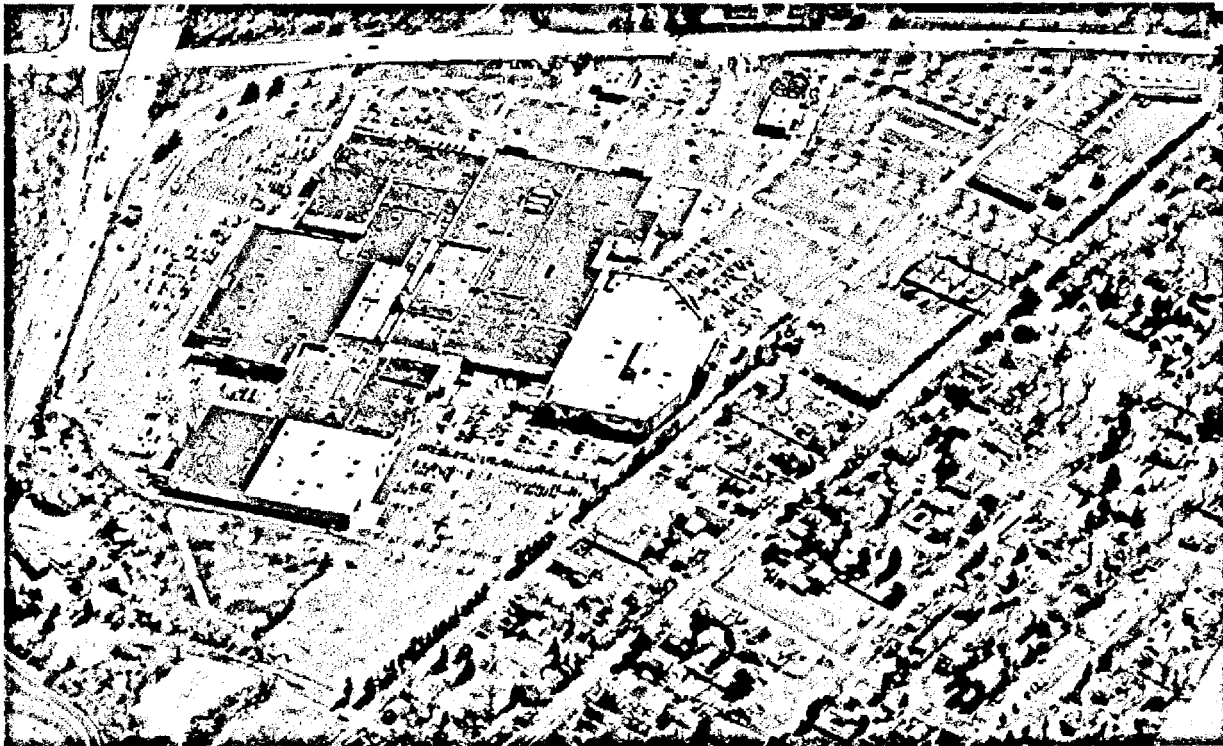


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Pennmark Management Acquires Pottstown Mall Property

By Steve Lubetkin & stevlubetkin

📅 April 12, 2016 at 04:00 AM



POTTSTOWN, PA — Penmark Management Company has acquired Coventry Mall, a 796,869 square-foot property located at 351 W. Schuylkill Road in Pottstown, PA. Penmark plans to add dining and entertainment destinations to the property. CBRE Group's Jim Pasquarella and Bill Tourtellotte brokered the sale.

“Penmark's involvement in the Coventry Mall signals a huge step in the right direction towards helping rejuvenate a mall and community that



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struggled through the recession,” says Pasquarella. “As we have seen in Penmark's prior projects, their investment will create jobs and bring a new and exciting energy to North Coventry Township.”

“We appreciate the strong support of our communities and local government agencies,” says Penmark CFO Robert Sichelstiel. “We believe the robust interest in rural communities is an acknowledgement of our successful focus on opportunistic investments in real estate.”

Focused on the Mid-Atlantic area of the US, Penmark makes opportunistic investments across retail centers in secondary and tertiary markets.

Coventry Mall consists of an enclosed regional mall, a neighboring strip and three additional outparcel developments. The enclosed mall portion of the property consists of approximately 684,660 square-feet that was originally constructed in 1966 and is anchored by Boscov's, Kohl's and Dick's Sporting Goods. A fourth anchor space was previously occupied by Sears.

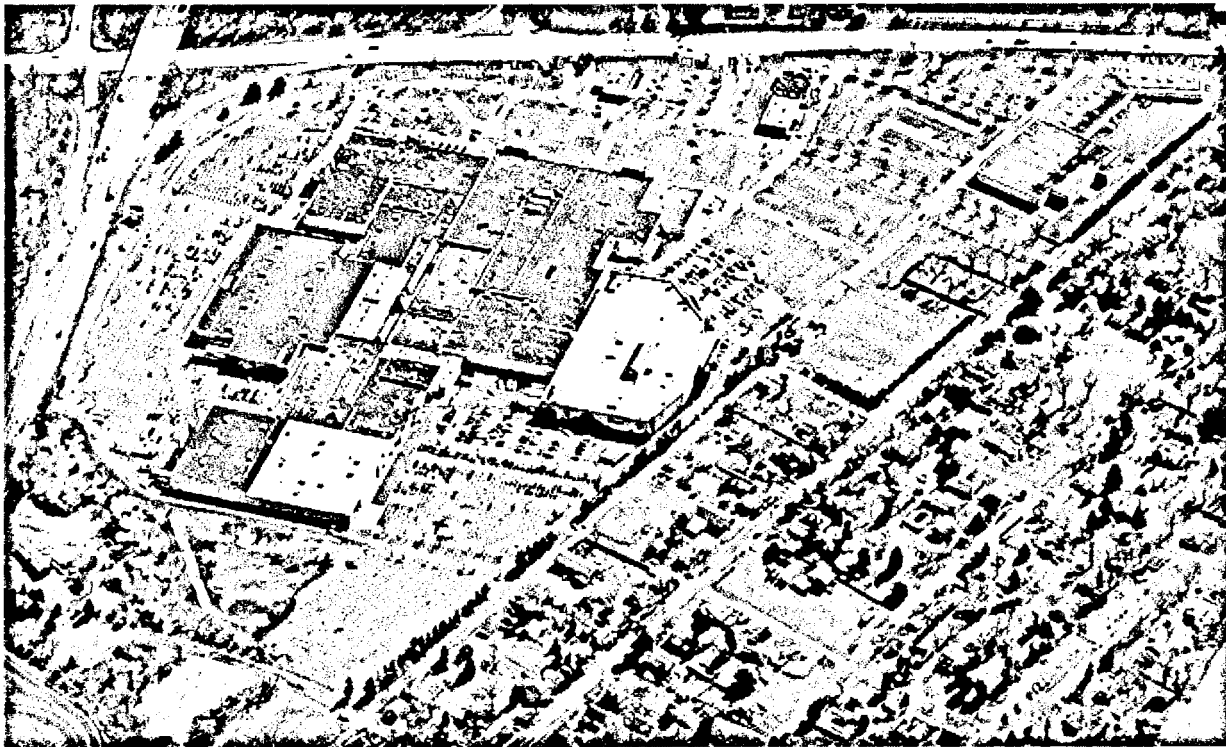
“Coventry Mall is the first of several planned investments that are part of its sixth fund, which closed in November 2015 with \$60 million,” says Donald F. Cafiero, principal of Penmark.

Penmark's five prior funds have been active in most areas of commercial real estate including, retail, office, industrial, flex, the hospitality industry and most recently, conversion of prior uses to first class medical centers in areas such as Beaver Falls, PA, Waynesburg, PA and Sewell, NJ. In commercial real estate, Penmark has invested in more than three million square feet in areas such as Clearfield, Pennsylvania, Washington



Courthouse, Ohio, Lancaster, Pennsylvania, and many more Pennsylvania, New Jersey, New York, and Ohio markets.

“The successful repurposing of a mall location is never easy and requires an owner with vision and a local community willing to work with the property owner,” says Kevin Hennessey, North Coventry Township Manager. “In this case, North Coventry Township and Penmark are a great fit and we look forward to working with them to rejuvenate the Coventry Mall.”



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“Penmark's involvement in the Coventry Mall signals a huge step in the right direction towards helping rejuvenate a mall and community that struggled through the recession,” says Pasquarella. “As we have seen in




Penmark's prior projects, their investment will create jobs and bring a new and exciting energy to North Coventry Township.”

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Exhibit “B”

1 BY MR. MAYERSON:

2 Q. Did you read the documents before you
3 signed them?

4 A. No.

5 MR. MAYERSON: All right. I
6 would like to turn to Exhibit-15.

7 BY MR. MAYERSON:

8 Q. Can you tell us what Globe Street is?

9 MR. MAYERSON: Is that -15? All
10 right.

11 BY MR. MAYERSON:

12 Q. So this is Exhibit-15, a publication by
13 Globe Street. Do you know what Globe Street is?

14 A. No.

15 Q. You don't know what Globe Street is?

16 A. No.

17 Q. I thought it was in your industry, the
18 Journal of Publication in the real estate
19 industry.

20 A. No.

21 Q. Was that not true?

22 A. I don't know. It looks like a news
23 article.

24 Q. So it's a commercial real estate news and

1 events brand that provides industry-focused
2 reporting, analysis and conferences for owners,
3 investors and developers, but you're unfamiliar
4 with it?

5 A. No, I don't read it. I don't know.

6 Q. Right. Does your company provide press
7 releases?

8 A. No. Well, I don't -- it may. I am not
9 sure. I don't do it.

10 Q. Are you interviewed for press releases?

11 A. No, I was not.

12 Q. All right. Let's turn the page. Do you
13 see that quote there that says --

14 A. Yeah, that's not the way I talk. I did
15 not say that.

16 Q. Okay. And are you familiar with the Sixth
17 Fund?

18 A. No.

19 Q. Because down at the bottom it says
20 Coventry Mall is the first of several planned
21 investments that are part of the Sixth Fund which
22 closed in November of 2015 with \$60 million,
23 according to Donald Cafiero, principal of
24 Penmark. Do you agree that that's what the

1 document says?

2 A. I agree that's what it says, but there is
3 not a Sixth Fund.

4 Q. How many funds are there?

5 A. Zero. They're all internal funds
6 generated by properties that Don Cafiero owned.
7 That's why there's three tenants in common that
8 own the mall. It would have been three different
9 -- two different properties that were sold and had
10 to be reinvested as a 1031 exchange, which is why
11 the tenants in common ownership structure is
12 utilized.

13 Q. So are you saying that the Coventry Mall
14 was purchased with capital that was owned by the
15 Pennmark entities and not by capital investors?

16 A. Correct.

17 Q. Okay.

18 A. Two of them were -- two of them were
19 properties that Don had sold and rolled into a
20 1031 exchange in the Coventry. And the third was
21 internal capital from a refinance of a related
22 property. That would have been the one that Chris
23 and I were a part of, the tenants in common.

24 Q. And I think you said that the property --

1 is this property, the Coventry Mall property
2 mortgaged?

3 A. Yes.

4 Q. And who holds the mortgage?

5 A. It was Lakeland Bank, is now owned by
6 Provident Bank.

7 MR. MAYERSON: So I am going to
8 show you now what is Exhibit-16, and I
9 would like to go to the last page --
10 actually, just go to the bottom. Go to
11 page three of four. There we go.

12 MR. MCGUIRE: Ben, just for the
13 record, it seems like you all switched
14 exhibits. Is this a different exhibit or
15 just the same exhibit, different form?

16 MR. MAYERSON: Yes. This is a
17 different exhibit. This will be
18 Exhibit-16.

19 MR. MCGUIRE: Thank you.

20 (At this time, the court reporter
21 marked the exhibit for identification as
22 Exhibit-16.)

23 BY MR. MAYERSON:

24 Q. Do you see that URL?

1 A. Yeah.

2 Q. Is that the URL for Penmark Management
3 Company, Inc.?

4 A. At the time it was.

5 Q. Has it since changed?

6 A. We have shortened it to just we purchased
7 Penmark.com. I believe Penmark Properties may
8 still lead you directly to Penmark.com.

9 Q. Do you agree that this was a document that
10 was made available on that web page,
11 Penmarkproperties.com?

12 A. I'm not sure. It may have been.

13 MR. MCGUIRE: Object to form.

14 Ben, I request you let him scroll
15 through it.

16 THE WITNESS: I have seen the
17 article. I mean, there is no Sixth
18 Midatlantic U.S. Real Estate Fund.

19 BY MR. MAYERSON:

20 Q. All right. So perhaps Don Cafiero is just
21 marketing his business in referencing that?

22 A. Could be, yes.

23 Q. But you recognize the document?

24 A. Yeah, I have seen it, yes.

1 MR. MCGUIRE: Ben, also, I am not
2 trying to chime in here, but there is a
3 URL at the bottom that says something
4 different.

5 MR. MAYERSON: That is fine.

6 BY MR. MAYERSON:

7 Q. Okay. And the other document that we
8 looked at that is Exhibit-15, have you ever seen
9 that document before?

10 MR. MCGUIRE: Other than
11 communications with counsel, Bob, you may
12 answer.

13 THE WITNESS: Oh, yeah, yeah, I
14 have seen it, yes.

15 BY MR. MAYERSON:

16 Q. In what context?

17 A. I don't know. I think they use it for --
18 in our leasing packages when we send to tenants.

19 Q. So Exhibit-15 is used in leasing packets
20 sent to potential tenants or current tenants?

21 A. Potential tenants.

22 Q. And Exhibit-16, likewise, is something
23 given to potential tenants?

24 A. It could be. I am not sure. They look

1 the same to me.

2 Q. Okay. It has similar content?

3 A. Yeah, yeah. I am not sure which is which,
4 but yeah.

5 Q. Okay. But you have seen both documents
6 before?

7 A. Yes.

8 Q. Exhibit-17, who is John Byrne?

9 A. He is our property manager.

10 Q. For what property?

11 A. All the properties.

12 Q. Including the Coventry Mall?

13 A. Correct, yes.

14 Q. How long has he been with the company?

15 A. A year or two. I am not sure.

16 Q. So he is relatively new?

17 A. Correct.

18 Q. And he wasn't with the company on June 21,
19 2022?

20 A. No.

21 Q. So he also said he was unfamiliar with the
22 Sixth Fund, which is understandable since he
23 hasn't been with the company for very long, but I
24 am confused as to why you have never heard of it

1 if it is talked about in those two publications
2 that you provide to potential tenants. Can you
3 explain that?

4 A. Because it doesn't exist.

5 Q. But you've heard of it?

6 A. I have read the articles, yes.

7 Q. And you provide the articles to potential
8 tenants?

9 A. Correct, yes.

10 Q. But it doesn't exist?

11 A. Correct.

12 Q. Can you explain why you provide it to
13 potential tenants if it's untrue or inaccurate?

14 A. They're going to find it anyway. It's
15 online.

16 Q. Well, do you provide it with a disclosure
17 that it's not true?

18 A. No.

19 Q. I am going to jump to Exhibit-19.

20 Can you identify that document, which is
21 No. 645 through 661?

22 A. It looks like an operating agreement for
23 one of the tenants in common that owns the mall.

24 Q. And do you recognize Plymouth Greene

Exhibit “C”



Outlook

Re: Penmark Mgmt Co Inc Discovery Answers - Moser v. Penmark Management Company, Inc.
Our file no. 666-53094

From Ben Mayerson <ben@610law.com>
Date Thu 10/30/2025 10:55 AM
To William J. Novick <wnovick@tthlaw.com>
Cc Gwen A. Mills <GMills@tthlaw.com>; Emily Beam <emily@610law.com>

Bill,

If your client verified it has no liability policy separate from the liability policy of the LLC you produced, I will accept that verification.

Is that what your client verified?

On Oct 30, 2025, at 10:30 AM, Novick, William J. <wnovick@tthlaw.com> wrote:

Ben,

We have produced all documents in our possession and, according to our client, in their possession. If you feel the need to file additional discovery motions, have fun. Gwen will follow up to confirm there are no outstanding policy documents but, as we verified in our responses previously issued, all documents in our possession have been turned over as of this time.

Thanks,
Bill

William J. Novick, IV
Partner | Thomas, Thomas & Hafer, LLP
1550 Pond Road
Suite 210
Allentown, PA 18104
610.332.7029
[Bio](#) | [Firm](#)

This email is for the use of the intended recipient(s) only. If you have received this email in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not keep, use, disclose, copy or distribute this email without the author's prior permission. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses. The information contained in this communication may be confidential and may be subject to the attorney-client privilege. If you are the intended recipient and you do not wish to receive similar electronic messages from us in the future, then please respond to the sender to this effect.

From: Ben Mayerson <ben@610law.com>
Sent: Wednesday, October 29, 2025 3:54 PM
To: Novick, William J. <WNovick@tthlaw.com>
Cc: Mills, Gwen A. <GMills@tthlaw.com>; Emily Beam <emily@610law.com>
Subject: Re: Pennmark Mgmt Co Inc Discovery Answers - Moser v. Pennmark Management Company, Inc. Our file no. 666-53094

10/29/25

Bill,

Do you intend to produce the applicable liability insurance policy for your client?

If not, I have no option but to file another motion for sanctions.

Ben

On Oct 11, 2025, at 1:00 PM, Ben Mayerson <ben@610law.com> wrote:

Bill,

Your client's document production is comprised of two documents, a service contract and a liability policy.

The liability policy for a different defendant.

Kindly produce the liability policy naming your client as an insured.

Thank you,

Ben Mayerson
610-864-0127 (mobile)

On Oct 9, 2025, at 12:59 PM, Mills, Gwen A.
<GMills@tthlaw.com> wrote:

My apologies the Verification was missed in the original production. See attached.

Thank you.

Gwen Mills
Paralegal | Thomas, Thomas & Hafer, LLP
1550 Pond Road, Suite 210
Allentown, PA 18104
g mills@tthlaw.com
610.332.7014 (Direct Dial)
(Mon-Fri 7:30 a.m. – 4:00 p.m.)
Firm

I am working remotely. Email is the preferred method of communication to avoid any delays. Thank you.

This email is for the use of the intended recipient(s) only. If you have received this email in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not keep, use, disclose, copy or distribute this email without the author's prior permission. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses. The information contained in this communication may be confidential and may be subject to the attorney-client privilege. If you are the intended recipient and you do not wish to receive similar electronic messages from us in the future, then please respond to the sender to this effect.

From: Ben Mayerson <ben@610law.com>

Sent: Thursday, October 9, 2025 12:44 PM

To: Mills, Gwen A. <GMills@tthlaw.com>; Novick, William J. <WNovick@tthlaw.com>; Jack McGuire <JMcGuire@wcmlaw.com>; Robert Cosgrove <RCosgrove@wcmlaw.com>; Anne Skiles <askiles@wcmlaw.com>

Cc: Emily Beam <emily@610law.com>; Tyler Christ <tchrist@610law.com>; Tyler Hewitt <tyler@610law.com>

Subject: Re: Pennmark Mgmt Co Inc Discovery Answers - Moser v. Pennmark Management Company, Inc. Our file no. 666-53094

10/9/25

Bill,

Does your client intend to verify its objections and responses to written discovery?

I thought it might follow within 24-48 hours of your production below, but that has not occurred.

Jack,

Does your client(s) intend to provide responses to written discovery or is it waiting for a court order?

Could you both kindly advise today of your clients' intentions?

Ben Mayerson
610-864-0127 (mobile)