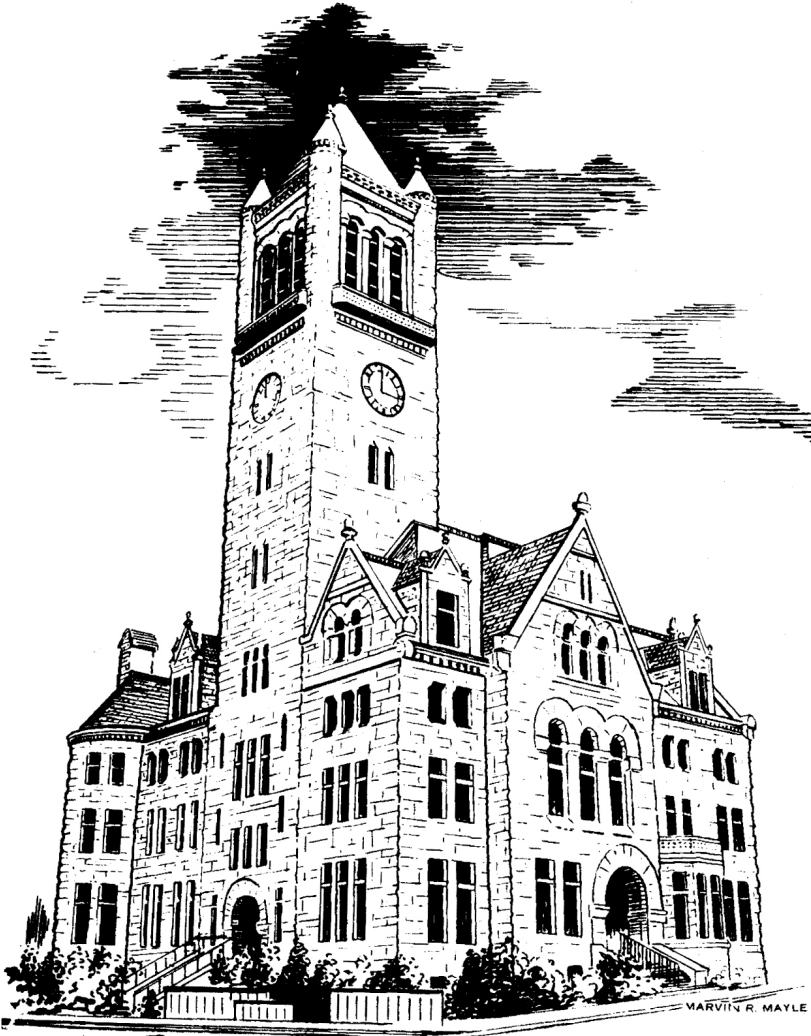


# FAYETTE LEGAL JOURNAL

VOL. 81

JANUARY 6, 2018

NO. 1



## FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 2 West Main Street, Suite 711, Uniontown, Pennsylvania 15401, 724-437-7994. Legal advertisements should be submitted online at [www.fcbar.org](http://www.fcbar.org) no later than 12:00 noon on Friday for publication the following Saturday. No date of publication is promised, however. Legal notices are published exactly as submitted by the advertiser. Copyright 2001 Fayette County Bar Association. All rights reserved.

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## ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

### Third Publication

**JAMES K. ALBRIGHT, a/k/a JAMES KEVIN ALBRIGHT**, late of Dunbar Township, Fayette County, PA (3)

*Administratrix:* Tina M. Dull  
P.O. Box 203  
Leisenring, PA 15455

c/o Tremba, Kinney, Greiner & Kerr, LLC  
120 South Third Street  
Connellsville, PA 15425

*Attorney:* John K. Greiner

**JANET R. BIGHAM**, late of Springfield Township, Fayette County, PA (3)

*Co-Executors:* Debra Rakushin and Janice Taylor-Condo  
c/o Tremba, Kinney, Greiner & Kerr, LLC  
120 South Third Street  
Connellsville, PA 15425  
*Attorney:* Nicole M. LaPresata

**JOYLYNN ELLIS, a/k/a JOY LYNN ELLIS**, Uniontown, Fayette County, PA (3)

*Personal Representative:* Lea Rae Walls  
c/o Davis & Davis Law Offices  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

**THOMAS D. HEFFNER**, late of South Connellsville, Fayette County, PA (3)

*Administrator:* Dennis R. Heffner  
c/o Molinaro Law Offices  
P.O. Box 799  
Connellsville, PA 15425  
*Attorney:* Carmine V. Molinaro, Jr.

**JOSEPH L. HORVATH, SR, a/k/a JOSEPH LEWIS HORVATH, SR., a/k/a JOSEPH HORVATH, SR., a/k/a JOSEPH L. HORVATH**, late of North Union Township, Fayette County, PA (3)

*Co-Executors:* Vincent Horvath and Joyce Stillwagon  
c/o 9 Court Street  
Uniontown, PA 15401  
*Attorney:* Vincent J. Roskovensky, II

**ETHEL MARIE MARTIN**, late of Uniontown, Fayette County, PA (3)

*Executrix:* Dail Anguiano  
c/o 11 Pittsburgh Street  
Uniontown, PA 15401  
*Attorney:* Thomas W. Shaffer

**MICHAEL H. PRESTIA**, late of Connellsville, Fayette County, PA (3)

*Executor:* Paul F. Prestia  
c/o Molinaro Law Offices  
P.O. Box 799  
Connellsville, PA 15425  
*Attorney:* Carmine V. Molinaro, Jr.

**PAULINE C. ROSE**, late of Dunbar Township, Fayette County, PA (3)

*Co-Executors:* Paula A. Childs and Patricia J. Miller  
c/o P.O. Box 760  
Connellsville, PA 15425  
*Attorney:* Carolyn W. Maricondi

**HELEN E. SERWINSKI**, late of Wharton Township, Fayette County, PA (3)

*Executor:* Jonathan Adams  
c/o Hajduk & Associates  
77 South Gallatin Avenue  
P.O. Box 1206  
Uniontown, PA 15401-1206  
*Attorney:* Mary Lenora Hajduk

**WILLIAM A. THURBY, JR.**, late of South Union Township, Fayette County, PA (3)

*Personal Representative:*

Kathy Thurby-Hazelton  
c/o George, Port & George  
92 East Main Street  
Uniontown, PA 15401

*Attorney:* Joseph M. George

**JOSEPH H. WEISMAN, JR., a/k/a JOSEPH WEISMAN, JR.**, late of Perryopolis, Fayette County, PA (2)

*Executor:* Paul S. Bilohlavek

c/o Adams & Adams  
55 East Church Street, Suite 101  
Uniontown, PA 15401

*Attorney:* Jason F. Adams

## Second Publication

**ROBERTA LEE BERGER**, late of North Union Township, Fayette County, PA (2)

*Executor:* Steven Walton

301 Old Route 51  
Smock, Pa 15480  
c/o 189 Dearth Road  
Uniontown, PA 15401

*Attorney:* Steven Walton

**RONALD E. CORNISH**, late of Luzerne Township, Fayette County, PA (2)

*Executor:* Joshua Cornish  
c/o Monaghan & Monaghan  
57 East Main Street  
Uniontown, PA 15401

*Attorney:* Gary D. Monaghan

**EUGENE R. ROTONTO, a/k/a EUGENE ROTONTO**, late of Markleysburg, Fayette County, PA (2)

*Executor:* Warren Dale Leonard

c/o 2944 National Pike Road  
Box 245  
Chalk Hill, PA 15421

*Attorney:* Charles C. Gentile

**DOROTHY SANDS**, late of Washington Township, Fayette County, PA (2)

*Executrix:* Mary Bednarczyk  
1363 Connellsville Road  
Fayette City, PA 15438  
c/o 823 Broad Avenue  
Belle Vernon, PA 15012  
*Attorney:* Mark E. Ramsier

## First Publication

**CHARLES R. NEWELL**, late of South Union Township, Fayette County, PA (1)

*Executor:* Charles O. Newell

38 Woodlawn Street  
Uniontown, PA 15401  
c/o 310 Grant Street, Suite 1109  
Pittsburgh, PA 15219

*Attorney:* Rosalie P. Wisotzki

**VERA M. ROGERS**, late of North Union Township, Fayette County, PA (1)

*Personal Representative:*

Barbara Jean Rozgony  
c/o George Port & George  
92 East Main Street  
Uniontown, PA 15401

*Attorney:* G.T. George

**SUE A. THOMAS, A/K/A SUE ANN THOMAS**, late of German Township, Fayette County, PA (1)

*Personal Representative:*

Herbert G. Thomas, III  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401

*Attorney:* Gary J. Frankhouser

**LEGAL NOTICES**

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
No. 2279 of 2017 G.D.  
Pres. Judge John F. Wagner, Jr.

IN RE: CHANGE OF NAME OF  
AVIS LEAH JOHNSON

**NOTICE OF CHANGE OF NAME**

NOTICE IS HEREBY GIVEN, that on October 24, 2017, the Petition of Avis Leah Johnson was filed in the above-named Court, praying for a decree to change her birth name from “unnamed female baby Pellebon” to the name of Avis Leah Farmer.

The Court has fixed Tuesday, January 30, 2018, at 9:30 o’clock a.m., in Courtroom No. 2 of the Fayette County Courthouse, Uniontown, Pennsylvania, as the time and place for a hearing on the merits of said Petition, when and where all persons interested may appear and show cause, if any they have, why the prayer of said Petition should not be granted.

Simon B. John, Esquire  
96 East Main Street  
Uniontown, PA 15401  
(724) 438-8560

**NOTICE OF DISSOLUTION**

Notice is hereby given that Upper Room, Inc., a Pennsylvania business corporation with its principal office at 10 W. Coffee Street, Uniontown, PA 15401, has elected to dissolve and will file Articles of Dissolution in the Office of the Department of State of the Commonwealth of Pennsylvania under the provisions of the Pennsylvania Business Corporation Law, 15 Pa. C.S.A. §1977.

Ernest DeHaas  
2 West Main Street  
Suite 700  
Uniontown, Pennsylvania 15401

**NOTICE**

Notice is hereby given that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pa., for a corporation which was organized under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania approved December 12, 1988, P.L. 177. The name of the Corporation is SLF ADVISORS, INC.

## JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: RECOUNT OF BALLOTS FOR :  
BALLOTS FOR VOTERS CAST IN THE :  
GENERAL ELECTION OF 11/7/17 FOR :  
GERMAN TOWNSHIP SUPERVISOR : No.2464 of 2017, G.D.  
6 YEAR TERM : Judge Joseph M. George, Jr.

### ATTORNEYS AND LAW FIRMS

Charity Grimm Krupa, Esquire, For the Petitioner, Steve Clark  
Sheryl Heid, Esquire, For the Fayette County Election Bureau  
Ronald J. Brown, Esquire, For the Candidate, Bob Belch

### OPINION AND ORDER

GEORGE, J.

December 18, 2017

Before the Court is a Motion to Correct, Compute and Certify the Votes Justly which incorporates several other motions filed at Numbers 2546 of 2017, G. D. and 2490 of 2017, G.D. which have all been consolidated at the above number. The motion seeks to correct, compute and certify write-in votes for Steve Clark, a candidate for German Township Supervisor in the 2017 Fayette County General Election.

In its initial announcement of the results, the Fayette County Election Bureau credited Bob Belch with 504 votes and Steve Clark with 490 votes. The 490 votes for the "write-in" candidate Steve Clark included only those that correctly spelled the first and last name of the candidate. However, there were a number of other "write - in" votes.

In order to register a "write-in" vote, the proper procedure is for the voter to check the box for "write -in" in the block for the particular election contest, and then to write in the preferred candidate's name within the same text box on the ballot. Electronic ballots require that the box is checked before the electronic voting device will allow the voter to "dial-in"-electronically type-the candidate's name. However, on paper ballots, the voter is required to check a box then write in the name of the candidate of his or her choice then enter the paper ballot into the machine for scanning and computation.

Clark's Petition seeks to have additional votes counted in his favor where either the "write -in" vote block was not checked and his name was provided or the "write -in" block was checked but his name was not spelled correctly.

A hearing was held on December 13th, 2017. This Opinion is in support of our order which will direct the Election Bureau to count the votes where the Court believes the voter intent expressed on the challenged ballots is unmistakably clear.

## DISCUSSION

Petitioner Clark avers that it is clear that the individuals who cast "write-in" votes on paper ballots intended to vote for him, and through technical discrepancies, misspellings, and mismarkings, have not cast their ballots in "perfect" name and form as required, recommended, or instructed.

Under Pennsylvania law, "Election laws will be strictly enforced to prevent fraud, but ordinarily will be construed liberally in favor of the right to vote." Appeal of James, 105 A.2d 64, 65 (Pa.1954). In the instance of misspellings and mismarkings: "[W]here the voter's intent is found, it should not be defeated by the fact that the name of the candidate is misspelled, the wrong initials employed or some other or slightly different name of like or similar pronunciation has been written instead of that of the candidate actually intended to be voted for." Dayhoff v. Weaver, 808 A.2d 1002, 1011 (Pa.Cmwth.2002), citing Appeal of McCracken, 88 A.2d 787, 789 (Pa.1952).

In support of his position, Mr. Clark relies upon Rinaldi v. Ferrett, 941 A.2d 73 (Pa.Cmwth.2007). In Rinaldi, the Commonwealth Court heavily relied on the Supreme Court case of Shambach v. Bickhart, 845 A.2d 793 (Pa.2004). Though the Court did not reach the merits, it addressed the "longstanding and overriding policy" that says that absent fraud, election laws should be construed liberally "so that minor irregularities in casting a vote result in striking that vote only if there exists compelling reason." Id. at p. 80. In the instance of votes lacking a fully blackened oval, the Court held, "[W]here voter intent is clear and there is no sign of fraud, we conclude that, absent an express statutory prohibition, the rationale favoring liberal construction would allow counting of the ballots despite the lack of a fully blackened oval. Therefore, had we reached the merits, we would have affirmed." Id.

In support of his position, Mr. Belch relies upon Dayhoff v. Weaver, 808 A.2d 1002 (Pa. Cmwth. 2002), petition for allowance of appeal denied, 572 Pa. 767, 819 A.2d 548 (2003). In Dayhoff, the Commonwealth Court addressed the issue of whether "write-in" votes were valid votes where the voters inserted the name of the candidate, but failed to mark the ballot for "write-in". Citing Section 112A(b) of the Election Code, 25 P.S. §3031.12(b), the Commonwealth Court concluded that the Election Code required both a mark and a written insertion for a "write -in" candidate in order for the vote to count.

However, in reaching its conclusion, the Commonwealth Court observed that there is a delicate balancing act that must be applied between protecting a citizen's vote and satisfying the terms of the Election Code:

The vote may be the central act in our democratic form of government. To advance the goal of free and fair elections, the legislature enacted the Election Code, and it is often said that in the interest of preventing fraud, the terms of the Election Code must be strictly enforced. E.g., In re Luzerne County Return, 447 Pa. 418, 290 A.2d 108 (1972). At the same time, the purpose of

the Election Code is to protect, not defeat, a citizen's vote. Our Supreme Court has directed that technicalities should not make the right to vote insecure, but instead, the statute should be construed to indulge that right. *Appeal of James*, 337 Pa. 405, 105 A.2d 64 (1954). These principles are difficult to reconcile. On balance, we believe that they mean that the terms of the Election Code must be satisfied without exception but where, as a factual matter, voter intent is clear, questions should be resolved in favor of holding that the Election Code has been satisfied.

*Id.*, 808 A.2d at 1006.

Each party presents a persuasive argument. To resolve the conflict between the authority set forth in *Dayhoff* and the authority stated in *Renaldi*, the Court is guided by these words:

The power to throw out a ballot for minor irregularities, like the power to throw out the entire poll of an election district for irregularities, must be exercised very sparingly and with the idea in mind that either an individual voter or a group of voters are not to be disfranchised at an election except for compelling reasons. \* \* \* 'The purpose in holding elections is to register the actual expression of the electorate's will' and that 'computing judges' should endeavor 'to see what was the true result,' There should be the same reluctance to throw out a single ballot as there is to throw out an entire district poll, for sometimes an election hinges on one vote.

*Appeal of James*, 377 Pa. 405, 409-410, 105 A.2d 64, 66 (quoting *Appeal of Gallagher*, 351 Pa. 451, 454-455, 41 A.2d 630, 632 (1945)).

Applying these same principles here, the Court believes that the voter intent expressed on the challenged ballots is unmistakably clear, there has been no evidence of fraud and the failure to check a box on the ballot is a minor irregularity, not a compelling reason to throw out said ballot.

As our Supreme Court has observed, "[m]arking a ballot in voting is a matter not of precision engineering but of an unmistakable registration of the voter's will in substantial conformity to statutory requirements." *Appeal of James*, 377 Pa. at 408, 105 A.2d at 65 (quoting *Appeal of Gallagher*, 351 Pa. at 456, 41 A.2d at 632). Not to count these votes would give too much weight to a technicality against which our Supreme Court warned in *Appeal of James*.

Wherefore, we will enter the following order that affirms the actual expression of the will of the electorate:



## ORDER

AND NOW, this 18th day of December, 2017, in accordance with the foregoing opinion, the Election Bureau is DIRECTED to correct, compute and certify the votes in accordance with the intent of the voter as follows:

Any "write-in " vote for Steve Clark, Stephen Clark, Steven Clark, Stev Clark, Steve Ciark, Clark, Steve Clarke and Stever Clark whether the "write-in" box was checked or unchecked by the voter shall be a vote COUNTED for Steve Clark;

The "write-in" votes for David Romito and Steve Smith shall NOT COUNT towards the total "write-in" votes of Steve Clark; and

Any straight party vote credited to Bob Belch where the voter wrote in "Steve Clark" or any other acceptable variation of the name Steve Clark identified in Paragraph "I" of this Order shall be REMOVED from the vote total of Bob Belch and credited to Steve Clark.

BY THE COURT:  
JUDGE JOSEPH M. GEORGE, JR.

ATTEST:  
PROTHONOTARY

# NOTICE OF PROPOSED TERMINATION

## Notice of Proposed Termination of Court Case

Pursuant to Rule 1901 of the Rules of Judicial Administration, the court intends to terminate the following cases without further notice because the docket shows no activity in the case for at least two years. You may stop the court from terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to proceed should be filed along with a \$25 filing fee to the Prothonotary of the Court at the Fayette County Courthouse, 61 E Main Street, Uniontown, Pennsylvania 15401 on or before March 7, 2018.

### IF YOU FAIL TO FILE THE REQUIRED STATEMENT OF INTENTION TO PROCEED, THE CASE WILL BE TERMINATED.

File Number	Type	Plaintiff	Defendant
2012-511	GD	Jerome Grashion	Loretta Grashion
2014-1553	GD	Stephanie Sue Nair	Donald Ira Nair
2014-2297	GD	Gator Laurel Partners LLP	Fayette County Board of Assessment Appeals Fayette County Dunbar Township
2014-2383	GD	John P. Rose	Sarah Nicole Rose
2010-806	GD	Citibank	Vicki L. Spina
2012-873	GD	Discover Bank	Jamie Trump
2014-329	GD	State Farm Mutual Automobile Co.	Derek M. Endsley
2014-2561	GD	Mail Finance Inc. F/K/A Hasler	Tru-Copy Printing, Inc.
2014-2620	GD	Michael E. Gibbs	Kristie M. Gibbs
2014-2621	GD	Cach, LLC.	Marika Torok
2015-77	GD	Lawrence Massung, Deanna Massung	Donald Stash
2014-2588	GD	Michael E. Gibbs	Kristie M. Gibbs
2015-201	GD	Commonwealth of PA Dept. of Labor & Industry	Allegheny Construction Management
2014-2094	GD	Kelly Campbell	John Campbell
2011-1046	GD	Pamela J. Frimani	Kevin D. Firmani
2015-947	GD	James L. Sweet	Celeste Lanham Sweet
2015-971	GD	Michael R. Payton	Kaysee L. Payton
2015-208	GD	Lisa R. Garletts	Larry G. Garletts
2015-1006	GD	Bruce Gray & Carol Gray	PNC Bank National Association, PNC Mortgage, National City Bank
2014-1274	GD	Sommer M. Huseman	Anthony M. Fornili

**LUNCH AND LEARN CLE****Fayette County Drug Court  
2018 Update**

Adult Drug Court has been in effect since September 2017 as a result of the growing population of drug offenders in the county. The purpose of the Adult Drug Court is to reduce recidivism by coordinating community resources and treatment opposed to imposing an incarceration sentence. The purpose of the CLE is to highlight the benefits of Adult Drug Court to attorneys, potential clients and the Commonwealth. Eligibility requirements as well as program requirements will be further explained as well as the referral process. Some changes have had to occur since the Adult Drug Court was first announced and those changes will also be highlighted.

**Presenters:**

Honorable Gerald R. Solomon  
Kendall Friend, Fayette County Problem-Solving Courts

**Thursday, January 25, 2018**

1.0 Substantive CLE Credit

12:00 noon to 1:00 p.m.

First Niagara Building

Lower level - Corporate Training Center

**REGISTRATION:**

Cindy at the Fayette County Bar Association  
(724) 437-7994 or [cindy@fcbar.org](mailto:cindy@fcbar.org)

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