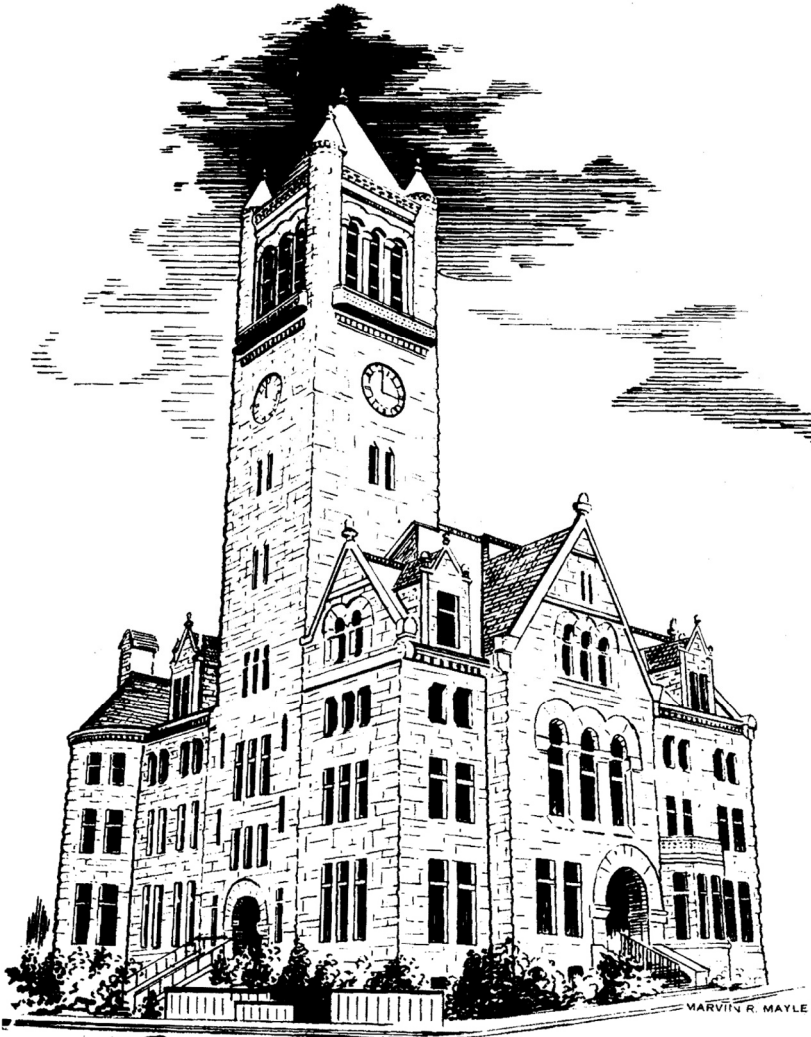


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The Ethics Hotline provides free advisory opinions to PBA members based upon review of a member's prospective conduct by members of the PBA Committee on Legal Ethics and Professional Responsibility. The committee responds to requests regarding, the impact of the provisions of the Rules of Professional Conduct or the Code of Judicial Conduct upon the inquiring member's proposed activity. All inquiries are confidential.

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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

GLENN F. GHRIST, JR., late of Dunbar Township, Fayette County, PA (2)

Administrator: William P. Ghrist
c/o 208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

KEITH A. GREENAWALT, late of Connellsville, Fayette County, PA (2)

Executrix: Andrea G. Greenawalt McFadden
c/o Casini & Geibig, LLC
815B Memorial Boulevard
Connellsville, PA 15425
Attorney: Jennifer M. Casini

BRENDA LEE MINER, a/k/a BRENDA L. MINER, late of Fairchance Borough, Fayette County, PA (2)

Executrix: Kathryn L. Propes
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

JAMES SMITH, late of Fayette County, PA (2)

Administrator: James Brown
3905 Mewswood Lane
Baltimore, Maryland 21236
c/o Fieschko & Associates, Inc.
300 Cedar Boulevard, Suite 202
Pittsburgh, PA 15228
Attorney: Joseph Fieschko

MARY WILSON, a/k/a MARY C. WILSON, late of Fayette County, PA (2)

Executor: Douglas S. Sepic
c/o Sepic Law
892 Vanderbilt Road
Connellsville, PA 15425

Second Publication

JACQUELINE BRASHEAR, a/k/a JACQUELINE M. BRASHEAR, a/k/a JACQUELINE MARIE BRASHEAR, late of Redstone Township, Fayette County, PA (1)

Executrix: Vikki Kovach
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

CINDY L. COOPER, late of Upper Tyrone Township, Fayette County, PA (1)

Personal Representative: Holly S. Najewicz
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

CORRINNE A. LUCKEY, a/k/a CORINNE ANN LUCKEY, a/k/a CORINNE A. COMINSKY LUCKEY, late of Connellsville, Fayette County, PA (1)

Executor: John Francis Cominsky
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

JAMES E. SAMPSON, late of Uniontown, Fayette County, PA (1)

Administratrix: Francine C. Sampson
c/o DeHaas Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

SHAWN SIMPSON, late of Washington Township, Fayette County, PA (1)

Administratrix: Alyson H. Trayah
8935 Telegraph Road
Lorton, Virginia 22079
c/o 1747 Rostraver Road
Belle Vernon, PA 15012
Attorney: Megan Kerns

First Publication

DOLORES A. DIXON, a/k/a DOLORES ANN DIXON, late of Henry Clay Township, Fayette County, PA

Executor: Charles E. Miller
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

JOHN PETRISIN, Jr., a/k/a JOHN T. PETRISIN, late of Dunbar Township, Fayette County, PA

Executor: Charles B. Cook
c/o Adams Law Offices, PC
55 East Church Street, Suite 101
Uniontown, PA 15401
Attorney: Jason Adams

MICHAEL F. ZAVATCHEN, a/k/a FRANCIS ZAVATCHEN, late of North Union Township, Fayette County, PA

Administrator: Michael Francis Zavatchen, Jr.
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

LEGAL NOTICES

DAVIS & DAVIS

Michael L. Mays, Esquire PA I.D.# 328301
107 East Main Street Uniontown, PA 15401
P. 724-437-2799
Email: michaelm@davisanddavislaw.com
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
No. 1030 of 2024, G.D.
No. 315 of 2024, E.D.

GARRY E. SISSON, JR. and
JODIE C. SISSON, his wife,
Plaintiffs
vs.

PITTSBURGH ROAD PARTNERS,
LLC., a Pennsylvania Limited Liability
Company,
Defendant.

**NOTICE OF SHERIFF'S SALE
OF REAL PROPERTY**

TO:

PITTSBURGH ROAD PARTNERS, LLC.
1310 Pittsburgh Road
Uniontown, PA 15401

PITTSBURGH ROAD PARTNERS, LLC.
1500 Locust Street, #2208
Philadelphia, PA 19102

THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. IF YOU: ARE A DEBTOR IN AN ACTIVE BANKRUPTCY CASE; ARE UNDER THE PROTECTION OF A BANKRUPTCY STAY; OR, HAVE RECEIVED A DISCHARGE IN BANKRUPTCY AND YOU HAVE NOT REAFFIRMED THE DEBT, THIS NOTICE IS FOR INFORMATIONAL PURPOSES ONLY AND SHOULD NOT BE CONSTRUED AS AN ATTEMPT TO COLLECT A DEBT FROM YOU PERSONALLY

Your property (real estate) at **1310 PITTSBURGH ROAD, UNIONTOWN, FAYETTE COUNTY, PA 15401** is scheduled

to be sold at the Sheriff's Sale on MARCH 20, 2025 at 2:00P.M. in the [HTTP://FAYETTE.PA.REALFORECLOSE.COM](http://FAYETTE.PA.REALFORECLOSE.COM), to enforce the court judgment of \$407,058.92 obtained by Garry E. Sisson, Jr. and Jodie C. Sisson, his wife (the mortgagees) against you. In the event the sale is continued, an announcement will be made as said sale in compliance with Pa.R.C.P. Rule 3129.3.

NOTICE OF OWNER'S RIGHTS

YOU MAY BE ABLE TO PREVENT THIS SHERIFF'S SALE

To prevent Sheriff's sale, you must take immediate action:

1. The sale will be canceled if you pay to the mortgagee the back payment, late charges, costs and reasonable attorney's fees due. To find out how much you must pay, you may call DAVIS & DAVIS at 724-437-2799.
2. You may be able to stop the sale by filing a petition asking the Court to strike or open the judgement was improperly entered. You may also ask the Court to postpone the sale for good cause.

You may also be able to stop the sale through other legal proceedings.

You may need an attorney to assert your rights. The sooner you contact one, the more chance you will have of stopping the sale. (See notice on page two on how to obtain an attorney.)

YOU MAY STILL BE ABLE TO SAVE YOUR PROPERTY AND YOU HAVE OTHER RIGHTS EVEN IF THE SHERIFF'S SALE DOES TAKE PLACE

1. If the Sheriff's Sale is not stopped your property will be sold to the highest bidder. You may find out the bid price by calling DAVIS & DAVIS at 724-437-2799.
2. You may be able to petition the Court to set aside the sale if the bid price was grossly inadequate compared to the value of your property.
3. The sale will go through only if the buyer pays the Sheriff the full amount due in the sale. To find out if this has happened, you may call DAVIS & DAVIS at 724-437-2799.

4. If the amount due from the Buyer is not paid to the Sheriff, you may remain the owner of the property as if the sale never happened.

5. You have the right to remain in the property until the full amount due is paid to the Sheriff and the Sheriff gives a deed to the Buyer. At that time, the Buyer may bring legal proceedings to evict you.

6. You may be entitled to a share of the money paid for your property. A proposed schedule of distribution of the money for your house will be filed by the Sheriff not later than thirty (30) days after the sale. This schedule will state who will be receiving that money, The money will be paid out in accordance with this schedule unless exceptions (reasons why the proposed distribution is wrong) are filed within ten (10) days after the filing of the proposed schedule.

7. You may also have other rights and defenses or ways of getting your property back, if you act immediately after the sale.

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 LISTED BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
100 South Street, P.O. Box 186
Harrisburg, PA 17108
Telephone: 1-800-692-7375**

SHERIFF'S SALE

Date of Sale: January 16, 2025

By virtue of the below stated writs out of the Court of Common Pleas of Fayette County, Pennsylvania, the following described properties will be exposed to sale by James Custer, Sheriff of Fayette County, Pennsylvania on Thursday January 16, 2025, at 2:00 pm at <https://fayette.pa.realforeclose.com>.

The Conditions of sale are as follows:

All bidders must complete the Realauction on-line registration process at <https://fayette.pa.realforeclose.com> to participate in the auction.

All bidders must place a 10% deposit equal to the successful bid for each property purchased to Realauction via wire transfer or ACH per Realauction requirements. Upon the auction's close, buyer shall have 10 business days to pay the remaining balance to the Fayette County Sheriff's Office via cashier's check. No cash will be accepted. Failure to comply with the Conditions of Sale, shall result in a default and the down payment shall be forfeited by the successful bidder and applied to the costs and judgments. The schedule of distribution will be filed no later than 30 days after the sale of real property. If no petition has been filed to set aside the sale or objections to the distribution are filed within 10 days of filing the distribution, the Sheriff will prepare and record a deed transferring the property to the successful bidder. (2 of 3)

James Custer
Sheriff of Fayette County

No. 964 of 2024 G.D.
No. 344 of 2024 E.D.

PNC Bank, National Association
Plaintiff
vs.
Steven D. Boiaroff, Jr. a/k/a
Steve Boiaroff Jr.
Defendant

ALL the following pieces or parcels of land situate in Wharton Township, Fayette County, Pennsylvania,

FIRST: All that certain tract or piece of ground located in Wharton Township, Fayette County, Pennsylvania being part of Thomas G. Hager Tract No. 3 and Simon P. Hager Tract No. 2 as described in deed from Piedmont Coal Company to E. Zimmerli, dated September 9, 1936, and recorded in the Recorder's Office of Fayette County in Deed Book Volume 533 Page 242.

SECOND: ALL that certain tract of land located in Wharton Township, Fayette County, Pennsylvania, being part of the Thomas G. Hager Tract No. 3 and Simon R. Hager Tract No. 2 as described in Deed to E. Zimmerli, and recorded in the Recorder's Office of Fayette County in Deed Book Volume 533, page 242.

Tax ID: 42-20-0003

Property Address (for informational purposes only): 903 Wharton Furnace Rd. a/k/a 893 Wharton Furnace Rd., Farmington, PA 15437

ROBERTSON, ANSCHUTZ, SCHNEID,
CRANE & PARTNERS, PLLC
A Florida professional limited liability company
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
(855) 225-6906

No. 646 of 2024 G.D.
No. 316 of 2024 E.D.

SPECIALIZED LOAN SERVICING LLC
Plaintiff
v.
CHARLENE CAROCCI;
RONALD D. CAROCCI, SR.
Defendant(s)

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN PERRY TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS: 108 VINE STREET
 LAYTON, PA 15473
 BEING PARCEL NUMBER: 27-12-0003
 IMPROVEMENTS: RESIDENTIAL
 PROPERTY

STERN & EISENBERG PC - MATTHEW C.
 FALLINGS, ESQ.
 No. 539 of 2024 G.D.
 No. 314 of 2024 E.D.

Brock & Scott, PLLC

No. 2186 of 2024 G.D.
 No. 354 of 2024 E.D.

FREEDOM MORTGAGE CORPORATION
 v.
ROBERT KEITH CLARK III

By virtue of a Writ of Execution No. 2186 of 2024 FREEDOM MORTGAGE CORPORATION v. ROBERT KEITH CLARK III owner(s) of property situate in the CITY OF UNIONTOWN, FAYETTE County, Pennsylvania, being 71 NUTT AVE, UNIONTOWN, PA 15401
 Tax ID No. 38-10-0164
 Improvements thereon: RESIDENTIAL DWELLING
 Judgment Amount: \$99,466.87

Deutsche Bank National Trust Company, as Trustee for Morgan Stanley ABS Capital I Inc. Trust 2005- HE2 Mortgage Pass-Through Certificate, Series 2005-HE2
Plaintiff
 v.
Jerry Lee Glisan Sr A/K/A Jerry Lee Glisan and Michelle Glisan
Defendant(s)

SITUATE IN MARKLEYSBURG, FAYETTE COUNTY, PENNSYLVANIA, TOWNSHIP OF HENRY CLAY BEING KNOWN AS 316 CLOVER TOP RD, MARKLEYSBURG, PA 15459-1160
 PARCEL NO. 1615000102
 IMPROVEMENTS- RESIDENTIAL REAL ESTATE
 SOLD AS THE PROPERTY OF- Jerry Lee Glisan Sr and Betty Jo Glisan

STERN & EISENBERG, PC - MATTHEW C.
 FALLINGS, ESQ.

No. 2116 of 2024 G.D.
 No. 358 of 2024 E.D.

Hladik, Onorato & Federman, LLP
 298 Wissahickon Avenue
 North Wales, PA 19454

No. 906 of 2024 G.D.
 No. 361 of 2024 E.D.

Towd Point Mortgage Trust 2016-3, U.S. Bank National Association as Indenture Trustee
Plaintiff
 v.
Evelyn G. French and Kenneth M. French
Defendant(s)

SITUATE IN CONNELLSVILLE, FAYETTE COUNTY, PENNSYLVANIA, TOWNSHIP OF CONNELLSVILLE BEING KNOWN AS 124 NORTH 3RD ST, CONNELLSVILLE, PA 15425
 PARCEL NO. 05-06-0538
 IMPROVEMENTS- RESIDENTIAL REAL ESTATE
 SOLD AS THE PROPERTY OF- Evelyn G. French, Kenneth M. French, Wife and Husband

2024 GD Towne Mortgage Company (Plaintiff)
 vs.
Bandon M. Hull and Jessica M. Hull (Defendants)

By virtue of Writ of Execution No. 906 of 2024 GD Towne Mortgage Company (Plaintiff) vs. Bandon M. Hull and Jessica M. Hull (Defendants)
 Property Address 412 East Cedar Avenue, Conneltsville, PA 15425
 Parcel I.D. No. 05-12-0026
 Improvements thereon consist of a residential dwelling.
 Judgment Amount: \$138,111.02

KML LAW GROUP, P.C.
Suite 5000
701 Market Street
Philadelphia, PA 19106-1532
(215) 627-1322

No. 317 of 2018 G.D.
No. 262 of 2022 E.D.
No. 328 of 2024 E.D.

M&T BANK
1 Fountain Plaza
Buffalo, NY 14203
Plaintiff

vs.

HAROLD N. PENNINGTON III
JULIE A PENNINGTON A/K/A JULIA A.
PENNINGTON
Mortgagor(s) and Record Owner(s)
132 North 6th Street
Connellsville, PA 15425
Defendant(s)

ALL THAT CERTAIN LOT OF LAND
SITUATE IN CITY OF CONNELLSVILLE,
COUNTY OF FAYETTE AND
COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 132 NORTH 6TH
STREET, CONNELLSVILLE, PA 1.5425 TAX
PARCEL #05-06-0562 & 05-06-0563

IMPROVEMENTS: A RESIDENTIAL
DWELLING

SOLD AS THE PROPERTY OF:
HAROLD N. PENNINGTON III AND JULIE A
PENNINGTON A/K/A JULIA A.
PENNINGTON

Brock & Scott, PLLC

No. 730 of 2023 G.D.
No. 329 of 2024 E.D.

WELLS FARGO BANK, N.A.
v.
MIRANDA R. PETRILLO

By virtue of a Writ of Execution No. 2023-
00730 WELLS FARGO BANK, N.A. v.
MIRANDA R. PETRILLO owner(s) of property
situate in the JEFFERSON TOWNSHIP,
FAYETTE County, Pennsylvania, being 130 E
1ST STREET, GRINDSTONE, PA 15442

Tax ID No. 17-16-0039

Improvements thereon: RESIDENTIAL
DWELLING

Judgment Amount: \$91,930.28

DAVIS & DAVIS
Michael L. Mays, Esquire

No. 1030 of 2024 G.D.
No. 315 of 2024 E.D.

GARRY E. SISSON, JR. and
JODIE C. SISSION, his wife,

vs.

PITTSBURGH ROAD PARTNERS,
LLC., a Pennsylvania Limited Liability
Company

GARRY E. SISSON, JR. and JODIE C.
SISSION, his wife, vs. PITTSBURGH ROAD
PARTNERS, LLC., a Pennsylvania Limited
Liability Company Owner(s) of property
situate in the TOWNSHIP OF NORTH UNION,
FAYETTE COUNTY, Pennsylvania, being
1310 PITTSBURGH ROAD, UNIONTOWN,
FAYETTE COUNTY, PA 15401 Tax ID No.
2501000501

ALL that certain piece or parcel of land
situate in North Union township, Fayette
County, Pennsylvania and being designated as
Lot 1 on the Holchin Subdivision as recorded in
the Recorder's Office of Fayette County,
Pennsylvania, in Plan Book 25, Page 43, being
and described as follows:

BEGINNING at a point marked by an iron
pin, being the westernmost point of said Lot No.
1, thence by land now or formerly of Eleanor J.
Jackson, South 87 degrees 15 minutes East
209.93 feet to an iron pin; thence by same, South
84 degrees 15 minutes East 700.44 feet to an
iron pin; thence by same, South 69 degrees 45
minutes East 166.71 feet to a point; thence South
15 degrees 15 minutes East 533.81 feet to a
point; thence South 82 degrees 14 minutes 40
seconds West 84.81 feet to a point; thence by a
curve, having a radius of 15.00 feet, an arc
length of 16.64 feet and a chord of North 65
degrees 58 minutes 54 seconds West 15.80 feet
to a point; thence by a curve, having a radius of
1,408.14 feet, an arc length of 1,077.67 feet and
a chord of North 56 degrees 07 minutes 56
seconds West, 1,051 feet to an iron pin; thence
North 78 degrees 03 minutes 24
seconds West 230.17 feet to the iron pin
marking the place of beginning. Containing
4.4195 acres as per the above-referenced Plan

Improvements thereon: COMMERCIAL
BUILDING

Judgment Amount: \$407,058.92

Jill M. Fein, Esquire Hill Wallack LLP
 1000 Floral Vale Blvd., Suite 300
 Yardley, PA 19067
 (215) 579-7700

No. 618 of 2019 G.D.
 No. 357 of 2024 E.D.

**Wilmington Trust, National Association, not
 in its individual capacity but solely as Trustee
 for MFRA Trust 2014-1**

Plaintiff

v.

**Charles Samuel Smith and Valerie Suzanne
 Smith**

Defendants

By virtue of a writ of execution case
 number: 2019-618 Plaintiff: Wilmington Trust,
 National Association, not in its individual
 capacity but solely as Trustee for MFRA Trust
 2014-1 v. Defendants: Charles Samuel Smith
 and Valerie Suzanne Smith owners of property
 situate in South Union Township, Fayette
 County, Pennsylvania, being pin number 36-05-
 0029

Property being known as: 126 Georges
 Creek Road, Smithfield, PA 15478
 Improvements thereon: Residential
 Property

No. 585 of 2022 G.D.
 No. 342 of 2024 E.D.

**Nationstar Mortgage LLC d/b/a Mr. Cooper
 PLAINTIFF**

vs.

**Sydney Summers, known Heir of Michelle K.
 Micholas, deceased**

**C.B., minor, known Heir of Michelle K.
 Micholas, deceased**

**E.B., minor, known Heir of Michelle K.
 Micholas, deceased**

**Unknown Heirs, Successors, Assigns and All
 Persons, Firms or Associations Claiming
 Right, Title or Interest from or under
 Michelle K. Micholas, deceased**

DEFENDANTS

Being known as House Numbers 17 and
 18, now a single-family dwelling, located at 421
 First Street, Republic, Pennsylvania.

Tax Parcel Identification Number: 30-20-
 0129

FOR INFORMATIONAL PURPOSES
 ONLY: Being known as 421 1st Street, Chestnut
 Ridge, PA 15422

BEING THE SAME PREMISES which

Marian Frances Leone, Executrix of the Estate
 of John Andrew Janco, A/KIA John Janco,
 deceased, by Deed dated July 14, 2017 and
 recorded July 24, 2017 in the Office of the
 Recorder of Deeds in and for the County of
 Fayette, Pennsylvania in Book 3346, Page 302,
 Instrument No. 201700007862 granted and
 conveyed unto Michelle K. Micholas in fee.

AND THE SAID Michelle K. Micholas
 departed this life on or about June 17, 2021
 thereby vesting title unto Sydney Summers,
 known heir of Michelle K. Micholas and any
 Unknown Heirs, Successors, Assigns, and All
 Persons, Firms, or Associations Claiming Right,
 Title or Interest from or under Michelle K.
 Micholas, deceased.

No. 1181 of 2023 G.D.
 No. 343 of 2024 E.D.

**Wells Fargo Bank, N.A.
 Plaintiff,**

v.

**Thomas Lewis Wardman, as Believed Heir
 and/or Administrator of the Estate of James
 Williams Wardman; Unknown Heirs and/or
 Administrators of the Estate of James
 Williams Wardman (if any)**

Defendants.

ALL that certain parcel of land lying and
 being situate in the Borough of Brownsville,
 County of Fayette, and Commonwealth of
 Pennsylvania, known as 84 Union Street,
 Brownsville, PA 15417 having erected thereon a
 dwelling house.

Being known and designated as Tax ID
 No.: 02040055

BEING the same premises which John T.
 Wardman, a widower, by Deed dated June 2,
 1987 and recorded in and for Fayette County,
 Pennsylvania in Deed Book 293, Page 260,
 granted and conveyed unto John T. Wardman
 and James William Wardman.

*** END SHERIFF'S SALE ***

Registers' Notice

Notice by JEFFREY L. REDMAN, Register of Wills and Ex-Officio Clerk of the Orphans' Court Division of the Court of Common Pleas

Notice is hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

Monday, February 3, 2025, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2622-0549	PATRICIA LOU RUSSIN	Linda Jean Behling, Administratrix

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on

Monday, February 18, 2025, at 9:30 A.M.

in Courtroom No. 5 of the **Honorable Judge Joseph M. George, Jr.** or his chambers, Third Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

JEFFREY L. REDMAN
Register of Wills and Ex-Officio Clerk of the Orphans' Court Division (2 of 2)

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

COMMERCIAL/RESIDENTIAL/CURRENT OWNER/MINERAL TITLE

A DECADE OF EXPERIENCE E&O INSURED WILL TRAVEL ACCEPTING NEW CLIENTS



DiBella Weinheimer
Geer McAllister Best Coco Lloyd Whalen



Holly Whalen ◊ Amy Coco ◊ Bethann Lloyd

INSIST UPON OUR EXPERIENCED TEAM

LAWYERS DEFENDING LAWYERS

- Disciplinary Board
- Legal Malpractice
- Security Fund / IOLTA
- Ethics & Conflict Analysis
- Subpoena Assistance
- Licensure
- Conflict Resolution

WWW.DIBELLA-WEINHEIMER.COM 412 261-2900

JUDICIAL OPINION

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

BERNARD M. ZSIROS and JUDITH A.	:	
ZSIROS, his wife,	:	
Plaintiffs,	:	
v.	:	
KEITH W. DILLINGER and SANDRA C.	:	
DILLINGER, his wife,	:	No. 1572 of 2021
Defendants.	:	President Judge Steve P. Leskinen

OPINION AND ORDER

LESKINEN, P.J.

December 23, 2024

Before the Court is Defendant's Motion to Request a Jury Trial. Plaintiffs filed a Complaint on August 31st, 2021, with counts for ejectment and trespass and a request for preliminary and permanent injunction relating to an alley serving the parties' respective properties. Defendants filed a New Matter and a Counterclaim, averring that they have acquired fee simple title to the disputed alley by virtue of adverse possession.

As a threshold matter, the Court must first determine whether an ejectment action is appropriate. A court only has jurisdiction over an ejectment action if the plaintiff is out of possession but has a right to immediate possession. *Siskos v. Britz*, 567 Pa. 689, 698 (Pa. 2002). An ejectment, as opposed to a quiet title, does not determine the rights of all potential title holders, only the immediate rights between the plaintiff and defendant in a particular litigation. *Id.*, at 699. A plaintiff in an ejectment action must plead title at the commencement of the action and must present prima facie evidence at trial of title to the property at issue. If they fail to do so, the ejectment case fails. If they succeed, the burden of proof shifts to the defendant to prove a superior title. *Dunn v. Milanovich*, 302 Pa. 184, 187 (Pa. 1930).

Plaintiffs have pled a prima facie claim of a right to immediate possession through an abstract of title and Defendants are undisputedly in possession of at least part of the alley. In paragraph 20(A) of the Answer, Defendants aver, "Your Defendants are not contesting the chain of title. Defendants contest Plaintiffs' assertion that the Plaintiffs' deed gives Plaintiffs exclusive use of the alley." Based on these averments, an ejectment is the appropriate cause of action on which to proceed and a separate hearing on the matter of current possession is not necessary.

Under Siskos, there is a right to a jury trial in an ejectment action, but not in a quiet title action. Pa. R.C.P. 1007.1 requires a demand for a jury trial no later than twenty days after service of the last permissible pleading or else the right is waived. Defendants acknowledge they did not make a demand until nearly three years after the last pleading. {1} In *Jones v. Van Norman*, 513 Pa. 572,584 (Pa. 1987), the Supreme Court upheld a finding of waiver, further holding that "considerations of prejudice to the other side play no part in enforcing a waiver of a jury trial where the provisions of Rule 1007.1(a) have not been met." *Id.* The Defendants' argument that they were not aware of their right to a jury trial given the nature of the relief requested is unavailing.

WHEREFORE, the Court issues the following Order:

ORDER

AND NOW¹ this 23rd day of December, 2024, upon consideration of the Defendant's Motion to Request a Jury Trial and the Reply filed by the Plaintiffs, the Motion is hereby DENIED as untimely and for the reasons set forth in the Opinion filed with this Order.

A separate scheduling order shall be issued for a non-jury trial in this matter.

BY THE COURT:
STEVE P. LESKINEN,
PRESIDENT JUDGE

ATTEST:
Prothonotary

{1} Defendants have not yet filed their Motion of record as required by F.C.R. 208.3(8).

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