

# The Greene Reports

Official Legal Publication for Greene County, Pennsylvania  
Owned and operated by Greene County Bar Association  
Greene County Courthouse, Waynesburg, PA 15370

Vol. XXXVIII, No. 7

September 8, 2022

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## Table of Contents

<b>Deed Notices .....</b>	<b>Page 3</b>
<b>Estate Notices .....</b>	<b>Page 4</b>
<b>Fictitious Name Notice .....</b>	<b>Page 5</b>
<b>Supreme Court Notice .....</b>	<b>Page 6</b>

Serving the Legal Community of Greene County  
Since October 1982

# The Greene Reports

2-----9/8/22-----

**COURT OF COMMON PLEAS**  
Honorable Louis Dayich, President Judge  
Honorable Jeffry N. Grimes, Judge

## MOTIONS

Criminal & Civil & O.C.:  
September 12 and 14, 2022

## CRIMINAL

Arraignments: September 12, 2022  
ARDs: September 12, 2022  
ARD Revocations: September 12, 2022  
Parole Violations: September 12, 2022  
Plea Court: September 13-15, 2022  
License Suspension Appeals: October 25, 2022  
Argument Court: TBD

## ORPHANS

Accounts Nisi: September 6, 2022  
Accounts Absolute: September 16, 2022

## SUPREME COURT

## SUPERIOR COURT

## COMMONWEALTH COURT

Convenes in Pgh.: October 24-28, 2022  
Convenes in Pgh.: September 19-23, 2022  
Convenes in Pgh.: October 11-14, 2022

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## THE GREENE REPORTS

Owned and published by the GREENE COUNTY BAR ASSOCIATION  
Editor: Kayla M. Sammons  
E-mail address: [editor.greenerreports@yahoo.com](mailto:editor.greenerreports@yahoo.com)

## EDITORIAL POLICY

All articles published in The Greene Reports are intended to inform, educate or amuse. Any article deemed by the editorial staff to be reasonably interpreted as offensive, demeaning or insulting to any individual or group will not be published.

The views expressed in the articles represent the views of the author and are not necessarily the views of The Greene Reports or the Greene County Bar Association.

The Greene Reports welcomes letters to the Editor both for publication and otherwise. All letters should be addressed to: Editor, The Greene Reports, Greene County Courthouse, 10 East High Street, Waynesburg, PA 15370. Letters must include signature, address and telephone number. Anonymous correspondence will not be published. All letters for publication are subject to editing and, upon submission, become the property of The Greene Reports.

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## THE GREENE COUNTY BAR ASSOCIATION

Christopher M. Simms, President  
Timothy M. Ross, Vice-President  
Allen J. Koslovsky, Secretary  
Blake Birchmeier, Treasurer  
Jessica L. Phillips, Ex-Officio

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# The Greene Reports

-----9/8/22-----3

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## DEED TRANSFERS

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The following property transfers have been recorded in the Greene County Recorder of Deeds office.

### ALEPPO TOWNSHIP

Don C. Strait, et ux., to Daniel P. Lhota, II, et ux., 53 1/3 Acres, \$280,000.00 (9-1-22)  
Iron Coal Resources LLC to Consol Pennsylvania Coal Company Exchange, 7,746.32 Acres, Coal, \$11,700,000.00 (9-6-22)

### CUMBERLAND TOWNSHIP

Dawn Ashby A/K/A Dawn Moore, et ux., to Jordan T. Moore, .7027 Acres, \$87,000.00 (9-1-22)

Colby Cormack to Debra Allen, Tract, \$22,359.90 (9-6-22)

Robert McMillen, et ux., to Rebecca Churby A/K/A Rebecca Hackney, 2.0039 Acres, Lot 5, Grace Heights, \$23,000.00 (9-6-22)

### FRANKLIN TOWNSHIP

Samantha L. Rush to Robert L. Shultz, et ux., 3.4897 Acres, \$349,000.00 (9-1-22)  
Megan R. Huffman A/K/A Megan R. Kepler, et ux., to Caroline Grace Frye, Unit 103, Site 1, Huntington Woods, \$145,000.00 (9-1-22)

John C. McNay, et ux., to Frantz Auguste, et ux., Lot 13, Valley Farm Estate, \$228,000.00 (9-2-22)

### FREEPORT TOWNSHIP

Charles Robert Delaney to Guy R. Hostutler, et ux., 1 Acre, \$50,000.00 (9-2-22)

### GILMORE TOWNSHIP

Jeri Dixon Mitchell A/K/A Jeri Dixon Carter, et ux., to Foss Minerals LLC, 130.671 O&G, \$1,900.67 (9-6-22)

David Michael Dixon, et ux., to Foss Minerals LLC, 130.671 Acres, O&G, \$1,900.67 (9-6-22)

Mark Edward Dixon, et ux., to Foss Minerals LLC, 130.671 Acres, O&G, \$1,900.67 (9-6-22)

Paul Kenton Post, et al., to Foss Minerals LLC, 130.671 Acres, O&G, \$5,702.01 (9-6-22)

### MONONGAHELA TOWNSHIP

Peggy J. Ocker to Amy Hunyady, et ux., 4 Tracts, \$27,889.65 (9-2-22)

### MORRIS TOWNSHIP

William Morrow, et ux., to CNX Gas Company LLC, R/W, 7/4 Acres, \$5,000.00 (9-6-22)

### SPRINGHILL TOWNSHIP

Jayne Gill to Three Rivers Royalty III LLC, 2 Tracts, O&G, \$23,546.23 (9-1-22)

Helen J. Curran to Sandhill Royalty LP, 3 Tracts, O&G, \$1,550.00 (9-2-22)

Dennis K. Downing to Sandhill Royalty LP, 3 Tracts, O&G, \$800.00 (9-2-22)

Cheryl L. Carder to Sandhill Royalty LP, 3 Tracts, O&G, \$800.00 (9-2-22)

### WAYNESBURG BOROUGH

Michelle L. Kaczmark to Jeffrey C. Fox, et ux., Lot, \$92,000.00 (9-1-22)

# The Greene Reports

4-----9/8/22-----

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## ESTATE NOTICES

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**NOTICE** is hereby given of the grant of letters by the Register of Wills to the Estates of the following named decedents. All persons having claims are requested to make known the same and all persons indebted to the decedent are requested to make payment to the personal representative or his attorney without delay.

### FIRST PUBLICATION

**BIHUN, HAZEL L.**

Late of Waynesburg, Borough, Greene County, Pennsylvania  
Administrator: Mike Bihun, 359 Buckhill Road, Waynesburg, PA 15370  
Attorney: Christopher Michael Simms, Esquire, Pollock Morris Belletti & Simms, LLC, 54 South Washington Street, Waynesburg, PA 15370

**BROCK, DONALD EUGENE,**

Late of Perry Township, Greene County, Pennsylvania  
Executor: Sandra Lee Grimes, 179 Hoy Run Road, Spraggs, PA 15362  
Attorney: Timothy N. Logan, Esquire, 54 N. Richhill Street, Waynesburg, PA 15370

**FONNER, MARK A.**

Late of Waynesburg, Greene County, Pennsylvania  
Administrator: Steve E. Fonner, Jr., 360 Iams Station Road, Sycamore, PA 15364  
Attorney: Dennis M. Makel, Esquire, Makel & Associates, LLC, 98 East Maiden Street, Washington, PA 15301

**MILLER, MICHAEL G.**

Late of Waynesburg, Greene County, Pennsylvania  
Executrix: Meg M. Cafrelli, 1268 Meadow Drive, Alquippa, PA 15001  
Attorney: None

**WILKS, DAVID H. A/K/A DAVID HUNT WILKS**

Late of Dunkard Township, Greene County, Pennsylvania  
Executor: Joseph B. Smith, 126 Big Foot Road, Dilliner, PA 15327  
Attorney: Matthew F. Schwartz, Esquire, Lange Legal Group, LLC, Attys., 2212 Murray Avenue, Pittsburgh, PA 15217

### SECOND PUBLICATION

**FLENNIKEN, LAWRENCE A.**

Late of Cumberland Township, Greene County, Pennsylvania  
Executor: William A. Fleniken, 101 Second Street, Rices Landing, PA 15357  
Attorney: Gregory C. Hook, Esquire, 189 W. High Street, PO Box 792, Waynesburg, PA 15370

# The Greene Reports

-----9/8/22-----5

**MELIHER, BETTY JANE**

Late of Jefferson Township, Greene County, Pennsylvania  
Executor: John R. Meliher, 398 Icebox Road, Jefferson, PA 15344  
Attorney: None

### THIRD PUBLICATION

**DURBIN, HARRY KENNETH A/K/A HARRY K. DURBIN**

Late of Center Township, Greene County, Pennsylvania  
Executrix: Candace Lee Reese, 147 Turkey Hollow Road, Waynesburg, PA 15370  
Attorney: Kirk A. King, Esquire, 77 South Washington Steet, Waynesburg, PA 15370

**MILLER, SHIRLEY J.**

Late of Jefferson Borough, Greene County, Pennsylvania  
Executor: Daniel Scott Brummage, 2596 Daybrook Road, Fairview, WV 26570  
Attorney: None

**REBHOLZ, CLAIRE JUDITH**

Late of Gilmore Township, Greene County, Pennsylvania  
Executor: Norbert V. Rebholz, 1407 Toms Run Road, Gilmore Township, PA 15341  
Attorney: Benjamin E. Cohen, Esquire, Two Chatman Center, Suite 985, Pittsburgh, PA 15219

**STOCKDALE, RICHARD PAUL**

Late of Franklin Township, Greene County, Pennsylvania  
Executrix: Victoria Ann Margaret Stockdale, 3200 Walnut Street SW, Apt. #B, McChord AFB, WA 98439  
Attorney: Robert Berryman, Esquire, 2917 University Ave., Morgantown, WV 26505

**WISE, GARY ARTHUR**

Late of New Freeport, Greene County, Pennsylvania  
Executor: Larry Austin Wise, C/O Timothy M. Ross, Esquire, Phillips & Ross LLC, 82 West High Street, Waynesburg, PA 15370  
Attorney: Timothy M. Ross, Esquire, Phillips & Ross LLC, 82 West High Street, Waynesburg, PA 15370

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## FICTITIOUS NAME NOTICE

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An application for registration of the fictitious name Premier Lawn and Land Services, 349 Greene Lakes Road MOUNT MORRIS PA 15349 Greene has been filed in the Department of State at Harrisburg, PA, File Date 05/13/2022 pursuant to the Fictitious Names Act, Act 1982-295. The name and address of the person who is a party to the registration is Todd Harbarger, 349 Greene Lakes Rd Mt Morris PA 15349.

# The Greene Reports

6-----9/8/22-----

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## SUPREME COURT NOTICE

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SUPREME COURT OF PENNSYLVANIA  
CIVIL PROCEDURAL RULES COMMITTEE

### NOTICE OF PROPOSED RULEMAKING

**Proposed Amendment of Pa.R.Civ.P. 400 and  
Proposed Rescission of Pa.R.Civ.P. 400.1**

The Civil Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P. 400 and the rescission of Pa.R.Civ.P. 400.1 for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

**Karla M. Shultz, Counsel**  
**Civil Procedural Rules Committee**  
**Supreme Court of Pennsylvania**  
**Pennsylvania Judicial Center**  
**PO Box 62635**  
**Harrisburg, PA 17106-2635**  
**FAX: 717-231-9526**  
[civilrules@pacourts.us](mailto:civilrules@pacourts.us)

All communications in reference to the proposal should be received by **November 17, 2022**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Civil Procedural Rules Committee,  
Kathleen Duffy Bruder  
Chair

#### **Rule 400. Person to Make Service.**

[(a) Except as provided in subdivisions (b) and (c) and in Rules 400.1 and 1930.4, original process shall be served within the Commonwealth only by the sheriff.

(b) In addition to service by the sheriff, original process may be served also by a competent adult in the following actions:

- (1) a civil action in which the complaint includes a request for injunctive relief under Rule 1531, perpetuation of testimony under Rule 1532, or appointment of a receiver under Rule 1533;
- (2) partition;

# The Greene Reports

-----9/8/22-----7

(3) a declaratory judgment when declaratory relief is the only relief sought; and

(4) a civil action in which there is a complete diversity of citizenship between all plaintiffs and all defendants, and at least one defendant is a citizen of Pennsylvania.

Note: See Rule 76 for the definition of “competent adult”.

Service of original process in domestic relations matters is governed by Rule 1930.4.

(c) When the sheriff is a party to the action, original process shall be served by the coroner or other officer authorized by law to perform the duties of coroner.

(d) If service is to be made by the sheriff in a county other than the county in which the action was commenced, the sheriff of the county where service may be made shall be deputized for that purpose by the sheriff of the county where the action was commenced.]

#### **[EXPLANATORY COMMENT — 1985**

**See Explanatory Comment preceding Rule 400.]**

(This is an entirely new text.)

(a) **General Rule.** Original process shall be served within the Commonwealth by the sheriff or a competent adult.

(b) **Sheriff as a Party.** When the sheriff is a party to the action, original process shall be served by the coroner or other officer authorized by law to perform the duties of coroner.

(c) **Service by Sheriff Outside of County Where Action is Commenced.** If service is to be made by the sheriff in a county other than the county where the action was commenced, the sheriff of the county where service may be made shall be deputized for that purpose by the sheriff of the county where the action was commenced.

**Comment:** See Rule 76 for the definition of “competent adult.”

#### **Rule 400.1. Reserved. [Provisions for all Courts of the First Judicial District.**

(a) In an action commenced in the First Judicial District, original process may be served

(1) within the county by the sheriff or a competent adult, or

(2) in any other county by deputized service as provided by Rule 400(d) or by a competent adult forwarding the process to the sheriff of the county where service may be made.

Note: See Rule 76 for the definition of “competent adult”.

**The First Judicial District is comprised of Philadelphia County.**

(b) In an action commenced in any other county, original process may be served in Philadelphia County by deputized service as provided by Rule 400(d) or by a competent adult.

Note: See Rule 76 for the definition of “competent adult”.

(c) Rescinded.

Note: For service in an action for protection from abuse, see Rule 1930.4(b).]

SUPREME COURT OF PENNSYLVANIA  
CIVIL PROCEDURAL RULES COMMITTEE

### PUBLICATION REPORT

Proposed Amendment of Pa.R.Civ.P. 400 and

# The Greene Reports

8-----9/8/22-----

## Proposed Rescission of Pa.R.Civ.P. 400.1

The Civil Procedural Rules Committee is considering proposing to the Supreme Court the amendment of Pennsylvania Rule of Civil Procedure 400 and the rescission of Pennsylvania Rule of Civil Procedure 400.1 to provide for service of original process within the Commonwealth by the sheriff or a competent adult for all civil actions.

The Committee received a request to consider the amendment of Pa.R.Civ.P. 400 to allow service of original process by a competent adult within the Commonwealth for all civil actions in addition to service by the sheriff. The requester contended that sheriff offices' resources are stretched, especially recently during the COVID-19 pandemic, the tightening labor market, and increased operating costs. Permitting a competent adult to serve original process would allow sheriff offices to devote more of their limited resources to courthouse duties, transporting prisoners, and protecting court employees. At the same time, such service would provide plaintiffs the ability to secure service of original process properly, timely, and pursuant to specific instructions.

Current Pa.R.Civ.P. 400(a) requires that original process be served by a sheriff within the Commonwealth subject to certain exceptions. Those exceptions include service by a competent adult in addition to service by a sheriff for civil actions where the complaint includes a request for injunctive relief under Pa.R.Civ.P. 1531, perpetuation of testimony under Pa.R.Civ.P. 1532, or appointment of a receiver under Pa.R.Civ.P. 1533; partition actions; declaratory judgment actions when declaratory relief is the only relief sought; and civil actions subject to snap removal. Moreover, Pa.R.Civ.P. 400.1 permits service of original process by a competent adult in all civil actions in Philadelphia County in addition to service by the sheriff.

The Committee considered the merits of expanding service of original process within the Commonwealth to include service by a competent adult. Preliminarily, the Committee rejected basing a rulemaking proposal for the purpose of alleviating perceived resource limitations within sheriff offices. Matters of budgeting and personnel for independently elected offices are beyond the Committee's purview. Instead, the Committee evaluated the request in terms of establishing uniformity of service for all civil actions by permitting the plaintiff to choose either service by the sheriff or by a competent adult.

First, the Committee took note of an absence of concern with the current exceptions allowing service of original process using a competent adult. A previous proposal recently adopted by the Supreme Court to amend Pa.R.Civ.P. 400(b) expanding service by a competent adult for civil actions subject to snap removal was endorsed by commenters. See 52 Pa.B. 682 (January 29, 2022). Second, the proliferation of process servers in the Philadelphia area is indicative that the option of service of original process by a competent adult is being utilized in that county. This utilization suggests the efficacy and efficiency of that mode of service is at least comparable to sheriff service. Moreover, service of original process by a competent adult is permitted for citations in orphans' court proceedings, see Pa.R.O.C.P. 3.5, and in domestic relations matters, see Pa.R.Civ.P. 1930.4. The Committee specifically welcomes comments regarding experience using a competent adult for service of original process. Third, the Committee believes there is merit in having one, consistent rule governing service of original process within Pennsylvania for all civil actions.

The Committee also considered how current practice in Pennsylvania compared to service of original process in other states. To determine whether other states limited service of original process to the sheriff only, the Committee reviewed procedural rules and statutes of the remaining 49 states. The research revealed one other state limiting service of original process to the sheriff only: New Hampshire. Service of original process in the other states breaks down as follows:

# The Greene Reports

-----9/8/22-----9

- Twenty-three states permit service by a sheriff or other person authorized by law and a person 18 years of age or older who is not a party to the action – Colorado, Idaho, Iowa, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Montana, Nevada, New Mexico, New York (outside NYC), North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Utah, Virginia, Washington, West Virginia, Wyoming

- Twenty-two states, which permit service by both the sheriff or a competent adult, require the court or other authority to appoint or designate by order the person 18 years of age or older who is not a party to the action - Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maine, Massachusetts, Missouri, Nebraska, New Jersey, Ohio, Oklahoma, Texas, Vermont

- Two states permit service by any adult not a party and 18 years of age or older; there is no provision service by the sheriff. - Tennessee and Wisconsin

- One state permits service by the sheriff, or the party or party's attorney if the party elects to undertake responsibility for service - Kansas

- California, New York (within NYC), Oklahoma, and Texas require certification, registration, or licensure of process servers

Based on this review, the Committee concluded that Pennsylvania's practice of allowing only the sheriff to serve original process within the Commonwealth for most civil actions is an outlier compared to the majority of other states.

Accordingly, the Committee believes that expanding and making uniform service of original process to permit service by a competent adult, in addition to service by a sheriff, would benefit plaintiffs with direct, timely, and efficient service, and bring the procedure in step with other states' practice. Please note this proposal is not intended to eliminate sheriff service, but to provide plaintiffs an option in selecting a mode of serving original process rather than the rules mandating the mode in an inconsistent manner within Pennsylvania. Insofar this proposal may free up sheriff offices' resources for other duties, the Committee specifically invites comments from all stakeholders on that matter.

The Committee is also proposing the deletion of the 1985 Explanatory Comment prefacing Pa.R.Civ.P. 400-449. The text of that historical commentary has been omitted from the instant publication due to length and for readers' ease of review.

The Committee invites all comments, concerns, and suggestions.