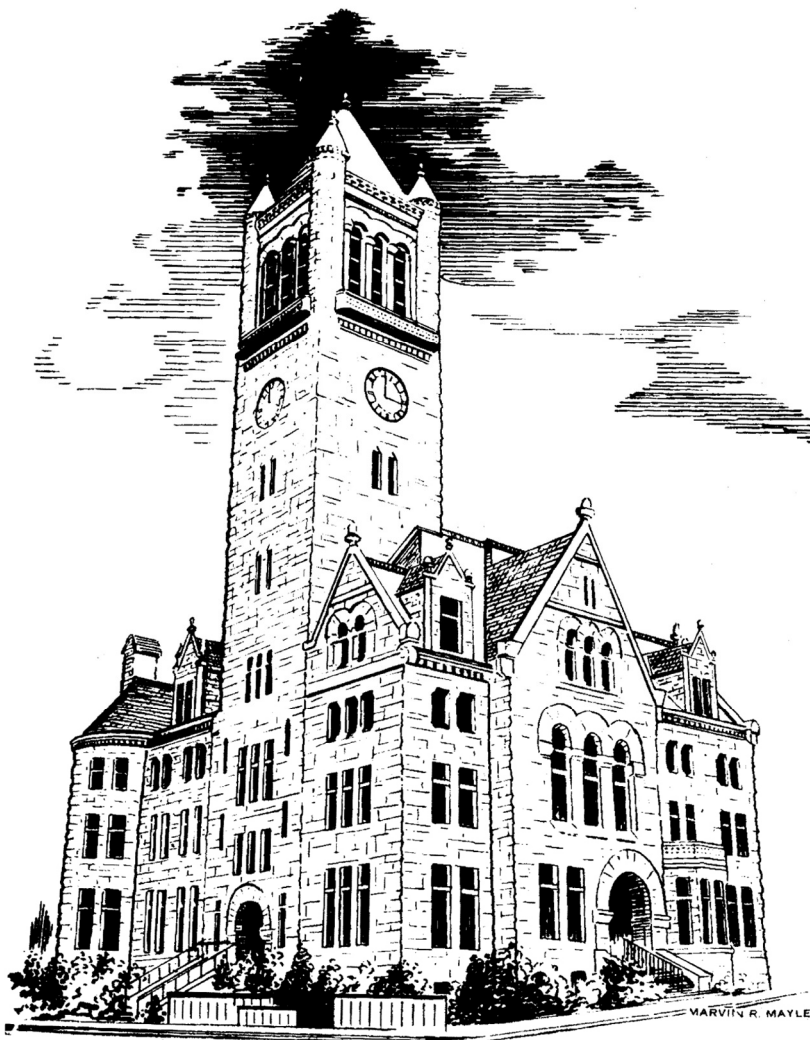


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The Ethics Hotline provides free advisory opinions to PBA members based upon review of a member's prospective conduct by members of the PBA Committee on Legal Ethics and Professional Responsibility. The committee responds to requests regarding, the 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

ROBERT D. BURDEN, late of German Township, Fayette County, PA (3)

Administratrix: Frances Anderson
c/o 39 Francis Street
Uniontown, PA 15401
Attorney: Jack R. Heneks, Jr.

WANDA F. BURNWORTH, late of Henry Clay Township, Fayette County, PA (3)

Personal Representative: Donna Joy Burd
c/o P.O. Box 953
Uniontown, Pa 15041
Attorney: Ricardo J. Cicconi

JEAN CAWTHON, late of Fayette County, PA (3)

Executor: Charles William Thomas, Jr.
513 Old Route 51 Road
Smock, PA 15480
c/o Fieschko & Associates, Inc.
Suite 2230 436 7th. Avenue
Pittsburgh, PA 15219
Attorney: Joseph Fieschko

ERIC JUNIOR DAVID, a/k/a ERIC DAVID, late of Uniontown, Fayette County, PA (3)

Personal Representative: Berle Pastories, a/k/a Beryle Pastories, a/k/a Beyle Pastories
1005 Walnut Avenue, Apt. 34
Uniontown, PA 15401
c/o Fieschko & Associates, Inc.
Suite 2230 436 7th. Avenue
Pittsburgh, PA 15219
Attorney: Joseph Fieschko

IDA M. EZZI, late of South Union Township, Fayette County, PA (3)

Personal Representative:
Regina M. Shaffer
c/o P.O. Box 953
Uniontown, PA 15401
Attorney: Ricardo J. Cicconi

JESSE JOSEPH GUSEMAN, SR., a/k/a JESSE J. GUSEMAN, late of Hopwood, Fayette County, PA (3)

Personal Representatives:
Jesse J. Guseman, Jr., and
Jamie Lynn Prusak
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

KARL HICKMAN, late of Uniontown, Fayette County, PA (3)

Executrix: Lura Krause
433 Herrington Road
Johnsonville, New York 12094
c/o 100 Ross Street, Suite 130
Pittsburgh, PA 15219
Attorney: Geoffrey Wozman

GEORGE J. KOURY, a/k/a GEORGE J. KOURY, JR., a/k/a GEORGE KOURY, late of Connellsville, Fayette County, PA (3)

Executrix: Patricia Basinger
c/o John & John
96 East Main Street
Uniontown, PA 15401
Attorney: Simon B. John

MARY C. MATIS, a/k/a MARY CATHERINE MATIS, late of Redstone Township, Fayette County, PA (3)

Personal Representative: George Matis
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Jeremy J. Davis

JUDITH E. WALTERS, late of Dunbar Township, Fayette County, PA (3)

Administrator: Mildred Stash
c/o Casini & Geibig, LLC
815B Memorial Boulevard
Connellsville, PA 15425
Attorney: Jennifer M. Casini

GERALDINE P. WARD, a/k/a GERALDINE WARD, late of Grindstone Township, Fayette County, PA (3)

Personal Representative:

Kathleen W. Hughes
c/o Dellarose Law Office, PLLC
99 East Main Street, Suite 101
Uniontown, PA 15401
Attorney: Melinda Deal Dellarose

LULUBELLE WERNER, late of Fayette County, PA (3)

Executrix: Hope Dennis a/k/a Hope Ann Webb
1347 Fayette Avenue
Belle Vernon, PA 15012
c/o 707 Grant Street, Suite 2828
Pittsburgh, PA 15219
Attorney: Michael Henny

Second Publication

JUDITH RAE GIACHETTI, a/k/a, JUDITH R. GIAHETTI, late of Uniontown, Fayette County, PA (2)

Executor: David Nixon
c/o Radcliffe Law, LLC
648 Morgantown Road, Suite B
Uniontown, PA 15401
Attorney: William Radcliffe

DOLORES E. HAVANETS, a/k/a DOLORES HAVANETS, a/k/a DELORES E. HAVANETS, late of Luzerne Township, Fayette County, PA (2)

Executrix: Rose M. Fantini
c/o Zebley Mehalov & White, P.C.
18 Mill Street Square
P.O. Box 2123
Uniontown, PA 15401
Attorney: Mark M. Mehalov

HAROLD D. HETRICK, late of Georges Township, Fayette County, PA (2)

Personal Representative: Robert A. Miller
c/o 208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard Husband

PHYLLIS E. KRAYNAK, a/k/a PHYLLIS ELAINE KRAYNAK, late of Connellsville, Fayette County, PA (2)

Personal Representative:

Vincent A. Kraynak, Jr.
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, Pa 15425
Attorney: Timothy J. Witt

ROBERT METHENY, late of Hopwood, Fayette County, PA (2)

Executrix: Jeanette Klippi
209 Hague Lane
Uniontown, PA 15401
c/o Seamon Law Offices
2101 About Town Place
Morgantown, West Virginia 26508
Attorney: Christopher Deegan

FRANCES B. PHILLIPS, late of Dunbar Township, Fayette County, PA (2)

Executrix: Michelle Cannillo
909 Market Street
Scottdale, PA 15683
c/o 231 South Main Street, Suite 402
Greensburg, PA 15601
Attorney: Marilyn M. Gaut

GUY G. PROVANCE, JR., late of Perry Township, Fayette County, PA (2)

Executrix: Rebecca Luanne White
7337 West 200 North
Wabash, Illinois 46992
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

GAIL SCHMIDLE, late of Connellsville, Fayette County, PA (2)

Executrix: Sandra S. Grimaldi
523 Eliza South
Connellsville, PA 15425
c/o 749 North Church Street
Mt. Pleasant, PA 15666
Attorney: Paul Toohey

NANCY L. SOLTIS, late of Connellsville, Fayette County, PA (2)

Administrator: Jason M. Soltis
c/o Molinaro Law Offices
141 West Peach Street
P.O. Box 799

Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

BILLY L. SWANK, SR., a/k/a BILLY SWANK, SR., a/k/a WILLIAM SWANK, late of Upper Tyrone Township, Fayette County, PA
Executrix: Judy B. McBeth (2)
 242 Fieldstone Lane
 Ruffs Dale, PA 15679
 c/o 201 North Chestnut Street
 P.O. Box 342
 Scottdale, PA 15683
Attorney: James Lederach

RICHARD L. TRESSLER, late of South Connellsville, Fayette County, PA (2)
Administratrix: Janise Daly
 c/o Molinaro Law Offices
 141 West Peach Street
 P.O. Box 799
 Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

ROBERT LEE WARD, late of South Connellsville, Fayette County, PA (2)
Executor: Mark Ward
 c/o 815 A Memorial Boulevard
 Connellsville, PA 15425
Attorney: Margaret Z. House

First Publication

NORMA JEAN BROWN, late of Hopwood, Fayette County, PA (1)
Executor: Douglas Lee Brown
 c/o 11 Pittsburgh Street
 Uniontown, PA 15401
Attorney: Thomas W. Shaffer

RICKY C. DEVAULT, a/k/a RICKY CLINTON DEVAULT, a/k/a RICKY DEVAULT, late of Markleysburg, Fayette County, PA (1)
Administrator: Leonard DeVault
 c/o John & John
 96 East Main Street
 Uniontown, PA 15401
Attorney: Simon B. John

RALPH E. GALLEY, late of Vanderbilt, Fayette County, PA (1)
Personal Representative:
 Lynette G. Korelko
 c/o 208 South Arch Street, Suite 2
 Connellsville, PA 15425
Attorney: Richard Husband

RICHARD J. KUREK, late of Luzerne Township, Fayette County, PA (1)
Executrix: Cynthia L. Despot
 c/o 51 East South Street
 Uniontown, PA 15401
Attorney: Anthony S. Dedola, Jr.

BEVERLY SANDRA SCHROYER, a/k/a BEVERLY S. SCHROYER, late of Dunbar Township, Fayette County, PA (1)
Personal Representative: Robert Filburn, II
 c/o Watson Mundorff, LLP
 720 Vanderbilt Road
 Connellsville, PA 15425
Attorney: Timothy J. Witt

ROBERT M. SHEARER, late of Connellsville, Fayette County, PA (1)
Personal Representative:
 Louise M. Shearer
 1000 Blackstone Avenue
 Connellsville, PA 15425
 c/o 208 South Arch Street, Suite 2
 Connellsville, PA 15425
Attorney: Richard A. Husband

LEGAL NOTICES

NOTICE

NOTICE IS HEREBY GIVEN that a Certificate of Organization, Domestic Limited Liability Company has been approved and filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on September 10, 2021, for a Limited Liability Company known as Gates Family Rentals LLC.

Said Limited Liability Company has been organized under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

The purpose or purposes of the Limited Liability Company is rental properties and any other lawful purpose related thereto for which Limited Liability Companies may be organized under the Business Corporation Law.

James T. Davis, Esquire
DAVIS & DAVIS
107 East Main Street
Uniontown, PA 15401

NOTICE

Notice is hereby given that Certificate of Organization has been approved and filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on September 9, 2021, for a limited liability company known as Chastity Hill Farms LLC.

Said limited liability company has been organized under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

The purpose or purposes of the limited liability company is/are: agricultural and any other lawful purpose related thereto for which limited liability company may be organized under the Business Corporation Law.

DAVIS & DAVIS
BY: Samuel J. Davis, Esquire
107 East Main Street
Uniontown, PA 15401

NOTICE

RE: Change of Name of Della Bonita Albright, a/k/a Bonita Albright, now known as Bonita A. Campbell:

To Whom It May Concern:

Be advised that the Court of Common Pleas of Fayette County, Pennsylvania, will hear the Petition for the Change ofName of Della Bonita Albright, a/k/a Bonita Albright, now known as Bonita A. Campbell, on November 30, 2021, at 9:30 a.m. in Courtroom No. 1. All interested individuals may attend at that date and time.

DAVIS & DAVIS
BY: Gary J. Frankhouser, Esquire
107 East Main Street
Uniontown, PA 15401

Fictitious Name Registration

Notice is hereby given that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on August 02, 2021 for **For the Burnt Out Teacher** at 244 Sky Top Road, Acme, PA 15610. The name and address of each individual interested in the business is Kristyn L. Massafra at 244 Sky Top Road, Acme, PA 15610. This was filed in accordance with 54 Pa.C.S. 311.417

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
NO. 54 ADOPT 2021
NO. 55 ADOPT 2021

IN RE: ADOPTION OF
ENZOE KELLAM
ELIJAH KELLAM

NOTICE

TO: Unknown Father

Petitions have been filed asking the Court to put an end to all rights you have to your children, Enzo and Elijah Kellam. The court has set a hearing to consider ending your rights to your children. That hearing will be held in Courtroom No. 4 of the Fayette County Courthouse, Uniontown, Fayette County, Pennsylvania, on Thursday, November 18, 2021 at 1:30 p.m.. You are warned that even if you fail to appear at the scheduled hearing the hearing will go on without you and your rights to your children may be ended by the court without your being there.

YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. 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 SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

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JUDICIAL OPINION

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

J. G.,	:	
Plaintiff,	:	
vs.	:	
A. G.,	:	No. 708 of 2016, G.D.
Defendant.	:	Honorable Judge Nancy D. Vernon

OPINION IN SUPPORT OF ORDER

VERNON, J.

October 25, 2021

Appellant/Defendant A. G. (hereinafter “Husband”) filed a Petition for Special Relief requesting this Court to set aside the Alimony Consent Order, dated May 27, 2020, therein alleging a substantial change in circumstances being that his income significantly decreased due to a termination of his employment.

At the time set for hearing on the Petition for Special Relief, Husband argued that he was “laid off from his employment and was collecting unemployment.” N.T., 7/27/2021, at 3. Husband filed a Petition for Modification of alimony with the Domestic Relations Section which was denied. Subsequently, Husband filed the within Petition for Special Relief.

Husband argued to this Court that the Order for alimony is modifiable by the Court because it is an Order of Court and not an agreement between the parties for a specific amount of alimony. Husband further argued that the Marital Settlement Agreement did not say that the alimony award is non-modifiable.

On May 31, 2018, Husband and Plaintiff J. G. (hereinafter “Wife”), entered into a Marital Settlement Agreement. At issue in this appeal is Paragraph 8 of the Agreement which recites:

8. Alimony Pendente Lite, Spousal Support, Alimony. Wife shall receive alimony from Husband in an amount calculated by the Fayette County Domestic Relations Section, beginning August 1, 2018, and continuing for six consecutive years until July 31, 2024.

A specific dollar amount of alimony was not set forth in the Marital Settlement Agreement. On May 27, 2020, Domestic Relations Section of Fayette County calculated alimony to be \$1,414.00 per month payable until July 31, 2024, and the same was entered by consented to Order. See Record, Order of Court – Allocated, dated May 27, 2020.

Wife responded to the within Petition that the parties entered into an arm’s length agreement in their marital settlement for the calculation of alimony. The procedure, according to Wife, was that the parties agreed to have the amount calculated by the Do-

mestic Relations Section and then incorporate that calculation into the Agreement as the specific amount that would be payable for six years. The alimony would increase a pre-determined amount upon the termination of Husband's obligation to pay child support. Wife argues that because the Agreement does not specify that alimony is modifiable, the same is therefore set without the ability to be modified.

Husband now appeals this Court's denial of his Petition for Special Relief alleging in his Concise Statement of Errors Complaint of on Appeal that, "The trial court erred in denying Appellant's petition for special relief [...] despite the fact that a substantial change in circumstances occurred satisfying the standard under 23 Pa.C.S.A. §3701(e)."

The Record supports this Court's determination that the amount of Husband's payment of alimony is not modifiable. Specifically, the consented to Order of Court, dated May 27, 2020, incorporates "Other Conditions: SEE ATTACHED ALIMONY CONSENT ORDER." Attached thereto is an "Alimony Consent Order" with an effective date August 1, 2018, which recites:

The parties agree that Alimony shall be set at the amount of \$893.00, per month, for as long as the Defendant is paying child support to Plaintiff. Thereafter, Defendant's Alimony payment shall be \$1,414.00, per month, until July 31, 2024.

Although the titled "Alimony Consent Order" was not signed by this Court, it was incorporated by reference and attached to the executed Order dated May 27, 2020, filed of record, and executed by counsel for the parties.

Husband also argues that the prior increase in alimony at the termination of the child support proves that the alimony is modifiable.

The Divorce Code provides,

In the absence of a specific provision to the contrary appearing in the agreement, a provision regarding the disposition of existing property rights and interests between the parties, alimony, alimony pendente lite, counsel fees or expenses shall not be subject to modification by the court.

23 Pa.C.S.A. § 3105(c).

Paragraph 22 of the Marital Settlement Agreement provides, "The parties agree that that the terms of this agreement shall be incorporated by reference, but shall not be deemed merged, into any divorce decree which may be entered with respect to them. This agreement shall survive any divorce decree and shall be entirely independent thereof."

When interpreting a marital settlement agreement, the trial court is the sole determiner of facts. *Kraisinger v. Kraisinger*, 928 A.2d 333, 339 (Pa.Super. 2007). Marriage settlement agreements are governed by the law of contracts. *Sorace v. Sorace*, 655 A.2d 125, 127 (Pa.Super. 1995). When analyzing contracts which involve clear and unambiguous terms, a court must look to the writing itself to give effect to the parties' understanding. The court must construe the contract only as written and may not rewrite the contract or give it a construction that conflicts with the plain, ordinary and accepted meaning of the words used. *Id.*

Where the parties agreed to an alimony amount through a marital separation agreement and the agreement did not merge with the divorce decree, the ability to modify alimony must flow from the terms of the marital separation agreement and the intent of the parties in negotiating the contract, not from the general provisions of the Divorce Code. *Stamerro v. Stamerro*, 889 A.2d 1251, 1258 (Pa. Super. 2005).

Accordingly, this Court has no power to modify the provisions of the parties' agreement regarding alimony, whether or not the agreement has been merged or incorporated in the decree, unless a specific provision to the contrary appears in the marriage settlement agreement. Here, Husband and Wife entered into a Marital Settlement Agreement. The Agreement provides for alimony "in an amount calculated by the Fayette County Domestic Relations Section, beginning August 1, 2018, and continuing for six consecutive years until July 31, 2024." See, Marital Settlement Agreement at ¶8.

Thereafter, the Record supports that the parties agreed to an amount of alimony as evidenced by the "Alimony Consent Order" with an effective date August 1, 2018. This amount of alimony changed automatically, pursuant to the agreement, from \$893.00 per month upon the termination of child support to \$1,414.00 per month until July 31, 2024. This Alimony Consent Order was incorporated into the Order of Court dated May 27, 2020 by reference and attachment thereto. The Order of Court dated May 27, 2020 was entered only upon consent of the parties pursuant to the Marital Settlement Agreement and the subsequent Alimony Consent Order. Neither the Marital Settlement Agreement nor the Alimony Consent Order has a specific provision providing for the modification of alimony. The only prior modification of alimony was automatic, pursuant to the agreement, and not as a result of the request of any party. As such, this Court properly denied Husband's Petition for Special Relief to lower his alimony payment.

Husband has misplaced his reliance on the "Modification and termination" provision of the Alimony section of the Divorce Code, 23 Pa.C.S.A. §3701(e). Section 3701 (e) provides,

An order entered pursuant to this section is subject to further order of the court upon changed circumstances of either party of a substantial and continuing nature whereupon the order may be modified, suspended, terminated or reinstated or a new order made.

Here, the Court did not enter an order, rather the parties agreed to alimony including both the amount and duration. The Marital Settlement Agreement and the Alimony Consent Order did not include a provision for modification of alimony and, therefore, Husband's Petition for Special Relief was properly denied.

Wherefore, the instant appeal is without merit and should be denied.

BY THE COURT,
NANCY D. VERNON, JUDGE

ATTEST:
Prothonotary

LUNCH & LEARN SERIES

The Fayette County Bar Association's final 2021 presentation in its Lunch & Learn Series will be:

- Date: **Wednesday, December 1st** from 12:00 p.m. to 1:30 p.m.
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topics: **Workers' Comp. & Social Security Disability Claims - The Essentials**
- Presenters: **Mark M. Mehalov, Esquire, and Gary D. Monaghan, Esquire**

CLE Credit

1.5 hours of Substantive CLE credit for the program. The fees are as follows:

Members of the FCBA

- No charge for attendance without CLE Credit
- \$10 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2016

- No charge for attendance with CLE Credit

Non-members of the FCBA

- \$10 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

**** All fees to be paid at the door ****

A light lunch will be provided.

While same day registrants are welcome, lunch will be served first to those who register in advance of the program day due to the difficulty in estimating the number of walk-ins.

RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or by email to cindy@fcbbar.org on or before Monday, November 29th.

ANNUAL MEMBERSHIP MEETING

The Annual General Membership meeting of the Fayette County Bar Association shall be held on Wednesday, December 1, 2021, at 1:30 pm, following the Lunch & Learn CLE, in the Fayette County Courthouse, 61 East Main Street, Uniontown, PA 15401. Members are invited to present topics of concern or interest to the Association. A Special Meeting will be held at 1:30 to consider the proposed amended bylaws followed by the Annual Meeting.

NOTICE

A motion to amend the Fayette County Bar Association By-Laws will be made at a Special Meeting on Wednesday, December 1, 2021, at 1:30 pm in the Fayette County Courthouse, 61 East Main Street, Uniontown, PA 15401. The proposed revision will be sent to the membership via email and is available for review from the Bar Association Office.

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