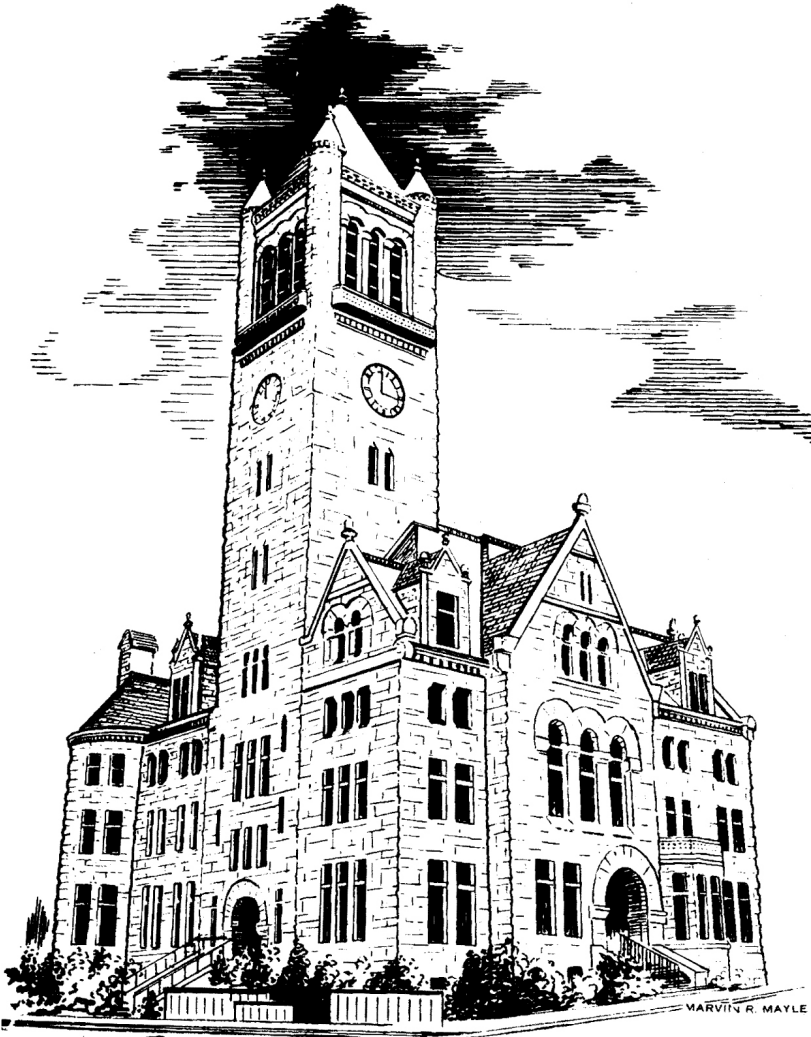


# FAYETTE LEGAL JOURNAL

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## FAYETTE LEGAL JOURNAL

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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

**SANDRA L. HUGHES, A/K/A SANDRA HUGHES**, late of Fairchance Boro, Fayette County, PA (3)

*Executor:* Dale Crossland  
c/o Goodwin Como, P.C.  
92 East Main Street, Suite 20  
Uniontown, PA 15401

*Attorney:* Benjamin F. Goodwin

**MARY F. KING, A/K/A MARY FRANCES KING**, late of Uniontown, Fayette County, PA

*Executor:* Melvin R. King, II (3)  
c/o Warman Terry Law Offices  
50 East Main Street  
Uniontown, PA 15401

*Attorney:* James D. Terry

**ELIZA LAVERY, A/K/A ELZIE A. LAVERY, A/K/A, ELIZA A. LAVERY, A/K/A ELIZA ALBERT LAVERY, SR.**, late of Masontown Boro, Fayette County, PA (3)

*Executrix:* Gay Bergman  
c/o Goodwin Como, P.C.  
92 East Main Street, Suite 20  
Uniontown, PA 15401

*Attorney:* Benjamin F. Goodwin

**ROBERT E. MASTERS, JR.**, late of German Township, Fayette County, PA (3)

*Administratrix:* Lorrain Masters  
c/o Goodwin Como, P.C.  
92 E. Main Street, Suite 20  
Uniontown, PA 15401

*Attorney:* Benjamin F. Goodwin

**PATRICIA A. MILLER, A/K/A PATRICIA A. STAUFFER**, late of Bullskin Township, Fayette County, PA (3)

*Executor:* Byron G. Stauffer, Jr.  
c/o Supinka & Supinka, P.C.  
119 South Third Street  
Indiana, PA 15701

*Attorney:* Michael J. Supinka

### Second Publication

**IRENE L. CHABANIK**, late of Georges Township, Fayette County, PA (2)

*Co-Executors:* William J. Chabanik and  
Max R. Chabanik  
c/o JSDC Law Offices  
134 Sipe Avenue  
Hummelstown, PA 17036

*Attorney:* Gary L. James

**ELSIE MARIE DEAL, A/K/A ELSIE M. DEAL**, late of Henry Clay Township, Fayette County, PA (2)

*Executor:* Brad George Marchezak  
c/o Hajduk & Associates  
Old Trail Inn  
5340 National Pike  
Markleysburg, PA 15459

*Attorney:* Mary Lenora Hajduk

**DOROTHY DUGGER**, late of Upper Tyrone Township, Fayette County, PA (2)

*Executrix:* Jack Keith Dugger  
1308 Race Street  
Scottdale, PA 15683  
c/o Petrillo Jones LLC  
412 Main Street  
Irwin, PA 15642

*Attorney:* Tyler J. Jones

**RICHARD HARBAUGH, A/K/A RICHARD P. HARBAUGH**, late of Bullskin Township, Fayette County, PA (2)

*Executrix:* Mia L. Garrow  
1133 Moccasin Drive  
McMurray, PA 15317  
c/o 315 Cavitt Avenue  
Trafford, PA 15085

*Attorney:* Robert J. Specht

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**HELEN OLINZOCK**, late of South Connellsville, Fayette County, PA (2)  
*Executor:* Michael A. Olinzock  
 c/o Zebley Mehalov & White, P.C.  
 18 Mill Street Square  
 P.O. Box 2123  
 Uniontown, PA 15401  
*Attorney:* Zebley Mehalov & White

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**NORMA SACKETT, A/K/A NORMA JEAN SACKETT**, late of Nicholson, Fayette County, PA (2)  
*Co-Executors:* Michal Todd Sackett and Gregory W. Sackett  
 c/o 164 West Crawford Avenue  
 Connellsville, PA 15425  
*Attorney:* David B. Reiss

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**CLARENCE SUTTON, A/K/A CLARENCE WILLIAM SUTTON**, late of Fairchance, Fayette County, PA (2)  
*Administrator:* Ryan G. Sutton  
 c/o John A. Kopas III, Esquire  
 556 Morgantown Road  
 Uniontown, PA 15401  
*Attorney:* John A. Kopas

---

**SARAH J. WALTERS**, late of Uniontown, Fayette County, PA (2)  
*Executor:* Lawrence T. Walters  
 c/o Fitzsimmons and Barclay  
 55 East Church Street, Suite 102  
 Uniontown, PA 15401  
*Attorney:* James N. Fitzsimmons, Jr.

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## First Publication

**DAVID L. AGLIO**, late of Washington Township, Fayette County, PA (1)  
*Executor:* David R. Aglio  
 1021 Holly Lynne Drive  
 Pittsburgh, PA 15236  
 c/o 506 Circle Drive  
 Belle Vernon, PA 15012  
*Attorney:* Richard R. Victoria

---

**BARBARA BUKOVITZ, A/K/A BARBARA F. BUKOVITZ**, late of German Township, Fayette County, PA (1)  
*Personal Representative:* Gerald W. Bukovitz  
 c/o George Port & George  
 92 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Joseph M. George

---

**RITA CARNES, A/K/A RITA M. CARNES, A/K/A RITA MARIE CARNES**, late of Upper Tyrone Township, Fayette County, PA (1)  
*Co-Executors:*  
 Richard W. Carnes  
 179 Montgomery Road  
 Scottdale, PA 15683 and  
 Willa Jean Brown  
 919 W. Main Street, Apt. 201  
 Independence Apartments  
 Mt. Pleasant, PA 15666  
 c/o 314C Porter Avenue  
 Scottdale, PA 15683  
*Attorney:* David G. Petonic

---

**DILAWAR M. EDWARDS, A/K/A DILAWAR EDWARDS**, late of Uniontown, Fayette County, PA (1)  
*Executor:* Delawar Mark Edwards  
 c/o Wester & Webster  
 51 East South Street  
 Uniontown, PA 15401  
*Attorney:* Robert L. Webster, Jr.

---

**DANIEL BRIAN FERGUSON**, late of Uniontown, Fayette County, PA (1)  
*Administratrix:* Cheryl Pritcher  
 c/o Eddy Law Offices  
 80 East Main Street  
*Attorney:* J.W. Eddy

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**HELEN MARLEN MYDEN, A/K/A H. MARLENE MYDEN, A/K/A MARLENE MYDEN**, late of Uniontown, Fayette County, PA (1)  
*Administratrix:* Wendy Sue Myden  
 c/o Fitzsimmons and Barclay  
 55 East Church Street, Suite 102  
 Uniontown, PA 15401  
*Attorney:* Ralph K. Barclay, Jr.

---

**MARY J. PEGGE**, late of Uniontown, Fayette County, PA (1)

*Personal Representative:* Nancy Lee Pegge  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

**MARY ELIZABETH SANTILLI**, late of Uniontown, Fayette County, PA (1)

*Personal Representative:* Susan Santilli  
c/o 2 West Main Street, Suite 110  
Uniontown, PA 15401  
*Attorney:* Ricardo J. Cicconi

Pennsylvania, on July 27, 2016, for the corporation known as Q-Air, Inc.

Said corporation has been organized under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

The purpose or purposes of the corporation is/are: operation of corporate airplane and any other lawful purpose related thereto for which the corporation may be organized under the Business Corporation Law.

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

## 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 July 11, 2016, for a Limited Liability Company known as Hope Property Management, 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 real estate holdings and operation of motel and any other lawful purpose related thereto for which Limited Liability Companies may be organized under the Business Corporation Law.

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

### NOTICE

Notice is hereby given that Articles of Incorporation - For Profit have been approved and filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg,

### 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 August 15, 2016, for a limited liability company known as 21 Fun Center 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: lease and operate a commercial recreation facility and any other lawful purpose related thereto for which limited liability company may be organized under the Business Corporation Law.

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

### 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 August 10, 2016, for a Limited Liability Company known as Piles & Scenery, 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 buying and selling real estate 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

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## 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

Tuesday, September 6, 2016  
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2615-0294	EMMA F. JONES a/k/a EMMA FLORENCE JONES	Jean Thompson and James Thompson, Co-Executors

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on  
Monday, September 19, 2016  
at 9:30 A.M.

in Court Room No. 1 of the Honorable STEVE P. LESKINEN, or his chambers, 2nd 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.

Notice is also 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

Tuesday, September 6, 2016  
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2615-0153	FRANCES D. GRIFFITH	Richard D. Griffith, Executor
2615-0789	MARGARET E. DALANSKY	Charles T. Freda, Jr. and Christine Beaver, Co-Executors
2615-0017	MARY ASTRONSKAS SMALL a/k/a MARY SMALL a/k/a MARY TULLI	Lisa M. Peduzzi, Administratrix

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on  
Monday, September 19, 2016  
at 9:30 A.M.

in Court Room No. 2 of the Honorable JOHN F. WAGNER or his chambers, 2nd 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.

# SHERIFF'S SALE

Date of Sale: October 13, 2016

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, October 13, 2016, at 10:30 a.m. in the Hallway outside the Sheriff's Office at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (3 of 3)

James Custer  
Sheriff Of Fayette County

KML Law Group, P.C.

No. 550 of 2016 GD

No. 177 of 2016 ED

**THE BANK OF NEW YORK MELLON  
F/K/A THE BANK OF NEW YORK AS  
TRUSTEE FOR THE CWMBS  
REPERFORMING LOAN REMIC TRUST  
CERTIFICATES, SERIES 2003-R4  
8950 Cypress Waters Boulevard  
Coppell, TX 75019,**

**Plaintiff,**

**vs.**

**TIMOTHY J. ANDERSON  
HOLLY A. MOORE,  
Mortgagor(s) and Record Owner(s),  
866 Rock Pool Road  
Acme, PA 15610  
Defendant(s).**

ALL THAT CERTAIN lot or piece of ground situate in the Township of Bullskin, County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #04-12-0084

PROPERTY ADDRESS: 866 Rock Pool Road Acme, PA 15610

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF:  
TIMOTHY J. ANDERSON and HOLLY A MOORE

No. 592 of 2015 GD

No. 226 of 2016 ED

**U.S. Bank National Association, as Trustee,  
successor in interest to Bank of America,  
National Association, as Trustee, successor by  
merger to LaSalle Bank National Association,  
as Trustee for Merrill Lynch Mortgage  
Investors Trust, Mortgage Loan Asset-  
Backed Certificates, Series 2007-HE3,  
Plaintiff,**

**vs.**

**Unknown Heirs, Successors, Assigns and All  
Persons, Firms or Associations Claiming  
Right, Title or Interest From or Under  
Robert K Basinger, deceased Jennifer  
Basinger, Known Heir of Robert K Basinger,  
deceased and Michael Jay Basinger, Known  
Heir of Robert K Basinger, deceased and  
Defendants.**



ALL those two (2) adjoining tracts of land situate on the Southerly side of the Rock Ridge Road, in Connellsville Township, Fayette County, Pennsylvania, more particularly separately bounded and described as follows:

FIRST: - BEGINNING at a point in the center of the Rock Ridge Road, said point being 33 feet South 69 degrees West of the intersection of the property line dividing lands of Harry Joy and Christner; thence South 18 degrees 40 minutes East, parallel to the Christner line and 33 feet therefrom , along a private roadway preserved by the said Harry Joy as a means of ingress and egress to the lands hereby conveyed and other lands lying South thereof, a distance of 460 feet; thence along lands of Harry Joy, South 69 degrees 50 minutes West, 50 feet to an iron pin; thence North 18 degrees 40 minutes West, 460 feet to the center line of Rock Ridge Road, first mentioned; thence along said center line, North 69 degrees East, 50 feet to a point, the place of beginning, CONTAINING .51 Acre.

SECOND: - BEGINNING at a point in the center of the Rock Ridge Road, which is the Northwest corner of the tract described as First hereinabove; thence along said tract, South 18 degrees 40 minutes East, 460 feet to an iron pin which is the Southwest corner of said First Tract; thence along lands of Harry Joy, North 23 1/2 degrees West, 460 feet to a point in the center of the Rock Ridge Road, first mentioned; thence along the center of said Road, North 69 degrees East, 25 feet to a point, the place of beginning.

UNDER AND SUBJECT to the exceptions, reservations, easements, rights of way, rights and privileges as set forth in prior instruments of record.

BEING PARCEL #06-08-0013  
COMMONLY KNOWN AS: 917  
Rockridge Road, Connellsville, PA 15425  
TAX PARCEL NO. 06-08-0013

KML Law Group, P.C.

No. 784 of 2016 GD  
No. 204 of 2016 ED

**PNC BANK, NATIONAL ASSOCIATION,  
SUCCESSOR BY MERGER  
TO NATIONAL CITY BANK, SUCCESSOR  
BY MERGER TO NATIONAL CITY  
MORTGAGE, A DIVISION OF NATIONAL  
CITY BANK OF INDIANA**

**3232 Newmark Drive  
Miamisburg, OH 45342,  
Plaintiff,**

vs.

**GINA M. CAROMANO a/k/a GINA  
CAROMANO,**

**Mortgagor(s) and Record Owner(s)  
12 Brooke Street**

**Uniontown, PA 15401  
Defendant(s).**

ALL THAT CERTAIN lot of land situate in the South Union Township, County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #34-15-0144

PROPERTY ADDRESS: 12 Brooke  
Street Uniontown, PA 15401

IMPROVEMENTS: A residential  
dwelling.

SOLD AS THE PROPERTY OF: GINA  
M. CAROMANO a/k/a GINA CAROMANO

No. 27 of 2016 GD  
No. 201 of 2016 ED

**U.S. BANK NATIONAL ASSOCIATION,  
AS TRUSTEE, SUCCESSOR IN INTEREST  
TO BANK OF AMERICA, FAYETTE  
COUNTY NATIONAL ASSOCIATION, AS  
TRUSTEE, SUCCESSOR BY MERGER TO  
LASALLE BANK NATIONAL  
ASSOCIATION, AS TRUSTEE FOR FIRST  
FRANKLIN MORTGAGE LOAN TRUST  
2007-2, MORTGAGE PASS,**

**Plaintiff,**

vs.

**ARTHUR S. CERULLO JR.**

**MARY E. CERULLO,**

**Defendants.**

ALL THAT CERTAIN LOT OF LAND  
SITUATE IN SOUTH UNION TOWNSHIP,

FAYETTE COUNTY, PENNSYLVANIA, KNOWN AND DESIGNATED AS LOT NO. 5 IN PLAN OF LOTS LAID OUT BY JOSIAH V. WILLIAMS AND RECORDED IN THE RECORDER'S OFFICE OF FAYETTE COUNTY PLAN BOOK VOLUME 1 AT PAGE 57; BOUNDED AND DESCRIBED AS FOLLOWS:

BEING THE SAME PREMISES which MARY E. CERULLO, daughter & BETTY J. ARNOLD, mother, by Deed dated 02/27/07 and recorded 03/09/07 in the Office of the Recorder of Deeds in and for Fayette County in Deed Book Volume 3018, Page 866, granted and conveyed unto ARTHUR S. CERULLO JR. and MARY E. CERULLO, husband and wife.

BEING KNOWN AS: 35 MARTHA STREET, UNIONTOWN, PA 154 01  
PARCEL #34-18-0097

No. 1045 of 2016 GD  
No. 218 of 2016 ED

**U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY,**

**Plaintiff,**  
**vs.**

**TERRI DARNELL,**  
**Defendant.**

ALL that certain lot of ground in the Township of South Union, County of Fayette, Pennsylvania, being known as Lot No. 6 and the easterly portion of Lot No. 5 in the George Mikluscak Plan of Lots, Fayette County, Pennsylvania Deed Book Volume 824, page 579, HAVING THEREON ERECTED DWELLING KNOWN AS 1220 BROWNFIELD ROAD UNIONTOWN, PA 15401.

TAX PARCEL ID# 34-27-0390.  
Fayette County Book 3113, Page 1196.

TO BE SOLD AS THE PROPERTY OF TERRI DARNELL ON JUDGMENT NO. 2016-1045.

No. 397 of 2015 GD  
No. 208 of 2016 ED

**WILMINGTON SAVINGS FUND SOCIETY, FSB, D/B/A CHRISTIANA TRUST, AS TRUSTEE FOR NORMANDY MORTGAGE LOAN TRUST, SERIES 2015-1,**

**Plaintiff,**  
**vs.**

**TROY M. FLESIK,**  
**Defendant.**

ALL THAT CERTAIN PARCEL OF LAND IN CITY OF CONNELLSVILLE, FORMERLY THE BOROUGH OF NEW HAVEN, FAYETTE COUNTY, COMMONWEALTH OF PA, AS MORE FULLY DESCRIBED IN BOOK 2449 PAGE 123 ID# 05-08-0047, BEING KNOWN AND DESIGNATED AS THE REAR OR EASTERN 70 FEET OF LOT NO. 459, THE ASHMAN AND TORRANCE ADDITION. AND BEING MORE PARTICULARLY DESCRIBED AS A METES AND BOUNDS PROPERTY.

BEING THE SAME PREMISES which HENRY F. MOLINARO and RITA MAE MOLINARO, by Deed dated 12/10/99 and recorded 12/14/99 in the Office of the Recorder of Deeds in and for Fayette County in Deed Book Volume 2449, Page 123, granted and conveyed unto TROY M. FLESIK.

BEING KNOWN AS: 217 NORTH 11TH STREET A/K/A R 217 NORTH 11TH STREET, CONNELLSVILLE, PA 15425  
PARCEL #05-08-0047

KML Law Group, P.C.

No. 1105 of 2015 GD  
No. 200 of 2016 ED

**THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE, FOR THE BENEFIT OF THE CERTIFICATEHOLDERS OF CWALT, INC., ALTERNATIVE LOAN TRUST 2005-33CB MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-33CB**

**55 Beattie Place  
Suite 110, Mail Stop 005  
Greenville, SC 29601**

**Plaintiff,**  
**vs.**

**Unknown Heirs/Administrators of the Estate of Queen Esther Gordon BETTY L LEE, individually as owner and as believed heir of the Estate of Queen Esther Gordon BARBARA LOWE, as believed heir of the Estate of Queen Esther Gordon ESTHER L. PETERSON a/k/a ESTHER LORRAINE PETERSON individually as owner and as believed heir of the Estate of Queen Esther Gordon STAPLES, SANDRA, as believed heir of the Estate of Queen Esther Gordon**  
**Mortgagor(s) and Record Owner(s)**  
**142 Main Street A/K/A 818 Main Street Vanderbilt, PA 15486**  
**Defendant(s).**

ALL THAT CERTAIN pieces or parcels of ground situate in the Borough of Vanderbilt, County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #40-01-0095  
 PROPERTY ADDRESS: 142 Main Street A/ KIA 818 Main Street Vanderbilt, PA 15486  
 IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: Unknown Heirs/Administrators of the Estate of Queen Esther Gordon, BETTY L LEE, individually as owner and as believed heir of the Estate of Queen Esther Gordon, BARBARA LOWE, as believed heir of the Estate of Queen Esther Gordon, ESTHER L. PETERSON a/k/a ESTHER LORRAINE PETERSON individually as owner and as believed heir of the Estate of Queen Esther Gordon and STAPLES, SANDRA, as believed heir of the Estate of Queen Esther Gordon

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Phelan Hallinan Diamond & Jones, LLP

No. 863 of 2016 GD  
 No. 225 of 2016 ED

**Lsf9 Master Participation Trust,**  
**Plaintiff,**  
**vs.**  
**Sturge W. Hughes**  
**Regina C. Hughes,**  
**Defendant(s).**

By virtue of a Writ of Execution No. 863 OF 2016 GD

Lsf9 Master Participation Trust  
 V.  
 Sturge W. Hughes  
 Regina C. Hughes  
 owner(s) of property situate in Wharton Township, Fayette County, Pennsylvania, being 3353 National Pike, A/K/A 3353 National Pke, Farmington, PA 15437-1211  
 Parcel No.: 42-16-0006-01  
 Improvements thereon: RESIDENTIAL DWELLING

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Phelan Hallinan Diamond & Jones, LLP

No. 279 of 2016 GD  
 No. 228 of 2016 ED

**OCWEN Loan Servicing, LLC,**  
**Plaintiff,**  
**vs.**  
**Suzanne M. Lacey,**  
**Defendant(s).**

By virtue of a Writ of Execution No. 279 OF 2016 GD

OCWEN Loan Servicing, LLC  
 v.

Suzanne M. Lacey  
 owner(s) of property situ ate in the DUNBAR TOWNSHIP, Fayette County, Pennsylvania, being 2022 Mountain View Road, Dunbar, PA 15431-2213  
 Parcel No.: 09-20-0019-02, 09-20-0019-03  
 Improvements thereon: RESIDENTIAL DWELLING

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No. 698 of 2016 GD  
 No. 192 of 2016 ED

**LSF9 MASTER PARTICIPATION TRUST,**  
**Plaintiff,**  
**vs.**  
**MONTY LILLEY,**  
**Defendant.**

ALL THE RIGHT, TITLE, INTEREST AND CLAIM OF MONTY LILLEY OF, IN AND TO:

ALL THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN THE TOWNSHIP OF MENALLEN, COUNTY OF FAYETTE, COMMONWEAL TH OF

PENNSYLVANIA. HAVING ERECTED THEREON A DWELLING KNOWN AND NUMBERED AS 7409 NATIONAL PIKE ROAD, UNIONTOWN, PA 15401. DEED BOOK VOLUME 2881, PAGE 772, PARCEL NUMBER 22-17-001901.

No. 972 of 2016 GD  
No. 216 of 2016 ED

**JP MORGAN CHASE BANK, NATIONAL ASSOCIATION,**  
**c/o 3415 Vision Drive**  
**Columbus, OH 43219,**  
**Plaintiff,**  
**vs.**

**Christopher Mardis Solely in His Capacity as heir of Rory D. Mardis Deceased, Mortgagor(s) and Record Owner(s)**  
**242 North 10th Street a/k/a**  
**242 North Tenth Street**  
**Connellsville, PA 15425,**  
**Defendant(s).**

ALL THAT CERTAIN lot or piece of ground situate in the City of Connellsville, County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #05-05-0074

PROPERTY ADDRESS: 242 North 10th Street a/k/a 242 North Tenth Street Connellsville, PA 15425

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: Christopher Mardis Solely in His Capacity as Heir of Rory D. Mardis Deceased

No. 48 of 2016 GD  
No. 211 of 2016 ED

**JPMorgan Chase Bank, National Association,**  
**Plaintiff,**  
**vs.**

**Brandon V. McMillen,**  
**Defendant.**

ALL that certain lot or piece of ground situate in the Township South Union, County of Fayette and Commonwealth of Pennsylvania, being more particularly bounded and described as follows, to wit:

BEGINNING at a stake on the northeastern side of a 33 foot street, at the corner of the property herein conveyed and property now or formerly of George E. Tajc, et ux; thence along the division line between the property herein conveyed and property now or formerly of George E. Tajc, et ux, North 35° East, 135.00 feet to a stake; thence, South 55° 67' feet to a point in the public road leading from Hopwood to Fairchance; thence in said public road, South 19° 30' West, 140.16 feet to a point; thence, North 55° West, 104.00 feet to a point, the place of beginning.

IDENTIFIED as Tax/Parcel #: 34-27-0333 in the Deed Registry Office of Fayette County, Pennsylvania.

COMMONLY KNOWN AS: 200 Shaffers Corner Road, Uniontown, PA 15401  
TAX PARCEL NO. 34-27-0333

KML Law Group, P.C.  
Suite 5000 - BNY Independence Center 701  
Market Street  
Philadelphia, PA 19106  
215-627-1322

No. 2483 of 2013 GD  
No. 202 of 2016 ED

**U.S. BANK NATIONAL ASSOCIATION,**  
**NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE OF SW REMIC TRUST 2014-2 WITHOUT RECOURSE**  
**1133 RANKIN STREET**  
**SUITE 100**

**ST. PAUL, MN 55116,**  
**Plaintiff,**

**vs.**

**GEARY L. O'NEIL A/K/A GEARY L. O'NEIL, JR.**  
**Mortgagor(s) and Record Owner(s)**

**209 5th Street**  
**Belle Vernon, PA 15012,**  
**Defendant.**

ALL THAT CERTAIN parcel of land situate in the Borough of Belle Vernon, County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #01-04-0054

PROPERTY ADDRESS: 209 5th Street Belle Vernon, PA 15012

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: GEARY  
L. O'NEIL A/K/A GEARY L. O'NEIL, JR.

Phelan Hallinan Diamond & Jones, LLP

No. 735 of 2016 GD  
No. 203 of 2016 ED

**JPMorgan Chase Bank, N.A.,  
Plaintiff,  
vs.**

**Mark A. Prinkey a/k/a Mark Prinkey,  
Defendant(s).**

By virtue of a Writ of Execution No. 735  
OF 2016

JPMorgan Chase Bank, N.A.

v.

Mark A. Prinkey a/k/a Mark Prinkey  
owner(s) of property situate in the DUNBAR  
BOROUGH, Fayette County, Pennsylvania,  
being 24 2nd Street, Dunbar, PA 15431-1552

Parcel No.: 08-08-0095

Improvements thereon: RESIDENTIAL  
DWELLING

Phelan Hallinan Diamond & Jones, LLP

No. 111 of 2016 GD  
No. 190 of 2016 ED

**Pennymac Corp.,  
Plaintiff,  
vs.**

**Christopher B. Ramage,  
Defendant(s).**

By virtue of a Writ of Execution No. 111-  
OF-2016-GD

Pennymac Corp.

v.

Christopher B. Ramage  
owner(s) of property situate in the NORTH  
UNION TOWNSHIP, Fayette County,  
Pennsylvania, being 200 Pine Ridge Road,  
Lemont Furnace, PA 15456-1270

Parcel No.: 25270226

Improvements thereon: RESIDENTIAL  
DWELLING

Martha E. Von Rosenstiel, Esquire / No. 52634  
Heather Riloff, Esquire / No. 309906  
Jeniece D. Davis, Esquire / No. 208967  
649 South Avenue, Suite 6  
Secane, PA 19018  
610 328-2887

No. 1507 of 2015 GD  
No. 222 of 2016 ED

**Federal National Mortgage Association  
("Fannie Mae")**

**3900 Wisconsin Avenue, NW  
Washington DC 20016-2892,**

**Plaintiff,**

**vs.**

**Todd Reppert**

**715 Fayette Avenue  
Belle Vernon, PA 15012,  
Defendants.**

DOCKET# 2015-01507

All that certain lot of land situate in  
Washington Township, Fayette County,  
Pennsylvania, being lots numbers Forty-five and  
Forty-six (45 and 46) in Section No. Three (3) in  
a plan of lots laid out by John Brown and called  
Lynnwood, the plan whereof is recorded in  
Fayette County Plan Book 5, Page 142

TAX PARCEL# 41-05-0088

PROPERTY: 130 Homewood Avenue,  
Belle Vernon, PA 15012

IMPROVEMENTS: Residential Dwelling  
TO BE SOLD AS THE PROPERTY OF:

Todd Reppert

UDREN LAW OFFICES, P.C.  
WOODCREST CORPORATE CENTER  
111 WOODCREST ROAD, SUITE 200  
CHERRY HILL, NJ 08003-3620  
856-669-5400  
pleadings@udren.com

No. 1468 of 2015 GD  
No. 181 of 2016 ED

**U.S. Bank National Association, as Trustee  
for Residential Asset Mortgage Products,  
Inc., Mortgage Asset-Backed Pass-Through  
Certificates, Series 2005-EFC7,**

**Plaintiff,**

**vs.**

**NANCY ROSE,  
Defendant(s).**

ALL THAT CERTAIN LOT OF LAND SITUATE IN LOWER TYRONE TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS 1002 Banning Road a/k/a 1048 Banning Road, Connellsville, PA 15425

PARCEL NUMBER: 18-01-0010  
IMPROVEMENTS: Residential Property

McCABE, WEISBERG & CONWAY, P.C.

No. 76 of 2016 GD  
No. 193 of 2013 ED

**Residential Credit Solutions, Inc.,  
Plaintiff,  
vs.**

**Joseph D. Stevenson and Carla M. Stevenson,  
Defendants.**

FIRST: ALL that certain piece or parcel of land situate in German Township, Fayette County Pennsylvania, being part of the Edenborn Mining Village bounded and described as follows, and as shown by Plan No. Exhibit "B", recorded with deed of H. C. Frick Coke Company to Mark Sugarman and Ada Sugarman, his wife, in Deed Book 618, Page 363, at item second in said deed:

BEGINNING at a point in the middle of a street known as Fourth Street in the Northeastern corner of the land hereby conveyed, which place of beginning is located South 70 degrees West, 1303.40 feet from the stake at the corner in the line now or formerly of Albert Dzierwenski at the junction of the lines of his land, South 66 degrees 46 minutes East, and South 21 degrees 28 minutes East, 506.47 feet, and which stake corner of said Dzierwenski land is located North 21 degrees 28 minutes West, said 506.47 feet from the Northeast corner of the Antioch Baptist Church lot; thence from said place of beginning, running along in the middle of a 20 foot alley, South 16 degrees 26 minutes East, 132 feet to the middle of the intersection of said alley with a 15 foot alley; thence along in the middle of said 15 foot alley South 73degrees, 34 minutes West, 45.83 feet to a point; thence by land conveyed by H. C. Frick Coke Company to Mark and Ada Sugarman, of which this is a part, running along the Eastern line of land on which the Western half of double dwelling house number 323-324 of Edenborn Mining Village comprising number 323 is located, North 16 degree 26 minutes

West, 132 feet to the middle of Fourth Street, this last named line running through the middle of the partition wall of said double dwelling house number 323-324; thence alone in the middle of Fourth Street, North 73 degrees 34 minutes East, 45.83 feet to the place of beginning; CONTAINING an area of 0.139 of an acre, and having thereon erected the Eastern half of said double dwelling house number 323-324, comprising number 324 of said Edenborn Mining Village.

EXCEPTING and RESERVING the coal and mining rights and waivers heretofore conveyed and reserved and under and subject to the right at anytime hereinafter to lay, maintain, repair, replace, renew and remove water pipelines along in said street and alley, and under and subject to the right of the public to use said street and alley for passage thereover, and also excepting and reserving and under and subject to all existing easements and all conveyances and easements heretofore made or granted, excepted or reserved.

BEING the same premises conveyed to Raymond Gera and Emma Gera, his wife, by deed of Caroline Kucan, formerly Caroline Bederka, single, dated August 26, 1972, and recorded in the Recorder's Office of Fayette County, Pennsylvania, in Deed Book Volume 1132, Page 665.

All that certain piece or parcel or Tract of land situate German Township, Fayette County, Pennsylvania, and being known as 3 Back Street, McClellandtown, Pennsylvania 15458.

Being known as: 3 Back Street, McClellandtown, Pennsylvania 15458

Title vesting in Joseph D. Stevenson and Carla M. Stevenson, husband and wife, by deed from Ronald R. Gera and Carol A. Zipp, Co-Executors under the last will and testament of Raymond L. Gera, now deceased dated January 29 2004 and recorded February 3, 2004 in Deed Book 2893, Page 1144 Instrument Number 200400001551.

Tax Parcel Number: 15-25-0015

No. 2429 of 2015 GD  
 No. 179 of 2016 ED

**DITECH FINANCIAL LLC F/K/A  
 GREEN TREE SERVICING LLC,**

**Plaintiff,**  
**vs.**  
**David Swygert,**  
**Defendant.**

ALL THAT CERTAIN lot or piece of ground situate in the Borough of Vanderbilt, County of Fayette, Pennsylvania.

BEING THE SAME PREMISES which JPMorgan Chase Bank s/b/rn/t Bank One, NA as Trustee by Saxon Mortgage Services, Inc., by Deed dated February 27, 2007 and recorded April 19, 2007 in the Office of the Recorder of Deeds in and for Fayette County in Deed Book Volume 3022, Page 1988, granted and conveyed unto David Swygert.

BEING KNOWN AS: 126 Vanderbilt Road, Vanderbilt, PA 15486  
 PARCEL #40-03-0010

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McCABE, WEISBERG & CONWAY, P.C.

No. 2651 of 2015 GD  
 No. 221 of 2016 ED

**American Advisor Group,**  
**Plaintiff,**  
**vs.**

**Unknown Surviving Heirs of Joseph N. Tamargo and Shell Marie Cessna, Known Surviving Heir of Joseph N. Tamargo,**  
**Defendants.**

All that certain piece or parcel or Tract of land situate Township of Bullskin, Fayette County, Pennsylvania, and being known as 134 Sky Top Road, Acme, Pennsylvania 15610.

Being known as: 134 Sky Top Road, Acme, Pennsylvania 15610

Title vesting in Joseph N. Tamargo by deed from Charles L. Coffman and Norma J. Coffman, Husband and Wife dated August 15, 2003 and recorded August 21, 2003 in Deed Book 2874, Page 1796. The said Joseph N. Tamargo died on July 17, 2015 thereby vesting title in Unknown Surviving Heirs of Joseph N. Tamargo and Shell Marie Cessna, Known Surviving Heir of Joseph N. Tamargo by

operation of law.

Tax Parcel Number: 04-22-0047 & 04-22-0048

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McCABE, WEISBERG & CONWAY, P.C.

No. 2547 of 2014 GD  
 No. 220 of 2016 ED

**LSF8 Master Participation Trust c/o Caliber Home Loans, Inc.,**

**Plaintiff,**  
**vs.**  
**Frederick Tanner,**  
**Defendant.**

All that certain piece or parcel or Tract of land situate Borough of Fairchance, Fayette County, Pennsylvania, and being known as 10 Hazel Street, Fairchance, Pennsylvania 15436.

Being known as: 10 Hazel Street, Fairchance, Pennsylvania 15436

Title vesting in Frederick Tanner by deed from Brian K. David and Tina M. David, His Wife dated April 13, 2005 and recorded April 13, 2005 in Deed Book 2941, Page 2058.

Tax Parcel Number: 11-7-51

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No. 269 of 2016 GD  
 No. 198 of 2016 ED

**PNC BANK, NATIONAL ASSOCIATION,**  
**Plaintiff,**  
**vs.**

**JUSTIN THOMPSON, IN HIS CAPACITY AS ADMINISTRATOR OR THE ESTATE OF PHILLIP THOMPSON, A/K/A PHILLIP N. THOMPSON, AND THE UNKNOWN SUBSTITUTE TRUSTEE OF THE THOMPSON FAMILY TRUST DATED 18 DECEMBER 2000,**  
**Defendant.**

ALL THE RIGHT TITLE, INTEREST AND CLAIMS OF JUSTIN THOMPSON, IN HIS CAPACITY AS ADMINISTRATOR OF THE ESTATE OF PHILLIP THOMPSON, A/K/A PHILLIP N. THOMPSON, AND THE UNKNOWN SUBSTITUTE TRUSTEE OF THE THOMPSON FAMILY TRUST DATED 18 DECEMBER 2000, OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT TRACT OF LAND SITUATE

IN FRANKLIN TWP, FAYETTE COUNTY, PA, BEING PARCEL 13-06-0081, MORE FULLY DESCRIBED IN BOOK 2657, PAGE 45, and BOOK 2657, PAGE 48.

BEING KNOWN AS 636 FLATWOODS ROAD, VANDERBILT, PA.  
TAX PARCEL NO. 13-06-0081

owner(s) of property situate in the NORTH UNION TOWNSHIP, Fayette County, Pennsylvania, being 120 Fernwood Road, Lemont Furnace, PA 15456-1202

Parcel No.: 2527012604  
Improvements thereon: RESIDENTIAL DWELLING

No. 158 of 2016 GD  
No. 207 of 2016 ED

No. 376 of 2016 GD  
No. 209 of 2016 ED

**PENNYMAC LOAN TRUST 2012-NPL1,**  
**Plaintiff,**  
**vs.**  
**WAYNE L. TROUT**  
**CHERIE TERNITSKY TROUT,**  
**Defendants.**

**The Bank of New York Mellon f/k/a The Bank of New York, as Trustee, and BNY Western Trust Company, as Co-Trustee, for CWABS, Inc., Asset-Backed Certificates, Series 2002-BC1,**  
**Plaintiff,**  
**vs.**

**Robert G. Young and Veronica L. Young,**  
**Defendants.**

All those two certain tracts, parcels or lots of land situate in the First Ward of the City of Uniontown (formerly North Union Township), Fayette County, Pennsylvania.

ALL that certain piece, parcel or lot of land situate in Bullskin Township, Fayette County, Pennsylvania, being more particularly bounded and described as follows:

BEING THE SAME PREMISES which Cherie Ternitsky now known as Cherie Ternitsky Trout and Wayne L. Trout, Husband and wife, by Deed dated October 31, 2006 and recorded November 6, 2006 in the Office of the Recorder of Deeds in and for Fayette County in Deed Book Volume 3006, Page 1181, granted and conveyed unto WAYNE L. TROUT and CHERIE TERNITSKY TROUT, husband and wife.

BEGINNING at an iron pin at the intersection of the Southerly side of an unopened forty (40) foot stream known as Oakland Avenue and the Easterly side of Pennsylvania State Highway known and designated as L. R. 26149; said iron pin being on the Easterly side of a 24" wild cherry trees and said point of beginning being the initial point of call reading South 24 degrees West, 54.4 perches as set forth in Deed from Clark Collins and Alice Collins, his wife, to Florence Reid dated March 21, 1923 and recorded in the Recorder of Deeds Office of Fayette County, Pennsylvania, in Deed Book Volume 436, page 90; thence along the Southerly side of said Oakland Avenue, South 71 degrees 23 minutes East, a distance of 198.88 feet to an iron pin corner; thence through land now or formerly of Florence C. Reid, South 24 degrees 00 minutes West, a distance of 210 feet to a point along line of lands now or formerly of James E. Bartlett and Debrah E. Bartlett, his wife, conveyed to the latter by Deed of Kenneth G. Showman dated July 15, 1986, and recorded in the Recorder of Deeds Office of Fayette County, Pennsylvania, in Record Book Volume 175, page 221 thence along line of lands now or formerly of the said James E. Bartlett, et ux., North 64 degrees 10 minutes West, a distance of

BEING KNOWN AS: 120 BEN LOMOND STREET, UNIONTOWN, PA 15401  
PARCEL #38-06-0202

Phelan Hallinan Diamond & Jones, LLP

No. 47 of 2016 GD  
No. 182 of 2016 ED

**JPMorgan Chase Bank, N.A.,**  
**Plaintiff,**  
**vs.**  
**Kenneth A. Yauger,**  
**Defendant(s).**

By virtue of a Writ of Execution No. 47 OF 2016 GD

JPMorgan Chase Bank, N.A .  
v.  
Kenneth A. Yauger



## JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY,  
PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: CRIMINAL ACTION
v.	:
THOMAS JEFFERSON BEAL,	: NO. 2208 OF 2015
Appellant.	: JUDGE JOSEPH M. GEORGE, JR.

ATTORNEYS AND LAW FIRMS

*Melinda K. Dellarose*, Esquire, Assistant District Attorney, For the Commonwealth

*Robert R. Harper*, Esquire, Assistant Public Defender, For the Appellant

### OPINION

GEORGE, J.

August 15, 2016

Following a trial by jury, Appellant, Thomas Jefferson Beal, was found guilty of Burglary {1}, Criminal Trespass {2}, and Criminal Mischief {3}. On May 31, 2016, Appellant was sentenced to a term of imprisonment of not less than forty-six (46) months nor more than two hundred and forty (240) months. Appellant filed a timely post-sentence motion and this Court denied same. He filed a direct appeal to the Superior Court of Pennsylvania. This Opinion is in support of the verdict of the jury.

### CONCISE ISSUES

Appellant filed the following Statement of Errors Complained of on Appeal:

1. Whether the evidence was sufficient to support the Defendant's conviction of Criminal Trespass and Burglary?
2. Whether the jury verdict was against the weight of the evidence?
3. Whether the Court erred in admitting into evidence the photographs of the Defendant after he was taken into custody on the roof of the Laurel Mall?

### FACTS

Doris Pastorius has been a baker at Pechin Superfoods Market (hereinafter "Pechin's") for twenty-seven years. (T.T. p. 11). On November 3, 2015, Pastorius, along with two other bakers, Steve Borek and Andy Pletcher, were scheduled to start their work shift at two o'clock a.m. (T.T. p. 12). On that morning, Pastorius and Pletcher arrived at Pechin's around 1:50 a.m. (T.T. p. 16). They entered Pechin's through the front door and went to the bakery department. (T.T. pp. 12, 15).

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{1} 18 Pa. C.S. § 3502(a)(3).

{2} 18 Pa. C.S. § 3503(a)(1)(ii).

{3} 18 Pa. C.S. § 3304(a)(5).

Approximately forty-five minutes into her shift, Pastorius noticed a rope ladder hanging down from the ceiling through a HVAC unit. {4} (T.T. pp. 12-13). After observing this oddity, Pastorius alerted Borek and Stanley Angel, a security guard employed by Pechin's. (T.T. pp. 13, 60, 62). Angel walked into the market and immediately saw the rope ladder hanging from the ceiling. (T.T. p. 62). Angel testified that after he came into the market, he went over to the rope ladder and started to hear movement above. (T.T. p. 62). At that time, a person started to climb down the ladder. Pastorius testified that when she looked up, she saw two feet. (T.T. pp. 13, 18-19). Angel testified that a man with boots, jeans, and a grey hooded sweatshirt kicked out the grate from the HVAC unit and started to climb down the ladder. (T.T. pp. 62-63). The individual then suddenly climbed back up the ladder. (T.T. p. 63). Immediately following that, Pastorius called Don D'Amico, the owner of Pechin's and Angel called the police. (T.T. pp. 13, 63).

The police arrived on scene a few minutes after the call. {5} (T.T. pp. 83-84). Troopers Ryan Butka and Shane Reaghard of the Pennsylvania State Police approached the back of the building. (T.T. pp. 73, 96). They climbed up on the roof and began their search. (T.T. pp. 75, 97). They first found an open air conditioning unit with a rope ladder hanging down into the building. {6} (T.T. pp. 75, 98). Continuing on with their search, the troopers got to the opposite end of the building. Trooper Butka found Appellant under an air conditioning unit in an "army crawl" position. (T.T. pp. 77-78).

Trooper Butka identified himself as the police, pointed his weapon and informed Appellant to come out from underneath the unit. (T.T. p. 78, 98). When Trooper Butka asked Appellant what he was doing up on the roof, Appellant replied he was there sleeping. (T.T. p. 78). Appellant was then placed in handcuffs and the troopers, along with the local fire department, assisted Appellant off of the roof. {7} (T.T. p. 79).

## DISCUSSION

Appellant's first two errors challenge the sufficiency and weight of the evidence. The distinction between these two claims is significant.

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{4} The HVAC unit is an air conditioning and heating unit on the roof of Pechin's. (T.T. p. 36).

{5} The call, which came in at 3:07 a.m., was described as burglary in progress with an individual on top of the roof. (T.T. p. 73).

{6} The next day, D'Amico went on the roof and observed damage to the HVAC unit. The cover was removed, there was damage to the inside of the unit and the mesh grate was removed. (T.T. p. 41).

{7} D'Amico took two pictures of Appellant being escorted off of the roof by the police; the photographs were introduced into evidence as Commonwealth's Exhibit 1M and 1N. (T.T. p. 34).

A claim challenging the sufficiency of the evidence, if granted, would preclude retrial under the double jeopardy provisions of the Fifth Amendment to the United States Constitution, and Article I, Section 10 of the Pennsylvania Constitution, whereas a claim challenging the weight of the evidence if granted would permit a second trial.

*Commonwealth v. Widmer*, 560 Pa. 308, 318, 744 A.2d 745, 751 (2000) (citation omitted).

Appellant's first concise issue addresses the sufficiency of the evidence presented at trial. On the outset, we note that Appellant waived his right to challenge the sufficiency of the evidence based on his Rule 1925(b) statement. "In order to preserve a challenge to the sufficiency of the evidence on appeal, an appellant's Rule 1925(b) statement must state with specificity the element or elements upon which the appellant alleges that the evidence was insufficient." *Commonwealth v. Garland*, 63 A.3d 339, 344 (Pa. Super. 2013); see also *Commonwealth v. Gibbs*, 981 A.2d 274, 281 (Pa. Super. 2009). In his 1925(b) statement, Appellant did not state what element(s) he was challenging in his claim for lack of sufficient evidence. Instead, Appellant's statement generally challenged his convictions without more. See *Garland*, 63 A.3d at 344. Thus, Appellant waived his right to contest the sufficiency of the evidence.

Even if Appellant did not waive his challenge for lack of sufficient evidence, the record supports the jury's verdict.

The standard of review for a challenge to the sufficiency of the evidence is to determine whether, when viewed in a light most favorable to the verdict winner, the evidence at trial and all reasonable inferences therefrom is sufficient for the trier of fact to find that each element of the crimes charged is established beyond a reasonable doubt. The Commonwealth may sustain its burden of proving every element beyond a reasonable doubt by means of wholly circumstantial evidence.

The facts and circumstances established by the Commonwealth need not preclude every possibility of innocence. Any doubt raised as to the accused's guilt is to be resolved by the fact-finder. [In this context, appellate courts] do not assess credibility nor . . . assign weight to any of the testimony of record. Therefore, [the verdict will not be disturbed] unless the evidence is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances.

*Commonwealth v. Vogelsong*, 90 A.3d 717, 719 (Pa. Super. 2014).

Appellant first contends the Commonwealth did not provide sufficient evidence to support Appellant's Burglary Conviction. The relevant portion of the applicable statute reads:

(a) Offense defined.--A person commits the offense of burglary if, with the intent to commit a crime therein, the person:

...

(3) enters a building or occupied structure, or separately secured or occupied portion thereof that is not adapted for overnight accommodations in which at the time of the offense any person is present.

18 Pa. C.S. § 3502(a)(3). In order to satisfy proof of entry, it is sufficient to prove that any part of the body of the intruder entered the premises. *Commonwealth v. Gordon*, 477 A.2d 1342, 1348 (Pa. Super. 1984).

In the instant case, Pastorius and Angel observed an individual attempting to climb down into Pechin's through an air conditioning unit via a rope ladder. Standing in Pechin's, they were able to see part of the person's body; he eventually climbed back up when he realized people were present in the building. When the police arrived on scene minutes later, Troopers Butka and Reaghard found Appellant on the opposite side of the roof under a different air conditioning unit. Therefore, even though Pastorius and Angel were unable to see the intruder's face, it is reasonable to infer that Appellant was the person who entered Pechin's.

Additionally, the crime of burglary must be accompanied by a specific intent to commit a crime therein at the time of entering the building. *Commonwealth v. Eck*, 654 A.2d 1104, 1108-09 (Pa. Super. 1995). Such intent can be found in the defendant's words or conduct, or from the attendant circumstances together with all reasonable inferences therefrom. *Commonwealth v. Tingle*, 419 A.2d 6, 9 (Pa. Super. 1980). Factors relevant to this analysis include the type of building the intruder entered, the time of the incident and whether the intruder thought the building was unoccupied at the time of entry. See *Commonwealth v. Corbin*, 380 A.2d 897 (Pa. Super. 1977) (reasonable inference of intent to commit theft when entry is into a commercial building after business hours); see also *Commonwealth v. Jacobs*, 372 A.2d 873 (Pa. Super. 1977) (not reasonable to infer intent to commit theft when defendant entered recently vacated apartment containing only a refrigerator, stove and sink); see also *Commonwealth v. Madison*, 397 A.2d 818 (Pa. Super. 1979) (where an intruder enters a building and suddenly departs upon discovering the building is occupied, there was sufficient evidence to support inference of intent to commit theft).

At approximately 3:00 a.m., Appellant entered the market through the roof with the aid of a rope ladder. Although several employees were present, the business opened at 7:00 a.m. and was therefore closed to the public at the time of the incident. Upon being discovered coming down the rope ladder, Appellant immediately climbed up and hid out under a different air conditioning unit on the roof, where he was eventually apprehended. These actions taken by Appellant, early in the morning during closed business hours, suggest he had a specific intent to commit a crime at the time he entered the building. Based on the evidence presented at trial, the Commonwealth established each element of burglary beyond a reasonable doubt.

Likewise, sufficient evidence was presented for a finding of guilt on the charge of Criminal Trespass. A person is guilty of Criminal Trespass if, knowing that he is not licensed or privileged to do so, breaks into any building or occupied structure. 18 Pa. C.S. § 3503(a)(1)(ii). Under this statute, "breaks into" is defined as "[t]o gain entry by force, breaking, intimidation, unauthorized opening of locks, or through an opening not

designed for human access.” 18 Pa. C.S. § 3503(a)(3).

Here, Appellant entered Pechin’s through an air conditioning unit on the roof. Not only did Appellant gain entry through an opening not designed for human access, but he also used force upon entry. {8} The Commonwealth thus provided sufficient evidence for a conviction of Criminal Trespass. Accordingly, Appellant’s first concise issue is without merit.

Appellant’s next concise issue is whether the jury verdict was against the weight of the evidence. A challenge to the weight of the evidence must be preserved either in a post-sentence motion, by a written motion before sentencing, or orally prior to sentencing. Pa.R.Crim.P. 607(A)(1)-(3). On June 8, 2016, Appellant filed a Post-Sentence Motion challenging the weight of the evidence. {9} Thus, Appellant has successfully preserved the issue for appeal.

After reviewing the testimony presented at trial, the jury verdict is not against the weight of the evidence. The standard of review when raising the weight of the evidence is as follows:

An allegation that the verdict is against the weight of the evidence is addressed to the discretion of the trial court. A new trial should not be granted because of a mere conflict in the testimony or because the judge on the same facts would have arrived at a different conclusion. A trial judge must do more than reassess the credibility of the witnesses and allege that he would not have assented to the verdict if he were a juror. Trial judges, in reviewing a claim that the verdict is against the weight of the evidence do not sit as the thirteenth juror. Rather, the role of the trial judge is to determine that “notwithstanding all the facts, certain facts are so clearly of greater weight that to ignore them or to give them equal weight with all the facts is to deny justice.”

Commonwealth v. Widmer, 560 Pa. 308, 319-20, 744 A.2d 745, 751-52 (2000) (citation omitted); Commonwealth v. Betz, 664 A.2d 600, 604 (Pa.Super. 1995) (weight of exculpatory evidence must shock the court’s sense of justice).

When an Appellant challenges the weight of the evidence, he concedes that sufficient evidence exists to sustain the verdict but questions which evidence is to be believed. Commonwealth v. Lewis, 911 A.2d 558, 566 (Pa.Super. 2006). Credibility determinations are solely made by the finder of fact; therefore, an appellate court may not reweigh the evidence and substitute its judgment for that of the finder of fact. Commonwealth v. Gibson, 553 Pa.648, 664, 720 A.2d 473, 481 (1998). “A new trial is warranted only when the jury’s verdict is so contrary to the evidence that it shocks one’s sense of justice and the award of a new trial is imperative so that right may be given another opportunity to prevail.” Commonwealth v. Morales, 625 Pa. 146, 164, 91 A.3d 81, 91 (2014).

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{8} The cover to the air conditioning unit and the mesh grate were removed. (T.T. p. 41).

{9} This Court denied Appellant’s Post-Sentence Motion on June 13, 2016.

Here, the record shows Appellant hiding on the roof of the Laurel Mall around 3:00 A.M. immediately after police were dispatched to a burglary in progress, when multiple witnesses observed an individual entering the supermarket through the roof. While there may have been some inconsistencies in the security guard's testimony, his testimony was corroborated by four other Commonwealth witnesses. See *Commonwealth v. Riley*, 811 A.2d 610 (Pa. Super. 2001) (trial court acted within its discretion in finding the defendant's conviction was not against the weight of the evidence even though there were inconsistencies in the testimony of the defendant's co-conspirator). When viewing all the evidence together, the guilty verdict did not shock this Court's sense of justice. Therefore, Appellant's second concise issue is without merit.

Appellant's final issue is whether this Court erred in admitting into evidence the photographs of Appellant after he was taken into custody on the roof of the Laurel Mall. This issue deals with the admissibility of evidence; the standard of review is as such:

the admissibility of evidence is solely within the discretion of the trial court, and a trial court's evidentiary rulings will be reversed on appeal only upon abuse of discretion. An abuse of discretion will not be found merely because an appellate court might have reached a different conclusion, but requires a result of manifest unreasonableness, or partiality, prejudice, bias, or ill-will, or such lack of support so as to be clearly erroneous. Moreover, an erroneous ruling by a trial court on an evidentiary issue does not necessitate relief where the error was harmless beyond a reasonable doubt.

*Commonwealth v. Travaglia*, 611 Pa. 481, 28 A.3d 868, 873-74 (2011) (citations omitted).

"The court may exclude relevant evidence if its probative value is outweighed by a danger of ... unfair prejudice." Pa. R. Evid. 403. Unfair prejudice encompasses any "evidence so prejudicial that it would inflame the jury to make a decision based upon something other than the legal propositions relevant to the case." *Commonwealth v. Page*, 965 A.2d 1212, 1220 (Pa. Super. 2009). Evidence must be prohibited if its inclusion would cause the jury to base its decision on an improper basis; however, the evidence will not be excluded merely because it is harmful to Appellant. *Commonwealth v. Dillon*, 592 Pa. 351, 366-367, 925 A.2d 131, 141 (2007).

The two photographs at issue in this case depict Appellant being escorted down from the roof of Pechin's by the police and fire department. The photographs do show Appellant in the presence of the police. Nevertheless, the photographs do not show Appellant handcuffed. While these photographs may have been harmful to Appellant, they were not prejudicial. Thus, Appellant's last concise issue is without merit.

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

ATTEST:  
CLERK OF COURTS

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{10} Absent Appellant being handcuffed, the photographs corroborate Trooper Butka's testimony. (See T.T. p. 79).



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