

FAYETTE LEGAL JOURNAL

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FAYETTE LEGAL JOURNAL

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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

MARIE A. ANDREWS, late of Connellsville, Fayette County, PA (3)

Executrix: Beth Murray
547 Indian Creek Valley Road
Springfield Township, PA 15469
c/o P.O. Box 463
1600 Morrell Avenue
Connellsville, PA 15425
Attorney: Richard Bower

**ALFRED C. D'ANDREA, SR., a/k/a
ALFRED C. D'ANDREA**, late of Menallen Township, Fayette County, PA (3)

Executor: Joseph P. D'Andrea
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

**MYRA LINCOLN, a/k/a MYRA J.
LINCOLN, a/k/a MYRA JEAN LINCOLN**, late of Georges Township, Fayette County, PA

Executrix: Bonnie Provance (3)
P.O. Box 363
Oriental, NC 28571
c/o 76 East Main Street
Uniontown, PA 15401
Attorney: Douglas S. Sholtis

**ARTHUR W. PHILLIPS, a/k/a ARTHUR
WAYNE PHILLIPS**, late of Uniontown, Fayette County, PA (3)

Executrix: Melinda F. Madison
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Samuel J. Davis

PAUL STEPHEN SHENAL, JR., late of Smock, Redstone Township, Fayette County, PA (3)

Personal Representative: Paula Golden
c/o Dellarose Law Office, PLLC
99 East Main Street, Suite 101
Uniontown, PA 15401
Attorney: Melinda Deal Dellarose

**KENNETH DALE STERBUTZEL, a/k/a
KENNETH D. STERBUTZEL**, late of South Union Township, Fayette County, PA (3)

Personal Representatives: Patrick L. Sterbutzel and Robert L. Sterbutzel, III
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

Second Publication

**G. DARLEEN COLATCH, a/k/a G.
DARLEEN COLATCH-MCDONALD**, late of Connellsville Township, Fayette County, PA (2)

Executor: J. Patrick Colatch
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

RONALD H. FUGE, late of Henry Clay Township, Fayette County, PA (2)

Executor: Timothy S. Fuge
c/o Goodwin Como, P.C.
108 North Beeson Boulevard, Suite 400
Uniontown, PA 15401
Attorney: Benjamin Goodwin

DEAN R. GRAFT, late of Dunbar Township, Fayette County, PA (2)

Administratrix: Dena Graft
c/o 11 Pittsburgh Street
Uniontown, PA 15401
Attorney: Thomas W. Shaffer

THOMAS J. KNUPSKY, late of Dunbar Township, Fayette County, PA (2)

Personal Representatives:
John E. Knupsky and Julie A. Gouker
c/o 208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

ALESSIA ROMEO, a/k/a ALESSIA A. ROMEO, late of Uniontown, Fayette County, PA (2)

Administratrix: Maryann Sutor
146 East Bruceton Road
Pittsburgh, PA 15236
c/o 60 East Beau Street
Washington, PA 15301
Attorney: Matthew Madvay

RICHARD A. SABATULA, late of North Union Township, Fayette County, PA (2)

Personal Representative:
Brandon A. Sabatula
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

DOROTHY A. STEFANCIK, a/k/a DOROTHY ANN STEFANCIK, late of Franklin Township, Fayette County, PA (2)

Executrix: Patricia Filcheck
204 Brown Boulevard
Uniontown, PA 15401
c/o Newcomer Law Offices
4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Ewing D. Newcomer

First Publication

JOAN N. FOSTER, late of Bullskin Township, Fayette County, PA

Executor: Jeffrey Bolton
7215 Keechi Place
Mont Belvieu, TX 77523
c/o 101 North Church Street
Mount Pleasant, PA 15666
Attorney: Randall G. Klimchock

NICK MIHALKO, late of Luzerne Township, Fayette County, PA

Executor: William Saylor
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

ERIC MOTTO, a/k/a ERIC ROBERT MOTTO, late of Bullskin Township, Fayette County, PA

Co-Executors: Rosamond McGee Ritzel
2464 Sonders Station
Monroeville, PA 15146
John William Motto, III
8080 State Route 819
Greensburg, PA 15601
c/o Long & Long, LLC
305 West Pittsburgh Street
Greensburg, PA 15601
Attorney: Nicole Pardus

LEGAL NOTICES

CORPORATE DISSOLUTION

NOTICE IS HEREBY GIVEN that the directors and shareholders of ED NICHOLSON & SONS LUMBER CO., INC., a Pennsylvania corporation, with an address of 97 East Main Street, Uniontown, PA 15401, (Fayette County), have unanimously approved a proposal that the corporation voluntarily dissolve and is now engaged in winding up and settling affairs of the corporation under the provisions of Section 1975 of the Pennsylvania Business Corporation Law of 1988, as amended.

NOTICE OF SUSPENSION

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated February 5, 2025, Tancredi William Calabrese is Suspended from the Bar of this Commonwealth for a period of five years retroactive to April 25, 2020

Marcee Sloan
Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
No. 159 of 2025 GD

IN RE: PETITION FOR CHANGE OF
NAME OF SHELBI ALAINA LEE

ORDER

AND NOW, January 29, 2025, it is hereby ORDERED and DECREED that a hearing for Name Change shall be held Monday, March 31, 2025, at 1:30 o'clock p.m. in Courtroom No. 3, Fayette County Courthouse, Uniontown, Pennsylvania.

Further, it is Ordered that a notice of the filing of the within Petition and of the aforesaid date of hearing be published in the Official Legal Journal of Fayette County and the Herald Standard Newspaper at least thirty (30) days before the hearing. Proof of publication shall be submitted at the hearing.

BY THE COURT:
MEHALOV, J.

NOTICE OF ACTION IN MORTGAGE
FORECLOSURE

IN THE COURT OF COMMON PLEAS OF
WASHINGTON COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW
NO.: CV-2024-08619

THE HUNTINGTON NATIONAL BANK,
Plaintiff,
vs.
Jason T. Paternoster; Jason T. Paternoster, Jr.,
Defendants

TO: Jason T. Paternoster Jason T. Paternoster
Jason T. Paternoster, Jr. Jason T. Paternoster, Jr.

You are hereby notified that Plaintiff, The Huntington National Bank, filed an Action in Mortgage Foreclosure endorsed with a Notice to Defend, in the Court of Common Pleas of Washington County, Pennsylvania, docketed to No. CV-2024-08619, seeking to foreclose the mortgage secured by the real estate located at 100 Alkim Drive, Brownsville, PA 15417. A copy of the Action in Mortgage Foreclosure will be sent to you upon request to the Attorney for the Plaintiff, MDK Legal, P. O. Box 165028, Columbus, OH 43216-5028. Phone 614-220-

5611.

You have been sued in court. If you wish to defend against the claims in this notice, you must take action within twenty (20) days after this publication, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
Lawyer Referral Service
Washington County Bar Association
119 South College Street
Washington, PA 15301
(724) 225-6710

Southwestern Pennsylvania Legal Aid Services
10 West Cherry Street
Washington, PA 15301
(724) 225-6170

Registers' Notice

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

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

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

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2622-0416	VIRGINIA I. UPTON	Gloria Jacoby a/k/a Gloria Fay, Executrix
2618-0828	JESSE W. KELLER	Matthew J. Keller, Executor
2622-0060	ROBERT E. BEAL	Thomas E. Kubic

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

Monday, March 17, 2025, at 9:30 A.M.

in Courtroom No. 1 of the **Honorable President Judge Steve P. Leskinen** or his chambers, Second 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 hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

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

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2623-0651	GARY E. LOWE	Barbara J. Lowe, Administratrix

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

Monday, March 17, 2025, at 9:30 A.M.

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

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

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN
518 Madison Drive
Smithfield, PA 15478
724-322-6529
johnfranciswarman@gmail.com

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Holly Whalen ◊ Amy Coco ◊ Bethann Lloyd

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

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JUDICIAL OPINION

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

COMMONWEALTH OF :
 PENNSYLVANIA, :
 vs. :
 THOMAS EDWARD WIENCEK, : No. 1880 of 2023
 Defendant. : Honorable Nancy D. Vernon

OPINION AND ORDER

VERNON, J.

February 3, 2025

Before the Court is the Petition for Writ of Habeas Corpus filed by Defendant, Thomas Edward Wiencek, contending that the Commonwealth cannot establish a prima facie case as to the mens rea of recklessness or gross negligence to support the charges of homicide by vehicle, aggravated assault by vehicle, involuntary manslaughter, and recklessly endangering another person.

At the time set for hearing, the Commonwealth presented the testimony of Trooper Michael Parlak of the Pennsylvania State Police who testified that on the early afternoon of August 16, 2021, he was dispatched to a traffic collision at the intersection of State Route 31 and Pleasant Valley Road, Bullsken Township. Upon his arrival, Trooper Parlak noted a Peterbilt Tri-Axle entangled with a Ford Focus. Trooper Parlak identified Defendant as the operator of the tri-axle truck and Lee Welker as the operator of the Ford Focus with his wife, Diane Welker, as a passenger. At the scene, Trooper Parlak spoke with Defendant who stated, “that he must not have been paying attention; when he came to the intersection, he thought the light was green and then he struck the victims’ vehicle at the intersection.” Defendant further told Trooper Parlak that he attempted to stop but was unable to do so. An eyewitness, Blane Morrison, told Trooper Parlak that he was positioned directly behind Defendant’s truck and that the light was red when Defendant proceeded through the intersection striking the victims’ car.

Pennsylvania State Police Trooper Jason Hatalsky was recognized as an expert in the field of accident reconstruction and performed a collision analysis. The collision was captured on the security camera of Speedy Meedys. The collision analysis revealed that Defendant’s tri-axle truck did not stop at a steady red light. The footage showed that the light was red for fifteen to twenty seconds for Defendant’s lane of travel. Neither weather conditions nor topography played a factor in the collision. The collision occurred in daylight, with clear visibility, and no adverse condition. The collision analysis further revealed no evidence of speeding, erratic driving, cell phone usage, driver impairment, or vehicle malfunction.

To prove the offenses of homicide by vehicle, aggravated assault by vehicle, and involuntary manslaughter, the Commonwealth must prove beyond a reasonable doubt that “a defendant’s conduct was either reckless or grossly negligent.” Commonwealth v.

Wyatt, 203 A.3d 1115 (Pa. Super. 2019). The state of mind of gross negligence under the aggravated assault by vehicle and homicide by vehicle statutes is the same as recklessness. Wyatt, 203 A.3d at 1118.

The Crimes Code defines recklessness as follows:

A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and intent of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.

18 Pa.C.S.A. § 302(b)(3).

Recklessness requires proof that the defendant both had actual knowledge of a substantial and unjustifiable risk and disregarded that risk despite that knowledge. Commonwealth v. Sitler, 144 A.3d 156, 164 (Pa. Super. 2016).

Recklessness “implicates knowledge in two ways: (1) the actor must consciously (i.e., with knowledge) disregard a substantial and unjustifiable risk; and (2) the risk that the actor disregards is measured by the circumstances known to the actor.” “Conscious disregard” of a risk, in turn, “involves first becoming aware of the risk and then choosing to proceed in spite of the risk.” Commonwealth v. Fretts, 271 A.3d 383, 389 (Pa. Super. 2021).

In Commonwealth v. Sanders, 259 A.3d 524, 533 (Pa. Super. 2021), a bus driver was on a new route when she stopped at a red light to check paperwork to confirm the correct way to go. In making a left turn, she struck and killed a 93-year-old pedestrian who was properly crossing the street in a crosswalk. The Superior Court vacated the bus driver’s homicide by vehicle conviction on the ground that the evidence was insufficient to permit a finding of recklessness where the bus driver made the turn on a green light traveling at 8 miles an hour and looked before turning and there was no evidence that the bus driver could see the pedestrian when she looked to her left. Id. 259 A.3d at 530, 532–35. The Court, moreover, held that the bus driver’s conduct could not be found to be reckless, even though the pedestrian was visible for forty-five seconds while the bus was stopped for a red light at the intersection and the driver could have seen him if she had looked while waiting for the light to turn green, rather than looking at work papers, and even though she violated several work rules, including steering the bus with one hand and failing to wait a full 4 seconds before making a left turn. Id. 259 A.3d at 532–35.

In its examination of recklessness in Sanders, the Superior Court opined, “[h]ad Appellant’s bus barreled through the red light without stopping, that would have been a conscious disregard of a substantial and unjustifiable risk, the essence of recklessness.” Id. 259 A.3d at 533. This exact hypothetical occurred here. Defendant evidenced a conscious disregard of the substantial and unjustified risk that he would be involved in a traffic accident causing death when his triaxle “barreled” through a red light colliding with the vehicle of Lee Welker and his wife, Diane Welker.

WHEREFORE, we will enter the following ORDER denying the Petition for Writ of Habeas Corpus

ORDER

AND NOW, this 3rd day of February, 2025, upon consideration of the Petition for Writ of Habeas Corpus filed by Defendant, Thomas Edward Wiencek, and in accordance with the foregoing Opinion, it is hereby ORDERED and DECREED that the Petition is DENIED.

BY THE COURT:
NANCY D. VERNON, JUDGE

ATTEST:
CLERK OF COURTS

LUNCH & LEARN SERIES

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

- Date: **Wednesday, March 12th from 12:00 p.m. to 1:30 p.m.**
- Location: **Fayette County Behavioral Health Administration**
(215 Jacob Murphy Lane, Uniontown, PA 15401)
- Discussion topics: **Mental Health Procedures Act**
- Presenter: **Russell B. Korner, Esquire**

CLE Credit

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

Members of the FCBA

- \$5 fee for attendance without CLE Credit
- \$15 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2020

- \$5 fee for attendance with CLE Credit

Non-members of the FCBA

- \$15 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.

RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or email to cindy@fcbar.org on or before Monday, March 10th.



130th Annual

FAYETTE COUNTY BAR ASSOCIATION

BAR BANQUET

SUNDAY, MAY 18TH

FIRST FLIGHT ISLAND RESTAURANT
301 WHITEHEAD STREET

Key West, Florida

6:00 COCKTAILS & HORS D'OEUVRES
7:00 DINNER

Rsvp TO THE ASSOCIATION BY APRIL 14TH
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GUESTS WELCOME! GUEST FEE \$100



FAYETTE COUNTY BAR ASSOCIATION

Bar Banquet Weekend Itinerary May 16-19

SUGGESTED ACCOMMODATIONS:

Casa Marina or Southernmost Beach Resort



FRIDAY

SUGGESTED FLIGHT:

Allegiant Flight 991

PIT -> EYW 1:59 PM - 4:41 PM

8:30 PM - GHOSTS & GRAVESTONES TOUR (\$40)



SATURDAY

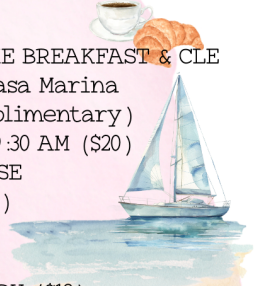
8:00 AM - 10:00 AM - WELCOME BREAKFAST & CLE

Flagler's Restaurant @ Casa Marina
Breakfast Buffet (Complimentary)

1.0 Ethics Credits 8:30 - 9:30 AM (\$20)

6:00 PM - SUNSET SAIL CRUISE

Appetizers & Drinks (\$80)



SUNDAY

10:00 AM - BUTTERFLY CONSERVATORY (\$18)

12:00 PM - ERNEST HEMINGWAY HOME (\$19)

6:00 PM - 130TH ANNUAL BAR BANQUET
First Flight Island Restaurant



MONDAY

SUGGESTED FLIGHT:

ALLEGIANT FLIGHT 1012

EYW -> PIT 10:23 AM - 1:09 PM



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