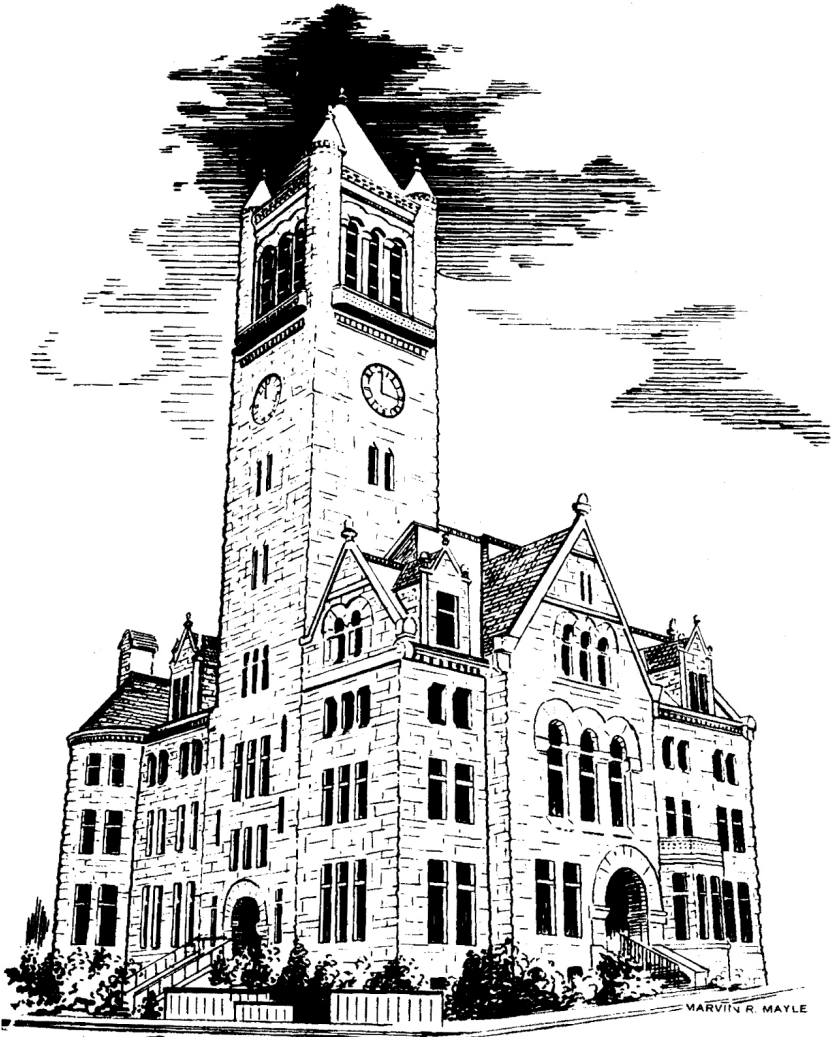


# FAYETTE LEGAL JOURNAL

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## FAYETTE LEGAL JOURNAL

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**Co-Editors:** Garnet L. Crossland and Melinda Deal Dellarose

*Cover Design by Marvin R. Mayle, 207 Lick Hollow Road, Hopwood, PA*

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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

**JOSEPH M. AMBROSE**, late of Vanderbilt, Fayette County, PA (3)

*Personal Representative:*

Joseph M. Ambrose, Jr.  
c/o Riverfront Professional Center  
208 Arch Street, Suite 2  
Connellsville, PA 15425

*Attorney:* Richard A. Husband

**DAISY MAE BARTONI, a/k/a DAISY BARTONI, a/k/a DAISY M. BARTONI**, late of Nicholson Township, Fayette County, PA (3)

*Administratrix:* Irene Ryczek

c/o 9 Court Street  
Uniontown, PA 15401

*Attorney:* Vincent J. Roskovensky, II

**HELEN DEVAULT**, late of Franklin Township, Fayette County, PA (3)

*Executor:* Charles Thomas DeVault

1085 Marguerite Lake Road  
Greensburg, PA 15601  
c/o 140 South Main Street, Suite 301  
Greensburg, PA 15601

*Attorney:* John M. Ranker

**MICHAEL DISANTO**, late of North Union Township, Fayette County, PA (3)

*Personal Representative:* Doris J. DiSanto

c/o 45 East Main Street, Suite 500  
Uniontown, PA 15401

*Attorney:* James E. Higinbotham, Jr.

**TIMOTHY S. HANN, a/k/a TIMOTHY SCOTT HANN**, late of Bullskin Township, Fayette County, PA (3)

*Personal Representative:* Jack A. Hann  
c/o Watson Mundorff Brooks & Sepic, LLP  
720 Vanderbilt Road  
Connellsville, Pa 15425

*Attorney:* Charles W. Watson

**SARA M. MILLER**, late of Bullskin Township, Fayette County, PA (3)

*Executor:* Edward H. Huffman, III

c/o 17 North Diamond Street  
Mount Pleasant, PA 15666

*Attorney:* Marvin D. Snyder

**CHARLOTTE SANTORE, a/k/a CHARLOTTE E. SANTORE, a/k/a CHARLOTTE ELIZABETH SANTORE**, late of Masontown, Fayette County, PA (3)

*Personal Representative:* Nancy Jean Morris

c/o George Port & George  
92 East Main Street  
Uniontown, PA 15401

*Attorney:* Joseph M. George

**CONNIE M. SWALIN, a/k/a CONSTANCE M. SWALIN**, late of Washington Township, Fayette County, PA (3)

*Executrix:* Adele Dzadyk

1315 Leeds Avenue  
Monessen, PA 15062  
c/o 33 Colonial Drive  
Monessen, PA 15062

*Attorney:* Jack L. Bergstein

### Second Publication

**AUDREY ARISON, a/k/a AUDREY J. ARISON**, late of Dunbar Township, Fayette County, PA (2)

*Co-Executors:* Denise L. Arison  
and Vicki A. Arison  
c/o P.O. Box 760

Connellsville, PA 15425

*Attorney:* Carolyn W. Maricondi

**BONITA L. GIBON**, late of Franklin Township, Fayette County, PA (2)  
*Personal Representatives:*  
 Kimberly A. Johnson and Shelley J. Gibson  
 c/o 206 Derrick Avenue  
 Uniontown, PA 15401  
*Attorney:* Gary N. Altman

P.O. Box 7  
 Somerset, PA 15501  
*Attorney:* William T. Cline

## First Publication

**ALICE GREEN, a/k/a ALICE JANE GREEN**, late of Bullskin Township, Fayette County, PA (2)  
*Executor:* Larry E. Green  
 923 Maple Avenue  
 Pittsburgh, PA 15234  
 c/o 508 Washington Road  
 Pittsburgh, PA 15228  
*Attorney:* Daniel J. Conway

**JAMES K. ALBRIGHT, a/k/a JAMES KEVIN ALBRIGHT**, late of Dunbar Township, Fayette County, PA (1)  
*Administratrix:* Tina M. Dull  
 P.O. Box 203  
 Leisenring, PA 15455  
 c/o Tremba, Kinney, Greiner & Kerr, LLC  
 120 South Third Street  
 Connellsville, PA 15425  
*Attorney:* John K. Greiner

**LOIS STILLWAGON GUTHRIE, a/k/a LOIS L. GUTHRIE**, late of Nicholson Township, Fayette County, PA (2)  
*Executor:* John Mike Guthrie  
 c/o Webster & Webster  
 51 East South Street  
 Uniontown, PA 15401

**JANET R. BIGHAM**, late of Springfield Township, Fayette County, PA (1)  
*Co-Executors:* Debra Rakushin and Janice Taylor-Condo  
 c/o Tremba, Kinney, Greiner & Kerr, LLC  
 120 South Third Street  
 Connellsville, PA 15425  
*Attorney:* Nicole M. LaPresata

**CARL E. KIMMEL, JR., a/k/a CARL EDWARD KIMMEL, JR.** late of South Connellsville, Fayette County, PA (2)  
*Personal Representative:* Gary Lee Kimmel  
 c/o Watson Mundorff Brooks & Sepic, LLP  
 720 Vanderbilt Road  
 Connellsville, PA 15425  
*Attorney:* Charles W. Watson

**JOYLYNN ELLIS, a/k/a JOY LYNN ELLIS**, Uniontown, Fayette County, PA (1)  
*Personal Representative:* Lea Rae Walls  
 c/o Davis & Davis Law Offices  
 107 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

**HELEN MARIE WILDEY A/K/A HELEN M. WILDEY**, late of Lower Tyrone Township, Fayette County, PA (2)  
*Executor:* Michael L. Wildey  
 P.O. Box 760  
 Connellsville PA 15425  
*Attorney:* Carolyn W. Maricondi

**THOMAS D. HEFFNER**, late of South Connellsville, Fayette County, PA (1)  
*Administrator:* Dennis R. Heffner  
 c/o Molinaro Law Offices  
 P.O. Box 799  
 Connellsville, PA 15425  
*Attorney:* Carmine V. Molinaro, Jr.

**FRANK W. ZEMBAR**, late of Wharton Township, Fayette County, PA (1)  
*Executrix:* Mary V. Herring  
 366 Wharton Furnace Road  
 Farmington, PA 15437  
 c/o 114 East Union Street

**JOSEPH L. HORVATH, SR, a/k/a JOSEPH LEWIS HORVATH, SR., a/k/a JOSEPH HORVATH, SR., a/k/a JOSEPH L. HORVATH**, late of North Union Township, Fayette County, PA (1)  
*Co-Executors:* Vincent Horvath and

Joyce Stillwagon  
 c/o 9 Court Street  
 Uniontown, PA 15401  
*Attorney:* Vincent J. Roskovensky, II

## LEGAL NOTICES

### NOTICE OF DISSOLUTION

NOTICE OF VOLUNTARY DISSOLUTION  
 OF ABRASIVE SPECIALTY AND  
 INDUSTRIAL SUPPLY, INC., INC.

NOTICE IS HEREBY GIVEN THAT the shareholders and directors of ABRASIVE SPECIALTY AND INDUSTRIAL SUPPLY, INC., a Pennsylvania corporation, with an address of P.O. Box 757, Uniontown, Fayette County, Pennsylvania, have approved a proposal that the corporation voluntarily dissolve, and that the Board of Directors is now engaged in winding up and settling the affairs of the corporation under the provisions of Section 1975 of the Pennsylvania Business Corporation Law of 1988, as amended.

Watson Mundorff Brooks & Sepic, LLP  
 Jarod Illar, Esquire  
 720 Vanderbilt Road  
 Connellsville, Pennsylvania 15425

### NOTICE OF SHERIFF'S SALE

IN THE COURT OF COMMON PLEAS  
 OF FAYETTE COUNTY, PENNSYLVANIA  
 NO. 310-OF-2017-GD

**LSF9 MASTER PARTICIPATION TRUST**  
**Vs.**  
**JANICE M. LUFT**

NOTICE TO: JANICE M. LUFT

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

Being Premises: 118 BROAD STREET,  
 SCOTTDAL, PA 15683-1808

Being in UPPER TYRONE TOWNSHIP,  
 County of FAYETTE, Commonwealth of  
 Pennsylvania, 39040018

Improvements consist of residential  
 property.

Sold as the property of JANICE M. LUFT  
 Your house (real estate) at 118 BROAD  
 STREET, SCOTTDAL, PA 15683-1808 is

**ETHEL MARIE MARTIN**, late of Uniontown,  
 Fayette County, PA (1)

*Executrix:* Dail Anguiano  
 c/o 11 Pittsburgh Street  
 Uniontown, PA 15401  
*Attorney:* Thomas W. Shaffer

**MICHAEL H. PRESTIA**, late of Connellsville,  
 Fayette County, PA (1)

*Executor:* Paul F. Prestia  
 c/o Molinaro Law Offices  
 P.O. Box 799  
 Connellsville, PA 15425  
*Attorney:* Carmine V. Molinaro, Jr.

**PAULINE C. ROSE**, late of Dunbar Township,  
 Fayette County, PA (1)

*Co-Executors:* Paula A. Childs and  
 Patricia J. Miller  
 c/o P.O. Box 760  
 Connellsville, PA 15425  
*Attorney:* Carolyn W. Maricondi

**HELEN E. SERWINSKI**, late of Wharton  
 Township, Fayette County, PA (1)

*Executor:* Jonathan Adams  
 c/o Hajduk & Associates  
 77 South Gallatin Avenue  
 P.O. Box 1206  
 Uniontown, PA 15401-1206  
*Attorney:* Mary Lenora Hajduk

**WILLIAM A. THURBY, JR.**, late of South  
 Union Township, Fayette County, PA (1)

*Personal Representative:*  
 Kathy Thurby-Hazelton  
 c/o George, Port & George  
 92 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Joseph M. George

scheduled to be sold at the Sheriff's Sale on 03/15/2018 at 02:00 PM, at the FAYETTE County Courthouse, 61 E. Main Street, Uniontown, PA 15401, to enforce the Court Judgment of \$53,299.46 obtained by, LSF9 MASTER PARTICIPATION TRUST (the mortgagee), against the above premises.

PHELAN HALLINAN DIAMOND & JONES, LLP  
Attorney for Plaintiff

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## NOTICE OF ACTION IN MORTGAGE FORECLOSURE

In the Court of Common Pleas of  
Fayette County, Pennsylvania  
Civil Action – Law  
NO. 2016-01296

**PNC Bank, National Association, Plaintiff vs. Patricia L. Johnson, Individually and as a Known Heir of Thomas H. Johnson and Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest From or Under Thomas H. Johnson, Defendant(s)**

Notice of Sale of Real Property

To: Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest From or Under Thomas H. Johnson, Defendant(s), whose last known addresses are 202 Main Street, Perryopolis, PA 15473.

Your house (real estate) at 202 Main Street, Perryopolis, PA 15473, is scheduled to be sold at the Sheriff's Sale on 3/15/18 at 2:00 p.m. in the Fayette County Courthouse, 61 Main St., Uniontown, PA 15401, to enforce the court judgment of \$61,008.39, obtained by Plaintiff above (the mortgagee) against you. If the sale is postponed, the property will be relisted for the Next Available Sale. Property Description: ALL THAT CERTAIN LOT OF LAND SITUATE IN PERRY TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA: BEING KNOWN AS 202 Main Street, Perryopolis, PA 15473. PARCEL NUMBER: 27-08-0036. IMPROVEMENTS: Residential Property. UDREN LAW OFFICES, P.C. IS A DEBT COLLECTOR AND THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED

FOR THAT PURPOSE. IF YOU ARE NOT OBLIGATED UNDER THE NOTE OR YOU ARE IN BANKRUPTCY OR YOU RECEIVED A DISCHARGE OF YOUR PERSONAL LIABILITY UNDER THE NOTE IN BANKRUPTCY, THIS COMMUNICATION IS NOT SENT TO COLLECT THE DEBT; RATHER, IT IS SENT ONLY TO PROVIDE INFORMATION WITH REGARD TO THE LENDER'S RIGHT TO ENFORCE THE LIEN OF MORTGAGE. Udren Law Offices, P.C., Attys. for Plaintiff, 111 Woodcrest Rd., Ste. 200, Cherry Hill, NJ 08003, 856.669.5400.

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## NOTICE OF ACTION IN MORTGAGE FORECLOSURE

IN THE COURT OF COMMON PLEAS  
OF FAYETTE COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
NO. 2043 of 2017

**KeyBank, N.A. successor by merger to First Niagara Bank, Plaintiff vs. Clifford Bowser, Known Heir of Evelyn Broadwater a/k/a Evelyn R. Broadwater, Roy M. Broadwater a/k/a Roy Broadwater, Jr., Known Heir of Evelyn Broadwater a/k/a Evelyn R. Broadwater and Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or Under Evelyn Broadwater a/k/a Evelyn R. Broadwater, Defendants**

TO: Clifford Bowser, Known Heir of Evelyn Broadwater a/k/a Evelyn R. Broadwater and Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or Under Evelyn Broadwater a/k/a Evelyn R. Broadwater, Defendant(s), whose last known address is 19 Old Pittsburgh Lane, Franklin n/k/a Smock, PA 15480-0000.

## COMPLAINT IN MORTGAGE FORECLOSURE

You are hereby notified that Plaintiff, KeyBank, N.A. successor by merger to First Niagara Bank, has filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Fayette County, Pennsylvania, docketed to NO.

2043 of 2017, wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 19 Old Pittsburgh Lane, Franklin n/k/a Smock, PA 15480-0000, whereupon your property would be sold by the Sheriff of Fayette County.

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the notice above, you must take action within twenty (20) days after this Complaint and Notice are served, 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 PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH THE 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. Fayette County Lawyer Referral Service, PA Bar Assn., 100 South St., P.O. Box 186, Harrisburg, PA 17108, 800.692.7375.

Mark J. Udren, Lorraine Gazzara Doyle, Elizabeth L. Wassall, John Eric Kishbaugh, Nicole B. Labletta, David Neeren, Morris Scott & Walter Gouldsbury, Attys. For Plaintiff, Udren Law Offices, P.C., 111 Woodcrest Rd., Ste. 200, Cherry Hill, NJ 08003, 856.669.5400.

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# SHERIFF'S SALE

Date of Sale: February 15, 2018

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, February 15, 2018, at 2:00 p.m. in Courtroom Number Five 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

No. 357 of 2017 GD  
No. 320 of 2017 ED

## PENNSYLVANIA HOUSING FINANCE AGENCY,

**PLAINTIFF,**

**vs.**

**JENNIFER J. ANDERSON,  
DEFENDANT.**

ALL THAT CERTAIN lot of land situate in Washington Township, Fayette County, Pennsylvania, being 0.118 acre, together with the dwelling house erected thereon, with attached garage and known as: 163 GILLIESPIE HOLLOW ROAD, FAYETTE CITY, PA 15438.

Tax Parcel # 41-21-0002

Fayette County Record Book 2838 Page 1553.

TO BE SOLD as the property of Jennifer J. Anderson under Judgment No. 357 OF 2017 GD.

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

No. 1735 of 2017 GD  
No. 326 of 2017 ED

## BAYVIEW LOAN SERVICING, LLC, A DELAWARE LIMITED LIABILITY COMPANY

**4425 Ponce de Leon Blvd  
Coral Gables, FL 33146,**

**Plaintiff,**

**vs.**

**SUSIE CORCORAN as Executrix of the  
Estate of Alicia K. Vicinelly, Deceased  
Mortgagor(s) and Record Owner(s)  
105 Dorothea Avenue  
McClellandtown, PA 15458,  
Defendant(s).**

ALL those certain lots of land situate in McClellandtown, German Township, County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #15-23-0031

PROPERTY ADDRESS: 105 Dorothea Avenue McClellandtown, PA 15458



IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: SUSIE CORCORAN as Executrix of the Estate of Alicia K. Vicinelly, Deceased

---

No. 174 of 2017 GD  
No. 322 of 2017 ED

**JPMorgan Chase Bank, National Association,  
successor by merger to Chase Home Finance,  
LLC successor by merger to Chase  
Manhattan Mortgage Corporation,  
PLAINTIFF,  
VS.  
Wade A. Friend and Jamey L. Friend,  
DEFENDANTS.**

ALL that certain lot of land in the City of Uniontown, Fayette County, Pennsylvania, fronting on the west side of Oakland Avenue in said City and being a part of Lot No. 14 in Plan of Lots laid out by Andrew J. Gilmore, Esquire, September 28, 1881, a plot whereof is duly recorded in the Recorder's Office of Payette County at Uniontown, in Plan Book No. 1, page 169.

BEGINNING at the southwestern corner of Lot No. 16 on the western side of Oakland Avenue; thence by said Lot No. 16, North 61 ½ degrees West, 150 feet to a ten foot alley; thence along said alley, South 28 1/2 degrees West 40 feet to a point; by other land formerly a part of Lot No. 14, South 61 ½ degrees East 150 feet to the western side of Oakland Avenue; thence by the western side of Oakland Avenue North 28 ½ degrees East 40 feet to the place of beginning, being the northern 40 feet of Lot No. 16 as laid out in said Plan.

EXCEPTING AND RESERVING thereout and therefrom all the coal from the nine foot vein or seam of coal within and underlying the above described lot of land, together with the mining rights, as the same has been heretofore conveyed away.

SUBJECT to any exceptions, reservations, easements, rights of way, etc., contained in prior deeds or instruments of record.

COMMONLY KNOWN AS: 41 Oakland Avenue, Uniontown, PA 15401 TAX PARCEL NO. 38-06-0129

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Phelan Hallinan Diamond & Jones, LLP

No. 2478 of 2016 GD  
No. 316 of 2017 ED

**Suntrust Mortgage, Inc.,  
Plaintiff,  
V.  
Aaron D. Jerome,  
Defendant(s).**

By virtue of a Writ of Execution No. 2478-OF-2016-GD, Suntrust Mortgage, Inc. V. Aaron D. Jerome, owner(s) of property situate in the GEORGES TOWNSHIP, Fayette County, Pennsylvania, being 143 Pine View Drive, Smithfield, PA 15478-1273

Parcel No.: 14-11-0065  
Improvements thereon: RESIDENTIAL DWELLING

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No. 2015 of 2017 GD  
No. 319 of 2017 ED

**Specialized Loan Servicing LLC,  
PLAINTIFF,  
vs.  
Brian S. Reedy,  
DEFENDANT.**

ALL THOSE CERTAIN lots of land situate in North Union Township, Fayette County, Pennsylvania, known as Lots Nos. 46 and 47 in the Laurel Terrace Plan of Lots as laid out by Areford Brothers and recorded in the Recorder's Office of Fayette County in Plan Book 5, Page 3, said lots being more particularly bounded and described as follows:

LOT NO. 46: Facing on the Southeasterly side of Brown Street 40 feet and running back an even width in a Southeasterly direction 105 feet to a 15 foot alley in rear of lot, with Lot No. 45 adjoining on the Northeast and Lot No. 47 adjoining on the Southwest.

THIS CONVEYANCE of Lot No. 46 is made and accepted subject to the express condition and agreement that said parties of the second part, their heirs and assigns, shall not erect or cause to be erected or permit to be erected on said Lot No. 46 any main residence or building costing less than \$3,000.00 or within 20 feet of the cement walk, boundary line of Brown Street.

LOT NO. 47: Facing on the Southeasterly side of Brown Street 45 feet running back in a Southeasterly direction a distance of 105 feet to a 15 foot alley in rear of lot, with Lot No. 46 adjoining on the Northeast and Lot No. 48 adjoining on the Southwest upon which is erected a 2- story, 6 room frame dwelling and integral garage.

THIS CONVEYANCE of Lot NO. 47 is made and accepted subject to the express condition and agreement that said parties of the second part, their heirs and assigns, shall not erect or cause to be erected or permit to be erected on said Lot NO. 47 any main residence or building costing less than \$4,500.00 or within 20 feet of the cement walk, boundary line of Brown Street.

EXCEPTING AND RESERVING, thereout and therefrom, Lots Nos. 46 and 47, all coal, minerals and mining rights as have been heretofore sold and conveyed.

BEING Parcel ID 25-43-0029

BEING known for informational purposes as 84 Brown Street, Uniontown, PA COMMONLY KNOWN AS: 84 Brown Street, Uniontown, PA 15401

TAX PARCEL NO. 25-43-0029

Phelan Hallinan Diamond & Jones, LLP

No. of 2017 GD

No. of 2017 ED

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

v.

**Ashley J. Sloan**  
**Debra Marie Bittner**  
**Defendant(s)**

By virtue of a Writ of Execution No. 1657 OF 2017 GD, JPMorgan Chase Bank, N.A. V. Ashley J. Sloan Debra Marie Bittner, owner(s) of property situate in the REDSTONE TOWNSHIP, Fayette County, Pennsylvania, being 1613 Grindstone Road, Grindstone, PA 15442-2030

Parcel No.: 30-06-0071

Improvements thereon: RESIDENTIAL DWELLING

No. 331 of 2017 GD

No. 327 of 2017 ED

**WELLS FARGO BANK, N.A.**

vs.

**AMY E. ROSS**

ALL THAT CERTAIN LOT OR PIECE OF GROUND SITUATE IN THE FIFTH WARD OF THE CITY OF CONNELLSVILLE, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA.

BEING THE SAME PREMISES which Michael S. McClain and Lori McClain, husband and wife, by Deed dated May 24, 2013 and recorded May 30, 2013 in the Office of the Recorder of Deeds in and for Fayette County in Deed Book Volume 3220, Page 2356, granted and conveyed unto AMY E. ROSS, unmarried.

BEING KNOWN AS: 403 EAST WASHINGTON AVENUE, CONNELLSVILLE, PA 15425  
PARCEL #05120015

## 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, January 2, 2018  
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2615-0718	IRENE A. SMITH	Diane Patterson, Executrix

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on  
Tuesday, January 16, 2018 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, January 2, 2018  
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2616-0451	YOLANDA K. PALLOW	Michael E. Pallow, Executor
2616-0665	GLEN R. HENSEL	Robin Donaldson, Executrix

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on  
Tuesday, January 16, 2018 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.

JEFFREY L. REDMAN  
Register of Wills and Ex-Officio Clerk of the Orphans' Court Division (1 of 2)

**JUDICIAL OPINION**

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

SANDRA HART,	:
Plaintiff	:
V.	:
ABEL BROTHERS TOWING & AUTOMOTIVE,	: CONSOLIDATED AT
INC.; AND JOSEPH RUDNICK, JR.,	: NO. 774 of 2016
Defendants.	:

---

JEFFREY DETAR, Administrator of the Estate	:
of Gregory A. Detar,	:
Plaintiff	:
V.	:
ABEL BROTHERS TOWING & AUTOMOTIVE,	:
INC.; AND JOSEPH RUDNICK, JR.,	:
Defendants.	: JUDGE JOSEPH M. GEORGE, JR.

**OPINION**

George, J.

December 11, 2017

Before this Court is a Motion for Partial Summary Judgment filed on behalf of the Defendants, Abel Brothers Towing and Automotive, Inc. and Joseph Rudnick, Jr. Both Defendants have presented this motion asking that the Plaintiffs' demand for punitive damages be dismissed. The Court finds that there remains a genuine issue of material fact as to the question of punitive damages. Thus, the Defendants' Motion for Partial Summary Judgment is DENIED.

**BACKGROUND**

This case arises out of a motor vehicle accident along State Route 31 in Bullskin Township, Pennsylvania, on May 11, 2015. Gregory Detar was operating a 1991 Jeep Wrangler downhill on what is colloquially referred to as "Three Mile Hill" with Sandra Hart in the passenger's seat. (Compl. ¶¶ 6 -9.) The Plaintiffs allege that Gregory Detar, deceased, was operating the Jeep westbound on State Route 31 in the vicinity of its intersection with State Route 982 as he approached the traffic light at the intersection. (Compl. ¶ 10.) Gregory Detar sat at the traffic light waiting for the green traffic arrow to make a left hand turn onto State Route 982. (Compl. ¶ 10.) The Plaintiffs further state that Joseph Rudnick, Jr. was operating a 2000 Freightliner tow truck, owned by Abel Brothers, downhill toward the same intersection on State Route 31 westbound while towing an International Harvester vehicle. (Compl. ¶ 11.)

As Gregory Detar slowed his Jeep at the bottom of Three Mile Hill, the Freightliner driven by Joseph Rudnick, Jr. approached the intersection at a high rate of speed.

(Compl. ¶ 19.) To avoid being struck, Detar noticed the Freightliner and, in an effort to avoid being struck by the truck, moved his Jeep into the opposite lane of travel. (Compl. ¶ 20-21.) Joseph Rudnick moved into the same lane and struck the Jeep in the rear, killing Gregory Detar and severely injuring Sandra Hart. (Compl. ¶ 22-23.)

The Plaintiffs consolidated their actions on October 5, 2016. The Defendants' Motion for Partial Summary Judgment was filed on October 10, 2017.

### STANDARD OF REVIEW

Pennsylvania Rule of Civil Procedure 1035.2 entitles a party to summary judgment in whole or in part as a matter of law under two circumstances:

1. whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report; or
2. if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

Pa.R.C.P. 1035.2.

In determining whether to grant summary judgment, the trial court must view the record in the light most favorable to the non-movant and must resolve all doubts as to the existence of a genuine issue of material fact against the movant. *Rudy v. A-Best Prods. Co.*, 870 A.2d 330, 333 (Pa. Super. 2005). The burden to prove no genuine issue of material fact exists is on the movant. *Id.* Additionally, the movant must not rely solely on oral testimony in its motion for summary judgment. *Borough of Nanty-Glo v. American Surety Co. of New York*, 163 A.2d 523, 524 (1932).

### DISCUSSION

The Defendants argue that the Plaintiffs' claim for punitive damages should be summarily dismissed. "An essential fact needed to support a claim for punitive damages is that the defendant's conduct must have been outrageous. Outrageous conduct is an 'act done with a bad motive or with a reckless indifference to the interests of others.'" *Smith v. Brown*, 423 A.2d 743, 745 (Pa. Super. 1980) quoting *Focht v. Rabada*, 268 A.2d 157 (1970) (citing comment (b) to section 908 of the Restatement of Torts).

Restatement (Second) of Torts § 908(2), adopted by the Pennsylvania Supreme Court, states the following:

Punitive damages may be awarded for conduct that is outrageous, because of the defendant's evil motive or his reckless indifference to the rights of others. In assessing punitive damages the trier of fact can properly consider the character of the defendant's act, the nature and extent of the harm to the plaintiff that the defendant caused or intended to cause and the wealth of the defendant.

Restatement (Second) of Torts § 908(2) (1965) (adopted in *Feld v. Merriam*, 485

A.2d 742 (1984)).

At issue is whether the Defendants acted with a reckless state of mind. The Restatement (Second) of Torts defines reckless conduct:

The actor's conduct is in reckless disregard of the safety of another if he does an act or intentionally fails to do an act which it is his duty to the other to do, knowing or having reason to know of facts which would lead a reasonable man to realize, not only that his conduct creates an unreasonable risk of physical harm to another, but also that such risk is substantially greater than that which is necessary to make his conduct negligent.

Restatement (Second) of Torts § 500 (1965).

The reckless conduct required for presentation of the punitive damages question to the jury is where the "actor knows, or has reason to know, ... of facts which create a high degree of risk of physical harm to another, and deliberately proceeds to act, or to fail to act, in conscious disregard of, or indifference to, that risk." *Martin v. Johns-Manville Corp.*, 494 A.2d 1088, 1097 (1985) citing Restatement (Second) of Torts § 500 cmt. a (1965). This disregard of risk is referred to as "wanton misconduct." *Smith v. Brown*, 423 A.2d 743, 745 (1980) citing *Evans v. Philadelphia Transportation Company*, 212 A.2d 440, 443 (1965). *Evans* further defines wanton misconduct: "the actor has intentionally done an act of an unreasonable, character, in disregard of a risk known to him or so obvious that he must be taken to have been aware of it, and so great as to make it highly probable that harm would follow." *Id.* at 443.

In the case before the Court, a reasonable jury could find that the Defendant, Mr. Rudnick, acted with conscious disregard of or indifference to the risk he created to the Plaintiffs and to all traveling members of the public. First, a reasonable jury could conclude that Mr. Rudnick did not check the weight of his vehicle before proceeding down Three Mile Hill. {1} The Pennsylvania State Police determined that the vehicle was 2571 pounds overweight on its rear axle. {2}

Next, a reasonable jury could conclude that Mr. Rudnick failed to use his truck's lowest gear, as required by traffic regulation. {3} As the report performed by SMP Engineering Associates (hereinafter referred to as "SMP") indicates, the gear Mr. Rudnick claims to have used was not possible for the speed at which he was traveling. {4} Indeed, a reasonable jury could conclude that Mr. Rudnick used fourth or fifth gear as he proceeded down Three Mile Hill. {5}

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{1} See Rudnick Deposition, p. 119.

{2} See Driver/Vehicle Examination Report.

{3} See SMP Engineering Associates Report ("SMP"), p. 8; see also Abel, John Deposition, pp. 49-50; see also Rudnick Deposition, pp. 132-133.

{4} See SMP Report, p. 8.

{5} See Abel, John Deposition, pp. 49-50.

Further, Mr. Rudnick did not obtain any information about the route he drove on the day of the crash, which he was required to do according to the Pennsylvania CDL manual. {6}

Finally, Mr. Rudnick failed to attach an operation brake line to the bomb squad vehicle he towed at the time of the crash. {7} By not only driving a large truck but also towing another large truck, the standard of care and risk required are both greater due to the dangerous nature of the activity performed.

For these reasons, there remains a genuine issue of material fact as to Mr. Rudnick's liability for punitive damages.

Furthermore, as to whether Abel Brothers may be liable for punitive damages for Mr. Rudnick's actions, there also remains a genuine issue of material fact. First, as the Plaintiffs correctly point out, there is no dispute that Mr. Rudnick acted within the course and scope of his employment as the accident took place. It is well settled in Pennsylvania that "punitive damages may be awarded on the basis of vicarious liability." *Shiner v. Moriarty*, 706 A.2d 1228, 1240 (Pa. Super. 1998).

Next, a reasonable jury could find Abel Brothers directly liable on the issue of punitive damages. Debbie Abel, who has, at a bare minimum, some involvement in hiring and training of Abel Brother's tow truck drivers, admitted that the company's application for employment does not comply with applicable regulations. (Abel Dep. pp. 43-44). In addition, SMP's report provides ample evidence for a reasonable jury to conclude that Abel Brothers is directly liable to the Plaintiffs. {8}

The Court must draw all reasonable inferences in favor of the non-movant. In doing so, we find that a jury must resolve whether the conduct of the Defendants' warrants an award of punitive damages.

Wherefore, this Court will enter the following Order:

#### ORDER

AND NOW, this 11th day of December, 2017, upon consideration of the Defendants' Motion for Partial Summary Judgment and Brief in Support thereof, the Plaintiffs' briefs in opposition thereto, oral argument, and after review of the record in light most favorable to the Plaintiffs, it is hereby ORDERED and DECREED that the Defendants' Motion for Partial Summary Judgment is DENIED.

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

ATTEST:  
PROTHONOTARY

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{6} See Rudnick Deposition, pp. 116-118.

{7} See Rudnick Deposition, pp. 192-193; see also SMP Report.

{8} The report claims that Abel Brothers has no clear directives, or standard practices on when to use a larger tow truck; and that Abel Brothers failed to change its business habits to comply with regulations after being informed by USDOT.

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