

The Greene Reports

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

Vol. XXXV, No. 35

May 25, 2017



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Serving the Legal Community of Greene County

Since October 1982

The Greene Reports

COURT OF COMMON PLEAS
Honorable Farley Toothman, President Judge
Honorable Louis Dayich, Judge

MOTIONS

Criminal: May 29, 2017
Civil & O.C. June 2, 2017

CRIMINAL

Arraignments: May 29, 2017
ARDs: June 12, 2017
ARD Revocations: June 12, 2017
Parole Violations: June 5, 2017
Plea Court: June 13 & 14, 2017

ORPHANS

Accounts Nisi: _____, 2017
Accounts Absolute: _____, 2017

**SUPREME COURT
SUPERIOR COURT
COMMONWEALTH COURT**

JUVENILE

Pre-Adjudication Conf.: June 6, 2017
Plea Day: June 15, 2017

Convenes in Pgh.: June 5, 2017 (Adm. Session)
Convenes in Pgh.: June 19 - 23, 2017
Convenes in Pgh.: November 13 - 18, 2017

ARGUMENTS

Argument Court: June 5, 2017

CIVIL

Domestic Relations Contempts:
June 19, 2017
Domestic Relations Appeals
June 26, 2017

THE GREENE REPORTS

Owned and published by the GREENE COUNTY BAR ASSOCIATION
Editor: Josephine L. Ketcham
E-mail address: editor.greenereports@yahoo.com

EDITORIAL POLICY

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the editorial staff to be reasonably interpreted as offensive, demeaning or insulting to any individual or group will not be published.

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

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 Anonymous correspondence will not be published.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

THE GREENE COUNTY BAR ASSOCIATION

Christine N. Nash, President
Christopher Simms, Vice-President
Adam Belletti, Secretary
Jessica Phillips, Treasurer
Brandon K. Meyer, Ex-Officio

DEED TRANSFERS

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

ALEPPO TOWNSHIP

Wayne L McCracken et ux to Equity Trust Co, 4 Tracts O&G, \$14,777.60 (5-12-17)
Terry J McCracken to Equity Trust Co et al, 4 Tracts O&G, \$14,777.60 (5-12-17)
Alfred Dale McCracken to Southbound Enterprises LLC, 4 Tracts O&G, \$14,777.49 (5-12-17)
Milton E McCracken et ux to 980 Ventures LLC, 3 Tracts O&G, \$14,777.40 (5-15-17)
Red Oak Resources LLC to Rice Drilling B LLC, 105 Acres O&G, \$112,000. (5-15-17)
Janice Burke et con to Rice Drilling B LLC, 20 Acres O&G, \$3,107.81 (5-15-17)
George R Weaver Jr et ux to Rice Drilling B LLC, 2 Acres O&G, \$1,294.92 (5-18-17)

CENTER TOWNSHIP

Vivian Irene Eakin et con to Linda Kay Nelson, 49.095 Acres O&G-Minerals, \$9,800. (5-12-17)
Pierce Kepple et ux to Rickey E Bissett et ux, 36.005 Acres, \$55,000. (5-16-17)
Judy L Rush Trust to Shilynn Renner et con, Lot, \$90,000. (5-17-17)

CUMBERLAND TOWNSHIP

Stella Sertich to Norman L Rush et ux, .867 Acre, \$2,000. (5-15-17)
Harry A Rich et al to Mary Elizabeth Jaquay et con, 1.5 Acres, \$48,000. (5-15-17)
Douglas R Brown et ux to Chad Caldwell, 11.095 Acres, \$225,000. (5-16-17)
Corine G Petrone to Dava D Severini, .3013 Acre, \$120,000. (5-16-17)
Jessie D Porterfield by TCB to Hilltop Energy Center LLC, .08 Acre, \$2,000. (5-17-17)

DUNKARD TOWNSHIP

Mepco LLC to John R Grim et ux, .236 Acre, \$1,200. (5-12-17)

FRANKLIN TOWNSHIP

Bryan J Wood to Bryan J Wood et al, Lot, \$32,472.30 (5-12-17)
Joshua D Huffman et ux to Daniel E Cross et ux, .939 Acre, \$220,000. (5-17-17)

FRANKLIN & WASHINGTON TOWNSHIPS

Joseph M Midgett Est to Lightning Creek Holdings LP, Tracts O&G, \$2,017.90 (5-17-17)

GILMORE TOWNSHIP

Larry F Kiger et ux to Legacy Minerals LLC, 2 Tracts O&G-Minerals, \$100,000. (5-17-17)

JACKSON TOWNSHIP

Mary E Mosorjak to Rice Drilling B LLC, 110.7 Acres O&G, \$19,987.50 (5-15-17)
Karen Holleran to Rice Drilling B LLC, 67.737 Acres O&G, \$90,382.67 (5-18-17)

JEFFERSON TOWNSHIP

Bruce Eilan et ux to Grant A Lindsley Jr, Lot 157 Clyde Land Co No. 2, \$35,500. (5-15-17)
Irma Mosier Est et al to John Mosier et ux, Lot 16 Roberts Acres, \$13,500. (5-15-17)

MONONGAHELA TOWNSHIP

George E Gaynor Sr et ux to Andrew Burich, Lot 3 Dora Group, \$29,000. (5-15-17)

PERRY TOWNSHIP

Wandalea A Hicks to Wandalea A Hicks et al, Tract, \$39,204.90 (5-15-17)

RICHHILL TOWNSHIP

Michael Lee Horn et al to Rice Drilling B LLC, 2 Tracts O&G, \$434,661.88 (5-18-17)

SPRINGHILL TOWNSHIP

William A King et ux to Rock Creek Royalty LLC, 100 Acres O&G, \$13,566. (5-15-17)
Robert W King to Rock Creek Royalty LLC et al, 100 Acres O&G, \$13,566. (5-15-17)
William C Cumberledge et ux to Rice Drilling B LLC, 2 Tracts O&G, \$11,100.60 (5-15-17)
Brandon H Cumberledge to Rice Drilling B LLC, 2 Tracts O&G, \$11,269.80 (5-15-17)
Hughes Booher et ux to Rice Drilling B LLC, 24.775 Acres O&G, \$9,290.63 (5-15-17)
Janet L Lough to Rice Drilling B LLC, 9 Tracts O&G, \$13,716.73 (5-18-17)

WASHINGTON TOWNSHIP

Regis R Walther et ux to EQM Gathering OPCO LLC, Agr., \$10,000. (5-17-17)

WAYNE TOWNSHIP

Robert C Eddy et ux to Rice Drilling B LLC, 2 Tracts O&G, \$13,693.26 (5-15-17)

WHITELEY TOWNSHIP

Bryan J Wood to Bryan J Wood et al, 2.913 Acres. \$11,212.43 (5-12-17)
Bette D Cumberledge to Charles F Rose, Lot 7 W T Kent Plan, \$35,000. (5-18-17)

ESTATE NOTICES

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

FIRST PUBLICATION

DENNIS, HAROLD RAY

Late of Monongahela Township, Greene County, Pennsylvania
Executrix: Judith Raubaugh, 108 Cedar Street, Masontown, PA 15461
Attorney: Timothy N. Logan, Esquire, 54 North Richhill Street,
Waynesburg, PA 15370

FONNER, SR., STEVE A/K/A STEVE EDWARD FONNER

Late of Morris Township, Greene County, Pennsylvania
Executor: Steve E. Fonner, Jr., 780 Hopkins Run Road, Sycamore, JPA 15364
Attorney: Dennis M. Makel, Esquire, Makel & Associates, LLC,
98 East Maiden Street, Washington, PA 15301

MURPHY, FRANCES A. a/k/a EMMA FRANCES MURPHY

Late of Jefferson, Greene County, Pennsylvania
Executrix: Margaret L. Simmons, 109 Goslin Road, Jefferson, PA 15344
Attorney: Kirk A. King, Esquire, 77 South Washington Street,
Waynesburg, PA 15370

SECOND PUBLICATION

GRECO, BESSIE M.

Late of Waynesburg, Greene County, Pennsylvania
Executor: Louie B. Greco, 555 West High Street, Waynesburg, PA 15370
Attorney: Kirk A. King, Esquire, 77 South Washington Street,
Waynesburg, PA 15370

HARTER, ASHLEY MARIE

Late of Waynesburg, Greene County, Pennsylvania
Administrator: Vicki Harter, 615 North Wabash Street, Wheeling, WV 26003
Attorney: Scott B. Horowitz, Esquire, Welch, Gold, Siegel & Fiffik, P.C.,
428 Forbes Avenue, Suite 240, Pittsburgh, PA 15219

THIRD PUBLICATION

LANGDON, PEARL FRANKLIN

Late of Perry Township, Greene County, Pennsylvania
Executor: Daniel F. Langdon, 333 Lyndhurst Avenue, Morgantown, WV 26501
Attorney: Timothy N. Logan, Esquire, 54 North Richhill Street,
Waynesburg, PA 15370

MILLER, KEVIN A.

Late of Carmichaels, Greene County, Pennsylvania
Administratrix: Ms. Sheree Riggleman, 691 Taylortown Road, Dilliner, PA 15327
Attorney: Adam J. Belletti, Esquire, Pollock Morris LLC,
54 South Washington Street, Waynesburg, PA 15370-2036

O'KEEFE, DOROTHY

Late of Franklin Township, Greene County, Pennsylvania
Executor: Edward Lee O'Keefe, 805 Cottonwood Land, Carterville, IL 62918
Attorney: Timothy N. Logan, Esquire, 54 North Richhill Street,
Waynesburg, PA 15370

WARD, CARL E.

Late of Franklin Township, Greene County, Pennsylvania
Executrix: Betty A. Ward, 108 Maple Lane, Waynesburg, PA 15370
Attorney: Timothy N. Logan, Esquire, 54 North Richhill Street,
Waynesburg, PA 15370

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LEGAL NOTICE

SEARCH UNCLAIMED PROPERTY

Greene County has unclaimed property waiting to be claimed.

For information about the nature and value of the property,
or to check for additional names, visit www.patreasury.gov

Pennsylvania Treasury Department, 1-800-222-2046.

Notice of Names of Persons Appearing to be Owners of Abandoned and Unclaimed Property

Greene County

Listed in Alphabetical Order by Last Known Reported Zip Code

*For information about the nature and value of the property,
or to check for additional names, visit:*

www.patreasury.gov | 1.800.222.2046

Greene County

15310

Horn Brian E

15315

Rogers Nicole Catherine

15316

Berda Martin

15320

Ball Joan L, Brian
Clolinger Marie E
Cooley Thomas
Cortes Marisol
Cross Joseph D
Estate of Rozella I May
Forsythe Edna M
Hockenberry David
Ism Weapon Systems
Keener Olan
Krkovich Helen
Lasko John A
Lasko Roger A
Lemley Nichole
Leonhart Candace S

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Mccann Dennis R Sr, Elaine
Mccullough Carrie R
Minor Charles E
Mudry Janel E
Murphy Dorothy M
Roy Stouffer Agency
Sanders Susan
Sargent Dean M
Swift Althea B
Thomas Paul III
Trumble Michael J
Wallace Edward
Walters James A III

15327

Barnett David
Ellsworth Breaun
Intercontinental Holdings Llc
Lesnick Melissa M
Logsdon Donna L
Perkins Beth A
Rebottini Eleanor

15325

Barnhart Melissa
Metcalf Jacquelyn
P Thomas E Estate

15327

D&D Auto
Dunkard Mining Co
Minnick Sherry A, William
Wilson Gary

15337

Hewitt Horr Maxine

15338

Bing Byron
Colvin Joan M
Ganocy Dean
Greenwood Barbara
Gump Mary L
Murra Edward B
Roebuck Mildred R
Ryan Timothy P
Smith Gregory A

15341

Cooke Katie L

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15344
Babinski Lawrence Estate
Gaydos Mark
Hammon Jennifer
Keller Carol
Kestner Cecelia H
Margetich Marcella, John
Matt Lewis J III
Murray Michael H
Patton Charles J
Rhodes Maddison M, Jodi M
Rollins Charles R

15349
Allen Donald
Blaker Virgil R Jr
Burke Elizabeth M
Dotson Andrew
Fortkamp Lindsey
Hb Arrison of Wva
Lantz Amos
Osecky Kristopher
Pitchford Andrew
Ss Trucking

15351
Hull Rhonda B
Uveges Alex S

15352
Phillps Ethel May, Terry

15353
Hopkins John
Rutan Lesther, Mildred

15357
Andrews Kristy M
Cosgrove Patrick E
Jones Maria L
Martin Allan J
Swift Daunice
Teegarden Oliver
Townsend Marcus F
Viencek Thomas M

15359
Deter Edward A
Riffle Mable

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15362
Moore Michele L
Tukesbrey John R

15364
Carpenter Patricia E, Delmas E
Walker Charles E

15370
Acklin Norine Est, Norine B
Adamson Mary J
Airport Restaurant
Bedilion Delbert
Berryman Mary F
Black Joyce M
Bosworth Mark A
Bristol Josephine
Brown Russell P
Burkett Homer D Jr, Brenda G
Cagle Steven
Campbell Lawrence
Central Parts Wareho
Chase Steven D
Chucks Collision Service Inc
Cink Janey
Clutter Paul
Conklin Kevin C, Lisa L
Connolly Kathleen G
Consolidation Coal
Cowell Joshua D
Cox John F
Cumberland Coal Resources Lp
Cumberledge Vickie
Cunningham Kristin
Curfman Simko Irene M
Dailey John F
Davis Richard
Digital Site Management
Dunton F Pauline
Eddy Joshua K
Ellis Christopher H
Emerald Coal Resources Lp
Estate of John F Gearing
Golden Living Center
Guesman Nancy J
Guyton Darryl
Hammersley Nichole
Haught Roger
Hewitt Joanne U
Hoge Heidi L

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Huffman Nancy E
 Humble Carpet & Decorating
 Jdn Electronics
 Je Sanitation Inc
 Johnston Bryan F
 Kennedy Tracy L
 Kiger Ethel
 Kiger Sandra E
 Kistner Shirley M
 Lemley James
 Lingis Manufacturing Mach Co Inc
 Matesic Roberta M
 Mcconville Drew M
 Meador Anthony M
 Miller Bylye S
 Miranda Eudelia
 Mitchell Evelyn M
 Morris Dylan D
 Petty Karen G
 Phillips Calie V
 Prafulchand D Vora M D Pc
 Rautenkranz Darlene
 Renner Timothy
 Rethage Renner Amy
 Scogin Gerald L
 Shives Michael F
 Smith Bettyjo
 Smith Katherine D
 Smitley Patty
 Steps Inside Inc
 Stone Michele
 Super 8 Motel
 Thomas Kevin S
 Thomas Ryan J
 Trumble Michael J
 Vandruff Charles W
 Virgili Ronald S Jr
 Wades Body and Frame Inc
 Wades Body and Frame Shop
 Waynesburg College

15380
 Burns Lisa
 E L Hinerman Interest Fund
 Wickham Hazel

Zip Codes Not Reported
 Conklin Jonathan D
 Johnson Regina A
 Rattigan Anne

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SHERIFF'S SALE

By Virtue of a Writ of Execution (Mortgage Foreclosure)
 No. ED 77-2017

Issued out of the Court of Common Pleas of Greene County, Pennsylvania and to me directed, I will expose the following described property at public sale at the Greene County Courthouse in the City of Waynesburg, County of Greene, Commonwealth of Pennsylvania on:

FRIDAY, JUNE 16, 2017

At 10:00 O'CLOCK A.M.

All parties in interest and claimants are further notified that a proposed schedule of distribution will be on file in the Sheriff's Office no later than twenty (20) days after the date of the sale of any property sold hereunder, and distribution of the proceeds will be made in accordance with the schedule ten (10) days after said filing, unless exceptions are filed with the Sheriff's Office prior thereto.

 Pennsylvania Housing Finance Agency

vs.

Donald R. Clark, Jr.

ALL those certain 3 tracts of land in Greene Township, Greene County, Pennsylvania, as follows:

TRACT NO. 1: being approx.. 4 x 5.3 x 2.4 x 7 perches; TRACT NO. 2: 11./8 x 4.8 x 7 x 4.8 x 3.3 x 3 x 3 perches; and TRACT NO. 3: being approx.. 1.67 x 1.72 x 92 x 2.20 x 1.86 x 4.45 perches.

HAVING THEREON ERECTED A DWELLING KNOWN AND NUMBERED AS: 1324 Garards Fort Road, Waynesburg, PA 15370

PARCEL ID# 11-03-202

Greene County Deed Book 459, page 2419

TO BE SOLD AS THE PROPERTY OF DONALD R. CLARK R. UNDER GREENE COUNTY JUDGMENT NO. AD-142-2017

PROPERTY ADDRESS: 1324 Garards Fort Road, Waynesburg, PA 15370

UPI / TAX PARCEL NUMBER: 11-03-202

Seized and taken into execution to be sold as the property of DONALD R CLARK JR. in suit of PENNSYLVANIA HOUSING FINANCE AGENCY

Attorney for the Plaintiff:
 Purcell, Krug & Haller
 Harrisburg, PA 717-234-4178

BRIAN A. TENNANT, SHERIFF
 GREENE COUNTY, PENNSYLVANIA

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SHERIFF'S SALE

By Virtue of a Writ of Execution (Mortgage Foreclosure)
No. ED 9-2017

Issued out of the Court of Common Pleas of Greene County, Pennsylvania and to me directed, I will expose the following described property at public sale at the Greene County Courthouse in the City of Waynesburg, County of Greene, Commonwealth of Pennsylvania on:

FRIDAY, JUNE 02, 2017

At 10:00 O'CLOCK A.M.

All parties in interest and claimants are further notified that a proposed schedule of distribution will be on file in the Sheriff's Office no later than twenty (20) days after the date of the sale of any property sold hereunder, and distribution of the proceeds will be made in accordance with the schedule ten (10) days after said filing, unless exceptions are filed with the Sheriff's Office prior thereto.

US Bank National Association as trustee for the Pennsylvania Housing Finance Agency

vs.

Tanya J. Arigoni-Tubbs

ALL that certain piece of ground in the Mather Plan of Lots, Morgan Township, Greene County, Pennsylvania, being Lot No. 221, Greene County Plan Book 1, page 108. HAVING THEREON ERECTED dwelling as part of 221 SECOND STREET, MATHER, PA 15346. Tax Parcel # 17-11-326 Greene County Deed Book 483, page 2893.

PROPERTY ADDRESS: P O Box 306, 221 Second Street, Mather, PA 15346

UPI / TAX PARCEL NUMBER: 17-11-326

Seized and taken into execution to be sold as the property of TANYA J ARIGONI-TUBBS in suit of U.S. BANK NATIONAL ASSOCIATION AS TRUSTEE FOR THE PENNSYLVANIA HOUSING

Attorney for the Plaintiff:
Purcell, Krug & Haller
Harrisburg, PA 717-234-4178

BRIAN A. TENNANT, SHERIFF
GREENE COUNTY, PENNSYLVANIA

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SHERIFF'S SALE

By Virtue of a Writ of Execution (Mortgage Foreclosure)
No. ED 13-2017

Issued out of the Court of Common Pleas of Greene County, Pennsylvania and to me directed, I will expose the following described property at public sale at the Greene County Courthouse in the City of Waynesburg, County of Greene, Commonwealth of Pennsylvania on:

FRIDAY, JUNE 02, 2017

At 10:00 O'CLOCK A.M.

All parties in interest and claimants are further notified that a proposed schedule of distribution will be on file in the Sheriff's Office no later than twenty (20) days after the date of the sale of any property sold hereunder, and distribution of the proceeds will be made in accordance with the schedule ten (10) days after said filing, unless exceptions are filed with the Sheriff's Office prior thereto.

Wells Fargo Bank, N.A.

vs.

Jeremy M. Cralton

Buffie J. Cralton a/k/a Buffie Jean Homak

Owner(s) of property situate in the DUNKARD TOWNSHIP, GREENE County, Pennsylvania, BEING 73 Dalzell Avenue, Bobtown, PA 15315. Parcel No. 06/08/217

Improvements thereon: RESIDENTIAL DWELLING

Judgment Amount: \$59,728.73

PROPERTY ADDRESS: 73 Dalzell Avenue, Bobtown, PA 15315

UPI / TAX PARCEL NUMBER: 06-08-217

Seized and taken into execution to be sold as the property of JEREMY M CRALTON, BUFFIE J CRALTON A/K/A BUFFIE JEAN HORNAK in suit of WELLS FARGO BANK, N.A.

Attorney for the Plaintiff:
Phelan Hallinan Diamond & Jones
Philadelphia, PA 215-563-7000

BRIAN A. TENNANT, SHERIFF
GREENE COUNTY, PENNSYLVANIA

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SHERIFF'S SALE

By Virtue of a Writ of Execution (Mortgage Foreclosure)
No. ED 14-2017

Issued out of the Court of Common Pleas of Greene County, Pennsylvania and to me directed, I will expose the following described property at public sale at the Greene County Courthouse in the City of Waynesburg, County of Greene, Commonwealth of Pennsylvania on:

**FRIDAY, JUNE 02, 2017
At 10:00 O'CLOCK A.M.**

All parties in interest and claimants are further notified that a proposed schedule of distribution will be on file in the Sheriff's Office no later than twenty (20) days after the date of the sale of any property sold hereunder, and distribution of the proceeds will be made in accordance with the schedule ten (10) days after said filing, unless exceptions are filed with the Sheriff's Office prior thereto.

The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the Certificateholders of the Cwabs, Inc. Asset-Backed Certificates, Series 2007-12

vs.
Jerry H. Hopton as Administrator of the Estate of Dorothy Hopton a/k/a Dorothy Ann Hopton, Deceased.

ALL THAT CERTAIN TRACT OF LAND SITUATE IN CUMBERLAND TOWNSHIP, GREENE COUNTY, PENNSYLVANIA BOUNDED AND DESCRIBED AS FOLLOWS:

JERRY H. HOPTON as Administrator of the Estate of Dorothy Hopton a/k/a Dorothy Ann Hopton, Deceased

ADDRESS: 195 Maple Street, Carmichaels, PA 15320

PARCEL ID NO: 05-15-147

PROPERTY ADDRESS: 195 Maple Street, Carmichaels, PA 15320

UPI / TAX PARCEL NUMBER: 05-15-147

Seized and taken into execution to be sold as the property of JERRY H. HOPTON AS ADMINISTRATOR OF THE ESTATE OF DOROTHY HOPTON A/K/A ESTATE OF DOROTHY ANN HOPTON in suit of THE BANK OF NEW YORK MELLON, F/K/A THE BANK OF NEW YORK, AS TRUSTEE

Attorney for the Plaintiff:
KML Law Group, P.C.
Philadelphia, PA

BRIAN A. TENNANT, SHERIFF
GREENE COUNTY, PENNSYLVANIA

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SUPREME COURT OF PENNSYLVANIA
CIVIL PROCEDURAL RULES COMMITTEE

NOTICE OF PROPOSED RULEMAKING

**Proposed Amendment of Pa.R.C.P. Nos. 1018 and 1033, and
Proposed Adoption of Pa.R.C.P. No. 2005**

The Civil Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. Nos. 1018 and 1033, and the adoption of new Pa.R.C.P. No. 2005 governing the designation of an unknown defendant by a fictitious name for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They will neither constitute a part of the rules nor will be officially adopted by the Supreme Court.

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

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

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

All communications in reference to the proposal should be received by **August 4, 2017**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Civil Procedural Rules Committee,
William Shaw Stickman, IV
Chair

Rule 1018. Caption

Every pleading shall contain a caption setting forth the name of the court, the number of the action and the name of the pleading. The caption of a complaint shall set forth the form of the action and the names of all the parties, **including a fictitious name for an unknown defendant as provided in Rule 2005**, but in other pleadings it is sufficient to state the name of the first party on each side in the complaint with an appropriate indication of other parties.

Note: Civil Actions and proceedings shall be captioned "Court of Common Pleas of _____ County -- Civil Action" or other appropriate form of action.

The caption of all legal papers filed in a medical professional liability action must contain the designation "Civil Action -- Medical Professional Liability Action." See Rule 1042.16.

Rule 1033. Amendment.

(a) A party, either by filed consent of the adverse party or by leave of court, may at any time change the form of action, add a person as a party, correct the name of a party, or otherwise amend the pleading. The amended pleading may aver transactions or occurrences which have happened before or after the filing of the original pleading, even though they give rise to a new cause of action or defense. An amendment may be made to conform the pleading to the evidence offered or admitted.

(b) An amendment correcting the name of a party against whom a claim has been asserted in the original pleading relates back to the date of the commencement of the action if, within ninety days after the period provided by law for commencing the action, the party received notice of the institution of the action such that it will not be prejudiced in maintaining a defense on the merits and the party knew or should have known that the action would have been brought against the party but for a mistake concerning the identity of the proper party.

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(c) An amendment seeking to substitute the actual name of a defendant for a fictitious name as provided in Rule 2005 relates back to the date of the commencement of the action if, within the time provided by Rule 401 for service, the defendant to be named by the amendment has received actual or constructive notice of the institution of the action such that it will not be prejudiced in maintaining a defense on the merits and the defendant knew or should have known that the action would have been brought against it but for lack of knowledge of the defendant's actual name.

[This is an entirely new rule.]

Rule 2005. Unknown Defendant. Fictitious Name.

(a) The plaintiff or joining party may designate an unknown defendant by a fictitious name in a complaint filed to commence an action provided that:

- (1) a defendant's actual name is unknown to the plaintiff or joining party after having conducted a reasonable search with due diligence;
- (2) the fictitious name is averred to be fictitious;
- (3) a factual description of the unknown defendant is averred with sufficient particularity for identification in all but the defendant's actual name; and
- (4) the plaintiff or joining party avers that a reasonable search to determine the actual name has been conducted.

Note: This rule does not authorize use of a fictitious name in an action commenced by a writ of summons.

(b) Within twenty days after the actual name of the defendant has been identified, the plaintiff or joining party shall file a motion to amend the complaint pursuant to this rule and Rule 1033 by replacing the fictitious name with the defendant's actual name. An affidavit shall be attached to the motion describing the nature and extent of the investigation that was made to determine the identity of the defendant, and the date upon and the manner in which the defendant's actual name was identified.

Note: Rules 1033 and this rule govern the requirements for amending a complaint to replace a fictitious name with the actual name of a defendant.

(c) A defendant introduced to an action by its actual name in an amended complaint, after the filing of a motion pursuant to subdivision (b) and the court's ruling, may respond by preliminary objection challenging compliance with this rule, asserting prejudice or any other ground set forth in Rule 1028.

(d) The court shall grant a motion to amend filed pursuant to subdivision (b), unless the court finds that the party seeking the amendment failed to exercise due diligence in identifying the actual name of the defendant.

(e) No subpoena in aid of discovery relating to a defendant identified by a fictitious name may be issued or be served without leave of court upon motion stating with particularity from whom information is sought and how the discovery will aid in identification of the unknown defendant. In deciding the motion, the court shall weigh the importance of the discovery sought against unreasonable annoyance, embarrassment, oppression, burden, or expense to any person or party from whom the discovery is sought, and prejudice to any person or entity suspect of being the unknown defendant. Leave to serve a subpoena in aid of discovery does not preclude a challenge to the subpoena by the person or entity served.

(f) No final judgment may be entered against a defendant designated by a fictitious name.

Explanatory Comment

The Civil Procedural Rules Committee is proposing new Rule 2005 governing the naming of unknown, or John/Jane Doe, defendants in a complaint. Currently, the Rules of Civil Procedure are silent as to the use of Doe defendants in litigation; however, case law shows that the naming of Doe defendants has occurred. Proposed Rule 2005 is intended to fill this gap by standardizing the procedure in which to assert a cause of action against a Doe defendant.

The proposed rule would require a complaint using a John/Jane Doe or similar designation to describe the defendant and its liability producing conduct with sufficient specificity so as to permit identification in all but the unknown defendant's actual name. The rule imposes a duty on the plaintiff or joining party to exercise due diligence in identifying the actual name of the defendant both before and after the complaint is filed. While a sufficient description of an unknown defendant is typically fact specific to a particular case, it may include the physical characteristics of the unknown defendant, the position or title of the job performed by the unknown defendant, the alleged conduct of the unknown defendant, and how the unknown defendant is connected to the action.

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Once served, the previously designated Doe defendant may challenge the filing party's due diligence by filing preliminary objections, asserting prejudice or any other ground set forth in Rule 1028. A defendant originally named by a fictitious name is not precluded from asserting nor is the grant of a motion to amend determinative of a defense based on a statute of limitations or repose.

It is important to note that designating a Doe defendant as a mere placeholder or as use as a class of defendants, e.g., John Doe Defendants 1-10, is not a valid use of Rule 2005. The rule is not intended to create a practice of naming Doe defendants as a catch-all category in the event a probable defendant is not named in a complaint. Rule 2005 requires the information in the complaint concerning the Doe defendant to sufficiently describe that defendant for all intents and purposes except by its actual name.

Rule 2005 is not intended to affect the substantive rights of any litigant. The ability to substitute the actual name of the Doe defendant after the expiration of the statute of limitations does not impermissibly extend it. Rule 2005 does not extend the time for filing an action as prescribed by the applicable statute of limitations.

The proposed rule is intended solely to provide a procedural mechanism to substitute the actual name of a Doe-designated defendant where the action has been filed within the limitations period and the defendant has been adequately described in the complaint to demonstrate that it was *that defendant* against whom the action was asserted.

By the Civil Procedural
Rules Committee
William Shaw Stickman IV
Chair