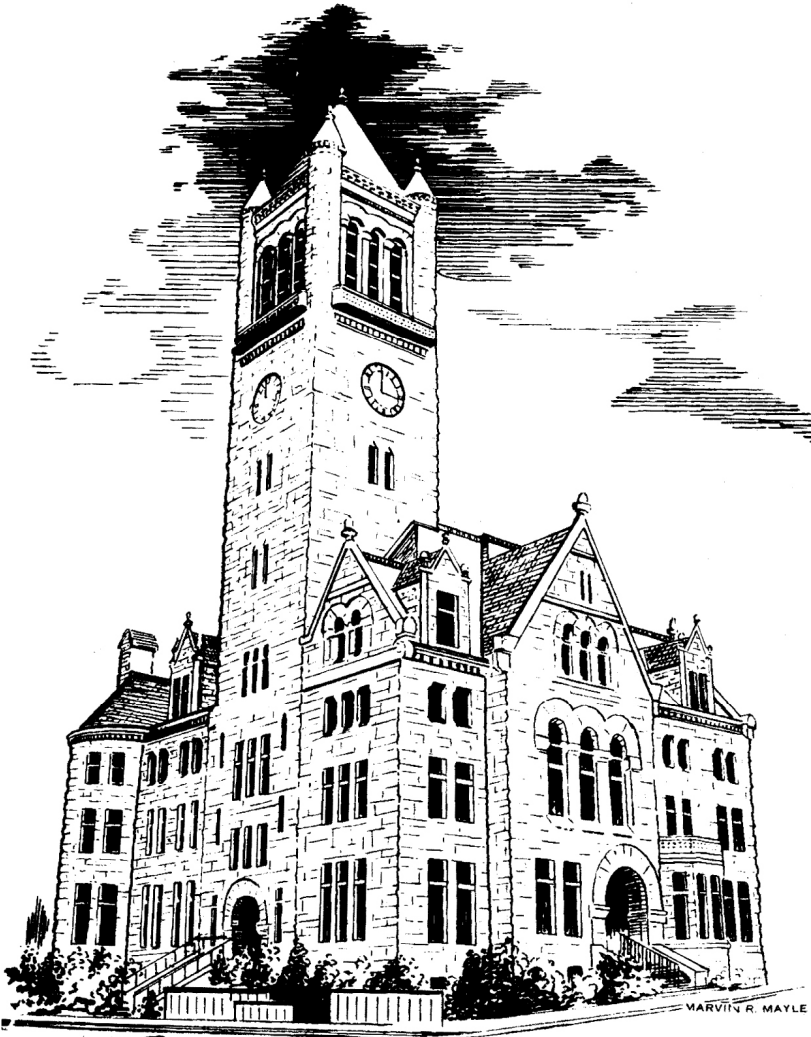


# FAYETTE LEGAL JOURNAL

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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

**HARRIET MAE COX, a/k/a HARRIET M. COX, a/k/a HARRIET B. COX**, late of Jefferson Township, Fayette County, PA (3)

*Co-Executors:*

Jon Paul Cox and  
411 Mutich Street  
Belle Vernon, PA 15012

Leah Rae Ackinlose  
141 Williams Road  
Fayette City, PA 15438

c/o 823 Broad Avenue  
Belle Vernon, PA 15012

*Attorney:* Mark E. Ramsier

**BARBARA T. DALSON**, late of Luzerne Township, Fayette County, PA (3)

*Executor:* Chad M. Dalson

c/o Webster & Webster  
51 East South Street  
Uniontown, PA 15401

*Attorney:* Webster & Webster

**EILEEN FALCO, a/k/a EILEEN W. FALCO**, late of Connellsville, Fayette County, PA (3)

*Personal Representative:* Ralph A. Falco  
813 McCormick Avenue  
Connellsville, PA 15425

*Personal Representative:* Beverly A. Enoff  
208 Gacek Road  
Greensboro, PA 15338

c/o Moore Becker Smarto & Cizek, P.C.  
121 West Second Street  
Greensburg, PA 15601

*Attorney:* Lawrence F. Becker, III

**IWILDA FENIELLO**, late of Bullsken Township, Fayette County, PA (3)

*Executrix:* Burnice Feniello  
c/o Casini & Geibig, LLC  
615 West Crawford Avenue  
Connellsville, PA 15425  
*Attorney:* Jennifer M. Casini

**HARRIETTE HARPER**, late of South Union Township, Fayette County, PA (3)

*Executor:* Robert R. Harper  
431 Independence Court  
Uniontown, PA 15401  
c/o Harper & Mikluscak  
111 East Main Street  
Uniontown, PA 15401  
*Attorney:* Robert R. Harper, Jr.

**JUDITH NARDONE, a/k/a JUDY NARDONE, a/k/a JUDITH S. WORK**, late of Connellsville, Fayette County, PA (3)

*Executrix:* Kathryn Poggi  
815 Wellington Drive  
Seven Fields, PA 16046  
c/o 9380 McKnight Road, Suite 106  
Pittsburgh, PA 15237  
*Attorney:* James S. Vergotz

**JOSEPH STEVENS, a/k/a JOSEPH STEVENS, JR.**, late of Fayette City, Fayette County, PA (3)

*Personal Representative:* Wesley J. Stevens  
c/o Nathan J. Zarichnak & Assoc., LLC  
601 ½ Broad Avenue  
Belle Vernon, PA 15012  
*Attorney:* Nathan J. Zarichnak

**PAULINE STRAUSS, a/k/a PAULINE H. STRAUSS**, late of South Union Township, Fayette County, PA (3)

*Executrix:* Linda L. Ford  
c/o Higinbotham Law Office  
45 East Main Street, Suite 500  
Uniontown, PA 15401  
*Attorney:* James E. Higinbotham, Jr.

## Second Publication

**MARY BOBECK**, late of Brownsville, Fayette County, PA (2)

*Executor:* Frank Bobeck  
816 High Street  
Brownsville, PA 15417  
c/o 357 Regis Avenue  
Pittsburgh, PA 15236  
*Attorney:* Joseph P. Covelli

**JOHN T. HOFERKA**, late of Uniontown, Fayette County, PA (2)

*Administratrix:* Stacey Hoferka Jensen  
c/o 11 Pittsburgh Street  
Uniontown, PA 15401  
*Attorney:* Thomas W. Shaffer

**MARY LOUISE JESSO**, late of German Township, Fayette County, PA (2)

*Personal Representative:* Nicholas Jesso  
c/o 107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

**STELLA M. POVLISH**, late of Washington Township, Fayette County, PA (2)

*Executrix:* Erika Pesarsick  
203 Meadow Ponds Lane  
Maidsville, WV 26541  
c/o 823 Broad Avenue  
Belle Vernon, PA 15012  
*Attorney:* Mark E. Ramsier

## First Publication

**MILDRED MAXINE BARRICKLOW**, a/k/a  
**MILDRED M. BARRICKLOW**, a/k/a  
**MILDRED BARRICKLOW**, late of South Connellsville, Fayette County, PA (1)

*Co-Executrices:* Evelyn Denise Brown and Carolyn W. Maricondi  
c/o P.O. Box 760  
Connellsville, PA 15425  
*Attorney:* Carolyn W. Maricondi

**CARLITA V. BALOSKY**, late of Smock, South Union Township, Fayette County, PA (1)  
*Executor:* Anthonette Smith  
66 East End Road  
Smock, PA 15480  
c/o 76 East Main Street  
Uniontown, PA 15401  
*Attorney:* Douglas S. Sholtis

## LEGAL NOTICES

IN THE COURT OF COMMON PLEAS  
FAYETTE COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
Docket No.: 1594 OF 2014 GD

**Bayview Disposition IVB, LLC**  
**Plaintiff,**  
**vs.**

**Todd E. Brothers**  
**Defendant.**

### AMENDED NOTICE OF SHERIFF'S SALE OF REAL PROPERTY PURSUANT TO PENNSYLVANIA RULE OF CIVIL PROCEDURE 3129

TO: Todd E. Brothers  
911 Springfield Pike  
Connellsville, PA 15425

TAKE NOTICE:

That the Sheriff's Sale of Real Property (Real Estate) will be held at the Fayette County Sheriff's Office, at the Fayette County Sheriff's Office, 61 East Main Street, Uniontown, PA 15401 on October 11, 2018 at 2:00PM prevailing local time.

THE PROPERTY TO BE SOLD is delineated in detail in a legal description consisting of a statement of the measured boundaries of the property, together with a brief mention of the buildings and any other major improvements erected on the land. (SEE LEGAL DESCRIPTION ATTACHED AS EXHIBIT "A").

The LOCATION of your property to be sold is:

911 Springfield Pike, Connellsville,  
PA 15425

The JUDGMENT under or pursuant to which your property is being sold is docketed to:  
No. 1594 OF 2014 GD

THE NAME(S) OF THE OWNER(S) OR REPUTED OWNER(S) OF THIS PROPERTY ARE:

Todd E. Brothers

A SCHEDULE OF DISTRIBUTION, being a list of the persons and/or governmental or corporate entities or agencies being entitled to receive part of the proceeds of the sale received and to be disbursed by the Sheriff (for example to banks that hold mortgages and municipalities that are owed taxes), will be filed by the Sheriff thirty (30) days after the sale, and distribution of the proceeds of sale in accordance with this schedule will, in fact, be made unless someone objects by filing exceptions to it, within ten (10) days of the date it is filed. Information about the Schedule of Distribution may be obtained from the Sheriff of the Court of Common Pleas of Fayette County, at the Fayette County Sheriff's Office, 61 East Main Street, Uniontown, PA 15401.

**THIS PAPER IS A NOTICE OF THE TIME AND PLACE OF THE SALE OF YOUR PROPERTY.**

It has been issued because there is a Judgment against you. It may cause your property to be held, to be sold or taken to pay the Judgment. You may have legal rights to prevent your property from being taken. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, you must act promptly.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET FREE LEGAL ADVICE.

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**P.O. Box 186  
Harrisburg, PA 17108  
(800) 692-7375**

THE LEGAL RIGHTS YOU MAY HAVE ARE:

1. You may file a petition with the Court of Common Pleas of Fayette County to open the Judgment if you have a meritorious defense against the person or company that has entered judgment against you. You may also file a

petition with the same Court if you are aware of a legal defect in the obligation or the procedure used against you.

2. After the Sheriff's Sale, you may file a petition with the Court of Common Pleas of Fayette County to set aside the sale for a grossly inadequate price or for other proper cause. This petition must be filed before the Sheriff's Deed is delivered.

3. A petition or petitions raising the legal issues or rights mentioned in the preceding paragraphs must be presented to the Court of Common Pleas of Fayette County. The petition must be served on the attorney for the creditor or on the creditor before presentation to the Court and a proposed order or rule must be attached to the petition. If a specific return date is desired, such date must be obtained from the Court Administrator's Office, Fayette County Courthouse, 61 East Main Street, Uniontown, PA 15401, before presentation of the petition to the Court.

Dated:

Kimberly J. Hong, Esquire (74950)

Manley Deas Kochalski LLC

P. O. Box 165028

Columbus, OH 43216-5028

Telephone: 614-222-4921

Fax: 614-220-5613

Email: [kjhong@manleydeas.com](mailto:kjhong@manleydeas.com)

Attorney for Plaintiff

VIA Special Service VIA Order of Court

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**NOTICE**

Notice is hereby given that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania for the purpose of forming a non-profit corporation under the Non-Profit Corporation Law of 1988 of the Commonwealth of Pennsylvania, 15 Pa.C.S. 1101 et seq. The name of the corporation is Project Financial Freedom.

Logan Howard

23 North Main Street

Masontown, Pennsylvania 15461

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## SHERIFF'S SALE

**Date of Sale: November 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, November 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. (1 of 3)

James Custer  
Sheriff Of Fayette County

Gary W. Darr, Esquire  
McGrath McCall P.C.  
Four Gateway Center, Suite 1040  
444 Liberty Avenue, Pittsburgh, PA 15222

No. 315 of 2018 GD  
No. 266 of 2018 ED

**FIRST COMMONWEALTH BANK,**

**Plaintiff,**

**vs.**

**LISA RANAE BAILEY, and the UNITED STATES OF AMERICA,**  
**Defendants.**

All that certain piece or parcel of ground lying and situate in the Borough of Everson, Fayette County, Pennsylvania. Having erected thereon a house and garage known as 613 Brown Street, Everson, Pennsylvania 15631 and designated as Parcel No. 10-04-0044.

No. 2093 of 2017 GD  
No. 264 of 2018 ED

**CLEAR MOUNTAIN BANK,**

**Plaintiff,**

**v.**

**DAN BASHOUR and BASHOUR VENTURES, LLC,**  
**Defendant.**

534 Jumonville Road, Uniontown, PA 15401. All that Certain lot of ground being Lot Nos. 24 and 25 in the J.M. Swaney Plan of Lots in North Union Township, Fayette County, Pennsylvania, a plot of which is recorded in the Recorder of Deeds Office of Fayette County, Pennsylvania, in Plan Book Volume 6, page 65. Parcel No. 25-55-0009.

No. 282 of 2018 GD  
No. 260 of 2018 ED

**BRANCH BANKING AND TRUST  
COMPANY,**

**Plaintiff,**

**Vs.**

**SPENCER TODD CHRISTOPHER  
And**

**UNITED STATES OF AMERICA,**

**Defendants.**

ALL that certain tract of land situate in Menallen Township, Fayette County, Pennsylvania, designated as Lot No. 2 in the VanSickle Subdivision which is of record in the Office of the Recorder of Deeds of Fayette County, Pennsylvania, in Plan Book Volume 72, page 31, and being more particularly bounded and described as follows:

BEGINNING at a point in SR 4006, more commonly known as New Salem Road, at the southeastern corner of land herein conveyed and land now or formerly of David Jobes; thence along land of said Jobes, South 84° 16' 30" West, a distance of 217.26 feet to a point; thence continuing along land of said Jobes, South 63° 45' 00" West, a distance of 183.15 feet to a point on line of land now or formerly of County of Fayette; thence along land of said County of Fayette, North 51° 00' 00" West, a distance of 628.38 feet to a point, corner of Lot No. 1 in said VanSickle Subdivision; thence along said Lot No. 1, North 05° 26' 00" East, a distance of 518.59 feet to a point in the said New Salem Road; thence along said New Salem Road, South 71° 30' 00" East, a distance of 291.06 feet to a point; thence continuing along said New Salem Road, on a curve to the right, with a radius of 400.00 feet, a length of 216.42 feet, a delta of 31° 00' 00", a chord of South 56° 00' 00" East, a distance of 213.79 feet, and a tangent of 110.93 feet to a point; thence continuing along said New Salem Road, South 40° 30' 00" East, a distance of 132.54 feet to a point; thence continuing along said New Salem Road on a curve to the right, with a radius of 500.00 feet, a length of 141.08 feet, a delta of 16° 10' 00", a chord of South 32° 25' 00" East, a distance of 140.61 feet, and a tangent of 71.01 feet to a point; thence continuing along said New Salem Road, South 24° 20' 00" East, a distance of 202.44 feet to a point; thence continuing along said New Salem Road on a curve to the left, with a radius of 800.00 feet, a length of 181.51 feet, a

delta of 13° 00' 00", a chord of North 30° 50' 00" West, a distance of 181.13 feet, and a tangent of 91.15 feet to a point; thence continuing along said New Salem Road, South 37° 20' 00" East, a distance of 47.36 feet to a point, the place of beginning. CONTAINING an area of 10.0362 acres according to the survey of Fayette Engineering Company, Inc. dated April, 2004.

UNDER AND SUBJECT to all exceptions, reservations, easements, covenants, restrictions, conditions, rights-of-way, etc., contained in prior instruments of record and affecting the chain of title thereof.

BEING the same premises which were conveyed to Spencer Todd Christopher by Deed of Jeff Porterfield, Jr. and Marie Porterfield, his wife, dated August 5, 2007, and recorded on August 10, 2007, in the office of the Recorder of Deeds for Fayette County, in Record Book 3035, page 2173.

ADDRESS OF PROPERTY: 789 New Salem Road, Uniontown, PA 15401.

PARCEL NUMBER: 22-19-0068-01

PROPERTY OWNER: Spencer Todd Christopher

IMPROVEMENTS: A commercial building

IMPORTANT NOTICE: The above property will be sold expressly subject to the IRS' right to redeem the property within 120 days of the date of the foreclosure sale.

No. 1090 of 2018 GD

No. 277 of 2018 ED

**Land Home Financial Services, Inc.,**

**Plaintiff,**

**vs.**

**Joshua Coneway,**

**Defendant.**

ALL THAT RIGHT, TITLE, INTEREST AND CLAIMS OF JOSHUA CONEWAY OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN UNIONTOWN CITY, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED AT DBV 3340 PAGE 1637

BEING KNOWN AS 9 DERRICK AVENUE, UNIONTOWN, PA 15401

TAX MAP NO. 38-15-0250

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

No. 1279-8 of 2018 GD  
 No. 279 of 2018 ED

**DITECH FINANCIAL LLC**  
**3000 Bayport Drive, Suite 880**  
**Tampa, FL 33607,**  
**Plaintiff,**  
 vs.

**TAMMY C. HAWK**  
**JAMES D. HAWK**  
**Mortgagor(s) and Record Owner(s)**  
**104 Painter Street**  
**Everson, PA 15631,**  
**Defendant.**

ALL THAT CERTAIN lot or parcel of land situate in the County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL# 10-03-0011

PROPERTY ADDRESS: 104 Painter Street Everson, PA 15631

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: TAMMY C. HAWK and JAMES D. HAWK

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

No. 943 of 2018 GD  
 No. 268 of 2018 ED

**DITECH FINANCIAL LLC**  
**3000 Bayport Drive, Suite 880**  
**Tampa, FL 33607,**

**Plaintiff,**  
 vs.

**MICHAEL E. JACKSON AKA MICHAEL JACKSON**  
**SARAH J. JACKSON**  
**Mortgagor(s) and Record Owner(s)**  
**616 Pine Street**  
**Brownsville, PA 15417,**  
**Defendants.**

ALL THAT CERTAIN lots or parcels of land situate in the , County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL# 19-29-004, 019-29-0069 and 19-29-0041

PROPERTY ADDRESS: 616 Pine Street Brownsville, PA 15417

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: MICHAEL E. JACKSON AKA MICHAEL JACKSON and SARAH J. JACKSON

Phelan Hallinan Diamond & Jones, LLP

No. 2198 of 2017 GD  
 No. 278 of 2018 ED

**Pennymac Loan Services, LLC,**  
**Plaintiff,**  
 V.

**Francis W. Lee, III,**  
**Defendant(s).**

By virtue of a Writ of Execution No. 2198-OF-2017-GD, Pennymac Loan Services, LLC v. Francis W. Lee, III, owner(s) of property situate in the GEORGES TOWNSHIP, Fayette County, Pennsylvania, being 108 Victory Drive, Smithfield, PA 15478-1268

Parcel No.: 1425005741

Improvements thereon: RESIDENTIAL DWELLING



ANNE N. JOHN Esq.  
ATTORNEY AT LAW

No. 191 of 2018 GD  
No. 161 of 2018 ED

**FIRST FEDERAL SAVINGS AND LOAN  
ASSOCIATION OF GREENE COUNTY, a  
corporation,**

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

**RYAN PATRICK MAHONEY and  
NICHOLE MARIE HOST, a/k/a NICOLE  
MARIE HOST,**  
**Defendants.**

ALL that certain lot of land situated in North Union Township, Fayette County, Pennsylvania being the Northeasterly portion of Lot No. 27 in Section "F" of "Evans Manor" Land Company's Plan of Lots called "Evans Manor", according to a plot thereof recorded September 4, 1923, in the office of the Recorder of Deeds of Fayette County, Pennsylvania in Plan Book Vol. 4, page 186.

UPON which is erected a single family dwelling known locally as 224 Edison Blvd., a/k/a 224 Edison Street, Uniontown, PA 15401.

Fayette County Assessment Map No.: 25-30-0024.

No. 865 of 2018 GD  
No. 280 of 2018 ED

**PENNSYLVANIA HOUSING FINANCE  
AGENCY,**

**PLAINTIFF,**  
**vs.**

**FREDERICK MARTIN,**  
**DEFENDANT.**

ALL THOSE TWO lots of land in South Union Township, Fayette County, Pennsylvania: FIRST: being approximately 70 x 50 and containing 3500 square feet; and SECOND: being approximately 70 x 50 and containing 3500 square feet. HAVING THEREON ERECTED a dwelling known and numbered as 143 Balsinger Road, Uniontown, PA 15401.

TAX PARCEL: 34-05-0010

Fayette Deed Book 3255, Page 465  
TO BE SOLD AS THE PROPERTY OF  
FREDERICK MARTIN UNDER FAYETTE  
COUNTY JUDGMENT NO. 865 OF 2018.

Phelan Hallinan Diamond & Jones, LLP

No. 1075 of 2018 GD  
No. 263 of 2018 ED

**Wells Fargo Bank, NA,**  
**Plaintiff,**  
**V.**

**Cheryl Ann Morgan a/k/a Cheryl A. Morgan,**  
**Defendant(s).**

By virtue of a Writ of Execution No. 1075 OF 2018 GD Wells Fargo Bank, NA v. Cheryl Ann Morgan a/k/a Cheryl A. Morgan, owner(s) of property situate in the JEFFERSON TOWNSHIP, Fayette County, Pennsylvania, being 129 East 2nd Street, a/k/a 129 East Second Street, Grindstone, PA 15442-1241

Parcel No.: 17-16-0011

Improvements thereon: RESIDENTIAL DWELLING

Richard M. Squire & Associates, LLC

By: Richard M. Squire, Esquire  
Bradley J. Osborne, Esquire  
Sarah K. McCaffery, Esquire  
Pierre E. Simonvil, Esquire

One Jenkintown Station, Suite 104  
115 West Avenue  
Jenkintown, PA 19046  
Telephone: 215-886-8790  
Fax: 215-886-8791

No. 1576 of 2014 GD  
No. 259 of 2018 ED

**The Bank of New York Mellon, f/k/a The  
Bank of New York, as Trustee for registered  
holders of CWABS, Inc., Asset-Backed  
Certificates, Series 2006-23,**

**PLAINTIFF,**  
**v.**

**John Petrosky, a/k/a John M. Petrosky  
Stephanie L. Petrosky, a/k/a Stephanie  
Petrosky,**  
**DEFENDANT(S).**

TAX PARCEL NO.: 41-07-0284

PROPERTY ADDRESS: 407 Perry Avenue, Belle Vernon, PA 15012  
IMPROVEMENTS: Single Family Dwelling

SEIZED AND TAKEN in execution as the property of John Petrosky, a/k/a John M. Petrosky and Stephanie L. Petrosky, a/k/a Stephanie Petrosky

ALL THAT CERTAIN piece or parcel of land situated in the Village of Fairhope, Washington Township, Fayette County, Pennsylvania, and described as follows:

BEGINNING at a point in the Eastern line of the public road leading from Belle Vernon, Pennsylvania in Perryopolis at the Northern line of property now or formerly of John Patrosky, Jr., et ux; thence by the latter, North 69 degrees, 21 minutes East, a distance of 130.55 feet to a point; thence still by the same, North 20 degrees, 22 minutes West, a distance of 36.96 feet to a point in the line of land now or formerly of Rudolph Anderson; thence by the latter, South 69 degrees, 38 minutes West, a distance of 130.55 feet to a point in the aforementioned public road leading from Belle Vernon to Perryopolis; thence by the latter, South 20 degrees, 22 minutes East, a distance of 36.96 feet to a point, the place of beginning.

No. 303 of 2016 GD  
No. 281 of 2018 ED

**Nationstar Mortgage LLC d/b/a Champion Mortgage Company,**

**Plaintiff,**

**vs.**

**Keithette V. Shearer,**  
**Defendant.**

ALL THAT CERTAIN piece or parcel or tract of land containing 722 Connellsville Avenue situate in the Township of Bullskin, County of Fayette, and State of Pennsylvania

Tax Parcel No. 04-33-0052

TITLE TO SAID PREMISES IS VESTED IN Keithette V. Shearer, from Howard D. Shearer, widower, by General Warranty Deed dated August 6, 1982, and recorded on August 13, 1982 in Book 1308, Page 751

Sold as the property of Keithette V. Shearer

No. 990 of 2018 GD  
No. 261 of 2018 ED

**U.S. Bank National Association, as Trustee for SASCO Mortgage Loan Trust 2006-WF3,**  
**Plaintiff,**

**vs.**

**Anna M. Toth, AKA Anna Marie Toth,**  
**Defendant.**

ALL that certain parcel of land lying and being situate in the Township of Washington, County of Fayette, and Commonwealth of Pennsylvania, known as 264 Gillespie Hollow Road, Fayette City, PA 15438 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 41220059

BEING the same premises which David J. Serra and Sherry A. Serra, his wife, by Deed dated June 26, 2006 and recorded in and for Fayette County, Pennsylvania in Deed Book 3000, Page 648, granted and conveyed unto Anna Marie Toth.

Richard M. Squire & Associates, LLC

By: Richard M. Squire, Esquire

Bradley J. Osborne, Esquire

Sarah K. McCaffery, Esquire

Pierre E. Simonvil, Esquire

ID. Nos. 04267 / 312169 / 311728 / 323490

One Jenkintown Station, Suite 104

115 West Avenue

Jenkintown, PA 19046

Telephone: 215-886-8790

Fax: 215-886-8791

No. 704 of 2018 GD

No. 267 of 2018 ED

**Wilmington Savings Fund Society, FSB, as Trustee for Stanwich Mortgage Loan Trust A,**  
**PLAINTIFF,**  
**V.**

**Unknown Heirs of the Estate of James J. Kimmel a/k/a James Kimmel, deceased Phyllis E. Kimmel a/k/a Phyllis Kimmel,**  
**DEFENDANT(S).**

TAX PARCEL NO.: 33-03-0090

PROPERTY ADDRESS: 1419 East

Gibson Avenue Connellsville, PA 15425  
 IMPROVEMENTS: Single Family Dwelling  
 SEIZED AND TAKEN in execution as the property of Unknown Heirs of the Estate of James J. Kimmel a/k/a James Kimmel, deceased and Phyllis E. Kimmel a/k/a Phyllis Kimmel  
 LEGAL DESCRIPTION:  
 ALL THAT CERTAIN property situated in Connellsville in the County of Fayette, and State of Pennsylvania and being described in a Deed dated 2/27/89 and recorded 3/23/89, among the Land Records of the County and State set forth above, and referenced as follows:  
 Book 536 Page 124  
 Tax ID: 33-03-0090

No. 1178 of 2018 GD  
 No. 262 of 2018 ED

**PENNSYLVANIA HOUSING FINANCE AGENCY,**  
**PLAINTIFF,**  
 vs.  
**EDWARD S. WAGNER,**  
**DEFENDANT.**

ALL those certain lots of ground in the Township of Connellsville, County of Fayette, being Lot Nos. 33, 34 and 35, Poplar Grove Plan of Lots, Fayette Plan Book 1, page(s) 178. HAYING THEREON ERECTED DWELLING KNOWN AND NUMBERED AS: 1501 SUN STREET CONNELLSVILLE, PA 15425.  
 Tax Parcel # 06-03-0071  
 Fayette Deed Book 3124, page 843  
 TO BE SOLD AS THE PROPERTY OF EDWARD S. WAGNER UNDER JUDGMENT NO. 2017- 01178.

No. 1218 of 2017 GD  
 No. 265 of 2018 ED

**PHH Mortgage Corporation,**  
**PLAINTIFF,**  
 VS.  
**Robin S. Walters,**  
**DEFENDANT.**

FIRST: ALL that certain lot of land situate in the City of Uniontown, formerly North Union Township, Fayette County, Pennsylvania,

known as Lot No. 49 in the Fred Felty Plan of Lots, said plan being recorded in the Recorder's Office of Fayette County in Plan Book No. 2 at page 32, said lot being bounded and described as follows:

SECOND: ALL that certain lot of land situate in the City of Uniontown, Fayette County, Pennsylvania, being Lot No. 48 in the Fred Felty Plan of Lots as recorded in the Recorder's Office of Fayette County, Pennsylvania, in Plan Book 2, page 32, said lot being bounded and described as follows:

COMMONLY KNOWN AS: 30 Elwood Street, Uniontown, PA 15401  
 TAX PARCEL NO. 38-03-0371 and 38-03-0370

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

**NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER**  
**8950 Cypress Waters Boulevard**  
**Coppell, TX 75019,**  
**Plaintiff,**  
 vs.  
**CHARLES HARVEY SICKLES JR.**  
**HEIDI L. SICKLES**  
**Mortgagor(s) and Record Owner(s)**  
**102 Fourth Avenue**  
**Uledi, PA 15484,**  
**Defendant(s).**

ALL THAT CERTAIN lots of land situate in the County of Fayette and Commonwealth of Pennsylvania. TAX PARCEL# 34-07-0040  
 PROPERTY ADDRESS: 102 Fourth Avenue Uledi, PA 15484

IMPROVEMENTS: A residential dwelling.  
 SOLD AS THE PROPERTY OF: CHARLES HARVEY SICKLES JR. and HEIDI L. SICKLES (1 of 3)

- END SHERIFF SALES -

## 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, October 1, 2018, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2617-0790	PATRICIA ANN PIERNO	Shawn Goralzcik, Executrix

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

**Monday, October 15, 2018, at 9:30 A.M.**

in Courtroom 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, October 1, 2018, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2617-0091	CATHERINE Q. ANDYJOHN	Karen S. Mahokey, Executrix

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

**Monday, October 15, 2018, at 9:30 A.M.**

in Courtroom No. 5 of the **Honorable JOSEPH M. GEORGE, JR.** or his chambers, 3rd 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

SEAN M. BRANT and SANDRA	:	
VAUGHT BRANT, his wife,	:	
Plaintiffs/Sellers,	:	
v.	:	
JUSTIN M. JELLOTS and	:	
CASSIE M. JELLOTS, his wife,	:	No. 2539 of 2017, G.D.
Defendants/Buyers.	:	Honorable Steve P. Leskinen

**OPINION & ORDER**

LESKINEN, J.

August 8, 2018

AND NOW, this 8th day of August, 2018, upon consideration of the of the evidence admitted into the record and arguments of counsel made during the non-jury trial on August 1, 2018, the Court finds in favor of the Plaintiffs/Sellers and it is hereby ORDERED and DECREED that the Defendants/Purchasers are to vacate the property located at 40 Vernon Street, South Union Township, Fayette County, Pennsylvania, within 15 days of the date of this Order and possession is to be restored to Plaintiffs/Sellers.

**BACKGROUND**

On June 20, 2014, Sean M. Brant and his wife, Sandra Vaught Brant, [hereinafter Sellers] entered into an installment land sale contract entitled Agreement for the Sale of Real Estate [hereinafter Agreement] with Justin M. Jellots and his wife, Cassie M. Jellots [hereinafter Purchasers]. The parties signed the Agreement, prepared by counsel for the Purchasers, involving 40 Vernon Street, South Union Township, Fayette County, Pennsylvania was for a total purchase price of ninety-nine thousand dollars (\$99,000) to be paid in the following manner: payment of seven hundred fifty dollars (\$750) at or before the execution of this agreement; a down payment of three thousand dollars (\$3,000) on or before February 20, 2015; seven hundred fifty dollars (\$750) per month for a period of thirty-six (36) months with payments to be made directly from Purchasers to Sellers; and "at the end of the thirty-six months, Purchasers shall apply for a Mortgage to pay the balance said purchase." If the Purchasers were unable to obtain a Mortgage, the Sellers and Purchasers "may discuss an extension or some other terms to comply with the Agreement of Sale."

The Agreement provides that, in the event of the Purchasers default for "ninety (90) days in any of the terms and provisions of this Agreement, Sellers shall have the right to terminate the agreement and to demand immediate possession of said premises upon ninety (90) days written notice, and thereupon all rights and obligations under this Agreement shall cease and terminate, and all payments made by Purchasers shall be

retained by Sellers as liquidated damages."

It was uncontested that Purchasers made necessary payments; however, Purchasers admitted within the pleadings that they never applied for a mortgage on the property. Purchasers did obtain a letter, dated June 27, 2017, from First Federal Savings and Loan Association of Green County stating that Cassie M. Jellots, alone, was pre-approved for a mortgage; the pre-approval was valid until September 27, 2017.

A certified letter dated August 1, 2017 from Sellers to Purchasers stating that the thirty-six (36) required monthly payments due under the Agreement were completed in June of 2017 and that the Sellers had not received a seven hundred and fifty dollar (\$750) payment for the month of July 2017. The Sellers also inquired if the Purchasers had applied for a mortgage and stated that if they did not intend to purchase the property, they should make arrangements to surrender the premises. Cassie Jellots signed for the certified letter on August 9, 2017.

Sellers' attorney sent another letter to Purchasers dated October 3, 2017 stating that Purchasers had failed to make payments for July, August, and September. The letter also informed the Purchasers that the Sellers have "declared the contract ended and further declare that all amounts that have been paid are rent." The Purchasers were asked to vacate the premises and if they were not removed within ten (10) days, legal action would be taken.

Purchasers' attorney replied to the October 3, 2017 letter on October 17, 2017. This letter states that "as you are likely not aware, Mr. and Mrs. Jellots consulted me on June 30, 2017. I am enclosing herewith a copy of a letter from First Federal of Greene County dated June 27, 2017. As is evident, Mrs. Jellots was pre-approved for a mortgage." The letter further states that the pre-approval was for an amount of sixty-two thousand seven hundred fifty dollars (\$62,750), which was difference between the purchase price of ninety-nine thousand dollars (\$99,000) and the sum of: "1) 36 monthly installments of \$750, or \$27,000; and 2) a down payment of \$6,000."

Purchasers' counsel, in the letter, claims that Purchasers informed Sellers of the pre-approval letter, Sellers refused to tender a deed to Purchasers for "the remaining balance of \$62,750.00." The letter further states that Mr. Brant told Mr. Jellots that only the six thousand dollar (\$6,000) down payment was to be applied to the purchase price and the balance owed was ninety-three thousand (\$93,000). Purchasers' counsel spoke with Sellers and Mr. Brant allegedly informed him that he could not sell the house for sixty-two thousand seven hundred and fifty dollars (\$62,750). Purchasers' counsel took this alleged conversation to amount to an anticipatory repudiation of the Agreement by the Sellers.

Sellers initiated this action seeking ejectment by filing a nine paragraph complaint. Purchasers answered this complaint by admitting all paragraphs except paragraph seven, which read "Defendants have failed and refused to obtain a mortgage for the subject

premises within the time frame set forth in the agreement." In Purchasers' subsequent pleadings, Reply for New Matter, filed on February 7, 2018, they admitted that Purchasers never applied for a mortgage after they obtained the pre-approval letter.

The Purchasers have been in possession of the subject property, at all times, since entering into the Agreement but have not made any payments to Seller since June of 2017.

### DISCUSSION

To successfully maintain a cause of action for breach of contract, a party must establish: (1) the existence of a contract, including its essential terms; (2) a breach of duty imposed by the contract; and (3) resultant damages. *Hart v. Arnold*, 884 A.2d 316, 332 (Pa. Super. 2005). When performance of a duty under a contract is due, any nonperformance is a breach. *Widmer Engineering, Inc. v. Dufalla*, 837 A.2d 459, 467- 468 (Pa. Super. 2003). If a breach constitutes a material failure of performance, the non-breaching party is relieved from any obligation to perform; thus, a party who has materially breached a contract may not insist upon performance of the contract by the non-breaching party. *LJL Transp., Inc. v. Pilot Air Freight Corp.*, 962 A.2d 639, 648 (Pa. 2009). Conversely, a party might breach the contract but still substantially perform its obligations under the agreement. *Cimina v. Bronich*, 537 A.2d 1355, 1358 (Pa. 1988). In that case, the breach is deemed nonmaterial and the contract remains in effect. *Id.* The breaching party retains the right to enforce the contract and demand performance; the non-breaching party has no right to suspend performance. *Widmer Engineering, Inc.*, 837 A.2d at 468.

The issue in this case is exactly what the buyers were required to do to make a "formal tender" to close on the subject property and if they did so in time. The Agreement was poorly drafted; there was no integration clause, the agreement does not state that "time is of the essence" so therefore Purchasers would have "reasonable time" to comply with the requirements. The Agreement was executed on June 20, 2014, but it contained no "effective date", therefore the Court is left to speculate if it was intended to be effective on June 20, 2014 making all monthly payments due on the 20th of each month or if it was supposed to take effect on June 1, 2014. The parties nonetheless signed a document and entered into a valid contract which specifically identified the property, set up the payment schedule, identified who was to receive payments, detailed the Purchasers' duties under the agreement and Sellers' remedies in the event of a breach.

The parties are in agreement that the Purchasers made the down payment and all installment payments due under the Agreement but they did not apply for a mortgage. The Agreement requires a total down payment of three thousand seven hundred and fifty dollars (\$3,750) and thirty-six (36) monthly payments of seven hundred and fifty dollars (\$750) with payments ceasing in June of 2017, for a total sum of twenty-seven thousand dollars (\$27,000). The sum of the down payments and installment payments

should have been thirty thousand seven hundred and fifty dollars (\$30,750) making the balance of the purchase price sixty-eight thousand two hundred and fifty dollars (\$68,250).

Purchasers claim that they made a six thousand dollar (\$6,000) down payment as well as all monthly installment payments for a total of twenty-seven thousand dollars (\$27,000). The sum of the down payment and installment payments would have been thirty-three thousand dollars (\$33,000), making the balance of the purchase price sixty-six thousand dollars (\$66,000). Therefore, under either the Agreement or Purchasers' evaluation, the amount of money the Purchasers were pre-approved for, sixty-two thousand seven hundred and fifty dollars (\$62,750), was not representative of the amount of money the Purchasers actually owed on the home.

The Agreement provides that at the end of the thirty-six month term, Purchasers "shall" apply for a mortgage to pay the balance of the purchase. The Purchasers concede that they never actually applied for a mortgage; further, the pre-approval letter conditionally approved Cassie Jellots for a mortgage that was inadequate to cover the balance owed on the home. The Purchasers claim that the Sellers anticipatorily breached the Agreement and that was their reasoning as to why they did not apply for a mortgage.

To constitute anticipatory breach under Pennsylvania law there must be "an absolute and unequivocal refusal to perform or a distinct and positive statement of an inability to do so." 2401 Pennsylvania Ave. Corp. v. Federation of Jewish Agencies of Greater Philadelphia, 489 A.2d 733 (Pa. 1985).

In this case, the Purchasers, through their counsel, make the assertion that during a phone conversation on or around June 30, 2017, Sellers told them that they could not sell the subject property for sixty-two thousand seven hundred and fifty dollars (\$62,750) because the property would have been "underwater" if he did. No evidence of this phone conversation was admitted to the record except for its appearance in the October 17, 2017 letter and Purchasers counsel's argument on August 1, 2018. Even if this assertion is accepted as true, that was not an anticipatory breach because the balance of the purchase price would have been greater than that amount, thus the Sellers were under no obligation to accept that sum.

The letter dated August 1, 2017, sent by Sellers to Purchasers was not an anticipatory breach as the Sellers did not absolutely and unequivocally refuse to perform the Agreement. Sellers simply informed Purchasers that they were in breach of the Agreement, asked if they applied for a mortgage, and if they did not intend to purchase the home, to vacate the premises. This letter would have operated as written notice to the Purchasers that they were in default.

The letter dated October 3, 2017 operated as a termination of the Agreement, which was more than ninety (90) days after the Purchasers were in default of the Agreement. The Sellers substantially performed their duties under the Agreement. The written no-



tice was sent at least one (1) month after the Sellers had received no payment from the Purchasers, with notice of termination of the Agreement coming over sixty (60) days after the written notice, and ejectment proceedings were not commenced until December 1, 2017 . The Purchasers were given six (6) months to cure their breach of the Agreement before legal action was taken but they failed to act; further, the Purchasers never indicated to Sellers that they were presently ready to close on the property or if the Purchasers were allowed an extension of time, for any duration, they would be prepared to close on the subject property.

Sellers sufficiently put the Purchasers on notice that they were in default under the contract and Purchasers failed to cure the default. The fact that Purchasers obtained a pre-approval letter is of no consequence because the Agreement placed no importance on obtaining such letter. Further, termination of the Agreement occurred after the Purchasers failed to act on their pre-approval letter and it expired.

The Court finds the Sellers did not anticipatorily breach the Agreement and that they substantially complied with the requirements under the contract. Purchasers are in breach of the Agreement because they failed to apply for and obtain a mortgage to purchase the subject property within a reasonable time, and they never made a formal tender to close on the purchase.

#### ORDER

AND NOW, this 8th day of August, 2018, upon consideration of the of the evidence admitted into the record and arguments of respective counsel during the non-jury trial on August 1, 2018, the Court finds in favor of the Sean and Sandra Brant and it is hereby ORDERED and DECREED that the Justin and Cassie Jellots are to vacate the property located at 40 Vernon Street, South Union Township, Fayette County, Pennsylvania, within 15 days of the date of this Order and possession is to be restored to Sean and Sandra Brant. As provided in the Agreement for the Sale of Real Property signed by the parties, all payments already made to Sean and Sandra Brant from Justin and Cassie Jellots for the subject property are to be retained by Sean and Sandra Brant as liquidated damages.

BY THE COURT:  
LESKINEN, J.

ATTEST:  
Nina Capuzzi Frankhouser  
Prothonotary

**BENCH BAR CONFERENCE**

Fayette County Bar Association  
Bench Bar Conference

Schedule:

8:30 - Meet the Sponsors/Full Breakfast Buffet

9:00 - 12:15 - Seminar CLE Presentations

12:30 - Lunch

CLE Agenda to follow

**Wednesday, October 10, 2018**

The Historic Summit Inn

Cost to attend - \$75 members and \$125 non-members

**RSVP to Cindy** 724-437-7994 or [cindy@fcbar.org](mailto:cindy@fcbar.org)

## LUNCH & LEARN SERIES

### FAYETTE COUNTY BAR ASSOCIATION LUNCH & LEARN SERIES

The Fayette County Bar Association will be sponsoring a monthly Lunch & Learn Series on the third Wednesday of each month in the Grey Room, or in Courtroom No.1 depending on attendance, of the Fayette County Courthouse.

Often times, attorneys make costly mistakes based on a misinterpretation of the rules or because they are unaware of the specific practices or requirements of a judge. Each session will cover a different area of practice in Fayette County. After a brief presentation, attendees will have the opportunity to ask pertinent questions and discuss issues and practice tips with members of the bench and the bar in an informal setting. It is the intent of the series to promote professionalism, including ethics, civility and excellence among the members of our bar through education, example, and mentoring.

The series moderator will be the Honorable Judge Steve P. Leskinen. There will also be presenters knowledgeable in the area of practice to be covered each month.

- The first session of the series will be on **Wednesday, September 19th, from 12:00 p.m. to 1:30 p.m.**
- The discussion topic will be **Motions Court: Summary Judgment, Preliminary Objections and Judgment on the Pleadings Procedure.**

We are interested in knowing what areas of practice you would like covered in upcoming meetings. Depending on attendance and how the series evolves, we may be able to arrange CLE credit for future sessions.

A light lunch will be provided. There is no charge for members of the FCBA. There is a \$10 fee for non-members to be paid at the door. Please contact **Cindy McClain at the Bar office at 724-437-7994 or by email to [cindy@fcbar.org](mailto:cindy@fcbar.org)** no later than Friday, September 14th, if interested in attending or with ideas for future meetings.

- Professional Ethics Committee of the Fayette Bar Association

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# GISMONDI

& ASSOCIATES

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