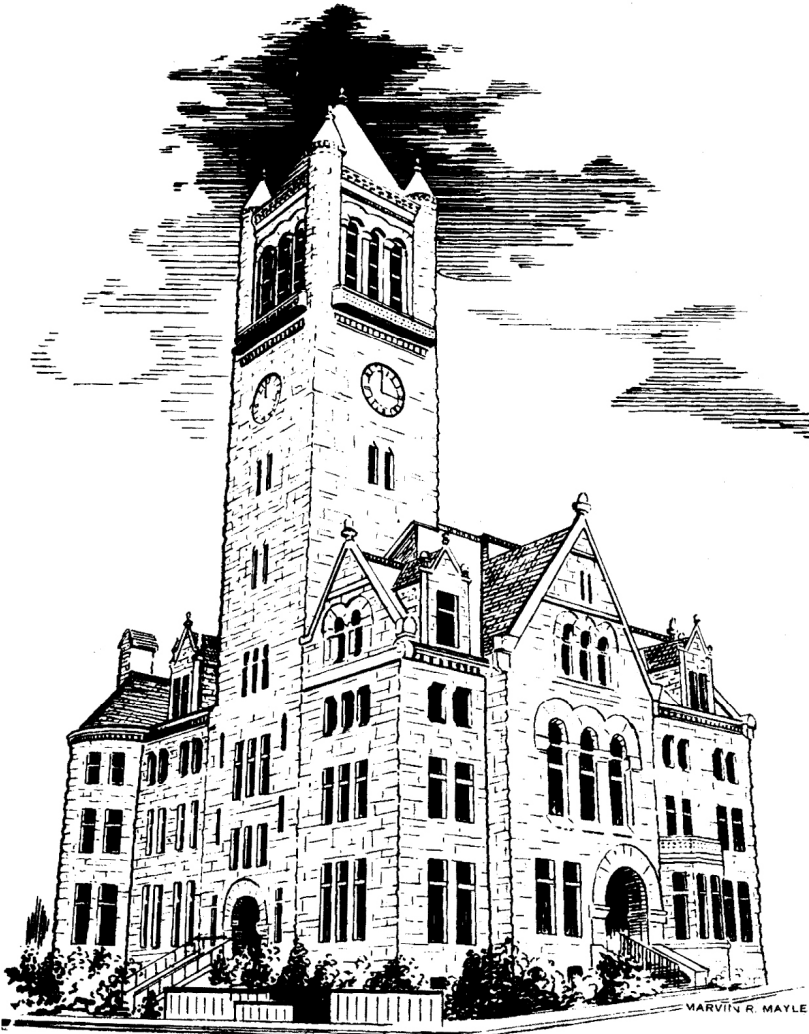


# FAYETTE LEGAL JOURNAL

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## FAYETTE LEGAL JOURNAL

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## ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

### Third Publication

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*Personal Representative:* Brady P. Albert  
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*Administratrix:* Geraldine Geary  
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Connellsville, PA 15425  
*Attorney:* Marguerite Goglia

**LILLIE FRANCES MARGIE, a/k/a LILLIE FRANCIS MARGIE**, late of Fayette City, Fayette County, PA <sup>(3)</sup>

*Executor:* Richie R. Margie  
109 Knox Street  
Perryopolis, Pa 15473  
c/o Bassi, Vreeland & Associates, P.C.  
P.O. Box 144  
111 Fallowfield Avenue  
Charleroi, PA 15022  
*Attorney:* Todd M. Pappasergi

**BILLIE SUE SANDUSKY**, late of Connellsville, Fayette County, PA <sup>(3)</sup>

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c/o Watson Mundorff & Sepic, LLP  
720 Vanderbilt Road  
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*Attorney:* Charles W. Watson

**CHRISTIAN D. STEWART**, late of Jefferson Township, Fayette County, PA <sup>(3)</sup>

*Administratrix:* Gale G. Stewart  
146 Washington Drive  
Fayette City, PA 15438  
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*Attorney:* Megan A. Kerns

### Second Publication

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*Administratrix:* Milissa A. Chomiak  
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Uniontown, PA 15401  
*Attorney:* James E. Higinbotham, Jr.

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

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*Executor:* John J. Robba, III  
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*Attorney:* Charity Grimm Krupa

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Township, Fayette County, PA (2)

*Executrix:* Edith A. Brooks  
c/o Webster & Webster  
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Uniontown, PA 15401  
*Attorney:* Webster & Webster

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*Attorney:* Charles W. Watson

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Shumar and Angela Gay Shumar  
c/o Davis & Davis  
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*Attorney:* James T. Davis

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*Personal Representative:* Paul K. Stewart  
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*Executrix:* Carline H. Jackson  
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Greensburg, PA 15601  
*Attorney:* George Allen Butler

**MELINDA WOOD**, late of Franklin Township,  
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*Personal Representative:* Brandi Wood  
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## First Publication

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*Administrators:* Gary L. Garbutt and  
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c/o DeHaas Law, LLC  
51 East South Street  
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*Attorney:* Ernest P. DeHaas, III

**IRA WADE MURPHY**, late of Dawson,  
Fayette County, PA (1)

*Executor:* Robert Murphy  
c/o Fieschko & Associates, Inc.  
436 7th. Avenue, Suite 2230  
Pittsburgh, PA 15219  
*Attorney:* Joseph E. Fieschko, Jr.

**PAUL D. WILLIAMS**, late of Uniontown,  
Fayette County, PA (1)

*Executor:* Kristen A. Williams  
167 Hague Lane  
Uniontown, PA 15401  
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Pittsburgh, PA 15219  
*Attorney:* Rosalie P. Wisotzki

## LEGAL NOTICES

### NOTICE

NOTICE is hereby given that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on October 4, 2018. The name of the professional corporation is BG Pathology Associates, PC. The professional corporation has been incorporated under the Pennsylvania Business Corporation Law of 1988.

Douglas Sepic, Esquire  
 WATSON MUNDORFF & SEPIC, LLP  
 720 Vanderbilt Road  
 Connellsville, PA 15425-3516  
 Phone: 724-626-8882

### NOTICE

NOTICE is hereby given that Articles of Incorporation were filed on September 12, 2018 with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation of a domestic nonprofit corporation which was organized under the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania (15 Pa. C. S. A. Section 5306, et sec.). The name of the corporation is "Faith Harvest Guatemala, Inc."

Douglas Sepic, Esquire  
 WATSON MUNDORFF & SEPIC, LLP  
 720 Vanderbilt Road  
 Connellsville, PA 15425-3516  
 Phone: 724-626-8882

### NOTICE

Notice is hereby given that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, on 2/7/2013, with respect to a nonprofit corporation, Fairchance Elderly Housing, Inc., which has been incorporated under the Nonprofit Corporation Law of 1988.

### NOTICE

NOTICE is hereby given pursuant to the provisions of Act 295 of December 16, 1982, P.L. 1309, that a Certificate was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about 10/15/2018 to conduct a business in Fayette County, Pennsylvania, under the assumed or fictitious name of Greendown Acres Manufactured Home Community, with the principal place of business at 110 NW 2nd St., PO Box 457, Cedaredge, CO 81413. The name or names and addresses of persons owning and interested are Duncansville MHP, LLC, 110 NW 2nd St., PO Box 457, Cedaredge, CO 81413.

Court of Common Pleas  
 Fayette County  
 Civil Action – Law  
 No. 2017-01658

Notice of Action in Mortgage Foreclosure

**PNC Bank, National Association, Plaintiff vs. Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations claiming Right, Title or Interest from or under Daisy L. Weaver, Erika Weaver, Known Heir of Daisy L. Weaver, Sonya Weaver, Known Heir of Daisy L. Weaver & Lawrence D. Weaver, Known Heir of Daisy L. Weaver, Mortgagee and Real Owner, Defendants**

To: Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations claiming Right, Title or Interest from or under Daisy L. Weaver, Defendant(s), whose last known address is 7 Plum Street, Masontown, PA 15461. This firm is a debt collector and we are attempting to collect a debt owed to our client. Any information obtained from you will be used for the purpose of collecting the debt. You are hereby notified that Plaintiff, PNC Bank, National Association, has filed a Mortgage Foreclosure Complaint endorsed with a notice to defend against you in the Court of Common Pleas of Fayette County, PA, docketed to No. 2017-01658, wherein Plaintiff seeks to foreclose on the mortgage secured on your property located, 7 Plum Street, Masontown, PA 15461, whereupon your property will 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 following pages, you must take action within twenty (20) days after the 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 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 or cannot afford one, go to or telephone the office set forth below. This office can provide you with 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.

PA Lawyer Referral Service, PA Bar Assn., 100 South St., PO Box 186, Harrisburg, PA 17108, 800.692.7375.

Michael T. McKeever, Atty. for Plaintiff, KML Law Group, P.C., Ste. 5000, Mellon Independence Center, 701 Market St., Phila., PA 19106-1532, 215.627.1322.

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## Registers' Notice

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

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

**Monday, November 5, 2018, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2617-0834	MARY C. RIZER	Paul E. Rizer, Executor

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

**Monday, November 19, 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

**Monday, November 5, 2018, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2618-0127	LORA A. HAUGER a/k/a LORI A. HAUGER	James Gregory Hauger, Administrator

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

**Monday, November 19, 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 (2 of 2)





**JUDICIAL OPINION**

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

COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
	:	
vs.	:	
	:	
ASHTON HITE,	:	No. 2271 of 2017, G.D.
Defendant.	:	Honorable Linda R. Cordaro

**OPINION**

CORDARO, J. October 12, 2018

**SUMMARY**

Before the Court is Defendant’s Omnibus Pretrial Motion to Suppress Evidence. This Court heard testimony and argument on the matter on September 17, 2018. For the following reasons, Defendant’s Motion is granted.

**BACKGROUND**

Defendant, Ms. Ashton Hite, is challenging a warrantless police search of a motel room of which she was a co-occupant. Ms. Hite was staying at Room 1 of the Blue Mountain Inn with Matthew Mitchell and Antoine Baker at the time in issue. Certain events involving the other two co-occupants led to the search of the motel room.

At around 5 pm on March 10, 2017, Pennsylvania State Trooper Ronald Harris conducted a traffic stop on Matthew Mitchell, who had an active warrant in another county for his arrest. Antoine Baker was a passenger in the vehicle. Mr. Mitchell had drug paraphernalia on his person. He was taken to the Uniontown police barracks to await transportation to another county for his outstanding warrant. Mr. Baker was also brought to the Uniontown barracks, but was released from custody.

Based on information received from Mr. Mitchell, Trooper Harris believed that there was drug activity at the Blue Mountain Motel on Route 40 in Fayette County. Mr. Mitchell provided Trooper Harris with written consent to search Room 1 of the Blue Mountain Motel. The Waiver of Rights and Consent to Search form was admitted into evidence as Commonwealth Exhibit 1.

Based on Mr. Mitchell’s written consent, Trooper Harris and two other troopers went to the Blue Mountain Motel at around 8 pm that same evening to search Room 1 for drugs and drug paraphernalia. Mr. Mitchell was still in police custody when the troopers left for the Blue Mountain Motel. The troopers obtained a key from the motel office.

There is some dispute in the testimony as to how the troopers entered the room. According to Trooper Harris, the officers knocked on the door and announced their presence. Trooper Harris did not hear any audible response, and so he used the key to enter the room. Upon entering, Trooper Harris immediately identified Antoine Baker, who was previously the passenger in the vehicle with Mr. Mitchell. The officers drew their weapons and told Mr. Baker not to move. Trooper Harris learned that the Defendant, Ashton Hite, was in the bathroom, so the troopers announced their presence again. Ms. Hite came out of the bathroom. In plain view on a table, Trooper Harris observed a bag of suspected cocaine.

According to Antoine Baker, the troopers knocked and Mr. Baker opened the door for them. Mr. Baker testified that he asked, “What’s the issue? . . . Where’s the search warrant and what’s this about?” The officers did not say anything, but put Mr. Baker in handcuffs and searched the room.

Mr. Baker also testified that he was staying at Room 1 of the Blue Mountain Motel because the heat wasn’t on where he lived, it was blizzarding, and he needed a place to stay. He went to the Blue Mountain Motel with Mr. Mitchell and Defendant, Ms. Hite. All three of them were staying in the room; they planned on staying for two nights. Mr. Mitchell rented the room in his name, but Mr. Baker paid for it.

As a result of the search, Ms. Hite was charged with criminal possession of a controlled substance. Ms. Hite now brings an Omnibus Pretrial Motion before this Court, challenging the constitutionality of the search of the motel room.

## DISCUSSION

The Fourth Amendment to the U.S. Constitution and Article 1, Section 8 of the Pennsylvania Constitution both protect Pennsylvanians from unreasonable searches and seizures. Under the Fourth and Fourteenth Amendments to the U.S. Constitution, a search conducted without a warrant issued upon probable cause is “per se unreasonable . . . subject only to a few specifically established and well-delineated exceptions.” *Katz v. United States*, 389 U.S. 347, 357 (1967). Searches without warrants are unlawful, even if there is probable cause. *Id.*

One specifically established exception to the requirement that officers obtain a warrant before conducting a search is when a person voluntarily consents to a search. *Schneckloth v. Bustamonte*, 412 U.S. 218, 219 (1973). The question of whether consent is voluntary, versus the product of duress or coercion, is a question of fact to be determined from the totality of the circumstances. *Id.* at 227.

In *Fernandez v. California*, 571 U.S. 292, 299 (2014), Justice Alito, writing for the Court, approached the issue of consent in the context of multiple occupants, asking, “[w]hile it is clear that a warrantless search is reasonable when the sole occupant of a house or apartment consents, what happens when there are two or more occupants?”

Must they all consent? Must they all be asked? Is consent by one occupant enough?"

The U.S. Supreme Court has addressed this issue before. When there are two or more occupants in a residence, consent can be obtained by any person having common authority over the premises. *Illinois v. Matlock*, 415 U.S. 164, 170 (1974). In *Matlock*, respondent *Matlock* was indicted for a bank robbery. *Id.* at 166. He was subsequently arrested in his front yard and placed in the back of a squad car. *Id.* at 166, 179. The arresting officers then went to the front door of *Matlock's* house, where they asked a woman with whom *Mr. Matlock* resided for consent to search the residence. *Id.* at 166. The woman voluntarily consented. *Id.* Arguing that he did not give consent, *Matlock* objected to the search of his house and sought to have the evidence suppressed. *Id.* The Court held that the search was constitutional because "the consent of one who possesses common authority over premises or effects is valid as against the absent, nonconsenting person with whom that authority is shared." *Id.* at 170.

The rule in *Matlock* was later expanded to include consent by a person who the police reasonably believe possesses common authority over the premises, even if that person does not in fact have such authority. *United States v. Rodriguez*, 497 U.S. 177, 179 (1990). In *Rodriguez*, respondent *Rodriguez* was asleep in his apartment when the police got consent to search the residence from a woman who had lived with him for several months, had a key to the apartment, and referred to the apartment as "ours" when speaking with police—indicating common authority over the residence. *Id.* The Court held that the search was constitutional, stating that the Fourth Amendment does not require factual accuracy, but rather that it requires factual determinations by government agents to be reasonable. *Id.* at 185.

The rule in *Matlock* and *Rodriguez* was later limited when the Supreme Court held that if two occupants with common authority over a residence are both present and one explicitly refuses to consent, the police cannot search absent a warrant, even if the other occupant voluntarily gives consent. *Georgia v. Randolph*, 547 U.S. 103, 106 (2006). The Court in *Randolph* stated that "a potential defendant with self-interest in objecting is in fact at the door and objects, the co-tenant's permission does not suffice for a reasonable search." *Id.* at 121. The Court reasoned that "[s]ince the co-tenant wishing to open the door to a third party has no recognized authority in law or social practice to prevail over a present and objecting co-tenant, his disputed invitation, without more, gives a police officer no better claim to reasonableness in entering than the officer would have in the absence of any consent at all." *Id.* at 114. Common authority is defined as "mutual use of the property by persons generally having joint access or control for most purposes." *United States v. Murray*, 821 F.3d 386, 392 (3d Cir. 2016) (citing *Matlock* at 170).

Recent cases have suggested that when there is a question of whether consent is valid and there are two or more occupants, courts should focus on comparing the facts to those in *Matlock* and *Rodriguez* versus those in *Randolph*. See, e.g. *United States v. Alama*, 486 F. 3d 1062, 1064 (8th Cir. 2007) ("This case obviously falls on the *Rodri-*

guez and Matlock side of the line.”).

Additionally, a guest in a hotel or motel is afforded the same constitutional protections against unreasonable searches and seizures as a tenant in a house. *Stoner v. State of California*, 376 U.S. 483, 490 (1964).

In Pennsylvania, defendants who are charged with a possessory offense have automatic standing to challenge the admissibility of evidence that is alleged to be the fruit of an illegal search and seizure. *Commonwealth v. Sell*, 470 A.2d 457, 458.

Here, the question presented to the Court is whether Ms. Hite’s constitutional rights against unreasonable searches and seizures were violated when the troopers searched the motel room in which she was staying, based on the voluntary consent of a co-occupant, but against the objection of a separate, present co-occupant.

While cited by the Commonwealth in support of its argument, the rule in *Rodriguez* is not really at issue here. In *Rodriguez*, the question was whether someone with apparent, but not actual, authority over a common property could consent to the search. Here, there is no question that Mr. Mitchell had actual authority to consent to the search. The issue here is whether the police could search the room based on Mr. Mitchell’s consent alone, even though two other co-occupants were present in the room at the time of the search, and one co-occupant objected to the search.

Further, *Matlock* is clearly distinguishable from the facts of this case. In *Matlock*, the defendant was in a separate location from the house when consent was given by a cotenant to search their residence. The Court in *Matlock* distinctly held that the consent of a co-occupant is only valid when the objecting party is not present at the time of the search. *Matlock* at 170. Here, both Ms. Hite and Mr. Baker were present when the troopers came to the Blue Mountain Motel.

The facts in this case are much more similar to those in *Randolph*, where the objections to a warrantless search by a present co-occupant outweighed the consent of a separate occupant. Even though Ms. Hite was in the bathroom when the troopers knocked on the motel room door, she was still present. Further, the troopers searched the room despite the clear objection from Mr. Baker, who questioned the troopers as to why they were there and asked them if they had a warrant. Although Mr. Baker may not have specifically said, “I object to you searching this room without a warrant,” his objection to the search was clear based on him asking the officers to produce a warrant, asking why the officers were there, not getting any response from the officers, and the officers drawing their weapons upon encountering Mr. Baker in the room.

Based on these facts, Mr. Baker properly objected to the search of the motel room. Because of this, the officers were not permitted to search the motel room, even if they did have a written, voluntary consent from a co-occupant of the room. The search therefore violated Ms. Hite’s constitutional rights against unreasonable searches and seizures.

## CONCLUSION

The warrantless search of the motel room occupied by Ms. Hite and Mr. Baker was unconstitutional, as there was an objection to the search by a present co-occupant. As a result, all evidence obtained and statements made during the search shall be suppressed and the charge against Ms. Hite shall be dismissed.

## ORDER

AND NOW, this 12th day of October, 2018, in consideration of Defendant's Omnibus Pretrial Motion to Suppress Evidence, and after a hearing on the Motion, it is ORDERED and DIRECTED that the Motion is GRANTED. All evidence and statements obtained during the motel room search shall be suppressed, and the charge filed against the Defendant is hereby DISMISSED.

BY THE COURT:  
Linda R. Cordaro, Judge

ATTEST:  
Janice Snyder  
Clerk of Courts



## REAL ESTATE PRACTICE CLE

### A Primer on Real Estate Practice in Fayette County

The Fayette County Bar Association will present A Primer on Real Estate Practice in Fayette County:

Topics: How to Perform a Title Search In Fayette County, Oil and Gas, Coal and other Minerals Searches, Municipal Liens, Closings, Mortgages, Title Letters and Settlement sheets. The seminar will also include an on-site demonstration in the Recorder of Deeds Office and other county offices. All attendees will receive digital copies of more than 100 Real Estate Practice forms.

Date: **Wednesday, October 31, 2018**

Time: 9:00 a.m. to 1:00 p.m.

Location: Commissioners Meeting Room,  
Public Service Building  
22 East Main Street

Panelists: Vincent J. Roskovensky, II, Esquire  
Anthony S. Dedola, Esquire  
Tracie L. Vargo, Recorder of Deeds

CLE Credit: 4.0 hour of Substantive CLE credits.

Cost:

- No charge - Attorneys admitted to practice in Pennsylvania after January 1, 2012
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**Register: Cindy at the Bar office on or before Friday, October 26th**  
724-437-7994 or [cindy@fcbar.org](mailto:cindy@fcbar.org)

Registration from 8:30 to 9:00 a.m.  
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