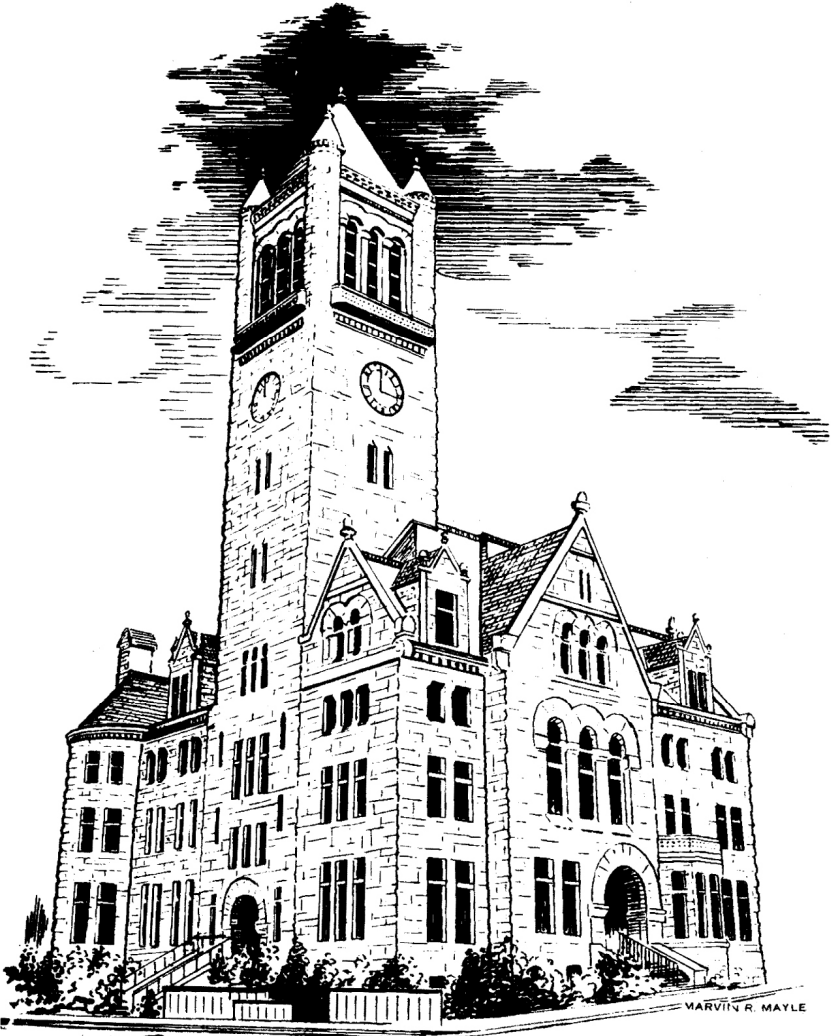


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FAYETTE LEGAL JOURNAL

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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

LENA LAZZARO, late of Belle Vernon, Fayette County, PA ⁽³⁾

Personal Representative: Holle Lazzaro
218 Vernon Avenue
Belle Vernon, PA 15012
c/o 142 Fallowfield Avenue
Charleroi, PA 15022
Attorney: Kris A. Vanderman

JAMES D. ORLANDO, late of Vanderbilt, Fayette County, PA ⁽³⁾

Administrator: James D. Orlando, II
437-C Santiago Road
Virginia Beach, VA 23451
c/o 32 West Third Street
Greensburg, PA 15601
Attorney: Peter P. Cherellia

RUSSELL L. PETROFF, late of Brownsville, Fayette County, PA ⁽³⁾

Executrix: Christine Adams
c/o DeHaas Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

Second Publication

ALBERT H. CARUSO, late of Dunbar, Fayette County, PA ⁽²⁾

Personal Representatives: Rose Ann Farace and Maria Sue Pettit
c/o Watson Mundorff & Sepic, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Charles W. Watson

CHARLOTTE A. CINDRIC, late of Hopwood, Fayette County, PA ⁽²⁾

Personal Representatives: Gregory J. Cindric and Donna K. Mathianas
c/o DeHaas Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

SOPHIA T. KING, late of Masontown, Fayette County, PA ⁽²⁾

Personal Representative: James E. Kubina
c/o DeHaas Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

DOROTHY NICKLOW, late of North Union Township, Fayette County, PA ⁽²⁾

Co-Executors: Barbara Lowe and Mary Ellen Nicklow
c/o 99 East Main Street
Uniontown, PA 15401
Attorney: Robert A. Gordon

ROBERT J. SALUGA, late of North Union Township, Fayette County, PA ⁽²⁾

Executor: Norman Leo Howard, III
c/o PO Box 760
Connellsville, PA 15425
Attorney: Carolyn W. Maricondi

MICHAEL J. YOZIE, a/k/a MICHAEL YOZIE, late of Dunbar Township, Fayette County, PA (2)

Executor: Kent Yozie
c/o Fitzsimmons and Barclay
55 East Church Street, Suite 102
Uniontown, PA 15401
Attorney: James N. Fitzsimmons

First Publication

DORIS W. COLDREN, a/k/a DORIS WRIGHT COLDREN, late of Uniontown, Fayette County, PA (1)

Executor: Scott W. Coy
2009 Ginoria Court
Export, PA 15632
c/o 1151 Old Freeport Road
Pittsburgh, PA 15238.
Attorney: Christopher M. Swart

ROBERT E. HAGEDORN, a/k/a ROBERT EMIL HAGEDORN, late of Saint Petersburg, FL (1)

Executrix: Rita P. Hagedorn
12478 Capri Circle North
Treasure Island, FL 33706
c/o 140 South Main Street, Suite 301
Greensburg, PA 15601
Attorney: David Lucas

MAXINE M. MLINARCIK, late of Uniontown, Fayette County, PA (1)

Executor: William J. Mlinarcik
c/o John & John
96 East Main Street
Uniontown, PA 15401
Attorney: Simon B. John

KEITH A. QUEER, late of Dunbar, Fayette County, PA (1)

Executor: Paula R. Keedy
601 Jason Court
Mt. Pleasant, PA 15666
c/o 749 North Church Street
Mt. Pleasant, PA 15666
Attorney: Paul E. Toohey

EUGENE P. TASSONE, late of Redstone Township, Fayette County, PA (1)

Personal Representative: Gary J. Frankouser
107 East Main Street
Uniontown, PA 15401
c/o 107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankouser

EDITH ANN ZAVAGE, a/k/a EDITH ZAVAGE, late of South Union Township, Fayette County, PA (1)

Administratrix: Carol Ann McKean
c/o Zebley Mehalov & White, P.C.
18 Mill Street Square
P.O. Box 2123
Uniontown, PA 15401
Attorney: Daniel R. White

LEGAL NOTICES

NOTICE

Notice is hereby given that a Certificate of Organization was filed with the Pennsylvania Department of State, on March 13, 2018 for a Limited Liability Company, organized under the Limited Liability Company Law of 1994, as from time to time amended. The name of the Company is Skeeter Trucking, LLC, having an address of 1 Crystalwood Drive, Smithfield, PA 15478.

John A. Kopas III, Esquire
556 Morgantown Road
Uniontown, PA 15401
Telephone: 724-437-1111

FICTITIOUS NAME NOTICE

Notice is hereby given pursuant to the provisions of the Act 1982-295 of December 16, 1982 of the filing in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, on the 25th day of May, 2018, a Certificate for the conduct of a business in Fayette County, Pennsylvania, under the assumed or fictitious name, style or designation of LILLEY AND DOLDE FLOORING, with its principal place of business at 396 Quall Hill Road, Normalville, PA 15469.

The names and addresses of all interested parties in said business are:

Micky L. Lilley, 396 Quall Hill Road, Normalville, PA 15469.

Thomas D. Dolde, 341 Bellview Road, Connellsville, PA 15425.

Lawrence F. Becker, III , Esquire
121 West Second Street
Greensburg, PA 15601

FICTITIOUS NAME REGISTRATION

Notice is hereby given that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on May 24, 2018 for Hollis and Sons drywall at 432 Brown Street Everson, PA 15631. The names and address of each individual interested in the business are William A. Hollis, Nick Hollis and Mark Hollis all located at 432 Brown Street Everson, PA 15631. This was filed in accordance with 54 Pa.C.S. 311.

In The Court Of Common Pleas Of Fayette
County, Pennsylvania Civil Action
No. 2297 of 2017 GD
Notice of Action in Mortgage Foreclosure

The Scottdale Bank & Trust Company vs.
Kimberly Sue Yezek and Donald M. Davies

To the Defendant(s) Kimberly Sue Yezek and Donald M. Davies: TAKE NOTICE THAT THE Plaintiff, The Scottdale Bank & Trust Company has filed an action Mortgage Foreclosure, as captioned above.

NOTICE

IF YOU WISH TO DEFEND, YOU MUST ENTER A WRITTEN APPEARANCE PERSONALLY OR BY AN ATTORNEY AND FILE YOUR DEFENSES OR OBJECTIONS WITH THE COURT. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ON AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

PENNSYLVANIA LAWYER
REFERRAL SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 South Street
P.O. Box 186
Harrisburg, PA 17108
Telephone: 1-800-692-7375

JOHN S. TOOHEY
ATTORNEY FOR PLAINTIFF
749 North Church Street
Mt. Pleasant, PA 15666
724-547-7557

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
Judge Wagner
No: 416 of 2018, G.D.

IN RE: Change of Name of:
Adam Patrick Cook,

NOTICE

Notice is hereby given to all interested parties, that a petition styled as above has been filed in the Court of Common Pleas, Fayette County, Pennsylvania, seeking Change of Name of Adam Patrick Cook.

Hearing to consider such Petition shall be held in Courtroom Number 2, of the Fayette County Courthouse, 61 East Main Street, Uniontown, Fayette County, Pennsylvania, on July 25, 2018, at 9:30 o'clock A.M., before the Honorable Judge Wagner.

Patrick C. McDaniel
Attorney for Petitioner
PA. I.D. #42125
50 East Main Street
Uniontown, PA 1540 1
(724) 437-4211
FAX: (724) 437-4245

SHERIFF'S SALE

Date of Sale: August 16, 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, August 16, 2018, at 2:00 p.m. in Courtroom Number Five at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (3 of 3)

James Custer
 Sheriff Of Fayette County

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

No. 2608 of 2017 GD
 No. 87 of 2018 ED

BAYVIEW LOAN SERVICING, LLC, 4425 Ponce de Leon Blvd, 5th Floor Coral Gables, FL 33146,

Plaintiff,
vs.

RITA L ABBOTT,
Mortgagor(s) and Record Owner(s)
100 Nicholson Street
Martin, PA 15460,
Defendant(s).

ALL THAT CERTAIN LOT OR PARCEL OF LAND situate in the TOWNSHIP OF NICHOLSON, County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #24-09-0046

PROPERTY ADDRESS: 100 Nicholson Street
 Martin, PA 15460

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: RITA L ABBOTT

McCABE, WEISBERG & CONWAY, LLC
 BY: ANDREW L. MARKOWITZ, ESQUIRE
 123 South Broad Street, Suite 1400
 Philadelphia, PA 19109
 (215) 790-1010

No. 164 of 2018 GD
 No. 98 of 2018 ED

LSF10 Master Participation Trust,
Plaintiff,

v.

Michael Adamsky, Jr. and Shelia Adamsky,
Defendants.

ALL THAT CERTAIN PIECE, PARCEL, OR LOT OF LAND SITUATE IN GERMAN TOWNSHIP, FAYETTE COUNTY, COMMONWEALTH OF PENNSYLVANIA, AND MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF GRAY STREET, AS

EXTENDED AND AS SHOWN UPON A PLAN OF LOTS LAID OUT BY THE HILLMAN-NEFF COKE COMPANY AND RECORDED IN THE RECORDER'S OFFICE OF FAYETTE COUNTY, PENNSYLVANIA, IN PLAN BOOK 4, PAGE 46, WHICH POINT IS 200 FEET EASTWARD FROM THE SOUTHEAST CORNER OF LOT NO. 26 IN SAID PLAN or LOTS; THENCE IN AN EASTERLY DIRECTION ALONG THE NORTHERLY SIDE OF SAID GRAY STREET, 60 FEET TO A POINT; THENCE ALONG A LINE AT RIGHT ANGLES TO SAID GRAY STREET IN A NORTHERLY DIRECTION, A DISTANCE OF 150 FEET TO A 20 FOOT ALLEY; THENCE ALONG THE SOUTHERLY LINE OF SAID ALLEY IN A WESTERLY DIRECTION, A DISTANCE OF 60 FEET TO A POINT; THENCE ALONG A LINE RUNNING AT RIGHT ANGLES TO SAID ALLEY AND IN A SOUTHERLY DIRECTION, A DISTANCE OF 150 FEET TO THE PLACE OF BEGINNING.

HAVING ERECTED THEREON A DWELLING HOUSE AND OUTBUILDINGS, BEING LOT GENERALLY KNOWN AS NO. 90 AT THE GRIFFIN PLANT OF THE HECLA COAL AND COKE COMPANY.

EXCEPTING AND RESERVING THEREOUT AND THEREFROM ALL THE COAL AND MINING RIGHTS AND A PUBLIC EASEMENTS AS MORE FULLY DESCRIBED IN THE DEED FROM THE HECLA COAL AND COKE COMPANY TO ALBERT ADAMSKI AND KADA ADAMSKI, DATED FEBRUARY 1, 1928 AND RECORDED IN THE OFFICE FOR THE RECORDING OF DEED IN DEED BOOK VOLUME 755, PAGE 482.

Being known as: 307 Gray Avenue, Masontown, Pennsylvania 15461

Title vested in Michael Adamsky, Jr. by Deed from L.D. McDaniel, Administrator of the Estate of Louis V. Adamsky a/k/a Louis Adamsky, deceased, L.D. McDaniel, Administrator D.B.N of the Estate of Mary Frances Adamsky a/k/a Mary F. Adamsky, deceased, Fayette Bank & Trust Co., Guardian of the Estate of Joseph Albert Adamsky a/k/a Joseph A. Adamsky, an incompetent and Michael Adamsky, Sr. dated April 4, 1985 and recorded May 17, 1985 in Deed Book 36, Page 80

Tax Parcel Number: 15-41-0025

No. 1065 of 2017 GD
No. 154 of 2018 ED

Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, as indenture trustee, for the CSMC 2015-RPL2 Trust, Mortgage- Backed Notes, Series 2015-RPL2,

Plaintiff,

Vs.

Richard A. Bass, Jr., Known Heir of Barbara A. Bass, Deceased Mortgage and Real Owner

Joseph Bass, Known Heir of Barbara A. Bass, Deceased Mortgage and Real Owner Angel Bass, Known Heir of Barbara A. Bass, Deceased Mortgage and Real Owner

Unknown heirs, successors, assigns and all persons, firms, or associations claiming right, title, or interest from or under Barbara A.

Bass, Deceased Mortgage and Real Owner, Defendants.

ALL THAT RIGHT, TITLE, INTEREST AND CLAIMS OF RICHARD A. BASS, JR., KNOWN HEIR OF BARBARA A. BASS, DECEASED MORTGAGER AND REAL OWNER, JOSEPH BASS, KNOWN HEIR OF BARBARA A. BASS, DECEASED MORTGAGER AND REAL OWNER, ANGEL BASS, KNOWN HEIR OF BARBARA A. BASS, DECEASED MORTGAGER AND REAL OWNER, UNKNOWN HEIRS, SUCCESSORS, ASSIGNS AND ALL PERSONS, FIRMS, OR ASSOCIATIONS CLAIMING RIGHT, TITLE, OR INTEREST FROM OR UNDER BARBARA A. BASS, DECEASED MORTGAGER AND REAL OWNER, BARBARA A. BASS AND RICHARD BASS OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN REDSTONE TOWNSHIP, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED AT DBV 2944 PAGE 54

BEING KNOWN AS 2016 MAIN ST, CARDALE, PA 15420

TAX MAP NO. 30-26-0193

Phelan Hallinan Diamond & Jones, LLP

No. 478 of 2018 GD
 No. 136 of 2018 ED

Stephen M. Hladik, Esquire
 Hladik, Onorato & Federman, LLP
 298 Wissahickon Avenue
 North Wales, PA 19454

Ditech Financial LLC,
Plaintiff,
v.

Thomas Blaho, IV a/k/a Thomas Blaho,
Defendant(s).

No. 2450 of 2013 GD
 No. 153 of 2018 ED

Partners for Payment Relief DE III, LLC,
Plaintiff,
vs.

Michael Burkus and Teresa M. Burkus,
Defendants.

By virtue of a Writ of Execution No. 478-OF-2018-GD, Ditech Financial LLC v. Thomas Blaho, IV a/k/a Thomas Blaho, owner(s) of property situate in the UNIONTOWN CITY, Fayette County, Pennsylvania, being 118 Cleveland Avenue, Uniontown, PA 15401

Parcel No.: 38-03-0260
 Improvements thereon: RESIDENTIAL DWELLING

By virtue of Writ of Execution No. No. 2450 of 2013, G.D., Partners for Payment Relief DE III, LLC (Plaintiff) vs. Michael Burkus and Teresa M. Burkus (Defendants)

Property Address 205 East Green Street, Connellsville, PA 15425
 Parcel I.D. No. 05-07-0413
 Improvements thereon consist of a residential dwelling.
 Judgment Amount: \$93,538.22

No. 216 of 2018 GD
 No. 144 of 2018 ED

United Midwest Savings Bank,
Plaintiff,
Vs.

Rodney Blare a/k/a Rodney Blair
Mary Blare a/k/a Mary Blair,
Defendants.

UDREN LAW OFFICES, P.C.
 WOODCREST CORPORATE CENTER
 111 WOODCREST ROAD, SUITE 200
 CHERRY HILL, NJ 08003-3620
 856-669-5400
 pleadings@udren.com

No. 213 of 2018 GD
 No. 91 of 2018 ED

ALL THAT RIGHT, TITLE, INTEREST AND CLAIMS OF RODNEY BLARE A/K/A RODNEY BLAIR AND MARY BLARE A/K/A MARY BLAIR OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN GERMAN TOWNSHIP, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED AT DBV 3046 PAGE 1481

BEING KNOWN AS 810 EAST CHURCH STREET, MASONTOWN, PA 15461

TAX MAP NO. 15-39-0003

HSBC Bank USA, National Association, as Trustee for Fremont Home Loan Trust 2006-C, Mortgage-Backed Certificates, Series 2006-C,
Plaintiff,
V.

ALBERT CELLURALE
KATHY CELLURALE,
Defendant(s).

ALL THAT CERTAIN LOT OF LAND SITUATE IN SOUTH UNION TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS 112 Duall Drive, Hopwood (South Union Township), PA 15445
 PARCEL NUMBER: 34-12-0091
 IMPROVEMENTS: Residential Property

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

No. 2692 of 2017 GD
No. 95 of 2018 ED

ALLISON, PA 15413. DEED BOOK VOLUME
3303, PAGE 1391, PARCEL NUMBERS 19-19
-0021 AND 19-19-21-02.

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

No. 509 of 2018 GD
No. 137 of 2018 ED

QUICKEN LOANS INC.
635 Woodward Avenue
Detroit, MI 48226,
Plaintiff,
Vs.

MICHAEL D. COLLAGE
Mortgagor(s) and Record Owner(s)
112 Leggs Street
Belle Vernon, PA 15012
Defendant(s).

2011-2012 OPPORTUNITY FUND 6-1 LLC
323 5th Street
PO Box 35
Eureka, CA 95502,
Plaintiff,
vs.

DOUGLAS A. FIKE AKA DOUGLAS FIKE
Mortgagor(s) and Record Owner(s)
4731 National Pike
Markleysburg, PA 15459,
Defendant(s).

ALL THAT CERTAIN tract of land situate
in the TOWNSHIP OF WASHINGTON,
County of Fayette and Commonwealth of
Pennsylvania.

TAX PARCEL #41-15-0031
PROPERTY ADDRESS: 112 Leggs Street Belle
Vernon, PA 15012

IMPROVEMENTS: A residential
dwelling.

SOLD AS THE PROPERTY OF:
MICHAEL D. COLLAGE

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

TAX PARCEL # 16-11-0028
PROPERTY ADDRESS: 4731 National
Pike Markleysburg, PA 15459

IMPROVEMENTS: A residential
dwelling.

SOLD AS THE PROPERTY OF:
DOUGLAS A. FIKE AKA DOUGLAS FIKE

No. 2391 of 2017 GD
No. 158 of 2018 ED

THE BANK OF NEW YORK MELLON, AS
TRUSTEE FOR CIT MORTGAGE LOAN
TRUST 2007-1,
Plaintiff,
V.

TINA M. CONAWAY,
Defendant.

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

No. 185 of 2018 GD
No. 142 of 2018 ED

ALL THE RIGHT, TITLE, INTEREST
AND CLAIM OF TINA M. CONAWAY OF,
IN AND TO:

ALL THE FOLLOWING DESCRIBED
REAL ESTATE SITUATED IN THE
TOWNSHIP OF LUZERNE, COUNTY OF
FAYETTE, COMMONWEALTH OF
PENNSYLVANIA. HAVING ERECTED
THEREON A DWELLING KNOWN AND
NUMBERED AS 405 EAST STREET,

THE BANK OF NEW YORK MELLON
FKA THE BANK OF NEW YORK, AS
TRUSTEE (CWABS 2006-IMI)
4425 Ponce de Leon Blvd
Coral Gables, FL 33146,
Plaintiff,
vs.

**LENA M. HAGER AKA LENA DILLINGER
DONALD W. HAGER JR.
Mortgagor(s) and Record Owner(s)
36 Hood Street
Brownsville, PA 15417
Defendant(s).**

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

TAX PARCEL # 02-02-0021
PROPERTY ADDRESS: 36 Hood Street
Brownsville, PA 15417

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: LENA M. HAGER AKA LENA DILLINGER and DONALD W. HAGER JR.

PARKER McCAY P.A.
By: Patrick J. Wesner, Esquire
Attorney ID # 203145
9000 Midlantic Drive, Suite 300
P.O. Box 5054
Mount Laurel, NJ 08054-1539
(856) 810-5815

No. 1202 of 2016 GD
No. 96 of 2018 ED

**The Bank of New York Mellon FKA The
Bank of New York, as Trustee for the
certificateholders of the CWABS, Inc., Asset-
Backed Certificates, Series 2006-26 c/o
Specialized Loan Servicing, LLC,
Plaintiff,
V.**

**Dorothy J. Jones
William K Jones,
Defendants.**

By virtue of a Writ of Execution, No. 1202 of 2016 GD, The Bank of New York Mellon, et al vs. Dorothy J. Jones and William K Jones, owner of property situate in the EIGHT WARD OF THE CITY OF UNIONTOWN, Fayette County, Pennsylvania

137 Union Street, Uniontown, PA 15401
Parcel No. 38-10-0515
Improvements thereon: RESIDENTIAL SINGLE FAMILY DWELLING

Richard M. Squire & Associates, LLC
By: Richard M. Squire, Esquire
Bradley J. Osborne, Esquire
Sarah K. McCaffery, Esquire
ID. Nos. 04267/312169/311728
One Jenkintown Station, Suite 104
115 West Avenue
Jenkintown, PA 19046
Telephone: 215-886-8790
Fax: 215-886-8791

No. 303 of 2018 GD
No. 128 of 2018 ED

**J.P. Morgan Mortgage Acquisition Corp.,
PLAINTIFF,
v.
Shawn M. Keefer,
DEFENDANT(S).**

TAX PARCEL NO.: 46-06-0066
PROPERTY ADDRESS: 115 Vernon
Avenue Belle Vernon, PA 15012
IMPROVEMENTS: Single Family
Dwelling
SEIZED AND TAKEN in execution as the property of Shawn M. Keefer

STERN AND EISENBERG, PC
JESSICA N. MANIS, ESQ.

No. 1187 of 2017 GD
No. 97 of 2018 ED

**Deutsche Bank National Trust Company, as
Trustee for Popular ABS, Inc., Series 2007-A
c/o Ocwen Loan Servicing, LLC,
Plaintiff,
V.
Benjamin Knox,
Defendant(s).**

SITUATE IN THE THIRD WARD OF THE TOWNSHIP OF GERMAN, FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 643 Stevenson Street, Ronco, PA 15476

PARCEL NO. 15-31-0010 and 15-31-0002
IMPROVEMENTS- RESIDENTIAL REAL ESTATE
SOLD AS THE PROPERTY OF- Benjamin Knox

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

No. 1700 of 2017 GD
No. 99 of 2018 ED

KEY BANK, NA S/B/M FIRST NIAGARA BANK
4224 Ridge Lea Road
Amherst, NY 14226

Plaintiff,

vs.

CAROL LEE KOLLAR AKA CAROL L. KOLLAR

Mortgagor(s) and Record Owner(s)
221 North Gallatin Avenue
Uniontown, PA 15401,

Defendant(s).

ALL THAT CERTAIN lots of ground situate in the CITY OF UNIONTOWN, County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #38010099

PROPERTY ADDRESS: 221 North Gallatin Avenue Uniontown, PA 15401

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: CAROL LEE KOLLAR AKA CAROL L. KOLLAR

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

No. 1701 of 2017 GD
No. 86 of 2018 ED

DITECH FINANCIAL LLC F/K/A GREEN TREE SERVICING LLC
3000 Baypon Drive, Suite 880
Tampa, FL 33607,

Plaintiff,

vs.

STEPHEN LAMBING

Mortgagor(s) and Record Owner(s)
2113 Isabella Road Ext AKA P.O. Box 86
Isabelle Road
Connellsville, PA 15425

Defendant(s).

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND situate in the TOWNSHIP OF CONNELLSVILLE, County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #06-09-0121

PROPERTY ADDRESS: 2113 Isabella Road Ext AKA P.O. Box 86 Isabelle Road Connellsville, PA 15425

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: STEPHEN LAMBING

ANNE N. JOHN
ATTORNEY AT LAW

No. 2324 of 2017 GD
No. 143 of 2018 ED

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

Plaintiff,

vs.

TOLBERT THOMAS LUKACS and WHITNEY GAYLE LUKACS, a/k/a WHITNEY TUTTLE,

Defendants.

All that certain piece or parcel of land situate in South Union Township, Fayette County, Pennsylvania, being designated as Lot No. 5 in the Deer Run Estates Plan of Lots, which said Plan is recorded in the Recorder of Deeds of Fayette County, Pennsylvania, in Plan Book 51 page 58.

FOR prior title see Record Book 3250 at page 1771.

Upon which is erected a two-story single-family brick dwelling known locally as 113 Lopez Drive, Uniontown, PA 15401.

Assessment Map No.: 34-05-0077-53.

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

No. 2058 of 2017 GD
 No. 138 of 2018 ED

**Kenneth R. Nicholson, known heir of Glenn
 Nicholson, Deceased Mortgagor
 Unknown heirs, successors, assigns and all
 persons, firms, or associations claiming right,
 title or interest from or under Glenn
 Nicholson, Deceased Mortgagor and Real
 Owner,
 Defendants.**

**U.S. BANK NATIONAL ASSOCIATION, AS
 TRUSTEE, ON BEHALF OF THE
 HOLDERS OF THE CSMC TRUST 2006-
 CF2 CS MORTGAGE PASS-THROUGH
 CERTIFICATES, SERIES 2006-CF2
 3217 S. Decker Lake Drive
 Salt Lake City, UT 84119,
 Plaintiff,
 VS.**

**VERNA A. MARTIN
 ROBERT D. MARTIN
 THE UNITED STATES OF AMERJCA
 Mortgagor(s) and Record Owner(s)
 113 General Drive Uniontown, PA 15401,
 Defendant(s).**

ALL THAT CERTAIN piece or parcel of
 property situate in the County of Fayette and
 Commonwealth of Pennsylvania.

TAX PARCEL # _____
 PROPERTY ADDRESS: 113 General
 Drive Uniontown, PA 15401
 IMPROVEMENTS: A residential
 dwelling.

SOLD AS THE PROPERTY OF: VERNA
 A. MARTIN and ROBERT D. MARTIN

No. 735 of 2017 GD
 No. 124 of 2018 ED

**Bayview Loan Servicing, LLC, a Delaware
 Limited Liability Company,
 Plaintiff,
 Vs.**

**Samuel Nicholson, known heir of Glenn
 Nicholson, Deceased Mortgagor
 Dawn Robin Behunin, known heir of Glenn
 Nicholson, Deceased Mortgagor
 Richard Nicholson, known heir of Glenn
 Nicholson, Deceased Mortgagor
 Wesley Nicholson, known heir of Glenn
 Nicholson, Deceased Mortgagor
 Joseph Nicholson, known heir of Glenn
 Nicholson, Deceased Mortgagor**

ALL THAT RIGHT, TITLE, INTEREST
 AND CLAIMS OF SAMUEL NICHOLSON,
 KNOWN HEIR OF GLENN NICHOLSON,
 DECEASED MORTGAGOR, DAWN ROBIN
 BEHUNIN, KNOWN HEIR OF GLENN
 NICHOLSON, DECEASED MORTGAGOR,
 RICHARD NICHOLSON, KNOWN HEIR OF
 GLENN NICHOLSON, DECEASED
 MORTGAGOR, WESLEY NICHOLSON,
 KNOWN HEIR OF GLENN NICHOLSON,
 DECEASED MORTGAGOR, JOSEPH
 NICHOLSON, KNOWN HEIR OF GLENN
 NICHOLSON, DECEASED MORTGAGOR,
 KENNETH R. NICHOLSON, KNOWN HEIR
 OF GLENN NICHOLSON, DECEASED
 MORTGAGOR, UNKNOWN HEIRS,
 SUCCESSORS, ASSIGNS AND ALL
 PERSONS, FIRMS, OR ASSOCIATIONS
 CLAIMING RIGHT, TITLE OR INTEREST
 FROM OR UNDER GLENN NICHOLSON,
 DECEASED MORTGAGOR AND REAL
 OWNER, GLENN NICHOLSON AND DEBRA
 A. NICHOLSON, KNOWN HEIR OF GLENN
 NICHOLSON, DECEASED MORTGAGOR
 OF, IN AND TO THE FOLLOWING
 DESCRIBED PROPERTY:

ALL THAT CERTAIN LOT OR PARCEL
 OF LAND SITUATE IN CONNELLSVILLE
 CITY, COUNTY OF FAYETTE AND
 COMMONWEALTH OF PENNSYLVANIA,
 BEING MORE FULLY DESCRIBED AT DBV
 2300 PAGE 0109

BEING KNOWN AS 517 RACE STREET,
 CONNELLSVILLE, PA 15425
 TAX MAP NO. 05-07-0380

STERN & EISENBERG PC
EDWARD J. MCKEE, ESQUIRE

No. 437 of 2018 GD
No. 127 of 2018 ED

Lakeview Loan Servicing, LLC,
Plaintiff,
V.
Kurt E. Nightman and Marie F. Nightman,
Defendant(s).

SITUATE IN THE VILLAGE OF
BANNING IN PERRY TOWNSHIP,
FAYETTE COUNTY, PENNSYLVANIA,
BEING KNOWN AS 1 RAILROAD STREET,
DAWSON, PA 15428.

PARCEL NO. 27-03-0045
IMPROVEMENTS- RESIDENTIAL
REAL ESTATE
SOLD AS THE PROPERTY OF- KURT
E. NIGHTMAN AND MARIE F. NIGHTMAN

UDREN LAW OFFICES, P.C.
WOODCREST CORPORATE CENTER
111 WOODCREST ROAD, SUITE 200
CHERRY HILL, NJ 08003-3620
856-669-5400
pleadings@udren.com

No. 3071 of 2007 GD
No. 160 of 2018 ED

**Deutsche Bank Trust Company Americas, as
Trustee and Custodian for Meritage
Mortgage Loan Trust 2005-1 by: Saxon
Mortgage Services, Inc. as its attorney-in-
fact,**

Plaintiff,
V.
GARY J. OSWALD
JODY A. OSWALD,
Defendant(s).

ALL THAT CERTAIN LOT OF LAND
SITUATE IN BULLSKIN TOWNSHIP,
FAYETTE COUNTY, PENNSYLVANIA:
BEING KNOWN AS 619 Englishman Hill
Road, Connellsville, PA 15425

PARCEL NUMBER: 4-29-252-1
IMPROVEMENTS: Residential Property

No. 104 of 2018 GD
No. 88 of 2018 ED

WELLS FARGO BANK, N.A.,
Plaintiff,
Vs.
Dana G Prinkey,
Defendant.

ALL THAT RIGHT, TITLE, INTEREST
AND CLAIMS OF DANA G. PRINKEY OF,
IN AND TO THE FOLLOWING DESCRIBED
PROPERTY:

ALL THAT CERTAIN LOT OR PARCEL
OF LAND SITUATE IN CONNELLSVILLE
CITY, COUNTY OF FAYETTE AND
COMMONWEALTH OF PENNSYLVANIA,
BEING MORE FULLY DESCRIBED AT DBV
3290 PAGE 241

BEING KNOWN AS 207 N PROSPECT
STREET, CONNELLSVILLE, PA 15425
TAX MAP NO. 05-06-0264

No. 864 of 2017 GD
No. 108 of 2018 ED

Carrington Mortgage Services, LLC,
PLAINTIFF,
vs.
John H. Shaffer,
DEFENDANT.

TRACT ONE:

ALL that certain piece or parcel of land
situate in the borough of Newell (formerly
Jefferson Township), Fayette County,
Pennsylvania, in the Plan of Lots as laid out by
Lucius Marchand as recorded in the Recorder's
Office of Fayette County, Pennsylvania in Plan
Book Volume 1, page 88 and more particularly
bounded and described as follows:

TRACT TWO:

ALL that certain piece or parcel of land
situate in the Borough of Newell (formerly
Township), Fayette County, Pennsylvania,
bounded and described as follows:

COMMONLY KNOWN AS: 308 Fourth
Street, Newell, PA 15466

TAX PARCEL NOS. 23040086 (23-04-
0086) & 2304008401 (23-04-008401)

Phelan Hallinan Diamond & Jones, LLP

No. 1001 of 2017 GD
 No. 103 of 2018 ED

U.S. Bank National Association,
Plaintiff,
V.
Thomas K. Shaw, Jr
Lisa M. Shaw
Defendant(s).

By virtue of a Writ of Execution No. 1001-OF-2017-GD, U.S. Bank National Association V. Thomas K. Shaw, Jr, Lisa M. Shaw, owner(s) of property situate in the UPPER TYRONE TOWNSHIP, Fayette County, Pennsylvania, being 841 Painter Street Extention a/k/a 839 Painter ST Ext. Everson, PA 15631-1204

Parcel No.: 39090011

Improvements thereon: RESIDENTIAL DWELLING

No. 639 of 2017 GD
 No. 149 of 2018 ED

J.P. Morgan Mortgage Acquisition Corp.,
PLAINTIFF,
VS.
Dawn M. Siple and Jason R. Siple,
DEFENDANTS.

All that certain lot of land situate in the Borough of Dawson, Fayette County, Pennsylvania and being known as a part of Lot No. 77 in the General Plan of said Borough, said plan being of record in the Office of the Recorder of Deeds of Fayette County, Pennsylvania in Plan Book 1, page 33, said lot being bounded and described as follows:

Beginning at a point on Stauffer Street in said Borough at a corner of land conveyed by William McDonald and his wife to Beeson Joseph by deed dated November 26, 1904 and recorded in said Recorder's Office on March 16, 1937 in Deed Book 531, page 131; thence along said land conveyed, North 57 1/2" West, 150.15 feet to a point on Poplar Alley; thence along Poplar Alley, South 32 1/2° West, 59.1 feet to a point; thence South 47 1/2° East, 153.45 feet to a point on Stauffer Street, North 32 1/2° East, 85.5 feet to a point, the place of beginning.

Being Map Number 07-01-04456

B

COMMONLY KNOWN AS: 100 Stauffer Street, Dawson, PA 15428
 TAX PARCEL NO. 07010046

No. 414 of 2018 GD
 No. 125 of 2018 ED

PENNYMAC LOAN SERVICES, LLC,
Plaintiff,
vs.
MATTHEW V. SMITH,
Defendant.

ALL THAT CERTAIN LOT OR PIECE OF GROUND SITUATE IN THE BOROUGH OF EVERSON. COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA.

BEING THE SAME PREMISES which Timothy E. Frye and Brianne McAlister, husband and wife, by Deed dated February 7, 2013 and recorded February 11, 2013 in the Office of the Recorder of Deeds in and for Fayette County in Deed Book Volume 3211, Page 1088, granted and conveyed unto MATTHEW V. SMITH, unmarried.

BEING KNOWN AS: 717 BROWN STREET, EVERSON, PA 15631
 IDENTIFIED AS TAX PARCEL #10-04-0038

Phelan Hallinan Diamond & Jones, LLP

No. 353 of 2018 GD
 No. 151 of 2018 ED

PNC Bank, National Association, Successor by Merger to National City Mortgage A Division of National City Bank,
Plaintiff,
V.
Michael R. Sylvester,
Defendant(s).

By virtue of a Writ of Execution No. 353-OF-2018-GD, PNC Bank, National Association, Successor by Merger to National City Mortgage A Division of National City Bank v. Michael R. Sylvester, owner(s) of property situate in the SOUTH UNION TOWNSHIP, Fayette County, Pennsylvania, being 24 Sycamore Street,

Uniontown, PA 15401-5342
Parcel No.: 34-18-0124
Improvements thereon: RESIDENTIAL
DWELLING

No. 166 of 2018 GD
No. 102 of 2018 ED

**PENNSYLVANIA HOUSING FINANCE
AGENCY,
PLAINTIFF,
Vs.
ERIN R. TAYLOR,
DEFENDANT.**

ALL that certain lot of ground in the Township of Union, County of Fayette, Pennsylvania, being approximately 25 x 180 and HAVING THEREON ERECTED DWELLING KNOWN AND NUMBERED AS: 342 DERRICK AVENUE UNIONTOWN, PA 15401.

Tax Parcel # 34-21-0005
Fayette Deed Book 3219, page 1895

TO BE SOLD AS THE PROPERTY OF ERIN R. TAYLOR UNDER JUDGMENT NO. 2018 -00166.

Stephen M. Hladik, Esquire
Hladik, Onorato & Federman, LLP
298 Wissahickon Avenue
North Wales, PA 19454

No. 1025 of 2015 GD
No. 152 of 2018 ED

**The Bank of New York Mellon f/k/a The Bank of New York , as Trustee for the Certificateholders CWABS, Inc., Asset-backed Certificates, Series 2006-22,
Plaintiff,
vs.
Michael C.M. Taylor and Gloria Taylor,
Defendants.**

By virtue of Writ of Execution No. 1025 of 2015 GD, The Bank of New York Mellon f/k/a The Bank of New York , as Trustee for the Certificateholders CWABS, Inc., Asset-backed Certificates, Series 2006-22 (Plaintiff) vs. Michael C.M. Taylor and Gloria Taylor (Defendants)

Property Address 205 East Blake Avenue, Connellsville, PA 15425
Parcel I.D. No. 06-04-0108
Improvements thereon consist of a residential dwelling.
Judgment Amount: \$140,115.51

STERN AND EISENBERG, PC
JESSICA N. MANIS, ESQ.

No. 2167 of 2017 GD
No. 100 of 2018 ED

**The Bank of New York Mellon, f/k/a The Bank of New York as successor in interest to JP Morgan Chase Bank, N.A. as Trustee for NovaStar Home Equity Loan Asset-Backed Certificates, Series 2004-1 c/o Ocwen Loan Servicing, LLC,
Plaintiff,
V.
Helen Ann Wiltrout,
Defendant(s).**

SITUATE IN THE THIRD WARD OF THE TOWNSHIP OF BULLSKIN, FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 239 Shenandoah Road, Connellsville, PA 15425

PARCEL NO. 04-25-0240
IMPROVEMENTS- RESIDENTIAL
REAL ESTATE
SOLD AS THE PROPERTY OF- Helen Ann Wiltrout

—————END SHERIFF’S SALE—————

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, July 2, 2018 at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2615-0809	DONALD R. ANDERSON	Maryellen Anderson, Administratrix CTA
2616-0405	ERNESTINE ALBERTS	Fred C. Adams, Executor
2616-0285	ALBERT LEE FIRESTONE	Tammy S. Cavanaugh and Deborah L. Chaney, Administratrices

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

Monday, July 16, 2018 at 9:30 A.M.

in Court Room No. 2 of the **Honorable JOHN F. WAGNER** or his chambers, 2nd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

JEFFREY L. REDMAN

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

JUDICIAL OPINION

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

COMMONWEALTH OF	:	
PENNSYLVANIA	:	
	:	
VS.	:	
	:	
JAMAAL RISHAL FITZGERALD,	:	
	:	No. 1801 of 2017
Defendant.	:	Judge Nancy D. Vernon

OPINION AND ORDER

VERNON, J.

June 13, 2018

Before the Court is the Omnibus Pretrial Motion of Defendant, Jamaal Rishal Fitzgerald, alleging the audio recordings of statements he made in the backseat of a police car were intercepted in violation of the Wiretapping and Electronic Surveillance Control Act, 18 Pa.C.S.A. §5701 et seq. Defendant requests suppression of the audio recordings and any evidence confiscated as a result of the recordings. Defendant also moves the Court to suppress the statements he made while in custody prior to being given Miranda warnings.

At the time set for hearing on the Motion, the Commonwealth submitted as exhibits the transcript of the Preliminary Hearing and the audio and video surveillance at issue retrieved from the inside of the police car. Defense counsel, Attorney Jack Connor, also withdrew paragraph 6 of the Motion relating to “fruits of the poisonous tree.”

Corporal Jeremy Schult of the Uniontown Police Department was dispatched to North Gallatin Avenue in the city on the evening of June 23, 2017, to respond to a 911 call placed by Jamaal Fitzgerald reporting that he shot a friend who tried to rob him. Preliminary Hearing N.T., 9/22/2017, at 4-5. Corporal Schult arrived on scene and the Defendant was detained outside the residence and handcuffed, but was not provided Miranda warnings. Id. at 5, 24. Corporal Schult located a Glock firearm on the couch inside the apartment. Id. at 6. Unsure of where the shooting occurred and prior to finding the victim, Corporal Schult asked Defendant where the incident had occurred. Id. at 7. Defendant responded, “In the alley behind the apartment.” Id. Then, without further police questioning, Defendant stated that he had been sitting on the steps in the alley when the victim had pulled up and got out of his vehicle. Id. Defendant relayed to the officers that the victim punched him. Id. Without police prompting, Defendant also told the officers that another firearm was located inside a closet in the residence. Id.

After being placed in the backseat of the police car, Defendant made the following statements out loud to himself:

“What did I do?

God no, why God?

Didn’t mean to hurt nobody.

I’m fucked.

Could have fired a warning shot.

Wake up, has to be a dream.

What did you do?

Oh my God, Jamaal, what did you do to yourself?

Please forgive me.

I love you, I’m sorry mom.

I think I messed up.”

Id. at 20.

At the hearing on the instant Motion, Corporal Schult testified again that the only questions asked of the Defendant at the scene were where the incident occurred and if anyone else was inside the apartment. Corporal Schult testified that no promises or threats were made to Defendant, that he was not provided Miranda warnings at the scene, and that he was not advised that he was being video or audio recorded in the police car.

Corporal Schult told the Court that the specific police car that Defendant was detained in had video recording and audio recording capability and the same were manually activated once Defendant was placed in the car. The Corporal explained the recording equipment is located on the front windshield and in the back rear passenger compartment. The recordings are wirelessly downloaded to the computer in the police station once the car returns. According to the Corporal, the recording equipment is highly visible to the occupants of the car. The lighting at the scene included street lights overhead and the car was parked in a parking lot at an adjacent plaza.

We will first address Defendant’s contention that the audio recordings of his statements in the police car violated the Wiretapping and Electronic Surveillance Control Act. The within incident occurred on June 23, 2017, a date that precedes Act 22 of 2017 (September 2017) amendments to the Wiretap Act. Under the current version of the Wiretap Act, the legislature amended the definition of what constituted an “oral communication” to simplify the treatment of law enforcement recordings. By changing the definition, the legislature made clear that oral communications that are made in the presence of an on-duty, uniformed law enforcement officer using an approved recording device are not a violation of the Wiretap Act. Currently, law enforcement who meet these conditions are no longer required to announce that they are recording or switch off their recording devices.

The Court is however constrained to decide the within Motion on the version of the Wiretap Act in effect at the time of the audio recording. The prior version of the Act

defined “oral communication” as “[a]ny oral communication uttered by a person possessing an expectation that such communication is not subject to interception under circumstances justifying such expectation.” The version in effect in June 2017 provided “Exceptions to prohibition of interception and disclosure of communications,” codified at 18 Pa.C.S.A. §5704, to include:

“It shall not be unlawful and no prior court approval shall be required under this chapter for:

(16) A law enforcement officer, whether or not certified under section 5724 (relating to training), acting in the performance of his official duties to intercept and record an oral communication between individuals in accordance with the following:

(i) At the time of the interception, the oral communication does not occur inside the residence of any of the individuals.

(ii) At the time of the interception, the law enforcement officer:

(A) is in uniform or otherwise clearly identifiable as a law enforcement officer;

(B) is in close proximity to the individuals’ oral communication;

(C) is using an electronic, mechanical or other device which has been approved under section 5706(b)(4)(relating to exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices) to intercept the oral communication; and

(D) informs, as soon as reasonably practicable, the individuals identifiably present that he has intercepted and recorded the oral communication.

(iii) As used in this paragraph, the term “law enforcement officer” means a member of the Pennsylvania State Police or an individual employed as a police officer who holds a current certificate under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).”

18 Pa.C.S.A. §5704.

Defendant’s Motion for exclusion pursuant to the Wiretap Act fails on two accounts. First, Defendant had no justifiable expectation of privacy. The Act places great emphasis on the protection of privacy interests inherent in one’s communications. *Commonwealth v. De Marco*, 578 A.2d 942, 949 (Pa.Super. 1990). Under Pennsylvania’s Wiretap Act, the standard for determining a justifiable expectation of non-interception is whether the speaker had a justifiable expectation of privacy, not whether the speaker had a justifiable expectation that his or her words would not be seized electronically. 18 Pa.C.S.A. §5702; *Schwartz v. Dana Corp.*, 196 F.R.D. 275 (E.D. Pa. 2000). The hallmark of an “oral communication” protected under the Wiretap Act is a communication for which the “speaker had a specific expectation that the contents of the discussion would not be intercepted, and whether that expectation was justifiable under the existing circumstances.” *Agnew v. Dupler*, 717 A.2d 519, 523 (Pa. 1998).

Defendant cannot demonstrate that he had an expectation of privacy in his oral communications. The Court has reviewed the transmission of the video and audio

recordings taken from the recording equipment facing in to the backseat of the police car where Defendant was held. The officers at the scene of the shooting surrounded the police car, which was an SUV, with a constant presence. Defendant was placed handcuffed into the backseat pending transit to the police station. Without being prompted by law enforcement, Defendant spoke out loud what could best be described as textbook “excited utterances,” specifically short phrases spoken out loud to himself.

Defendant was also asked by an unidentified officer whether he wanted to speak to his mother, to which he responded in the affirmative. The officer opened the window to the backseat and permitted Defendant to talk with his mother. While Defendant spoke to his mother from the backseat of the police cruiser, an officer opened the hatchback and stood at the rear of the vehicle under the hatch, within a few feet of Defendant and his mother.

“To determine whether one’s activities fall within the right of privacy, we must examine: first, whether [the person] has exhibited an expectation of privacy; and second, whether that expectation is one that society is prepared to recognize as reasonable.” *Commonwealth v. Brion*, 652 A.2d 287, 288 (Pa. 1994). “To satisfy the first requirement, the individual must demonstrate that he sought to preserve something as private. To satisfy the second, the individual’s expectation must be justifiable under the circumstances.” *Commonwealth v. Moore*, 928 A.2d 1092, 1098 (Pa.Super.2007).

Here, Defendant did not exhibit an expectation of privacy, nor could he have sought to preserve his oral communication as being private when he was detained with handcuffs in the backseat of a marked patrol car at the scene of an active shooting investigation with an open car window and open hatchback where uniformed officers were standing around the police car. As to the second prong, Defendant fails to establish a right to privacy in his communications since any expectation of privacy would not have been justified under these circumstances, nor recognized by society as reasonable. Accordingly, Defendant lacked a reasonable expectation of privacy in the oral communications he had in the police car when he spoke out loud to himself and conversed with his mother, and consequently, his allegation of a violation of the Wiretap Act fails.

Alternatively, the Wiretap Act previously provided an exception for law enforcement. 18 Pa.C.S.A. §5704(16). The Commonwealth presented sufficient evidence that the law enforcement officers were in uniform, in close proximity to the oral communications, and were using a department issued dashboard camera with audio recording capability that was plainly visible to the occupants of the police car. As such, Defendant’s allegation of a Wiretap Act violation would also fail pursuant to this exception.

Turning now to Defendant’s argument that his statements should be suppressed as a violation of his Miranda rights. Miranda prohibits the use of inculpatory statements obtained in violation of the Fifth Amendment to the United States Constitution. *Commonwealth v. Heggins*, 809 A.2d 908 (Pa.Super. 2002). The United States Supreme Court stated in *Miranda* that the prosecution may not use statements, whether

exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards [the Miranda warnings] effective to secure the privilege against self-incrimination. *Id.* By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. *Id.*

For purposes of our decision today conceding that Defendant was in “custody” while he was detained outside of his residence with handcuffs, the inquiry must focus on whether his statements were the products of “interrogation.” Interrogation is defined as “police conduct calculated to, expected to, or likely to evoke admission.” *Commonwealth v. Mannion*, 725 A.2d 196, 200 (Pa.Super. 1999). In order to trigger the safeguards of Miranda, there must be both custody and interrogation. *Commonwealth v. Turner*, 772 A.2d 970 (Pa.Super.2001). Statements not made in response to custodial interrogation are classified as gratuitous and are not subject to suppression for lack of Miranda warnings. *Mannion*, *supra.*, 725 A.2d at 200. “Warnings are not required, however, where general on-the-scene investigatory questioning is conducted to determine whether a crime has been committed or is in progress.” *Commonwealth v. Grimes*, 648 A.2d 538, 541 (Pa.Super. 1994).

The only questions asked of Defendant at the scene by police were “where the incident occurred” and if “anyone else was inside the apartment.” The questions were not accusatory and were not intended to elicit a confession. Corporal Schult was responding to the 911 call of a self-reported shooting by Defendant. A general, investigatory type question was proper for the police to determine where the incident occurred. Corporal Schult did not categorize the “incident” as a “shooting” or “crime” in his question. At the time that the question was asked, the officers had just responded to the scene and were actively investigating a shooting. The victim’s body had not yet been located. The second question, whether anyone was inside the residence, was clearly permissible for officer safety, and also not made to elicit a confession.

Neither question by Corporal Schult prompted the further admissions by Defendant when he stated that he had been sitting on the steps in the alley; that the victim had pulled up and got out of his vehicle; that the victim punched him; or that another firearm was located inside a closet. Volunteered information or spontaneous utterances are admissible where warnings have not been given. *Commonwealth v. Williams*, 941 A.2d 14, 30 (Pa.Super. 2008)

Under these facts, Corporal Schult’s conduct cannot be considered a custodial interrogation as the questions fall far short of “interrogation.” Any further statements made at that time by Defendant which incriminate him were gratuitous, were not in response to police questioning, and are not subject to suppression. As such, we must deny Defendant’s Motion to suppress statement.

WHEREFORE, we will enter the following Order.

ORDER

AND NOW, this 13th day of June, 2018 upon consideration of the Omnibus Pretrial Motion of Defendant, Jamaal Rishal Fitzgerald, pursuant to the Wiretapping and Electronic Surveillance Control Act, 18 Pa.C.S.A. §5701 et seq. and to suppress statements, it is hereby ORDERED and DECREED that motions are DENIED in accordance with the foregoing Opinion.

BY THE COURT,
NANCY D. VERNON, JUDGE

ATTEST:
Clerk of Courts

D'Andrea Collision Investigation and Reconstruction LLC**D'Andrea Collision Investigation and
Reconstruction LLC**

Pennsylvania State Police Lieutenant Joseph D'Andrea with over 30 years of experience and former collision Analysis and Reconstruction Specialist recently retired and is now conducting investigations. Investigations range from: obtain/review police crash report through collision reconstruction primarily for civil litigation. Criminal defense work done on case by case basis.

Contacts:

Phone (724) 438-2161

Cell (724) 984-3908

Email dandreajp@yahoo.com

Joseph D'Andrea
144 Regency Drive
Uniontown PA 15401

SENTENCING UPDATE CLE

Sentencing Updates
Presented by
Pennsylvania Commission on Sentencing

Thursday, June 28, 2018
2.0 CLE Credits

This seminar will provide an overview of recent amendments to the 7th Edition Sentencing Guidelines (amendments 1, 2, 3 and 4). It will include updates related to specific sentencing related statutes as well as an update on the development of the Commission's risk assessment tool.

Target Audience - This seminar targets individuals who already have a comprehensive understanding of sentencing guidelines and sentencing statutes and only need current updates.

The seminars are approved for CLE credits. Certificates of attendance and CLE forms will be distributed at the completion of the training sessions. Attorneys must directly return the CLE Request Form to the Pennsylvania CLE Board along with their payment.

Seminars are free of charge to anyone involved in Pennsylvania's criminal justice system. To register, please complete the online registration at <http://pasentencing.us>. You will be emailed a confirmation approximately one week prior to the seminar date. If you require special assistance, please inform the PA Commission on Sentencing prior to the seminar.

PRE-REGISTRATION IS REQUIRED
with PA Commission on Sentencing
Online Registration: <http://pasentencing.us>


Thursday, June 28, 2018
1:00 p.m. to 3:15 p.m.
Fayette County Public Service Building
First Floor Conference Room
22 East Main Street, Uniontown

YOUNG LAWYER DIVISION CONFERENCE



Young Lawyer Summer Summit

July 18-20 • State College
The Penn Stater Hotel and Conference Center

 #PBAYLDSummit18

YOUNG LAWYER DIVISION CONFERENCE**Young Lawyer Summer Summit**

4.0 CLE Credits

July 18-20, 2018

The Penn Stater Hotel

State College, PA

Notice to Fayette County Lawyers Admitted After January 1, 2012:

The Fayette County Bar Association will sponsor five lawyers admitted after January 1, 2012 and who practice or have clerkships in Fayette County to attend the 2018 PBA/YLD Young Lawyer Summer Summit in State College on July 18-20.

The program brochure is available on the Bar Association website, www.fcbar.org. The conference provides practical tips in several practice areas, in addition to 4 CLE credits. The FCBA is offering a full sponsorship for the fees in attending the conference. Please contact the Bar Association office by email to cindy@fcbar.org no later than Wednesday, June 20th if interested in attending and provide your PA Attorney ID No. The sponsorships will be provided to the five newest admittees who express an interest. Thank you. Fayette County Bar Association.

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