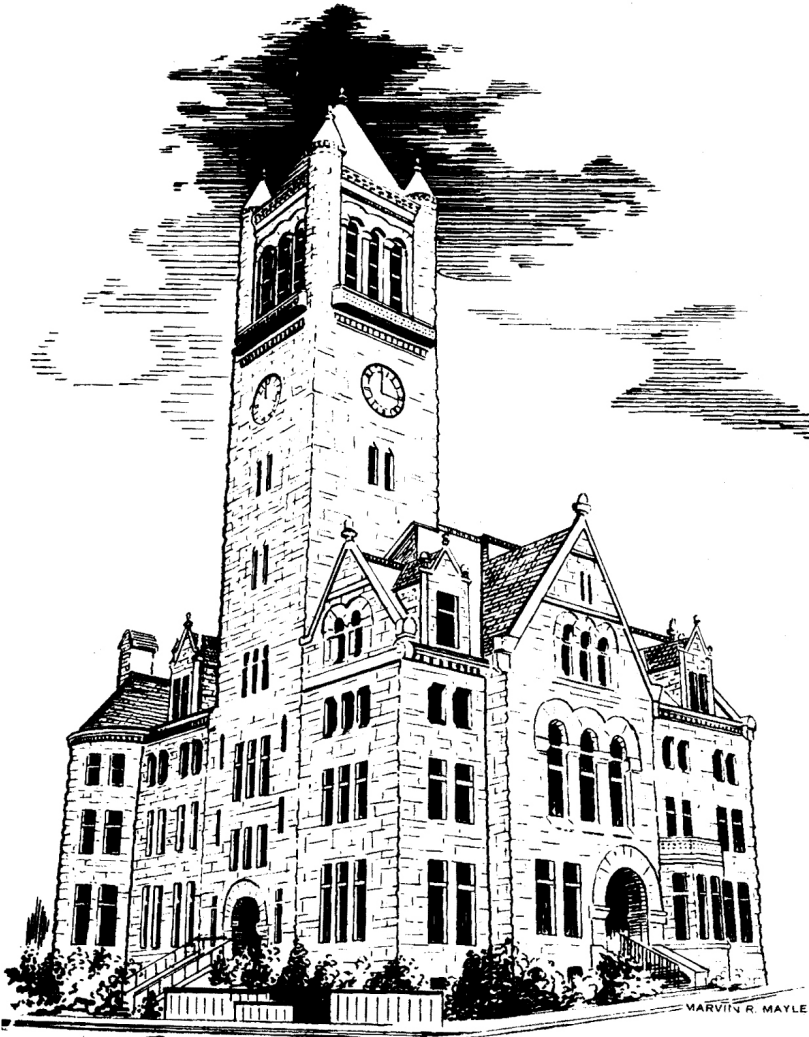


# FAYETTE LEGAL JOURNAL

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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

**ROBERTA LEE BERGER**, late of North Union Township, Fayette County, PA (3)

*Executor:* Steven Walton  
301 Old Route 51  
Smock, Pa 15480  
c/o 189 Dearth Road  
Uniontown, PA 15401  
*Attorney:* Steven Walton

**RONALD E. CORNISH**, late of Luzerne Township, Fayette County, PA (3)

*Executor:* Joshua Cornish  
c/o Monaghan & Monaghan  
57 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary D. Monaghan

**EUGENE R. ROTONTO, a/k/a EUGENE ROTONTO**, late of Markleysburg, Fayette County, PA (3)

*Executor:* Warren Dale Leonard  
c/o 2944 National Pike Road  
Box 245  
Chalk Hill, PA 15421  
*Attorney:* Charles C. Gentile

**DOROTHY SANDS**, late of Washington Township, Fayette County, PA (3)

*Executrix:* Mary Bednarczyk  
1363 Connellsville Road  
Fayette City, PA 15438  
c/o 823 Broad Avenue  
Belle Vernon, PA 15012  
*Attorney:* Mark E. Ramsier

**JOSEPH H. WEISMAN, JR., a/k/a JOSEPH WEISMAN, JR.**, late of Perryopolis, Fayette County, PA (3)

*Executor:* Paul S. Bilohlavek  
c/o Adams & Adams  
55 East Church Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Jason F. Adams

### Second Publication

**CHARLES R. NEWELL**, late of South Union Township, Fayette County, PA (2)

*Executor:* Charles O. Newell  
38 Woodlawn Street  
Uniontown, PA 15401  
c/o 310 Grant Street, Suite 1109  
Pittsburgh, PA 15219  
*Attorney:* Rosalie P. Wisotzki

**VERA M. ROGERS**, late of North Union Township, Fayette County, PA (2)

*Personal Representative:*  
Barbara Jean Rozgony  
c/o George Port & George  
92 East Main Street  
Uniontown, PA 15401  
*Attorney:* G.T. George

**SUE A. THOMAS, A/K/A SUE ANN THOMAS**, late of German Township, Fayette County, PA (2)

*Personal Representative:*  
Herbert G. Thomas, III  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

## First Publication

**SAM BILL, JR. a/k/a SAMUEL J. BILL, JR., a/k/a SAMUEL JOSEPH BILL, JR.**, late of Redstone Township, Fayette County, PA (1)

*Personal Representative:* Patricia Ann Bill  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* James T. Davis

---

**PAUL M. GABELT**, late of Bullskin Township, Fayette County, PA (1)

*Executrix:* Carolyn W. Maricondi  
c/o P. O. Box 760  
Connellsville, PA 15425  
*Attorney:* Carolyn W. Maricondi

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**CAROL ANN MIHALLIK, a/k/a CAROL A. MIHALLIK**, late of Masontown, Fayette County, PA (1)

*Executrix:* Andrea Sue Mihallik  
c/o Zebley Mehalov & White, P.C.  
18 Mill Street Square  
P.O. Box 2123  
Uniontown, PA 15401  
*Attorney:* Daniel R. White

---

**WILMA JEAN ORBASH, a/k/a WILMA J. ORBASH**, late of South Union Township, Fayette County, PA (1)

*Executor:* Vaughn J. Orbash  
c/o Radcliffe & DeHaas, L.L.P.  
2 West Main Street, Suite 700  
Uniontown, PA 15401  
*Attorney:* William M. Radcliffe

---

**MARY LOU SHEPLER**, late of Washington Township, Fayette County, PA (1)

*Executor:* Kenneth L. Shepler  
135 Shepler Lane  
Fayette City, PA 15438  
c/o 823 Broad Avenue  
Belle Vernon, PA 15012  
*Attorney:* Mark E. Ramsier

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## LEGAL NOTICES

### ARTICLES OF AMENDMENT FAIRCHANCE – GEORGES JOINT MUNICIPAL SEWAGE AUTHORITY

Notice is hereby given that on or after January 17, 2018, Articles of Amendment of the Fairchance – Georges Joint Municipal Sewage Authority, a municipal authority organized under the Pennsylvania Municipality Authorities Act, 53 P.S. Section 5601 et seq., as amended, with registered office at 125 West Church Street, Fairchance, PA 15436, will be filed with the Secretary of the Commonwealth of Pennsylvania pursuant to said Act. The filing will not occur less than three days after publication of this notice. The filing has been authorized by approval of Fairchance – Georges Joint Municipal Sewage Authority Resolution No. 2018-1 on January 8, 2018, Georges Township Resolution No. 2018-2 on January 9, 2018, and Fairchance Borough Ordinance No. 2-2018 on January 10, 2018.

The proposed amendment extends the term of the Authority's existence fifty (50) years from the date of approval of the Articles of Amendment.

Donald P. Graham, Esquire  
Dillon McCandless King Coulter & Graham, LLP  
Special Counsel for Fairchance – Georges Joint  
Municipal Sewage Authority  
600 Cranberry Woods Drive, Suite 175  
Cranberry Township, PA 16066

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**NOTICE OF ACTION IN MORTGAGE  
FORECLOSURE  
IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
CIVIL ACTION – LAW**

COURT OF COMMON PLEAS  
CIVIL DIVISION  
FAYETTE COUNTY  
No. 2254-OF-2017-GD

BANK OF AMERICA, N.A.

Plaintiff  
vs.

JAMES V. MALONE, in his capacity as Heir of  
EDITH L. MOORE, Deceased  
KENNETH J. MALONE, in his capacity as Heir  
of EDITH L. MOORE, Deceased  
UNKNOWN HEIRS, SUCCESSORS,  
ASSIGNS, AND ALL PERSONS, FIRMS, OR  
ASSOCIATIONS CLAIMING RIGHT, TITLE  
OR INTEREST FROM OR UNDER EDITH L.  
MOORE, DECEASED  
Defendants

**NOTICE**

To UNKNOWN HEIRS, SUCCESSORS,  
ASSIGNS, AND ALL PERSONS, FIRMS, OR  
ASSOCIATIONS CLAIMING RIGHT, TITLE  
OR INTEREST FROM OR UNDER EDITH L.  
MOORE, DECEASED

You are hereby notified that on October 19,  
2017, Plaintiff, BANK OF AMERICA, N.A.,  
filed a Mortgage Foreclosure Complaint  
endorsed with a Notice to Defend, against you in  
the Court of Common Pleas of FAYETTE  
County Pennsylvania, docketed to No. 2254-OF-  
2017-GD. Wherein Plaintiff seeks to foreclose  
on the mortgage secured on your property  
located at 6 RANCH ROAD, DUNBAR, PA  
15431-1530 whereupon your property would be  
sold by the Sheriff of FAYETTE County.

You are hereby notified to plead to the above  
referenced Complaint on or before 20 days from  
the date of this publication or a Judgment will be  
entered against you.

**NOTICE**

If you wish to defend, you must enter a  
written appearance personally or by attorney and

file your defenses or objections in writing 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 without  
further notice for the relief requested by the  
plaintiff. You may lose money or property or  
other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO  
YOUR LAWYER AT ONCE. IF YOU DO  
NOT HAVE A LAWYER, GO TO OR  
TELEPHONE THE OFFICE SET FORTH  
BELOW. THIS OFFICE CAN PROVIDE YOU  
WITH INFORMATION ABOUT HIRING A  
LAWYER.

IF YOU CANNOT AFFORD TO HIRE A  
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## SHERIFF'S SALE

Date of Sale: March 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, March 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

Phelan Hallinan Diamond & Jones, LLP

No. 2199 of 2017 GD  
No. 351 of 2017 ED

**U.S. Bank National Association, as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2005-Efc5,**

**Plaintiff,**

**v.**

**Timothy J. Bechtold A/K/A Timothy Bechtold**

**Raecyne W. Bechtold,**  
**Defendant(s).**

By virtue of a Writ of Execution No. 2199 OF 2017 GD, U.S. Bank National Association, as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2005-Efc5 v. Timothy J. Bechtold A/K/A Timothy Bechtold Raecyne W. Bechtold, owner(s) of property situate in the CONNELLSVILLE CITY, Fayette County, Pennsylvania, being 504 South Pittsburgh Street, Connellsville, PA 15425-4013  
Parcel No.: 05 07-0209

Improvements thereon: RESIDENTIAL DWELLING

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STERN & EISENBERG PC  
EDWARD J. MCKEE, ESQUIRE

No. 2389 of 2013 GD  
No. 344 of 2017 ED

**Deutsche Bank Trust Company Americas, as Trustee for Residential Accredit Loans, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2005-QS14,**

**Plaintiff,**

**V.**

**Ryan Canose and Kelly Canose,**  
**Defendant(s).**

SITUATE IN FRANKLIN TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 772 VIRGIN RUN ROAD, FRANKLIN, PA 15486.

PARCEL NO. 13-06-0058

IMPROVEMENTS - RESIDENTIAL REAL ESTATE

SOLD AS THE PROPERTY OF- RANDY  
CANOSE AND KELLY CANOSE

---

Phelan Hallinan Diamond & Jones, LLP

No. 197 of 2017 GD  
No. 350 of 2017 ED

**Bank of America, N.A., as Successor by  
Merger to BAC Home Loans Servicing, LP  
f/k/a Countrywide Home Loans  
Servicing, LP**

**Plaintiff**

**V.**

**Lisa M. Collins,  
Defendant(s).**

By virtue of a Writ of Execution No. 197  
OF 2017 GD, Bank of America, N.A., as  
Successor by Merger to BAC Home Loans  
Servicing, LP f/k/a Countrywide Home Loans  
Servicing, LP v. Lisa M. Collins, owner(s) of  
property situate in the MENALLEN  
TOWNSHIP, Fayette County, Pennsylvania,  
being 110 Postoffice rd, Waltersburg, PA 15488  
-1019

Parcel No.: 22-02-0046  
Improvements thereon: RESIDENTIAL  
DWELLING

---

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

No. 478 of 2017 GD  
No. 337 of 2017 ED

**Wilmington Savings Fund Society, FSB DBA  
Christiana Trust as Trustee for HLSS  
Mortgage Master Trust for the benefit of the  
holders of the Series 2014-1 Certificates  
issued by HLSS M011gag Master Trust c/o  
Ocwen Loan Servicing, LLC,**

**Plaintiff,**

**V.**

**Robert Deline a/k/a Robert Jesse Deline and  
Christina Deline a/k/a Christiana A. Deline,  
Defendant(s).**

SITUATE IN THE THIRD WARD OF  
THE BULLSKIN TOWNSHIP, FAYETTE  
COUNTY, PENNSYLVANIA, BEING

KNOWN AS 208 Hammondville Street, Mount  
Pleasant, PA 15666

PARCEL NO. 04-01-0034

IMPROVEMENTS - RESIDENTIAL  
REAL ESTATE

SOLD AS THE PROPERTY OF - Robert  
Deline a/k/a Robert Jesse Deline and Christina  
Deline a/k/a Christiana A. Deline

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No. 1643 of 2017 GD  
No. 352 of 2017 ED

**CITTMORTGAGE, INC.**

**vs.**

**KRIS GASTER**

ALL THAT CERTAIN PIECE OR  
PARCEL OF LAND SITUATE IN GEORGES  
TOWNSHIP, FAYETTE COUNTY,  
PENNSYLVANIA

BEING THE SAME PREMISES which  
Cindy Gaster a/k/a Cindy S. Gaster, an  
unremarried widow, by her Attorney in Fact,  
Chad W. Gaster, by Deed dated September 29,  
2016 and recorded October 17, 2016 in the  
Office of the Recorder of Deeds in and for  
Fayette County in Deed Book Volume 3322,  
Page 676, granted and conveyed unto KRIS  
GASTER.

BEING THE SAME PREMISES which  
Cindy Gaster a/k/a Cindy S. Gaster, an  
unremarried widow, by her Attorney in Fact,  
Chad W. Gaster, by Deed dated September 29,  
2016 and recorded October 17, 2016 in the  
Office of the Recorder of Deeds in and for  
Fayette County in Deed Book Volume 3322,  
680, granted and conveyed unto KRIS  
GASTER.

BEING KNOWN AS: 56 EAST ELM  
STREET, FAIRCHANCE, PA 15436

PARCEL #14-29-002202 AND 14-29-  
002301

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. 2046 of 2017 GD  
 No. 339 of 2017 ED

County, Pennsylvania, in Deed Book Volume 753, Page 203.

BEING THE SAME PREMISES which Edward J. Sullivan and Nannie E. Sullivan, husband and wife, by Deed dated December 8, 1959 and recorded December 8, 1959 in the Office of the Recorder of Deeds in and for the County of Fayette, in Deed Book 923, Page 613, granted and conveyed unto Fred W. Tuning and Susanna B. Tuning, husband and wife, in fee.

And the said Fred W. Tuning departed this life on June 3, 2017 And the said Susanna B. Tuning departed this life on June 28, 2014

**U.S. Bank National Association, not in its individual capacity but solely as trustee for the RMAC Trust, Series 2016-CTT, PLAINTIFF**  
**V.**

**Patricia Georgiana, solely as Heir to the Estates of Susanna B. Tuning, a/k/a Susanna M. Tuning, deceased**

**Unknown Heirs of the Estate of Susanna B. Tuning, a/k/a Susanna M. Tuning, deceased**  
**DEFENDANT(S).**

TAX PARCEL NO.: 34-24-0143  
 PROPERTY ADDRESS: 409 Derrick Road Uniontown, PA 15401  
 IMPROVEMENTS: Single Family Dwelling

SEIZED AND TAKEN in execution as the property of Patricia Georgiana, solely as Heir to the Estates of Susanna B. Tuning, a/k/a Susanna M. Tuning, deceased and Unknown Heirs of the Estate of Susanna B. Tuning, a/k/a Susanna M. Tuning, deceased

ALL THAT CERTAIN lot or parcel of land situate in South Union Township, Fayette County, Pennsylvania, being Lot No. 14 in the High Hills Plan of Lots as recorded in the Office of the Recorder of Deed of Fayette County, Pennsylvania, in Plan Book Volume 8, Page 250.

EXCEPTING AND RESERVING, thereout and therefrom all coal and mining rights as heretofore conveyed or reserved by deed or deeds of record.

UNDER AND SUBJECT to all those certain protective covenants and building restrictions on the High Hill Plan of Lots as set forth in Declaration dated May 15, 1952 and recorded in the recorder's Office of Fayette

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

No. 1296 of 2016 GD  
 No. 345 of 2017 ED

**PNC Bank, National Association**  
**Plaintiff**  
**V.**

**PATRICIA L. JOHNSON, INDIVIDUALLY AND AS A KNOWN HEIR OF THOMAS H. JOHNSON UNKNOWN HEIRS, SUCCESSORS, ASSIGNS AND ALL PERSONS, FIRMS OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER THOMAS H. JOHNSON**  
**Defendant(s).**

ALL THAT CERTAIN LOT OF LAND SITUATE IN PERRY TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA:  
 BEING KNOWN AS 202 Main Street, Perryopolis, PA 15473  
 PARCEL NUMBER: 27-08-0036  
 IMPROVEMENTS: Residential Property



Phelan Hallinan Diamond & Jones, LLP

No. 310 of 2017 GD  
 No. 338 of 2017 ED

Phelan Hallinan Diamond & Jones, LLP

No. 2100 of 2017 GD  
 No. 354 of 2017 ED

**Lsf9 Master Participation Trust**  
**Plaintiff**  
**V.**

**Janice M. Luft**  
**Defendant(s)**

By virtue of a Writ of Execution No. 310-OF-2017-GD Lsf9 Master Participation Trust v. Janice M. Luft, owner( s) of property situate in the UPPER TYRONE TOWNSHIP, Fayette County, Pennsylvania, being 118 Broad Street, Scottsdale, PA 15683-1808

Parcel No.: 39040018  
 Improvements thereon: RESIDENTIAL DWELLING

No. 1580 of 2017 GD  
 No. 334 of 2017 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 Indenture Trustee for Newcastle Mortgage Securities Trust 2006-1**

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

**Shelley L. Machesky; William P. Machesky**  
**Defendants.**

ALL that certain parcel of land lying and being situate in the City of Uniontown, County of Fayette, and Commonwealth of Pennsylvania, known as 57 Pershing Avenue, Uniontown, PA 15401 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 38030017

BEING the same premises which Ruth Murphy, an unremarried widow, by Deed dated February 26, 1979 and recorded in and for Fayette County, Pennsylvania in Deed Book 1250, Page 802, granted and conveyed unto William P. Machesky and Shelley L. Machesky, his wife.

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

**David A. Miller**  
**Tiffany L. Miller**  
**Defendant(s)**

By virtue of a Writ of Execution No. 2100-OF-2017-GD, Wells Fargo Bank, NA v. David A. Miller, Tiffany L. Miller, owner(s) of property situate in the NORTH UNION TOWNSHIP, Fayette County, Pennsylvania, being 59 Reppert Boulevard, Uniontown, PA 15401-2515

Parcel No.: 25-39-0069  
 Improvements thereon: RESIDENTIAL DWELLING

No. 1017 of 2016 GD  
No. 361 of 2017 ED

**THE UNITED FEDERAL CREDIT UNION,**  
**Plaintiff,**  
**vs.**  
**DALE REAM, also known as DALE S.**  
**REAM and KELLEY REAM,**  
**Defendants.**

TRACT ONE: ALL that certain lot or parcel situate in the Borough of Fairchance, Fayette County, Pennsylvania, described as Tax Parcel No. 11-06-0025 and more particularly described in a deed dated October 25, 2005 and recorded in Record Book 2838, page 1194.

TRACT TWO: ALL those certain three lots situate in Fairchance Borough, Fayette County, Pennsylvania, described as Tax Parcel No. 11-06-0026 and more particularly described in a deed dated January 5, 2004 and recorded in Record Book 2891, page 419.

The street address of the subject property is 80 and 82 N. Morgantown Street, Fairchance, Pennsylvania 15436.

Seized and taken in execution as the property of Dale Ream, also known as Dale S. Ream and Kelley Ream, owners or reputed owners of the property, at the suit of The United Federal Credit Union in the Court of Common Pleas of Fayette County, Pennsylvania at No. 1015 of 2016, G.D.

in a deed dated January 5, 2004 and recorded in Record Book 2891, page 419.

The street address of the subject property is 80 and 82 N. Morgantown Street, Fairchance, Pennsylvania 15436.

Seized and taken in execution as the property of Dale Ream, also known as Dale S. Ream and Kelley Ream, owners or reputed owners of the property, at the suit of The United Federal Credit Union in the Court of Common Pleas of Fayette County, Pennsylvania at No. 1015 of 2016, G.D.

No. 1015 of 2016 GD  
No. 362 of 2017 ED

**THE UNITED FEDERAL CREDIT UNION,**  
**Plaintiff,**  
**vs.**  
**DALE REAM, also known as DALE S.**  
**REAM and KELLEY REAM,**  
**Defendants.**

TRACT ONE: ALL that certain lot or parcel situate in the Borough of Fairchance, Fayette County, Pennsylvania, described as Tax Parcel No. 11-06-0025 and more particularly described in a deed dated October 25, 2005 and recorded in Record Book 2838, page 1194.

TRACT TWO: ALL those certain three lots situate in Fairchance Borough, Fayette County, Pennsylvania, described as Tax Parcel No. 11-06-0026 and more particularly described

**JUDICIAL OPINION**

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

COMMONWEALTH OF	:	
PENNSYLVANIA	:	
V.	:	
RUSSELL P. MILLER, JR.,	:	No. 2464 of 2017, G.D.
DEFENDANT	:	President Judge John F. Wagner, Jr.

**OPINION AND ORDER**

WAGNER, P.J.

December 4, 2017

Before the Court is Defendant's Omnibus Pretrial Motion filed on June 26, 2017, in the nature of a writ of habeas corpus/ motion to dismiss {1} the charge.

Defendant is the Chief of Police of the Borough of South Connellsville, Fayette County, Pennsylvania, and has been charged with the crime of Official Oppression, 18 Pa.C.S. § 5301(1), as the result of an incident that occurred on October 11, 2016. On that date, the alleged victim of this crime, Mary M. Lubich-Riley, and Defendant were both present at a public meeting in the South Connellsville Borough Building.

Earlier in 2016, on May 15, Ms. Lubich-Riley had received a letter from Defendant, written in his capacity as chief of police, telling her not to text, email or telephone him or his wife, and not to follow either of them on foot or by car. Commonwealth Ex. No. 1. During the public meeting in October, Ms. Lubich-Riley observed Defendant playing with his cell phone and told him he should show some respect and not play on the phone. When the meeting adjourned, Defendant, who was in uniform, stated that he was going to have Ms. Lubich-Riley arrested, and told one of his subordinate police officers who was in the hallway to cite her. The subordinate officer, T.J. Stevenson, believed that Defendant was ordering him to issue the citation and used wording for the citation that Defendant gave him. Ms. Lubich-Riley received the said citation on October 24, 2016, which charged her with the crime of Harassment because she spoke to Police Chief Miller "during a public forum."

On the advice of the borough solicitor, Timothy Witt, Esquire, Officer Stevenson attempted to withdraw the citation due to First Amendment concerns, but the attempt was not successful. Ms. Lubich-Riley subsequently had to appear at a hearing on the citation that was held before Magisterial District Judge Ronald Haggerty on November 29, 2016. The charges were dismissed when Defendant did not appear at the hearing to testify.

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{1} The instant Omnibus Pretrial Motion originally also included a motion to quash a search warrant and another motion to suppress all evidence found as a result of the said search warrant's execution. Defendant has withdrawn these two motions.

As already stated, Defendant is now charged with violating Section 5301(1) of the Crimes Code when he caused a citation to be issued to her due to her speaking to him at a public meeting. Defendant attended the meeting in full uniform as the Chief of Police and spoke to a subordinate police officer in the hallway immediately after the meeting concluded. As a result of Defendant's conversation with the subordinate officer, the subordinate officer wrote the citation and sent it to Ms. Lubich-Riley, subjecting her to the jurisdiction of the district magisterial court and compelling her to attend a hearing on the charge stated in the citation.

The standard of proof at this time is *prima facie*. Even where the evidence presented at the omnibus pretrial hearing may not be sufficient to meet the Commonwealth's burden of proof at trial, at the pretrial stage the Commonwealth must only establish that enough evidence exists to allow a factfinder to believe that the Defendant committed the offense set forth in the criminal complaint. See *Commonwealth v. Kowalek*, 647 A.2d 948 (1994); see also *Commonwealth v. Lutz*, 661 A.2d 405 (Pa.Super. 1995). The Court finds that the Commonwealth met its *prima facie* burden to show that Defendant was acting in his official capacity when he directed Officer Stevenson to cite Ms. Lubich-Riley for speaking to him at a public meeting held in a public space. Whether Defendant knew his conduct was illegal is a question of fact to be answered by the factfinder at trial.

The Court finds no merit in Defendant's instant request for habeas corpus relief based upon his claim that the Commonwealth failed to meet its *prima facie* burden at the preliminary hearing.

Wherefore, in light of the foregoing, the Court enters the following:

ORDER

AND NOW, December 4, 2017, after consideration of the Omnibus Pretrial Motion, the testimony from the preliminary hearing, and the pertinent case law, the Court ORDERS and DIRECTS that Defendant's Motion for Writ of Habeas Corpus relative to the charge of Official Oppression is hereby DENIED.

BY THE COURT,  
WAGNER, P.J.

ATTEST:  
Janice Snyder  
Clerk of Courts

**LUNCH AND LEARN CLE****Fayette County Drug Court  
2018 Update**

Adult Drug Court has been in effect since September 2017 as a result of the growing population of drug offenders in the county. The purpose of the Adult Drug Court is to reduce recidivism by coordinating community resources and treatment opposed to imposing an incarceration sentence. The purpose of the CLE is to highlight the benefits of Adult Drug Court to attorneys, potential clients and the Commonwealth. Eligibility requirements as well as program requirements will be further explained as well as the referral process. Some changes have had to occur since the Adult Drug Court was first announced and those changes will also be highlighted.

**Presenters:**

Honorable Gerald R. Solomon  
Kendall Friend, Fayette County Problem-Solving Courts

**Thursday, January 25, 2018**

1.0 Substantive CLE Credit

12:00 noon to 1:00 p.m.

First Niagara Building

Lower level - Corporate Training Center

**REGISTRATION:**

Cindy at the Fayette County Bar Association

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

Cost to attend: \$30

\$20 young lawyer



**MEMORIAL SERVICE**

A memorial service in memory of our colleague, Mary Campbell Spegar, will be held on Wednesday, January 17, 2018, at noon in Courtroom One of the Fayette County Courthouse. The Court will welcome remarks from those in attendance.

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