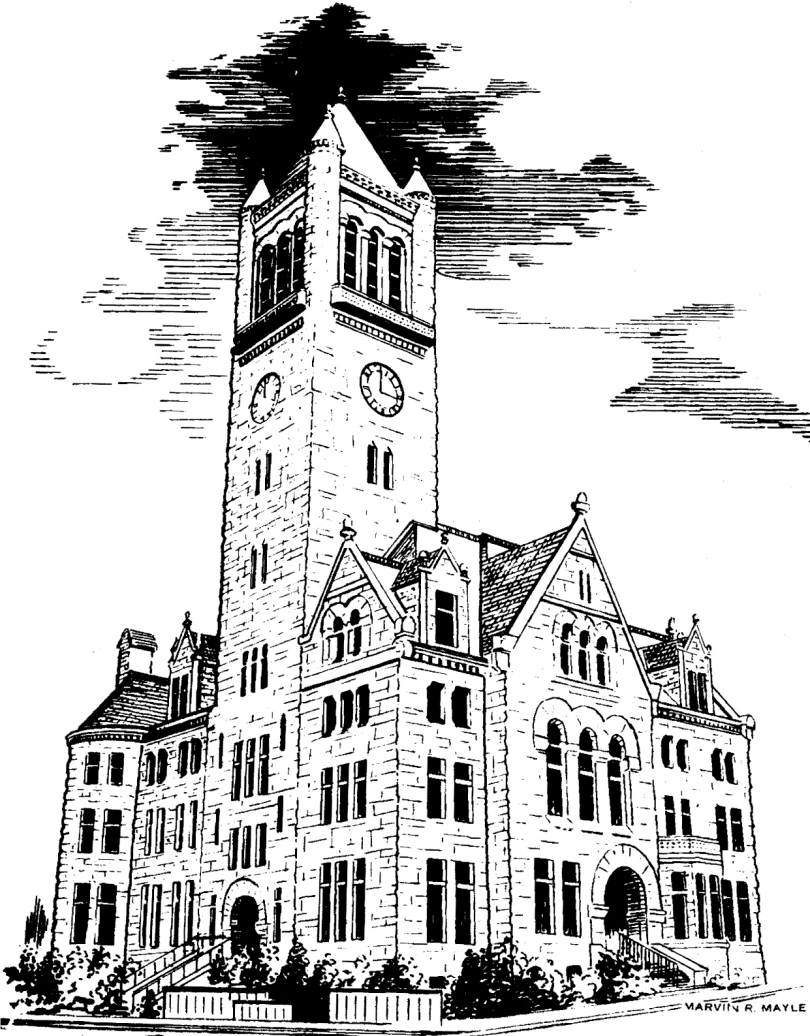


# FAYETTE LEGAL JOURNAL

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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

**CHERYL I. CALHOUN**, late of 410 Terrace Drive, Uniontown, PA (3)

*Personal Representative:*  
Brian F. Levine, Esquire  
22 E. Grant Street  
New Castle, PA 16101  
*Attorney:* Brian F. Levine

**CLARENCE EDWARD COLE, A/K/A CLARENCE E. COLE, A/K/A CLARENCE COLE**, late of North Union Township, Fayette County, PA (3)

*Administrator:* Khristopher S. Cole  
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96 East Main Street  
Uniontown, PA 15401  
*Attorney:* Simon B. John

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*Personal Representative:* Kelly Patrick Flynn  
c/o Riverfront Professional Center  
208 South Arch Street, Suite 2  
Connellsville, PA 15425  
*Attorney:* Richard A. Husband

**WALTER B. GREENAWALT, A/K/A WALTER GREENAWALT**, late of Bullskin Township, Fayette County, PA (3)

*Executrix:* Sharon G. Roskovich  
c/o Zebley Mehalov & White, P.C.  
18 Mill Street Square  
Post Office Box 2123  
Uniontown, PA 15401  
*Attorney:* Daniel R. White

**JACOB W. TOWNSEND**, late of Masontown, Fayette County, PA (3)

*Executor:* David J. Townsend  
110 Bower Hill Road  
Venetia, PA 15367  
c/o 76 East Main Street  
Uniontown, PA 15401  
*Attorney:* Douglas S. Sholtis

### Second Publication

**JAMES E. ARISON**, late of Connellsville, Fayette County, PA (2)

*Personal Representative:* Denise Arison  
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208 South Arch Street, Suite 2  
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*Attorney:* Richard A. Husband

**SAMUEL J. GUARIGLIA**, late of Vanderbilt, Fayette County, PA (2)

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

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

**GERALDINE L. KARAS, A/K/A GERALDINE LENA KARAS**, late of Luzerne Township, Fayette County, PA (2)

*Executrix:* Pauline Tentler  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* James T. Davis

**MARGARET ANN NICOLSON, A/K/A  
MARGARET A. NICHOLSON**, late of  
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*Attorney:* Charles W. Watson

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Township, Fayette County, PA (2)

*Executrix:* Jamie Ann Kerrigan  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Jeremy J. Davis

**DOROTHY ANN GRUBER, A/K/A  
DOROTHY GRUBER**, late of German  
Township, Fayette County, PA (1)

*Executor:* Donald F. Gruber  
c/o 556 Morgantown Road  
Uniontown, PA 15401  
*Attorney:* John A. Kopas, III

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PAUL C. HONSAKER, A/K/A PAUL  
HONSAKER**, late of Masontown, Fayette  
County, PA (1)

*Administrator:* Richard Paul Honsaker  
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99 East Main Street  
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Fayette County, PA (1)

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908 Lewis Street  
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c/o P.O. Box 488  
California, PA 15419  
*Attorney:* Lisa J. Buday

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*Executrix:* Carol M. Dupont  
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*Attorney:* Webster & Webster

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1374 Langport Drive  
Pittsburgh, PA 15241  
c/o 3 Gateway Center  
401 Liberty Avenue, 22 FL  
Pittsburgh, PA 15222  
*Attorney:* Heidi Rai Stewart

**IRENE KEBLIS A/K/A IRENE S. KEBLIS**,  
late of Menallen Township, Fayette County, PA

*Executor:* Paul Keblis (1)  
c/o Fieschko & Associates, Inc.  
436 7th Avenue, Suite 2230  
Pittsburgh, PA 15219  
*Attorney:* Joseph E. Fieschko, Jr., Esquire

**IRMA L. MOSER**, late of South Union  
Township, Fayette County, PA (1)

*Executor:* Ronald C. Howarth  
c/o Higinbotham Law Offices  
45 East Main Street, Suite 500  
Uniontown, PA 15401  
*Attorney:* James E. Higinbotham, Jr.

**STEPHEN PAPTICK, JR., A/K/A  
STEPHEN PAPTICK**, late of South Union  
Township, Fayette County, PA (1)

*Executrix:* Donna Oplko  
c/o Proden & O'Brien  
99 East Main Street  
Uniontown, PA 15401  
*Attorney:* Wendy L. O'Brien

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*Executor:* Raymond P. Rush  
352 Walnut Hill Road  
Uniontown, PA 15401  
c/o Mears, Smith, Houser & Boyle, P.C.  
127 North Main Street  
Greensburg, PA 15601  
*Attorney:* Jon M. Lewis

**DONNIE R. SUTTON**, late of Georges Township, Fayette County, PA (1)

*Administrator:* Benny Sutton  
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Uniontown, PA 15401  
*Attorney:* John A. Kopas, III

**THOMAS E. SWEENEY, A/K/A THOMAS E. SWEENEY, SR.**, late of Dunbar Township, Fayette County, PA (1)

*Personal Representative:*  
Thomas E. Sweeney, Jr.  
c/o Watson Mundorff Brooks & Sepic  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Charles W. Watson

**AGNES M. UNETICH**, late of South Union Township, Fayette County, PA (1)

*Executor:* Jeffrey Unetich  
c/o 51 East South Street  
Uniontown, PA 15401  
*Attorney:* Webster & Webster

## LEGAL NOTICES

### NOTICE

Notice is hereby given pursuant to the provisions of the Fictitious Names Act of Pennsylvania that an application for registration of a fictitious name was filed with the Department of State of the Commonwealth of Pennsylvania, for the conduct of a business under the fictitious name of Gideon's Army GFX & Apparel with its principal office or place of business at 188 Murphy Road, Adah, PA 15410. The names and addresses of all persons who are parties to the registration are: Tairra Leckemby of 188 Murphy Road, Adah, PA 15410.

### NOTICE OF ACTION IN MORTGAGE FORECLOSURE

Brett A. Solomon, Esquire Pa. I.D. #83746  
Michael C. Mazack, Esquire Pa. I.D. #205742  
Tucker Arensberg, P.C. 1500  
One PPG Place Pittsburgh, PA 15222  
412-566-1212  
Attorneys for PNC Bank, National Association,  
successor by merger to National City Bank,  
Plaintiff

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
No. 2271 of 2016 GD

**PNC BANK , NATIONAL ASSOCIATION,  
successor by merger to NATIONAL CITY  
BANK,  
Plaintiff,  
vs.  
ALL KNOWN AND UNKNOWN HEIRS OF  
RUTH L. DECARLO,  
Defendant**

TO: ALL KNOWN AND UNKNOWN  
HEIRS OF RUTH L. DECARLO

You are hereby notified that on November 14, 2016, PNC Bank, National Association, successor by merger to National City Bank, filed a Complaint in Action of Mortgage Foreclosure, endorsed with a Notice to Defend, against the above Defendant at the above number.

Property Subject to Foreclosure: 181  
Downer Avenue, Uniontown (North Union  
Township), PA 15401.

**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 this 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 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 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.**

Lawyer Referral Service  
Fayette County Bar Association  
Courthouse, 2nd Floor  
Uniontown, PA 15401  
Telephone: 724-430-1227

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION  
NO. 19 ADOPT 2017

IN RE: ADOPTION OF  
MICHEAL SMITH  
a/k/a MICHAEL SMITH

**NOTICE**

TO: Unknown Father

A petition has been filed asking the Court to put an end to all rights you have to your child, Micheal Smith a/k/a Michael Smith. The court has set a hearing to consider ending your rights to your child. That hearing will be held in Courtroom No. 3 of the Fayette County Courthouse, Uniontown, Fayette County, Pennsylvania, on Tuesday, May 9, 2017 at 2:30 p.m. You are warned that even if you fail to appear at the scheduled hearing the hearing will go on without you and your rights to your child may be ended by the court without your being there.

**YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. 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 TO FIND OUT WHERE YOU CAN GET LEGAL HELP. 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.**

PENNSYLVANIA BAR ASSOCIATION 100  
SOUTH STREET  
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HARRISBURG, PA 17108  
(800) 932-0313



**JUDICIAL OPINION**

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

COMMONWEALTH OF :  
PENNSYLVANIA, :  
v. :  
JEFFREY RITENOUR, : NO. 209 OF 2013  
Appellant. : PRESIDENT JUDGE JOHN F. WAGNER, JR.

**R.A.P. 1925 OPINION**

Wagner, J.

Filed April 13, 2017

Before the Court is Petitioner's first timely Amended PCRA petition filed on April 29, 2016. This Court promptly appointed Attorney James Natale to represent Petitioner and amend the PCRA petition if necessary. A hearing was held in this matter on February 2, 2107, at which time testimony was presented relative to trial counsel's alleged ineffective assistance relative to the following issues: (1) Trial counsel's failure to present Petitioner's fuel records, (2) Trial counsel's failure to obtain Petitioner's employment records, (3) Trial counsel' s failure to call a witness, (4) Trial counsel's failure to obtain a record of the victim's Facebook account, (5) Trial counsel's failure to obtain photographic evidence of Petitioner's identifying marks, and (6) Trial counsel's failure to provide evidence of a hernia scar.

Petitioner was found guilty by a jury of Statutory Sexual Assault, Aggravated Indecent Assault, Corruption of Minors, and Simple Assault, 18 Pa.C.S. §§ 3122.1, 3125, 6301, and 2701, respectively. He was sentenced to a term of imprisonment of three to ten years on April 1, 2014, and his sentence was affirmed by the Pennsylvania Superior Court on April 28, 2015. The trial evidence established that Defendant was fifty-one years old at the time of the crimes, having been born on July 22, 1961, N.T., Trial Proceedings, p. 43, and the victim, whose date of birth is May 26, 1997, Id. p 7, was fourteen years of age at the time of the first occurrence, fifteen when the other incidents took place.

As already stated, all of the six issues raised in the instant PCRA petition arise out of the alleged ineffective assistance of trial counsel, Attorney Michael Garofalo. A PCRA petitioner will be granted relief only when he proves by a preponderance of the evidence that his conviction resulted from ineffective assistance of counsel which, under the circumstances of his specific case, so undermined the truth-determining process that no reliable adjudication of the petitioner's guilt or innocence could have taken place. 42 Pa.C.S. § 543(a)(2)(ii). Counsel is presumed to be effective unless the petitioner pleads and proves all of the following: The issue is colorable, counsel's action or failure to act had no reasonable basis designed to effectuate the petitioner's interests, and the



petitioner suffered prejudice in that, but for counsel's action or failure, the outcome of the trial would likely have been different. *Commonwealth v. Walker*, 36 A.3d 1 (Pa. 2011). It is the petitioner's burden to prove counsel's ineffectiveness. *Commonwealth v. Natividad*, 595 Pa. 188, 938 A.2d 310 (2007). If the petitioner's evidence is not sufficient to prove each and every one of these prongs, the PCRA court may deny relief. *Id.* With that standard in mind, the Court will now discuss in seriatim fashion the issues Petitioner has raised.

### 1. Failure to present Petitioner's fuel records

At the time of the crimes, Petitioner was employed by a company known as "Laurel Ridge Land Carry", maintaining existing gas lines by clearing trees, removing stumps, and mowing grass and weeds. He told the trial jury that on one of the specific days that the victim said they had sexual contact, May 24, 2012, he was working in Morgantown, Pennsylvania, a four and one-half hour drive from the location of the crimes in Fayette County, Pennsylvania.

He also admittedly testified at trial concerning receipts for fuel and food that he acquired when he was working out of town, but did not able to produce the relevant receipts on the day of the trial because he left them at home, and further did not have one for May 24, 2012. N.T. PCRA Proceedings, Transcript dated February 2, 2017, pp. 31-33. The Court cannot find trial counsel to be ineffective for not presenting to the jury any receipts that were not given to him, nor can counsel be ineffective for failing to present a receipt from May 24, 2012, that may not even exist. See *Id.* p. 33.

### 2. Failure to obtain employment records

Next, Petitioner asserts that trial counsel was ineffective for failing to obtain his employment records prior to trial so as to be able to present them to the jury and thus corroborate Petitioner's trial testimony that he was working outside Fayette County on the dates when the crimes were being committed. At hearing, Petitioner testified that he failed to notify Attorney Garofalo that his paystubs were available. *Id.* p. 24. He did, however, testify that his employment timesheets were sent to counsel by Petitioner's employer in 2013, prior to the commencement of the trial. *Id.* Trial counsel also testified about the relevant timesheet, acknowledging that he had the same in his possession during the trial and questioned Petitioner about them. *Id.* p. 42. Counsel credibly stated that the timecard relevant to the date of the first incident, May 24, 2012, shows that it was for the pay period ending on May 26, 2012, and the timesheet indicated that May 24th was Petitioner's last day at work on an out-of-town trip, but showed only that it was for five hours work on that date without showing any specific times. *Id.* p. 43. As counsel went on to state, and as demonstrated in the trial transcript, counsel extensively questioned Petitioner during the trial about his work location and hours on the twenty-fourth day of May, 2012, but there were no timesheets, paystubs or receipts that could be used to corroborate that testimony. *Id.*

Clearly, trial counsel was not ineffective for failing to obtain the employment records, specifically petitioner's paystubs and timesheets. Petitioner conceded he never told Attorney Garofalo about the existence of the paystubs, and counsel had the time-

sheets and used them in such a way as to be reasonably calculated to effectuate his client's best interests. Petitioner has failed to meet his burden of proof on this issue.

### 3. Failure to call a witness

As his next claim of ineffectiveness, Petitioner claims that trial counsel was ineffective because he did not call Rusty Ritenour as a witness to testify about a Facebook conversation he had had with the victim relative to the charges Petitioner was facing. At the hearing on this instant PCRA petition, Rusty Ritenour stated that he was available and willing to testify on Petitioner's behalf during the trial. PCRA Proceedings transcript, p. 10. Trial counsel was aware of both the Facebook conversation and Rusty Ritenour as a potential witness.

He did not call Rusty Ritenour to the stand as a witness because Rusty Ritenour's testimony would have confirmed for the jury that Petitioner had had at least one sexual encounter with the victim, when Petitioner had insisted to counsel all along that he never had any sexual contact with her. Id. p. 45. The Court finds such decision to be a sound strategic move designed to effectuate Petitioner's best legal interests, and therefore, there was no ineffective assistance rendered in this regard.

### 4. Failure to obtain a record of the victim's Facebook account

Next, Petitioner raises a similar issue concerning trial counsel's failure to obtain a record of the victim's Facebook account relative to her conversation with Rusty Ritenour about her relationship with Petitioner. When trial counsel cross-examined the victim, he asked about the conversation, but she said she could not recall the messages that had been exchanged. Id. p.44. Trial counsel did not attempt to get the transcription of the conversation admitted into the record because he had no way of authenticating the messages, there were no dates on them, and more importantly, the latter part of the conversation discussed a consensual encounter between the victim and Petitioner which counsel did not want the jury to hear about because, in light of the age of the victim, consensual or not, a sexual encounter between her and Petitioner would constitute a statutory sexual assault. Id. pp. 44-45. As stated in the preceding discussion, keeping testimony and documentary evidence, which confirm that at least one crime was committed, out of the record was a sound strategic decision, and counsel was not ineffective for doing so.

### 5. Failure to obtain photographic evidence of Petitioner's identifying marks

Petitioner next asserts trial counsel was ineffective for failing to present photographs to the jury showing a skin tag/mole in his groin area. When asked by PCRA counsel, Attorney Natale, if he had asked trial counsel to present such a photograph, Petitioner replied, "I didn't know that I had to ask him to have this. He was supposed to be defending me." Id. p. 27. Petitioner's wife testified to the said skin tag/mole at trial in an effort to impeach the veracity of the victim's claim that she had had sexual contact with Petitioner. Trial counsel Garofalo testified that he was informed about the growth only after the trial started and did not have access to a camera at the courthouse on such short notice. Id. p. 46. Counsel went on to say that he believed Petitioner's wife's personal testimony about the skin tag/mole was sufficient to alert the jury as to its exist-

ence, without having to resort to presenting a photograph. Id. p. 47. The Court finds that trial counsel articulated a rational strategic reason for not taking a photograph or presenting the same to the jury, and thus, Petitioner has failed to meet his burden of proof as to that prong of his effectiveness claim. Additionally, it is not clear that a photograph would have been consistent with Petitioner's wife's trial testimony that the skin tag/mole could be seen and felt during sexual encounters, since the photograph presented at the PCRA clearly shows the growth, but the photograph was taken while Petitioner was pushing his scrotum and penis out of the way of the camera lens. Id. pp. 35-37, 47. There is no evidence in the record that the skin tag/mole shown in the photograph is of such a size and in such a location on Petitioner's body that it would have necessarily been seen by the victim during a sexual encounter. There is no merit in this issue.

6. Failure to provide evidence of a hernia scar

Lastly, Petitioner requests relief because trial counsel did not provide the jury with evidence - testimonial or photographic - of a scar he has had since he underwent surgery to repair a hernia. At the PCRA, Petitioner admitted under cross-examination that neither he nor his wife ever mentioned such a scar to Attorney Garofalo before or during the trial because they forgot about it. Id. pp. 33-34. Trial counsel cannot be deemed ineffective for failing to present evidence that he knows nothing about.

In light of the above discussions of each of the PCRA issues raised in this first petition, this Court suggests that the instant appeal should be denied.

BY THE COURT:  
WAGNER, P.J.

ATTEST:  
Janice Snyder  
Clerk of Courts



**FAYETTE COUNTY DEMOLITION FUND****RESOLUTION OF THE BOARD OF COMMISSIONERS OF  
FAYETTE COUNTY, PENNSYLVANIA****APPROVING THE CREATION OF THE  
FAYETTE COUNTY DEMOLITION FUND**

WHEREAS, on November 4, 2016, Pennsylvania Senate Bill 486 was signed into law creating Act 152 of 2016 (P.L.1170, No. 152); and

WHEREAS, Act 152 authorizes counties to assess a special deed and mortgage recording fee to establish a county demolition fund; and

WHEREAS, funding generated through the county through the county demolition fund may be utilized to demolish any blighted property, as defined by the Abandoned and Blighted Property Conservatorship Act; and

WHEREAS, the Fayette County Commissioners have determined that there is a need to address blighted structures in local communities throughout the County.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the County of Fayette:

That in accordance with Act 152 of 2016 (P.L. 1170, No. 152), the Fayette County Commissioners hereby authorize the Fayette County Recorder of Deeds to charge and collect an additional fee of \$15 for each deed and mortgage recorded for the purpose of establishing the Fayette County Demolition Fund. This fee will be instituted beginning on July 1, 2017.

That funding generated through the Fayette County Demolition Fund shall be utilized exclusively for the demolition of blighted property situate in the County, as defined by the Abandoned and Blight Property Conservatorship Act.

That the County Commissioners hereby designate the Redevelopment Authority of the County of Fayette, Pennsylvania as the administrator of the Fayette County Demolition Fund, which shall include the implementation of demolition activities and compliance with all reporting requirements stipulated in the Act.

**LUNCH AND LEARN**

**Fayette County Drug Court**

Tuesday, May 9, 2017  
1.0 Substantive CLE Credit

-----

**REGISTRATION:**

**Cindy at the Fayette County Bar Association**

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

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

First Niagara Building

Lower level - Corporate Training Center

Cost to attend: \$30

\$20 young lawyer

---

**BAR BANQUET**

Fayette County Bar Association  
**Bar Banquet**

Nemacolin Woodlands Resort  
Horizon Point

**Friday, May 19, 2017**

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