FAYETTE LEGAL JOURNAL

VOL. 84 MARCH 6, 2021 NO. 10



FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 45 East Main Street, Suite 100, Uniontown, Pennsylvania 15401, 724-437-7994. Legal advertisements should be submitted online at www.fcbar.org no later than 12:00 noon on Friday for publication the following Saturday. No date of publication is promised, however. Legal notices are published exactly as submitted by the advertiser. Copyright 2001 Fayette County Bar Association. All rights reserved.

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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

DEBORAH LYNN BRANT, a/k/a DEBORAH BRANT, late of Uniontown,

Fayette County, PA (3)

Executor: Michael Curley
c/o 11 Pittsburgh Street
Uniontown, PA 15401
Attorney: Thomas W. Shaffer

FRANCIS J. DURANKO, a/k/a FRANK J. DURANKO, late of Uniontown, Fayette

County, PA (3)

Administratrix: Cynthia Duranko c/o Proden & O'Brien 99 East Main Street Uniontown, PA 15401 Attorney: Wendy L. O'Brien

JAMES V. FILIAGGI, a/k/a JAMES V. FILIAGGI, JR., late of South Union Township,

Fayette County, PA (3)

Personal Representative: Deborah A. Krzysiak c/o Watson Mundorff, LLP 720 Vanderbilt Road Connellsville, PA 15425 Attorney: Timothy J. Witt

H. WAYNE INMAN, a/k/a HOWARD W. INMAN, late of Jefferson Township, Fayette

County, PA (3)

Executor: Randolph M. Inman 121 Francis Road Perryopolis, PA 15473 c/o Bassi, Vreeland & Associates, P.C. P.O. Box 144 111 Fallowfield Avenue Charleroi, PA 15022 Attorney: Bradey M. Bassi

JOANN LABASH, late of Redstone Township, Fayette County, PA (3)

Administrator: Joseph M. Labash c/o Higinbotham Law Offices 45 East Main Street, Suite 500 Uniontown, PA 15041 Attorney: James Higinbotham

DONALD LEE LILLEY, late of Masontown,

Fayette County, PA (3)

Executrix: Phyllis J. Newcomer 174 Bennington Road Hopwood, PA 15445

WILBUR CARLUS TEETS, a/k/a WILBUR C. TEETS, late of North Union Township.

Fayette County, PA (3)

Executor: Steven C. Matzus c/o 51 East South Street Uniontown, PA 15401 Attorney: Webster & Webster

PHILIP C. WHEELER, late of Uniontown,

Fayette County, PA (3)

Administratrix: Rena Ann Curry c/o Radcliffe Law, L.L.C. 648 Morgantown Road, Suite B Uniontown, PA 15401 Attorney: William Radcliffe

Second Publication

VIRGINIA HOUSTON, a/k/a VIRGINIA JOSEPHINE HOUSTON, late of Uniontown,

Fayette County, PA (2)

Executor: Richard Allen Settles c/o Kopas Law Office 556 Morgantown Road Uniontown, PA 15401 Attorney: John Kopas

SARAH H. MCCRACKEN, a/k/a SARAH HELEN MCCRACKEN, late of South Union

Township, Fayette County, PA (2)

Co-Executors: Thomas L. Hill and Martha J. Hill

c/o Proden & O'Brien 99 East Main Street Uniontown, PA 15401 Attorney: Jeffrey S. Proden

JOHN R. PANELLA, a/k/a JOHN RICHARD PANELLA. late of South

Uniontown, Fayette County, PA (2)

Personal Representative: Jeanne M. Unice

c/o George and George 92 East Main Street Uniontown, PA 15401

Attorney: Joseph M. George

SARA J. PETRO, a/k/a SARA PETRO, late

of Uniontown, Fayette County, PA (2)

Executrices: Patricia Gulino and Paula O'Connell
c/o John & John
96 East Main Street
Uniontown, PA 15401

Attorney: Anne N. John

WILLIAM ROSNER, a/k/a WILLIAM G. ROSNER, late of South Union Township,

Fayette County, PA (2)

Executrix: Deloris A. Cole c/o Higinbotham Law Offices 45 East Main Street, Suite 500 Uniontown, PA 15401

Attorney: James Higinbotham

JAMES C. SEBECK, late of Redstone

Township, Fayette County, PA (2)

Personal Representative: Joseph L. Sebeck c/o Davis and Davis 107 East Main Street Uniontown, PA 15401 Attorney: Jeremy J. Davis

First Publication

JENNIE J. AMBRISCO, a/k/a JENNIE AMBRISCO, late of Connellsville, Fayette

County, PA (1)

Executor: Eugene Falvo c/o Molinaro Law Offices P.O. Box 799 Connellsville, PA 15425

Attorney: Carmine V. Molinaro, Jr.

JAMES ASHFORD, JR., late of Fayette

County, PA (1)

Administratrix: Hettie J. Ashford 40 F St NE Ardmore, Oklahoma 73401 c/o McMorrow Law, LLC 10475 Perry Highway, Suite 204 Wexford PA 15090 Attorney: Brooke McMorrow

LEONA MARIE BUTALLA, a/k/a LEONA M. BUTALLA, a/k/a LEONA BUTALLA,

late of Masontown, Fayette County, PA (1)
Executor: Franz Joseph Butalla
c/o 769 Lippencott Road
Waynesburg, PA 15370
Attorney: Cheryl Catherine Cowen

NANCY W. GNAGEY, a/k/a NANCY JEAN GNAGEY, late of Uniontown, Fayette County,

PA (1)

Executor: James A. Gnagey 48 Adele Avenue Uniontown, PA 15401 c/o 310 Grant Street, Suite 1109 Pittsburgh, PA 15219 Attorney: Rosalie P. Wisotzki

GIFFORD F. GRIMES, a/k/a GIFFORD

GRIMES, late of North Union Township,

Fayette County, PA (1)

Executrix: Kimberly Ann Rabatin c/o John and John 96 East Main Street Uniontown, PA 15401 Attorney: Simon B. John

DARRALL THOMAS HEATON, a/k/a DARRALL T. HEATON, late of German

Township, Fayette County, PA (1)
Executor: Nathan Duley
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Wendy L. O'Brien

ANDREW MICHAEL LOBASH, a/k/a ANDREW M. LOBASH, late of Georges

Township, Fayette County, PA (1)
Executrix: Alta Grace Grimm
c/o Zebley Mehalov & White, P.C.
18 Mill Street Square
P.O. Box 2123

Uniontown, PA 15401 Attorney: Mark M. Mehalov

CHARLES MILLS, a/k/a CHARLES MILLS, SR., late of Connellsville, Fayette

County, PA (1)

Executor: Charles Mills, Jr. c/o Goodwin Como, P.C. 108 North Beeson Boulevard, Suite 400 Uniontown, PA 15401 Attorney: Benjamin Goodwin

JOSEPH SNYDER, a/k/a JOSEPH WAYNE SNYDER, a/k/a JOSPEH W. SNYDER, late

of Bullskin Township, Fayette County, PA (1)

Personal Representative: Matthew R. Phillippi c/o Higinbotham Law Offices 45 East Main Street, Suite 500 Uniontown, PA 15401 Attorney: James Higinbotham

JOHN D. STONE, a/k/a JOHN STONE, late of Lower Tyrone Township, Fayette County, PA

Administratrix: Susan L. Travalena c/o Zebley Mehalov & White, P.C. 18 Mill Street Square P.O. Box 2123 Uniontown, PA 15401 Attorney: Mark M. Mehalov

SARA YATES, a/k/a SARA JANE YATES, late of Washington Township, Fayette County,

PA (1)

Executrix: Heidi Lacovino 15 Royal Oaks Drive Charleroi, PA 15022 c/o H.A. English & Associates, PC 4290 William Flinn Highway, Suite 200 Allison Park, PA 15101 Attorney: Harold English

LEGAL NOTICES

RW-406 (12/18) Instrument No. – 202100002042

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA

NO. 326 TERM, 2021

EMINENT DOMAIN PROCEEDING IN REM

IN RE: CONDEMNATION BY THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENTOF TRANSPORTATION, OF THE RIGHT-OF-WAY FOR STATE ROUTE 1037, SECTION B10 IN THE CITY OF CONNELLSVILLE

NOTICE OF CONDEMNATION AND DEPOSIT OF ESTIMATED JUST COMPENSATION

Notice is hereby given that the Commonwealth Pennsylvania, by the Secretary Transportation, address whose Commonwealth of Pennsylvania, Department of Transportation, Office of Chief Counsel, Real Property Division, Commonwealth Keystone Building, Harrisburg, Pennsylvania 17120, pursuant to the provisions of Section 2003(e) of the Administrative Code of 1929, P.L. 177, 71 P.S. 513(e), as amended, has filed on February 24, 2021 a Declaration of Taking to the above term and number, condemning the property shown on the plans of the parcels listed on the Schedule of Property Condemned which have been recorded in the Recorder's Office of the above county at the places indicated on the said schedule. The name(s) of the owner(s) of the property interest(s) condemned is (are) also shown on the aforesaid Schedule. The Secretary of Transportation, on behalf of himself/herself and the Governor has approved the within condemnation by signing on November 24, 2020 "Drawings entitled Authorizing Acquisition of Right-of-Way for State Route 1037 Section B10 R/W", a copy of which plan was recorded in the Recorder's Office of the aforesaid county on December 29, 2020, in Instrument 202000012917.

The purpose of the condemnation is to acquire property for transportation purposes.

Plans showing the property condemned from the

parcels listed on the Schedule of Property Condemned have been recorded in the aforesaid Recorder's Office at the places indicated on the Schedule, where they are available for inspection. The Property Interest thereby condemned is designated on the Declaration of Taking heretofore filed. The Commonwealth of Pennsylvania is not required to post security, inasmuch as it has the power of taxation.

Because the identity or the whereabouts of the condemee(s) listed below is (are) unknown or for other reasons he (they) cannot be served, this notice is hereby published in accordance with Section 305(b) of the Eminent Domain Code (26 Pa.C.S. §305(b)).

Claim No. 2600586000

Parcel No. 7

Name Roberto Ayllon Flores a/k/a Roberto Flores

> Address Unlocateable after diligent search

The power or right of the Secretary of Transportation of the Commonwealth of Pennsylvania to appropriate the property condemned, the procedure followed by the Secretary of Transportation or the Declaration of Taking may be challenged by filing preliminary objections within thirty (30) days of the date of this notice.

FURTHERMORE, NOTICE IS GIVEN THAT the Commonwealth of Pennsylvania, Department of Transportation, pursuant to Section 522 of the Eminent Domain Code (26 Pa.C.S. §522), will, at the end of the abovereferenced thirty (30) day time period within which to file preliminary objections to the Declaration of Taking, present a petition to the Court of Common Pleas of the above county to deposit into court the just compensation estimated by the Commonwealth to be due all parties in interest for damages sustained as the result of the condemnation of the property herein involved.

The petition to deposit estimated just compensation may not be presented to the court if the owner(s) of the property herein involved inform the District Right-of-Way Administrator of the District noted below of their existence and/or whereabouts prior to the expiration of the noted period. After estimated just compensation has been deposited into court, the

said monies may be withdrawn by the persons entitled thereto only upon petition to the court. If no petition is presented within a period of six years of the date of payment into court, the court shall order the fund or any balance remaining to be paid to the Commonwealth without escheat.

Vincent M. Komacko, Jr.
District Right-of-Way Administrator
Engineering District 12-0
Pennsylvania Department of Transportation

NOTICE

RE: Change of Name of Mava Rae Sassano-Chiera, a minor:

To Whom It May Concern:

Be advised that the Court of Common Pleas of Payette County, Pennsylvania, will hear the Petition for the Change of Name of Mava Rae Sassano-Chiera, a minor, on March 29, 2021, at 10:00 a.m. in Courtroom No. 1. All interested individuals may attend at that date and time.

DAVIS & DAVIS BY: Samuel J. Davis, Esquire 107 East Main Street Uniontown, PA 15401

NOTICE

Notice is hereby given that the Certificate of Organization has been approved and filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on February 10, 2021, for a limited liability company known as Selected Holdings LLC.

Said limited liability company has been organized under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

The purpose or purposes of the limited liability company is/are: real estate and any other lawful purpose related thereto for which the corporation may be organized under the Business Corporation Law.

DAVIS & DAVIS BY: Gary J. Frankhouser, Esquire 107 East Main Street Uniontown, PA 15401

JUDICIAL OPINION

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

GABRIEL HUDOCK and

GLORIA HUDOCK, husband and wife,

Plaintiffs,

vs. : SALTLICK TOWNSHIP, PENNSYLVANIA :

and SEVEN SPRINGS MOUNTAIN RESORT,

INC., formerly known as SEVEN SPRINGS : FARM, INC..

ARM, INC.,

Defendants.

: No. 2212 of 2015, G.D.

Honorable Nancy D. Vernon

OPINION AND ORDER

VERNON, J. February 16, 2021

Before the Court are Plaintiffs' Exceptions to Report of Board of View filed pursuant to this Court's Decree Nisi dated April 27, 2020, therein alleging that the Board of View failed to acknowledge a right-of-way along the vacated eastern portion of Neals Run Road for the use and benefit of Plaintiffs and others by operation of law; objecting to the Board of View's recommendation of a cul-de-sac on Neals Run Road on Seven Springs Resort's property near Plaintiffs' property; and objecting to the Board of View's recommendation that the current long standing practice between Saltlick Township and Seven Springs Resort be followed should the Court not accept the Board's recommendation

Plaintiffs Gabriel Hudock and Gloria Hudock, husband and wife, (hereinafter "Hudocks") are landowners of real property at 543 Neals Run Road, identified as Tax Parcel ID Numbers 31-21-003, including seven subdivided lots. The Hudocks' property is contiguous with Seven Springs' North Face ski slope. According to the Hudocks, access to their property is reached through the eastern portion of Neals Run Road at its intersection with Cemetery Road, which in turn is accessed by County Line Road.

Defendants Saltlick Township and Seven Springs entered into a Road Use License and Maintenance Agreement wherein the Township does not maintain a portion of Neals Run Road and upon which Seven Springs manufactures snow for its winter ski operations.

A Board of Viewers (hereinafter "Board") was appointed to view the property and conduct a hearing to determine if Neals Run Road should be vacated and become a private road for the use and benefit of the Hudocks and other owners of lands along the road.

After the viewing and hearing the Board denied the Hudocks' request and on April 20, 2020, the Board filed its formal Report. This Court entered a Decree Nisi on April

- 27, 2020, confirming the Report of the Board of View. Subsequently on May 27, 2020, the Hudocks filed Exceptions to the Board's Report, namely:
 - (1) Exception to the Board of View's failure to acknowledge a right-of-way along the vacated eastern portion of Neals Run Road, for the use and benefit of Plaintiffs and others, by operation of law;
 - (2) Exception to the Board of View's recommendation of a cul-de-sac on Neals Run Road on Seven Springs Resort's property near Plaintiffs property; and
 - (3) Exception to Board of View's recommendation that the current long standing practice between Saltlick Township and Seven Springs Resort be followed should the Court not accept the Board's recommendation.

Thereafter, Defendant Seven Springs Mountain Resort, Inc. lodged objections to Plaintiffs' Exceptions to the Report of the Board of Viewers. Saltlick Township did not respond to Plaintiffs' Exceptions, but at the time set for oral argument attempted to argue against the Board's recommendations. Finding that Saltlick Township did not properly lodge objections, the same cannot be considered.

"Although the Board's findings are subject to review by Common Pleas, the Court cannot look beyond the record or consider questions of fact. Rather, Common Pleas has appellate review which is limited to ascertaining the validity of the Board's jurisdiction, the regularity of the proceedings, questions of law and whether the Board abused its discretion." In re Private Rd., Cogan Twp., Lycoming Cty., 684 A.2d 237, 239 (Pa. Commw. Ct. 1996).

We are not free to substitute our judgment for that of the Board of Viewers. In re Private Rd. in Monroeville Borough, Allegheny Cty., 205 A.2d 885, 887 (Pa.Super. 1964). The determination of necessity for a private road is a factual issue to be determined by the board and not by a trial court that on review is limited to the affirmation or dismissal of the Board's report. Id.

The Board of Viewers viewed the portion of Neals Run Road at issue and described it as "a very rural single lane gravel road which traverses through a mountainous area [...]." Report at 76. The Board then weighed the elements of 36 P.S. § 1981 to determine whether Neals Run Road had "become useless, inconvenient or burdensome."

Factors used in reaching their determination that the road was useless included the lack of property owners along the western portion, and most of those persons supporting the vacating, no businesses or commercial activity, and that Seven Springs Mountain Resort was the only entity that could benefit from not vacating the road. Id. at 76-77. The "inconvenient" analysis included the physical attributes of the roadway being an "offshoot" that would not be traversed by the general public and that a safety hazard exists to guests with its width too narrow for two vehicles to pass each other any time of the year. Id. at 78-80. With regard to the burdensome analysis, the testimony of the Saltlick Township supervisor indicated that the roadway was "impossible" to maintain in the winter with or without manmade snow. Id. at 81. Plaintiffs' own hired snow-plow operator indicated the area undergoes high winds with accumulating and drifting

snow which makes it nearly impossible to maintain. Id.

Upon this analysis, the Board of Viewers recommended this Court vacate that portion of Neals Run Road from the gate on the western side of the North Face where it is currently located on Seven Springs' property and therefrom running to the east to the point where Neals Run Road meets with North Gate Road. Plaintiffs do not contest the Board of Viewers' recommendation to vacate these portions of Neals Run Road.

The Board of Viewers further recommended that this Court order Seven Springs Mountain Resort to provide for a cul-de-sac and opined that a private right-of-way should not be granted across the vacated road. Report at 84-86.

Plaintiffs' first exception to the Board of Viewer's Report is for the Board's failure to acknowledge a right-of-way along the vacated eastern portion of Neals Run Road, for the use and benefit of Plaintiffs and others, by operation of law. The relevant statute, 36 P.S. § 2781 – Retention of vacated public road as private road, provides:

Whenever viewers, appointed by the court of quarter sessions to view and vacate any public road within this Commonwealth, shall find and report that there is no necessity for such public road, but shall recommend in their report that the route thereof, or of any portion thereof, be and remain a private road, upon the approval of their said report and the confirmation thereof by the court and the vacation of said public road, the court shall have power to enter a decree that the route of such abandoned public road, or any portion thereof, so recommended for a private road, shall be and become a private road, of the width of twenty-five feet, for the use and benefit of the owners of lands through or along which it passes, to be maintained and used as private roads are now maintained and used under existing laws.

A plain reading of this statute explains that the recommendation of a private road over the vacated public road is optional at the discretion of the Board of Viewers. Here, the Board did not recommend "that the route thereof, or any portion thereof, be and remain a private road." The Board provided sufficient support for its reasoning in not recommending a private roadway to the Hudocks or others, such reasoning initially found that a right-of-way was not necessary as all properties in the vicinity of the vacated road were accessible via the public roadway, Indian Head Road.

The Board of Viewers further considered the impact that granting such private right -of-way would have on the operations of Seven Springs Mountain Resort. The Court agrees that the granting of a right-of-way to Plaintiffs would be inequitable to operations of Seven Springs Mountain Resort.

Section 2781 vests the power to determine the granting of a private road upon the vacating of a public road with the Court. The reasoning of the Board of Viewers is logical and will be adopted by this Court. Access to Plaintiffs' property does not require a private right-of-way over the vacated portion of Neals Run Road. The statute is not mandatory that upon the Court's vacating of a public road that the same automatically becomes a private right-of-way.

Even if the Court were to order a private right-of-way, the Hudocks are not abutting property owners to the portion of Neals Run Road that the Board has declared to vacate.

The statute vests the "use and benefit" of a private right-of-way to the "owners of lands through or along which it passes." This would not be the Hudocks as the vacated portion neither passes through or along the Hudocks' property. Rather, Seven Springs Mountain Resort is the only owner of the surrounding lands on the vacated portion of Neals Run Road. Accord, 36 P.S. § 2131 which provides for the reversion of vacated land to the abutting owner of property.

Accordingly, the Hudocks are not entitled to a private road on the vacated portion of Neals Run Road and the Court will adopt the Board of Viewers recommendation to not grant a right-of-way along the vacated eastern portion of Neals Run Road.

Plaintiffs' next exception is to the Board of Viewers' recommendation of a cul-desac on Neals Run Road on Seven Springs Resort's property near Plaintiffs' property. Plaintiffs argue that the granting of a cul-de-sac would deny Plaintiffs the right of access to and from their property in any direction which the road permits. The Hudocks have failed to recognize that upon the vacation of the road, and without the awarding of a right-of-way, they have no property interest in the vacated portion of Neals Run Road and no right to access over or upon it.

However, the Court is unable to find any authority for the ordering of a cul-de-sac upon the vacation of this portion of Neals Run Road. No party pled or requested that a cul-de-sac be ordered by this Court and for that reason alone, the Court will grant Plaintiffs' exception and strike from the Board's Report its recommendation to award a cul-de-sac. Nonetheless, as ownership of the vacated portion of Neals Run Road has now reverted to Seven Springs Mountain Resort, it alone can decide whether or not to build a cul-de-sac on its property in this area, without being ordered to do so.

In their last exception Plaintiffs request that if this Court does not accept the Board's recommendations that it invalidate the long-standing practice between Saltlick Township and Seven Springs Mountain Resort regarding road maintenance. Since the Court has accepted the Board of Viewer's Report and Recommendation, except for the cul-de-sac provisions, this last exception is thereby rendered moot.

Wherefore, upon the thorough review by the Board of Viewers who followed all statutory provisions it is hereby ORDERED and DECREED that its well-reasoned Report is confirmed in accordance with the Decree Nisi entered on April 27, 2020, with the exception for its cul-de-sac recommendation.

ORDER

AND NOW, this 16th February, 2021, upon consideration of Plaintiffs Gabriel Hudock and Gloria Hudock's Exceptions to Report of Board of View, it is hereby ORDERED and DECRED that the first exception regarding the awarding of a private right-of way along the vacated portion of Neals Run Road for the use and benefit of Plaintiffs and others is denied; the second exception regarding the ordering of a cul-de-sac is granted; and the third exception regarding the road maintenance agreement is denied as moot.

It is further ORDERED and DECREED that the Report of Board of View, filed on

April 20, 2020, as confirmed by the Decree Nisi entered on April 27, 2020 is declared a final decree in accordance with the foregoing Opinion.

The Prothonotary of Fayette County is directed to transmit the record to the Prothonotary of Somerset County for filing at the coordinated action docketed at Case Number 587 Civil 2016 in Somerset County, Pennsylvania.

BY THE COURT: NANCY D. VERNON, JUDGE

ATTEST: Prothonotary

WARMAN ABSTRACT & RESEARCH LLC

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Smithfield, PA 15478
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LUNCH & LEARN SERIES

The Fayette County Bar Association's next presentation in its Lunch & Learn Series will be:

- Date: Wednesday, March 17th from 12:00 p.m. to 1:30 p.m.
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topics: Lawyers Concerned for Lawyers
- Presenters: Laurie Besden, Esquire Executive Director Lawyers Concerned for Lawyers and the Honorable Judge Linda R. Cordaro

CLE Credit

- 1.5 hours of Ethics CLE credit for the program. The fees are as follows: Members of the FCBA
 - No charge for attendance without CLE Credit
 - \$10 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2012

• No charge for attendance with CLE Credit

Non-members of the FCBA

- \$10 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit
 - ** All fees to be paid at the door **

A light lunch will be provided.

RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or by email to cindy@fcbar.org on or before Monday, March 15th.

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