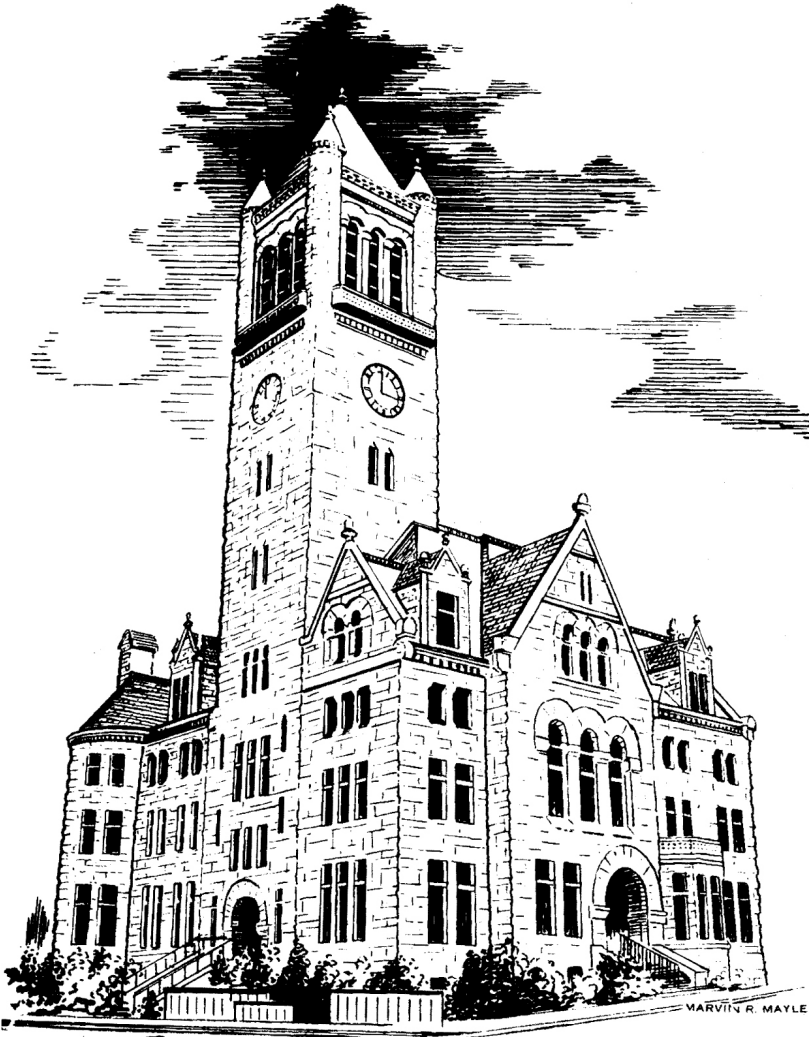


# FAYETTE LEGAL JOURNAL

VOL. 80

OCTOBER 28, 2017

NO. 43



## FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 2 West Main Street, Suite 711, Uniontown, Pennsylvania 15401, 724-437-7994. Legal advertisements should be submitted online at [www.fcbar.org](http://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

**THOMAS J. CERVENAK, a/k/a THOMAS JOSEPH CERVENAK**, late of South Union Township, Fayette County, PA (3)

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

**BARRY LEE EWART**, late of McClellandtown, Fayette County, PA (3)

*Personal Representative:* Jamie Lynn Ewart  
c/o George Port & George  
92 East Main Street  
Uniontown, PA 15401  
*Attorney:* Joseph M. George

**CHARLES A. HIXON, SR.**, late of North Union Township, Fayette County, PA (3)

*Executrix:* Ada M. Rockwell  
c/o Radcliffe & DeHaas, LLP  
2 West Main Street, Suite 700  
Uniontown, PA 15401  
*Attorney:* William M. Radcliffe

**ANTONETTA J. MCKLVEEN**, late of Connellsville, Fayette County, PA (3)

*Executor:* Ronald G. McKlveen, Jr.  
172 East Askren Street  
Uniontown, PA 15401  
c/o Moore Becker Smarto & Ciszek, P.C.  
121 West Second Street  
Greensburg, PA 15601  
*Attorney:* Lawrence F. Becker, III

**LISA MARIE OZANICK**, late of North Union Township, Fayette County, PA (3)

*Administrator:* Kenneth Ozanick  
1336 Connellsville Road  
Lemont Furnace, PA 15456  
c/o 92 East Main Street  
Uniontown, PA 15401  
*Attorney:* David Kaiser

**EDWARD R. SHARKEY, a/k/a EDWARD RICHARD SHARKEY**, late of Connellsville, Fayette County, PA (3)

*Administratrix:* Diane S. Paul  
c/o Molinaro Law Offices  
P.O. Box 799  
Connellsville, PA 15425  
*Attorney:* Carmine V. Molinaro, Jr.

**CHARLES SPARROW, a/k/a CHARLES H. SPARROW, JR.**, late of Franklin Township, Fayette County, PA (3)

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

### Second Publication

**JANET SUE BILL**, late of Uniontown, Fayette County, PA (2)

*Executor:* Richard D. Lee  
c/o Zerega Law Office  
212 North Gallatin Avenue  
Uniontown, PA 15401  
*Attorney:* Dianne H. Zerega

**BETTY JEAN DURSO**, late of Menallen Township, Fayette County, PA (2)

*Administrator:* Charles Durso  
c/o Dellarose Law Office  
111 East Main Street  
Uniontown, PA 15401  
*Attorney:* Melinda D. Dellarose

**EDWARD METZGAR**, late of Connellsville,  
Fayette County, PA (2)

*Co-Executors:* Elaine Krinock and  
Joseph A. Canada, Jr.  
c/o P.O. Box 760  
Connellsville, PA 15425  
*Attorney:* Carolyn W. Maricondi

## First Publication

**JOHN M. JONES**, late of South Union  
Township, Fayette County, PA (1)

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

**ANNE J. KNOEBEL**, late of Bullskin  
Township, Fayette County, PA (1)

*Executor:* L. William Knoebel, Jr.  
4166 LaTache Court  
Allison Park, PA 15101  
c/o Houston Harbaugh, P.C.  
Three Gateway Center  
401 Liberty Avenue, 22nd Floor  
Pittsburgh, PA 15222-1005  
*Attorney:* Heidi Rai Stewart

## LEGAL NOTICES

### NOTICE OF ACTION IN MORTGAGE FORECLOSURE

#### IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA CIVIL ACTION – LAW

**U.S. BANK NATIONAL ASSOCIATION, AS  
TRUSTEE FOR STRUCTURED ASSET  
SECURITIES CORPORATION,  
MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2006-EQ1,**

**Plaintiff,**

**vs.**

**GERALD F. JACOBSON,  
Defendant.**

COURT OF COMMON PLEAS  
CIVIL DIVISION  
FAYETTE COUNTY  
No. 1518-OF-2017-GD

#### NOTICE

To GERALD F. JACOBSON

You are hereby notified that on July 13, 2017, Plaintiff, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR STRUCTURED ASSET SECURITIES CORPORATION, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-EQ1, 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. 1518-OF-2017-GD. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 540 SIXTH STREET, HIBBS, PA 15443 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.

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**NOTICE OF ACTION IN MORTGAGE  
 FORECLOSURE**

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

**DEUTSCHE BANK TRUST COMPANY  
 AMERICAS AS INDENTURE TRUSTEE  
 FOR THE REGISTERED HOLDERS OF  
 SAXON ASSET SECURITIES TRUST 2004-  
 1 MORTGAGE LOAN ASSET BACKED  
 NOTES AND CERTIFICATES, SERIES  
 2004-1,**

**Plaintiff,**

**vs.**

**REBECCA E. RUGG  
 TIMOTHY R. RUGG,**

**Defendants.**

COURT OF COMMON PLEAS  
 CIVIL DIVISION  
 FAYETTE COUNTY  
 No. 1538-OF-2017-GD

**NOTICE**

To TIMOTHY R. RUGG and REBECCA E.  
 RUGG

You are hereby notified that on July 14, 2017, Plaintiff, DEUTSCHE BANK TRUST COMPANY AMERICAS AS INDENTURE TRUSTEE FOR THE REGISTERED HOLDERS OF SAXON ASSET SECURITIES TRUST 2004-1 MORTGAGE LOAN ASSET BACKED NOTES AND CERTIFICATES, SERIES 2004-1, 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. 1538-OF-2017-GD. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 190 CANEY VALLEY ROAD, MARKLEYSBURG, PA 15459-1020 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.

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MILSTEAD & ASSOCIATES, LLC

By: Robert W. Williams, Esquire  
 Attorney ID#203145  
 1 E. Stow Rd.  
 Marlton, NJ 08053  
 Attorney for Plaintiff  
 (856) 482-1400  
 File No. 215652

**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  
 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,  
 Defendant.**

COURT OF COMMON PLEAS  
 FAYETTE COUNTY  
 No.: 735of2017

**Praecepto to Reinstate Complaint in  
 Mortgage Foreclosure**

**TO: 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**

**TYPE OF ACTION:  
 CIVIL ACTION/COMPLAINT IN  
 MORTGAGE FORECLOSURE**

**PREMISES SUBJECT TO  
 FORECLOSURE:  
 517 Race Street  
 Connellsville, PA 15425**

**NOTICE**

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing to 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 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.

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 724-437-7994

## Registers' Notice

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

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

Monday, November 6, 2017  
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2612-0625	ROSEMARY MONAGHAN	Sidney Dale Monaghan, Administrator

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

Monday, November 20, 2017 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  
CIVIL DIVISION

PAUL D. HARVEY, DONALD J. PIDANICH,	:	
LINDA A. COTTOM, GINA E. DREUCCI and	:	
SCOTT BRUNDEGE,	:	
Plaintiffs,	:	
vs.	:	
FRAZIER SCHOOL DISTRICT,	:	NO. 635 OF 2017, G.D.
Defendant.	:	Honorable Nancy D. Vernon

OPINION AND ORDER

On November 21, 2016, the Board of School Directors for the Frazier School District, Fayette County, Pennsylvania adopted a Resolution setting the elected tax collectors’ commission at a flat rate of \$4.00 per collected bill and \$1.14 flat rate on an installment payment.

The elected tax collectors of the district filed a Request for Declaratory Judgment, a preliminary injunction and a permanent injunction against the Resolution. In support thereof, they aver that the drastic decrease in revenue to the tax collectors is unreasonable and arbitrary. They further contend that Option 2 which states that if the tax collectors are unwilling to accept the stated compensation, they each have the option to designate the School District as deputy to collect the taxes, is void as a matter of law as it is used to manipulate and eradicate the elected tax collectors’ statutory duties pursuant to Local Tax Law 72 P.S. §5511.1 et seq.

After a careful review of the testimony and law, this Court agrees that the Resolution Option 1 is unreasonable and arbitrary as it was approved with little input from the tax collectors as to the duties they actually perform and causes an unjustified drastic decrease in compensation. The Court agrees that Option 2 is void as it attempts to strip the tax collectors of their prescribed duties under law. It also fails because this Court finds that Option 2 is not severable from Option 1.

The Plaintiffs are comprised of five duly elected tax collectors representing distinct taxing districts. They are Donald Pidanich, tax collector of Perry Township, Paul Harvey, tax collector of Jefferson Township, Scott Brundege, tax collector of Newell Borough, Gina E. Dreucci, tax collector of Perryopolis Borough and Linda Cottom, tax collector of Lower Tyrone Township. All taxing districts are contained within the Frazier School District.

Under the Local Tax Collection Law (LTCL), 72 P.S. §5511.1, et seq. the 2nd Class Township Code and the Borough Code, the tax collectors are to collect any and all real estate taxes. They may appoint a deputy to help collect taxes and compensation is set for collection of school taxes by the Board of School Directors. The tax collectors

of the Frazier Area School District have historically received a 2% commission rate on all parcels paid and a 3% commission for those parcels paid in penalty. The November 21, 2016 “Tax Collectors Commission on Setting Resolution Commencing 2018” (Plaintiff’s Exhibit 2) sets the billing rate of \$4.00 per bill paid and \$1.14 per installment paid.

The Resolution cuts the revenue to the Plaintiffs to such a drastic extent that they contend it is totally unreasonable. The comparison of the current compensation to the Resolution is as follows:

- (a) Jefferson Township - 80% decrease from \$25,205 to \$4,916;
- (b) Lower Tyrone Township - 82% decrease from \$15,627 to \$2,772;
- (c) Newell Borough - 75% decrease from \$5,417 to \$1,334;
- (d) Perry Township - 77% decrease from \$30,646 to \$6,765; and
- (e) Perry Borough - 83% decrease from \$22,694 to \$3,706.

To determine whether this rate of pay is reasonable and fair compensation, the Court turns to the Pennsylvania Supreme Court case cited by both parties, *Telly v. Pennridge School Board of Directors*, 53 A.3rd 705 (Pa. 2012). The Court in *Telly* decided that a provision of a resolution adopted by the school board giving tax collectors an option to disclaim their responsibility for collecting school taxes was void. It further held that while school boards have a duty to set and meet budgets, altering the method by creating lock box systems or a tax collecting agency as a means for doing so is beyond their authority pursuant to 72 P.S. §5511.35(a)(3). Although the Court in *Telly* acknowledged the power by the school district board to set compensation, it holds that the discretion is not without limitation and, as here, opined that it thwarted the tax collectors from providing customer service as elected officials. *Id.* at 717-719. Clearly, school board directors are vested with the discretion of setting compensation, however the pay cannot be so low as to eliminate the position. *Myers v. School District of Newtown Township*, 366 Pa. 542, 544, 153 A.2d 494, 496 (1959); *McKinley v. School District of Luzerne Township*, 383 Pa. 289, 293, 119 A.2d 137, 140 (1955).

*Myers* holds that tax collectors who choose to run for office with full knowledge of the compensation may not wait until elected to litigate its appropriateness. *Id.* at 544.

Tax collectors Donald J. Pidanich and Paul Harvey testified on behalf of Plaintiffs. Pidanich is the tax collector of Perry Township and earns \$28,000 a year which the District proposes to cut to \$6,000 a year. He has been a tax collector for twenty years and is facing re-election. Pidanich collects 85 to 90% of the taxes. He testified in depth as to his duties. Included in those duties are receiving calls for information from attorneys, banks and real estate agents as well as the public, copying bills for constituents, explaining bills to the public, making house calls to the elderly, preparing a final report, handling delinquent taxes, returning taxes to school, preparing lien lists, checking bills against book, preparing and sending approximately 200 to 300 letters, putting all bills and payments in computer, stuffing mail, keeping a list of installments paid on properties and sending out additional letters. He additionally adjusts, corrects and adds new parcels, checks mail and email, answers calls, researches addresses for bills marked

returned to sender, maintains a list for underpaid and overpaid taxes, separates payments made without bill returned as paid by others, makes deposits daily, and “basically looks at numbers 24/7.” Pidanich testified that given the work described and time spent, he could not continue with a 77% decrease in salary. He also testified as to the intangible. He states, “I serve the public. I try to do what I can for my constituents in the stable community where I know people and collect 90% of the taxes.” He rents an office. At \$6,000 compensation, it appears that Pidanich would be burdened to even keep up with rent.

Paul Harvey, the tax collector of Perryopolis echoed the testimony of Pidanich. He testified that the school did little to ascertain the tax collector’s input, but instead the tax collectors were invited to one workshop and they were informed it was a “non-issue.” He stands to receive a 75% reduction in compensation. He opined that the District had all intention of collecting taxes because he would be unable to perform his duties. Harvey testified that he was approached and asked what it would take to deputize the District showing the District’s firm intention to eliminate the tax collectors. Harvey maintains an office at home, holds regular hours, answers questions and assists people because he claims that half of his constituents have trouble reading the bill. Plaintiffs’ Exhibit 1 is a list compiled by the tax collectors outlining their duties. It is comprised of 49 items.

The School District has made a valiant attempt to establish that \$4.00 per bill is not unreasonable. The School Board President, Tom Shetterly, testified that they utilized the PASBO time study of the State School Board Association and sent out a survey to 500 school districts of which 81 responded. Of the 81, 71% of the school districts pay less than \$4.00 per bill.

Shetterly justifies the cuts of 75 to 83% in compensation due to the advent of advanced technology. However, this does not account for the intrinsic human factor of an elected official. Shetterly performed a simulation in the district using school personnel to process taxes and prepared Defendant’s Exhibit 3. He feels that the cut was reasonable based upon necessary time spent. In preparing the chart, however, there are listed only five areas of work identified by the School District as opposed to the extensive list prepared by the tax collectors contained in Plaintiffs’ Exhibit 1. Granted that many duties overlap, it is apparent to the Court that the tax collectors’ knowledge of the job and their opinions were not considered. Admittedly, not one trip was taken to an office to watch the daily, weekly or monthly procedure.

This Court is by no means implying that the motive of the School District is not pure in its duty to provide the best education to its students. In fact, it is disconcerting that the tax collectors have received continual raises the past six years and receive an hourly rate averaging, according to the District, \$120 an hour when the Superintendent rate is \$75 to \$80 an hour and school teachers are \$60 to \$62 an hour. However, tax collectors are not employees of the District. A reduction in their compensation must be fair and reasonable. This Court finds that 77 to 83% drastic reductions based upon the work performed is unreasonable.

The Court is sympathetic to the financial plight of the Frazier School District and

most districts in the area. In preparing the budget, programs, extracurricular activities and administration costs have been reduced. Teachers have been eliminated and classes enlarged. Business Manager, Kevin Mildren, predicted this resolution would save the District \$95,000 to \$100,000 each year. The School District propounds that precluding this Resolution harms the public interest vis a' vis the District's ability to educate the children in its charge.

However, the Court is constrained to follow the principles of law established by precedent in determining that this Resolution sweeps too broad and is unreasonable. It is acknowledged that the LTCL pits the fundamental interests of two sets of elected officials against one another as so noted in *Abington School District v. Yost*, 397 A.2d 453 (Pa. Comwlth. 1970). Two competing interests must balance and the only guidance we are offered is that the market rate of compensation is that which a reasonably effective and efficient tax collector requires to perform the traditional and accepted services as dictated. *Id.* at 457.

It is the opinion of the Court that the School District should not attempt to increase its revenue by reducing tax collectors' salary in an attempt to balance the budget. The legislature has provided not the slightest indication that local taxing authorities should have the power to reduce compensation as a means of reforming to their satisfaction the system of local tax collectors. *Id.* at 456-457. The reduction must be reasonable so as to permit the tax collectors to continue with their duties. This Court finds that the Resolution is arbitrary and unreasonable. Further, such a decrease in compensation eliminates the ability of the elected tax collectors to actually perform their duties. In holding that Option 1 is vacated, the Court further finds that Option 2 is void as a matter of law as the District cannot strip the tax collectors of their duties prescribed by statute and also that Option 2 is not severable from Option 1.

WHEREFORE, based upon the foregoing, the Court will enter the following Order:

ORDER

AND NOW, this 10th day of October, 2017, based upon the foregoing Opinion, the Resolution of the Frazier School District dated November 21, 2016 and identified as "Tax Collectors' Commission Setting Resolution Commencing 2018" is DECLARED NULL AND VOID and the previously set commission based compensation is REINSTATED.

The Preliminary Injunction and the Permanent Injunction are GRANTED. The Resolution is permanently VACATED.

BY THE COURT:  
NANCY D. VERNON, JUDGE

ATTEST:  
Nina Capuzzi Frankhouser  
PROTHONOTARY

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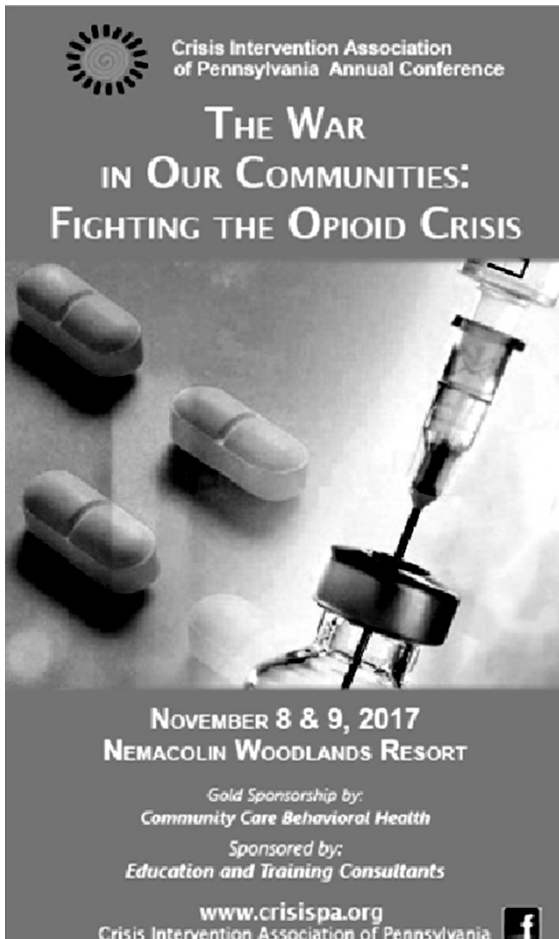
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## ANNUAL MEMBERSHIP MEETING

The regular annual meeting of the full membership of the Fayette County Bar Association will be held on **Thursday, November 30, 2017, at 12:00 pm** at the Bar Association's Office Building in the basement conference room located at 2 West Main Street, Uniontown, PA 15401.

Lunch will be provided to attendees who register in advance.

RSVP to Cindy  
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