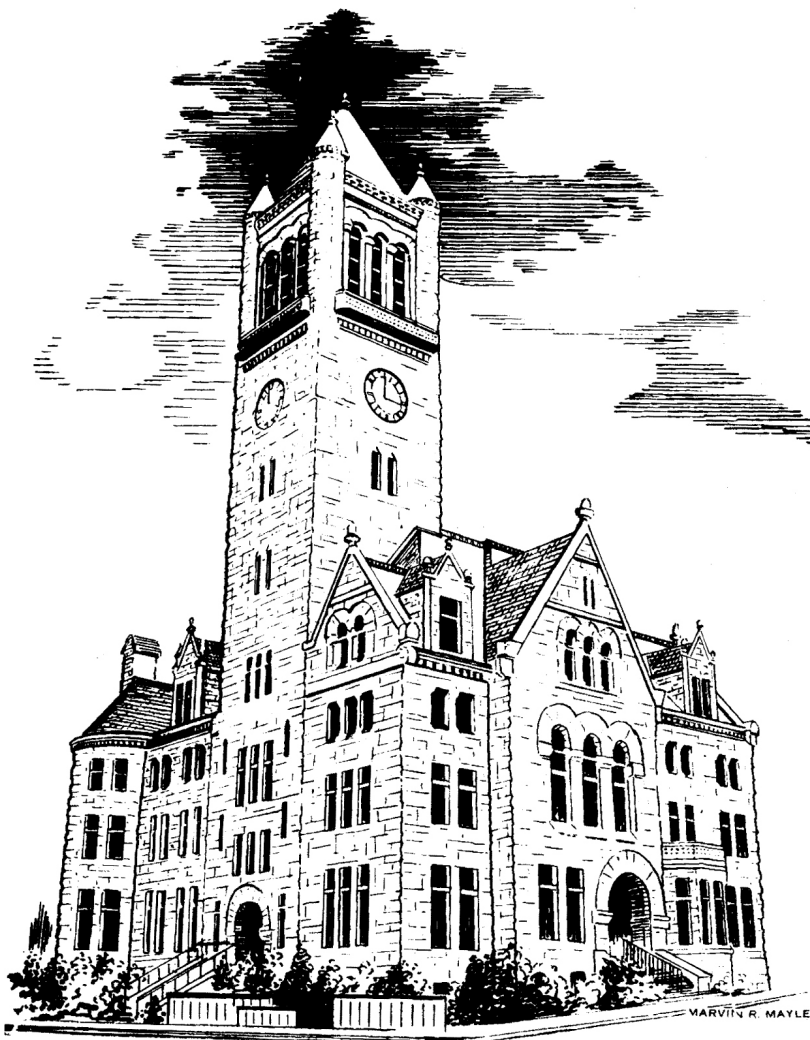


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The Ethics Hotline provides free advisory opinions to PBA members based upon review of a member's prospective conduct by members of the PBA Committee on Legal Ethics and Professional Responsibility. The committee responds to requests regarding, the impact of the provisions of the Rules of Professional Conduct or the Code of Judicial Conduct upon the inquiring member's proposed activity. All inquiries are confidential.

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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

DORIS K. CLEARAGE, a/k/a DORIS CLEARAGE, a/k/a DORIS KATHLEEN CLEARAGE, late of Uniontown, Fayette County, PA (3)

Executrix: Patricia Ann Rice
c/o 9 Court Street
Uniontown, PA 15401

Attorney: Vincent J. Roskovensky, II

BETTY FELL, a/k/a BETTY JEAN FELL, late of South Union Township, Fayette County, PA (3)

Executor: Donald Keith Fell
2473 Wheatfield Lane
Furlong, PA 18925
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401

Attorney: James E. Higinbotham, Jr.

DOUGLAS BRENT FOREMAN, late of Mill Run, Fayette County, PA (3)

Administratrix: Maureen Foreman
c/o Fieschko & Associates, Inc.
436 7th. Avenue, Suite 2230
Pittsburgh, PA 15219

Attorney: Joseph E. Fieschko, Jr.

LLOYD KENNARD HOOVER, a/k/a LLOYD K. HOOVER, late of South Union, Fayette County, PA (3)

Administrator: Craig K. Hoover
c/o Zebley Mehalov & White, P.C.
18 Mill Street Square
P.O. Box 2123
Uniontown, PA 15401

Attorney: Daniel R. White

FLOYD A. LEASURE, JR., late of North Union Township, Fayette County, PA (3)

Personal Representative:

Matthew Trey Leasure
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401

Attorney: Gary J. Frankhouser

MICHAEL G. NAHAJ, a/k/a MICHAEL GEORGE NAHAJ, SR., late of North Union Township, Fayette County, PA (3)

Personal Representative:

Michael G. Nahaj, Jr.
c/o George Port & George
92 East Main Street
Uniontown, PA 15401

Attorney: Joseph M. George

HARRY NAYMICK, a/k/a HARRY J. NAYMICK, late of Uniontown, Fayette County, PA (3)

Administrator: Mark Naymick
c/o Law Office of J. Dustin Barr Law, LLC
300 North Market Street
Ligonier, PA 15658

Attorney: J. Dustin Barr

Second Publication

ROSE M. MISIAK, f/k/a ROSE M. FIKE, late McClellandtown of Fayette County, PA (2)

Personal Representative: Kenny W. Fike
c/o George Port & George
92 East Main Street
Uniontown, PA 15401

Attorney: Joseph M. George

First Publication

RONALD E. ADDIS, SR., late of Vanderbilt,
Fayette County, PA (1)

Personal Representative: Ronald E. Addis, Jr.
c/o Riverfront Professional Center
208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

ROBERT B. BAUER, JR., late of Dawson,
Fayette County, PA (1)

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

TAMMER GABRIEL, late of South Union
Township, Fayette County, PA (1)

Co-Executors:
Ann M. Gabriel
1020 Spruce Street, Apt. 2R
Philadelphia, PA 19107
Catherine Gabriel Cummings
153 Regency Drive
Uniontown, PA 15401
c/o Fox Rothschild LLP
500 Grant Street, Suite 2500
Pittsburgh, PA 15219
Attorney: Edward J. Kabala

**HELEN M. SHUDER, a/k/a HELEN
SHUDER**, late of Dunbar, Fayette County, PA

Personal Representative: Mark A. Shuder
c/o Watson Mundorff Brooks & Sepic, LLP (1)
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Charles W. Watson

**JULIUS SOBEK, a/k/a JULIUS STEPHEN
SOBEK, a/k/a JULIUS A. SOBEK**, late of
Fayette City, Fayette County, PA (1)

Executrix: Janet M. Sobek
509 Humphrey Road
Greensburg, PA 15601
c/o 617 McKean Avenue
Donora, PA 15033
Attorney: Thomas B. Kostolansky

PAUL R. WICK, late of Wharton Township,
Fayette County, PA (1)

Executor: John R. Wick
c/o 206 Derrick Avenue
Uniontown, PA 15401
Attorney: Gary N. Altman

LEGAL NOTICES

NOTICE OF SHERIFF'S SALE
IN THE COURT OF COMMON PLEAS
OF FAYETTE COUNTY, PENNSYLVANIA
NO. 702-OF-2017-GD

LAKEVIEW LOAN SERVICING, LLC,
Plaintiff,
vs.
BRANDI MEYERS,
Defendant.

NOTICE TO: BRANDI MEYERS

NOTICE OF SHERIFF'S SALE OF REAL
PROPERTY

Being Premises: 1829 1ST STREET A/K/
A, 1829 FIRST ST, CONNELLSVILLE, PA
15425-5209

Being in SOUTH CONNELLSVILLE
BOROUGH, County of FAYETTE,
Commonwealth of Pennsylvania, 33-06-0167

Improvements consist of residential
property.

Sold as the property of BRANDI MEYERS
Your house (real estate) at 1829 1ST
STREET A/K/A, 1829 FIRST ST,
CONNELLSVILLE, PA 15425-5209 is
scheduled to be sold at the Sheriff's Sale on
10/12/2017 at 02:00 PM, at the FAYETTE
County Courthouse, 61 E. Main Street,
Uniontown, PA 15401, to enforce the Court
Judgment of \$127,838.40 obtained by,
LAKEVIEW LOAN SERVICING, LLC (the
mortgagee), against the above premises.

PHELAN HALLINAN DIAMOND & JONES, LLP
Attorney for Plaintiff

In the Court of Common Pleas of Fayette
County, Pennsylvania
Civil Action – Law
No. 964 of 2017, G.D.
Judge Linda R. Cordaro

**Justin M. Connors and
Samantha J. Connors, his wife,**
Plaintiffs,
vs.

**Pauline Constantine and
Marie Ann Constantine,**
**their heirs, personal representatives,
successors and assigns, generally,**
Defendants.

TO: Pauline Constantine and Marie Ann
Constantine, their heirs, personal
representatives, successors and assigns,
generally:

You are hereby notified that the above-
named Plaintiffs have filed a complaint at the
above number and term in the above-mentioned
court in an action to quiet title wherein it is
alleged that they are the owners in possession of
that certain parcel of vacant land situate on
Switzer Road in Bullskin Township, Fayette
County, Pennsylvania, containing 1.171 acres,
more or less, and designated as Parcel Number
04-17-0045 on the Fayette County Tax
Assessment records.

Title to the above-described property was
conveyed to Plaintiffs by deed from Carl B.
Booher and Elizabeth D. Booher, his wife, dated
March 8, 2017 and recorded in the Office of the
Recorder of Deeds of Fayette County,
Pennsylvania, in Record Book Volume 3334,
Page 2304.

It appears from the chain of title that you
may have an interest in this property. The
Plaintiffs have asked that the court declare that
you, the Defendants, be forever barred from
asserting any right, lien, title or interest in the
property. Unless you defend this action, the
Plaintiffs will take a judgment by default.

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 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 Lawyer Referral Service
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100 South Street, P.O. Box 186
Harrisburg, PA 17108
Telephone: 1-800-692-7375

Richard A. Husband, Esquire
Attorney for Plaintiffs
Riverfront Professional Center
208 South Arch Street, Suite 2
Connellsville, PA 15425
724-620-2990

FICTITIOUS NAME REGISTRATION

Notice is hereby given that an Application
for Registration of Fictitious Name was filed in
the Department of State of the Commonwealth
of Pennsylvania on June 19, 2017 for STRIVE
Performing Arts Center at 420 Hollywood Street
Belle Vernon, PA 15012. The name and address
of each individual interested in the business is
Kylie Anne Horrell 420 Hollywood Street Belle
Vernon, PA 15012. This was filed in accordance
with 54 Pa.C.S. 311.

FICTITIOUS NAME REGISTRATION

Notice is hereby given that an Application
for Registration of Fictitious Name was filed in
the Department of State of the Commonwealth
of Pennsylvania on June 26, 2017 for Acklin
Burial Park at 405 Hopewell Road Brownsville,
PA 15417. The name and address of each
individual interested in the business Wendi J.
Kollar 405 Hopewell Road Brownsville, PA
15417. This was filed in accordance with 54
Pa.C.S. 311.

FICTITIOUS NAME REGISTRATION

Notice is hereby given that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on June 19, 2017 for True Blue Tree Service at 80 West Craig Street Uniontown, PA 15401. The name and address of each individual interested in the business Jamie S. McDowell 80 West Craig Street Uniontown, PA 15401. This was filed in accordance with 54 PaC.S. 311.

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

Tuesday, September 5, 2017
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2615-0596	HELEN OLINZOCK	Michael A. Olinzock, Executor
2613-0674	BRENDA LEE BOGGS a/k/a BRENDA BOGGS	Donald Gene Boggs, Executor

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on
Monday, September 18, 2017 at 9:30 A.M.

in Court Room No. 1 of the Honorable STEVE P. LESKINEN, 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.

Notice is also 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

Tuesday, September 5, 2017
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2615-0911	WILLIAM JOSEPH HUBBARD	Barbara Keefer, Executrix
2615-0655	MISSOURI ANN KINNEER	Gerald L. Kinneer, Jr., Executor

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on
Monday, September 18, 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 (1 of 2)

SHERIFF'S SALE

Date of Sale: October 12, 2017

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, October 12, 2017, at 2:00 p.m. in Courtroom Number One 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. (2 of 3)

James Custer
Sheriff Of Fayette County

Richard M. Squire & Associates, LLC
One Jenkintown Station, Suite 104
115 West Avenue
Jenkintown, PA 19046
Telephone: 215-886-8790
Fax: 215-886-8791

No. 726 of 2017 GD
No. 167 of 2017 ED

MTGLQ Investors, LP,
PLAINTIFF,
vs.

Susan L. Allmon and Michael D. Allamon,
DEFENDANT(S).

TAX PARCEL NO.: 15-17-0025
PROPERTY ADDRESS: 224 Water Street,
New Salem, PA 15468

IMPROVEMENTS: Single Family
Dwelling

SEIZED AND TAKEN in execution as
the property of Susan L. Allamon and Michael
D. Allamon

LEGAL DESCRIPTION:

ALL that certain piece or parcel of
land situate in German Township, Fayette
County, Pennsylvania, being part of the
Footdale Mining Village, bounded and
described as follows and as shown on Plan No.
15##-34 recorded with the deed from H. C.
Frick Coke Company to Mark Sugarman and
Ada Sugarman, his wife, in Deed Book
Volume 567, page 1, hereinafter recited:

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

No. 117 of 2017 GD
No. 146 of 2017 ED

PNC Bank, National Association,
Plaintiff,
vs.

ANTHONY R BANTER,
Defendant(s).

ALL THAT CERTAIN LOT OF LAND
SITUATE IN TOWNSHIP OF
WASHINGTON, FAYETTE COUNTY,

PENNSYLVANIA:
 BEING KNOWN AS 1235 Fayette
 Avenue, Belle Vernon, PA 15012
 PARCEL NUMBER: 41-07-0026
 IMPROVEMENTS: Residential Property

No. 278 of 2017 GD
 No. 192 of 2017 ED

**PNC BANK, NATIONAL ASSOCIATION,
 Plaintiff,
 VS.
 RUTH V. BARRON, a/k/a RUTH BARRON,
 Defendant.**

ALL THE RIGHT TITLE, INTEREST
 AND CLAIMS OF RUTH V. BARRON, NK/A
 RUTH BARRON, OF, IN AND TO THE
 FOLLOWING DESCRIBED PROPERTY:

ALL THAT PARCEL OF LAND
 SITUATE IN DUNBAR TOWNSHIP,
 FAYETTE COUNTY, PA, BEING PARCEL
 09-13-0027, MORE FULLY DESCRIBED IN
 RBV 614, PAGE 304.

BEING KNOWN AS 115 PATTON
 STREET, CONNELLSVILLE, PA. TAX
 PARCEL NO. 09-13-0027

Phelan Hallinan Diamond & Jones, LLP

No. 47 of 2017 GD
 No. 210 of 2017 ED

**Lakeview Loan Servicing, LLC,
 Plaintiff,
 V.
 Michael P. Boso
 Virginia H. Boso,
 Defendant(s).**

By virtue of a Writ of Execution No. 2017-
 00047, Lakeview Loan Servicing, LLC v.
 Michael P. Boso Virginia H. Boso, owner(s) of
 property situate in the BELLE VERNON
 BOROUGH, Fayette County, Pennsylvania,
 being 105 Wood Street, Belle Vernon, PA 15012
 -1134

Parcel No.: 01020019
 Improvements thereon: RESIDENTIAL
 DWELLING

Phelan Hallinan Diamond & Jones, LLP

No. 1818 of 2016 GD
 No. 197 of 2017 ED

**Wells Fargo Bank, N.A.,
 Plaintiff,
 V.
 Virginia Cherry,
 Defendant(s).**

By virtue of a Writ of Execution No. 1818-
 OF-2016-GD, Wells Fargo Bank, N.A. v.
 Virginia Cherry, owner(s) of property situate in
 the UNIONTOWN CITY, 2ND, Fayette County,
 Pennsylvania, being 68 Evans Street,
 Uniontown, PA 15401-3714

Parcel No.: 38-13-0114
 Improvements thereon: RESIDENTIAL
 DWELLING

No. 1018 of 2015 GD
 No. 205 of 2017 ED

**U.S. Bank National Association, as trustee for
 Structured Asset Investment Loan Trust
 Mortgage Pass-Through Certificates, Series
 2006-3,
 Plaintiff,
 vs.
 Sylvester K. Conaway, Jr. Sabrina Conaway,
 Defendants.**

ALL THAT RIGHT, TITLE, INTEREST
 AND CLAIMS OF SYLVESTER K.
 CONAWAY, JR. AND SABRINA CONAWAY
 OF, IN AND TO THE FOLLOWING
 DESCRIBED PROPERTY:

ALL THAT CERTAIN LOT OR PARCEL
 OF LAND SITUATE IN LUZERNE
 TOWNSHIP, COUNTY OF FAYETTE AND
 COMMONWEALTH OF PENNSYLVANIA,
 BEING MORE FULLY DESCRIBED AT DBV
 2974 PAGE 940

BEING KNOWN AS 237-238 Frick Street,
 Hiller, PA 15444 aka 237 Frick Row, Hiller, PA
 15444 aka 238 Frick Row, Hiller, PA 15444 aka
 237 Frick Street, Hiller, PA 15444 aka 238 Frick
 Street, Hiller, PA 15444

TAX MAP NO. 19-07-0020

No. 1028 of 2011 GD
No. 209 of 2017 ED

Improvements thereon: RESIDENTIAL
DWELLING

**THE BANK OF NEW YORK MELLON,
TRUSTEE FOR CIT MORTGAGE
LOAN TRUST 2007-1, BY VERICREST
FINANCIAL, INC. AS ATTORNEY-IN-
FACT,**

Phelan Hallinan Diamond & Jones, LLP

No. 48 of 2017 GD
No. 156 of 2017 ED

Plaintiff,

**Ditech Financial LLC f/k/a Green Tree
Servicing LLC,**

v.

Plaintiff

**Rodney A. Basinger as Executor of the Estate
of Gerald H. Darrell**

vs.

**Heather D. Basinger as Executrix of the
Estate of Gerald H. Darrell,**

Adam L. Fowler

Defendants.

Debra Jo Fowler,

Defendant(s).

ALL THAT CERTAIN tract of land situate
in German Township, Fayette County,
Pennsylvania, known as Lot No. 2 in a
Subdivision of property of James C. and Yvonne
Solomon as recorded in the Recorder of Deeds
Office of Fayette County, Pennsylvania, in Plan
Book 20, page 2.

By virtue of a Writ of Execution No. 48-
0F-2017-GD, Ditech Financial LLC f/k/a Green
Tree Servicing LLC v. Adam L. Fowler Debra
Jo Fowler, owner(s) of property situate in the
SPRINGHILL TOWNSHIP, Fayette County,
Pennsylvania, being 2555 Springhill Furnace
Road, a/k/a 2555 Springfield Furnace Road &
2557-2559 Springhill Furnace Road, Lake Lynn,
PA 15451

BEING THE SAME PREMISES which
James C. Solomon and Yvonne Solomon, his
wife, by Deed dated September 23, 1986 and
recorded September 23, 1986 in the Office of the
Recorder of Deeds in and for Fayette County in
Deed Book Volume 203, Page 209 granted and
conveyed unto Gerald

Parcel No.: 36-25-002769, 36-25-002799,
36-25-0027

H. Darrel and Joyce K. Darrel, his wife.

Improvements thereon: RESIDENTIAL
DWELLING

BEING KNOWN AS: 178 Mary Hall
Road, McClellandtown, PA 15458
PARCEL #15-11-0028-01

Phelan Hallinan Diamond & Jones, LLP

No. 1018 of 2017 GD
No. 195 of 2017 ED

Phelan Hallinan Diamond & Jones, LLP

No. 1055 of 2017 GD
No. 211 of 2017 ED

**U.S. Bank National Association, as Trustee
for Residential Asset Securities Corporation,
Home Equity Mortgage Asset-Backed Pass-
Through Certificates, Series 2005-KSIO,**

**PHH Mortgage Corporation,
Plaintiff,**

Plaintiff,

vs.

**James E. Dean,
Defendant(s).**

v.

**Robert H. Herring
Deborah L. Sesse a/k/a Deborah L. Herring,
Defendant(s).**

By virtue of a Writ of Execution No. 1055
OF 2017 GD PHH Mortgage Corporation v.
James E. Dean, owner(s) of property situate in
the CONNELLSVILLE CITY, Fayette County,
Pennsylvania, being 295 Wills Rd,
Connellsville, PA 15425

By virtue of a Writ of Execution No. 1018-
OF-2017-GD, U.S. Bank National Association,
as Trustee for Residential Asset Securities
Corporation, Home Equity Mortgage Asset-
Backed Pass-Through Certificates, Series 2005-
KSIO v. Robert H. Herring, Deborah L. Sesse a/
k/a Deborah L. Herring, owner(s) of property

Parcel No.: 05-11-0108

situate in the GEORGES TOWNSHIP, Fayette County, Pennsylvania, being 107 Rosedale Avenue, Uniontown, PA 15401-6344
Parcel No.: 14180006
Improvements thereon: RESIDENTIAL DWELLING

PARKER McCAY P.A.

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

No. 2392 of 2016 GD
No. 208 of 2017 ED

The Bank of New York Mellon FKA The Bank of New York, as Trustee for the certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2007-8 55 Beattie Place, Suite 110

Greenville, SC 29601

Plaintiff,

vs.

Arnold E. Jenkins, deceased;
Verna M. Jenkins,
Teresa D. Jenkins
116 Whyel Avenue
Uniontown, PA 15401,
Defendants.

By virtue of a Writ of Execution, No. 2392 of 2016 GD The Bank of New York Mellon, et al vs. Arnold E. Jenkins, deceased, Verna M. Jenkins and Teresa D. Jenkins, owner of property situate in the TOWNSHIP OF NORTH UNION, Fayette County, Pennsylvania, 116 Whyel Avenue, Uniontown, PA 15401
Parcel No. 25-22-0161
Improvements thereon: RESIDENTIAL SINGLE FAMILY DWELLING

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

No. 2466 of 2016 GD
No. 155 of 2017 ED

PNC Bank, National Association,
Plaintiff,
vs.
DANIEL H. KAEFER, JR.
Defendant(s).

ALL THAT CERTAIN LOT OF LAND SITUATE IN MENALLEN TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA:
BEING KNOWN AS 147 Miller Farm Rd, Uniontown, PA 15401
PARCEL NUMBER: 22-09-0040
IMPROVEMENTS: Residential Property

No. 1712 of 2016 GD
No. 213 of 2017 ED

CARRINGTON MORTGAGE SERVICES, LLC,
Plaintiff,
vs.
JOSHUA J. LEADBEATER and JESSICA L.CUPPETT,
Defendant.

ALL THAT CERTAIN LOT OF LAND SITUATE IN SOUTH UNION TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA, BEING A PART OF LOT NO. 56 IN THAT CERTAIN PLAN OF LOTS KNOWN AS THE JAMISON PLAN LAID OUT BY SOUTH UNION COAL COMPANY AND RECORDED IN THE RECORDER'S OFFICE OF FAYETTE COUNTY, PENNSYLVANIA, IN PLAN BOOK VOL. 7, PAGE 213.

No. 645 of 2017 GD
No. 135 of 2017 ED

No. 646 of 2017 GD
No. 136 of 2017 ED

**PENNSYLVANIA HOUSING FINANCE
AGENCY,
PLAINTIFF,
vs.
MATHEW B. LITTLE,
DEFENDANT.**

**PENNSYLVANIA HOUSING FINANCE
AGENCY,
PLAINTIFF,
vs.
ALAN M. MAKRUSH,
DEFENDANT.**

PARCEL 1: ALL that certain lot in the Borough of Dawson, County of Fayette, Pennsylvania, being part of Lot No. 75, Plan of Lots by Martin Dixon, Esq., Fayette Plan Book 1, page 33, being approximately 150.15 x 35.35.

ALL that certain lot ground in South Union Township, Fayette County, Pennsylvania, being known as Lot No. 413, Joseph Wolfe's Plan of Lots in Uniontown, Fayette Plan Book Volume 1, page 90 ½.

PARCEL 2: ALL that certain lot in the Borough of Dawson, County of Fayette, Pennsylvania, being approximately 69.75 x 2.85 x 150.15 x 5.21 x 150.17.

HAYING THEREON ERECTED DWELLING KNOWN AS 91 ELMA AVENUE UNIONTOWN, PA 15401.

Containing 600 square feet, 0.0014 acres according to a survey made by H.B. Harper, R.S. and made a part of this deed. HAVING THEREON ERECTED DWELLING KNOWN AS 106 STAUFFER STREET DAWSON, PA 15428.

Tax Parcel# 34-15-0149
Fayette Deed Book 3281, page 1439.

Tax Parcel# 07-01-0043
Fayette Deed Book 3171, page 613.

Phelan Hallinan Diamond & Jones, LLP

No. 702 of 2017 GD
No. 159 of 2017 ED

**Lakeview Loan Servicing, LLC,
Plaintiff,
vs.
Brandi Meyers,
Defendant(s).**

**Plaza Home Mortgage, Inc.,
Plaintiff,
vs.
Jenna R. Lucas aka Jenna Renae Lucas,
Defendant.**

By virtue of a Writ of Execution No. 702-OF-2017-GD, Lakeview Loan Servicing, LLC v. Brandi Meyers, owner(s) of property situate in the SOUTH CONNELLSVILLE BOROUGH, Fayette County, Pennsylvania, being 1829 1ST Street a/k/a, 1829 First ST, Connellsville, PA 15425-5209

ALL THAT RIGHT, TITLE, INTEREST AND CLAIMS OF JENNA R. LUCAS AKA JENNA RENAE LUCAS OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

Parcel No.: 33-06-0167
Improvements thereon: RESIDENTIAL DWELLING

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN WHARTON TOWNSHIP, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED AT DBV 3296 PAGE 2220

BEING KNOWN AS 445 JEFFERSON TRAIL CHALK HILL, PA 15421, A/KIA 445 JEFFERSON TRAIL, OHIOPYLE, PA 15470
TAX MAP NO. 42-10-0029

No. 524 of 2017 GD
 No. 184 of 2017 ED

LAKE LYNN, PA 15451
 TAX MAP NO. 36-10-0036

FRICK TRI-COUNTY FEDERAL CREDIT UNION,

Plaintiff,

vs.

**ROBERT J. MICHAEL JR.,
 Defendant.**

ALL THE RIGHT, TITLE, INTEREST AND CLAIM OF ROBERT J. MICHAEL, JR. OF, IN AND TO:

ALL THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN THE TOWNSHIP OF SPRINGHILL, COUNTY OF FAYETTE, COMMONWEALTH OF PENNSYLVANIA. HAYING ERECTED THEREON A DWELLING KNOWN AND NUMBERED AS 160 GRANDVIEW AVENUE, POINT MARION, PA 15474. DEED BOOK VOLUME 3280, PAGE 179, PARCEL NUMBER 36170079.

No. 1216 of 2016 GD
 No. 203 of 2017 ED

U.S. Bank National Association, as Indenture Trustee for Springleaf Mortgage Loan Trust 2013-2, Mortgage-Backed Notes, Series 2013-2,

Plaintiff,

vs.

**Elmer L. Moreland, Jr.
 Janet P. Piper aka Janet Piper fka Janet P. Moreland
 John Piper,
 Defendants.**

ALL THAT RIGHT, TITLE, INTEREST AND CLAIMS OF ELMER L. MORELAND, JR., JANET P. PIPER AKA JANET PIPER FKA JANET P. MORELAND AND JOHN PIPER OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN SPRINGHILL TOWNSHIP, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED AT DBV 3212 PAGE 1689

BEING KNOWN AS 124 BLOSSER HILL A/KJ AI 124 BLOSSER HILL EXT,

Phelan Hallinan Diamond & Jones, LLP

No. 556 of 2016 GD

No. 185 of 2017 ED

Wells Fargo Bank, NA,

Plaintiff,

vs.

**Holly M. Murray a/k/a Holly Murray,
 Defendant(s).**

By virtue of a Writ of Execution No. 556 OF 2016 GD Wells Fargo Bank, NA v. Holly M. Murray a/k/a Holly Murray, owner(s) of property situate in the POINT MARION BOROUGH, Fayette County, Pennsylvania, being 201 North Highland Avenue, A/K/A 201 Highland Avenue, Point Marion, PA 15474-1024

Parcel No.: 29-02-0184

Improvement thereon: RESIDENTIAL DWELLING

No. 136 of 2017 GD

No. 189 of 2017 ED

Bayview Loan Servicing, LLC, a Delaware Limited Liability Company,

Plaintiff,

vs.

**Unknown Heirs, Successors, Assigns, and All Persons, Firms, or Associations Claiming Right, Title or Interest from or under Yvonne Nicoletto, deceased, et al,
 Defendants.**

ALL THAT CERTAIN lot of land situate in North Union Township, Fayette County, Pennsylvania and being Lot No. 7 in Plan of Lots laid out by John A. Whyel dated March 1, 1902, which plan is of record in the Recorder's Office of Fayette County, Pennsylvania, in Plat Book 1, page 191 and bounded and described as follows, to wit:

BEGINNING at a point in the Southern line of Whyel Avenue and a corner of Lot No. 6; thence along said Avenue, South 66 degrees 37 minutes East 50 feet to a corner of Lot No. 8; thence along said Lot No. 8, South 23 degrees

23 minutes West, 130 feet to the North side of an alley; thence by said alley, North 66 degrees 37 minutes West 50 feet to a corner of Lot No. 6; thence along said Lot No. 6 North 23 degrees 23 minutes East 130 feet to the place of beginning.

CONTAINING 6500 square feet.

EXCEPTING AND RESERVING all the coal in and underlying said above described lot, together with the same mining rights and privileges that are contained in deeds heretofore of record.

COMMONLY KNOWN AS: 214 Whyel Avenue, Uniontown, PA 15401
TAX PARCEL NO. 25-23-0081

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

No. 3071 of 2007 GD
No. 153 of 2017 ED

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

Plaintiff,

vs.

**GARY J. OSWALD
JODY A. OSWALD,
Defendant(s).**

ALL THAT CERTAIN LOT OF LAND SITUATE IN BULLSKIN TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA: BEING KNOWN AS 619 Englishman Hill Road, Connellsville, PA 15425
PARCEL NUMBER: 4-29-252-1
IMPROVEMENTS: Residential Property

M. Troy Freedman, Esquire
Stern & Eisenberg, PC
1581 Main Street, Suite 200
The Shops at Valley Square
Warrington, PA 18976
Phone: (215) 572-8111

No. 2489 of 2016 GD
No. 147 of 2017 ED

**Lakeview Loan Servicing, LLC,
Plaintiff,
v.
David A. Palmer,
Defendant.**

By virtue of Writ of Execution No. 2489 of 2016 GD, Lakeview Loan Servicing, LLC v. David A. Palmer, 58 Springer Avenue, City of Uniontown (formerly Township of North Union), Parcel No. 38-05-00330. Improvements thereon consisting of a Residential Dwelling, sold to satisfy judgment in the amount of \$82,340.35.

STERN & EISENBERG PC
Andrew J. Marley, Esq.

No. 274 of 2017 GD
No. 161 of 2017 ED

HSBC Bank USA, N.A., as Trustee for the registered holders of Nomura Home Equity Loan, Inc., Asset-Backed Certificates, Series 2007-3 c/o Ocwen Loan Servicing, LLC,

Plaintiff,

vs.

**Paula K. Peterson,
Defendant(s).**

SITUATE IN City of Connellsville FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 333 North Jefferson Street, Connellsville, PA 15425 PARCEL NO. 05-09-0122

IMPROVEMENTS- RESIDENTIAL
REAL ESTATE

SOLD AS THE PROPERTY OF- PAULA
K. PETERSON

Vincent J. Roskovensky, II

No. 792 of 2017 GD
 No. 171 of 2017 ED

KATHERINE A. MARINELLI,
PLAINTIFF,
vs.
PLACES, LLC, and JAMES E.
STAMBAUGH, II,
DEFENDANTS.

ALL that certain lot of land situate in South Union Township, Fayette County, Pennsylvania, being Lot No. 225 in the South Uniontown Plan of Lots, laid out by Areford Brothers and of record in the Recorder's Office of said Fayette County in Plan Book Volume 4, page 140; said Lot No. 225 being more particularly bounded and described as follows:

FRONTING 45 feet on the South side of Dixon Boulevard and extending back therefrom in a southerly direction, by even width, 130 feet to a 20 foot alley, with Lot No. 226 adjoining on the West and Frank Hoover Street adjoining on the East.

See Record Book 3095, Page 1293.
 UPI NO. 34-13-077.

ANNE N. JOHN Esq.
 ATTORNEY AT LAW

No. 806 of 2013 GD
 No. 207 of 2017 ED

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF GREENE COUNTY, a corporation,
Plaintiff,
vs.
PATRICK K. SANTORE and BETH A. SANTORE,
Defendants.

ALL that certain tract or parcel of land situate in South Union Township, Fayette County, Pennsylvania, containing an area of 0.6045 acres, according to survey of Fayette Engineering Company, dated February, 1972, as referenced and attached to the prior deed of Grantors herein.

BEING the same premises which were conveyed to Patrick K. Santore and Beth A.

Santore, his wife, by Deed of Barry K. Litman and Mary Carol Litman, his wife, dated August 12, 2008 and recorded in the Recorder of Deeds Office of Fayette County, Pennsylvania, in Record Book 3069 at page 1792.

UPON which is erected a two-story single family dwelling known locally as 128 Wiggins Lane, Uniontown, PA 15401.

Assessment Map Nos.: 34-05-0307.

Phelan Hallinan Diamond & Jones, LLP

No. 896 of 2017 GD
 No. 212 of 2017 ED

Deutsche Bank National Trust Company, as Trustee for Soundview Home Loan Trust 2006-Wf2, Asset-Back ed Certificates, Series 2006-Wf2,
Plaintiff,
vs.
Carol A. Shoop,
Defendant(s).

By virtue of a Writ of Execution No. 896 OF 2017 GD, Deutsche Bank National Trust Company, as Trustee for Soundview Home Loan Trust 2006-Wf2, Asset-Back ed Certificates, Series 2006-Wf2 v. Carol A. Shoop, owner(s) of property situate in the CONNELLSVILLE TOWNSHIP, Fayette County, Pennsylvania, being 136 Breakneck Road, A/K/A 136 Breakneck Avenue, Connellsville, PA 15425-2259

Parcel No.: 06-05-0072

Improvements thereon: RESIDENTIAL DWELLING

Flaherty Fardo. LLC
 Jaclyn M. Gibson, Esq.
 812 Ivy Street Pittsburgh, PA 15232
 (412) 802-6666

No. 2324 of 2016 GD
 No. 178 of 2017 ED

PROPERTY OF: **DONALD GEORGE SPERKO**
 EXECUTION NUMBER: 2324 of 2016 GD
 JUDGMENT AMOUNT: \$65,445.68
 All the right, title, interest, and claim of

Donald George Sperko of, in, and to the following described property:

In the Commonwealth of Pennsylvania, County of Fayette, Township of Menallen:

Having erected thereon a dwelling known and numbered as 800 First Street, Keisterville, Pennsylvania, 15449.

Tax/Parcel ID#: 22-07-0016

STERN & EISENBERG PC
M. TROY FREEDMAN, ESQUIRE

No. 647 of 2017 GD
No. 180 of 2017 ED

**Plaza Home Mortgage Inc.,
Plaintiff,
vs.
Richard Vail,
Defendant(s).**

SITUATE IN THE CITY OF FAYETTE CITY, FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 137 CONNELLSVILLE STREET, FAYETTE CITY, PA 15438.

PARCEL NO. 12030053
IMPROVEMENTS- RESIDENTIAL
REAL ESTATE SOLD AS THE PROPERTY OF- RICHARD VAIL

No. 637 of 2017 GD
No. 172 of 2017 ED

**Bank of America, N.A., successor by merger to BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing, LP,
PLAINTIFF,
vs.
David D. VanSickle, Jr.,
DEFENDANT.**

Land situated in the Borough of Markleysburg in the County of Fayette in the Commonwealth of PA

All those six (6) certain lots of land known as and being Lots Nos. 11, 12 and 13, row "A", and lots 11, 12 and 13, row "B", situate in the Sowers Addition to Markleysburg, a plan of which is recorded in the Recorder's Office of Fayette County in plan book volume 4, page 229, and which said lots are more particularly

bounded and described as follows:

Lots Nos. 11, 12 and 13 in row "A" of said plan each front 50 feet on Main Street and extend back in a northwesterly direction of uniform width a distance of 150 feet to an alley. Lots Nos. 11, 12 and 13 in row "B" of said plan each front 50 feet on Sowers Avenue and extend back in a southeasterly direction of uniform width a distance of 150 feet to an alley.

Parcel No. 20-01-0025
Commonly known as 126 Main Street, Markleysburg, PA (for informational purposes only).

COMMONLY KNOWN AS: 126 Main Street, Markleysburg, PA 15459
TAX PARCEL NO. 20-01-0025

No. 876 of 2017 GD
No. 188 of 2017 ED

**PENNSYLVANIA HOUSING FINANCE AGENCY,
PLAINTIFF,
vs.
TABE R. WORKMAN,
DEFENDANT.**

ALL THAT CERTAIN piece or parcel of land situate in Redstone Township, Fayette County, Pennsylvania, being part of the Colonial No. 3 Mining Village, and as shown by Plan Exhibit "D", recorded with the Deed from H.C. Brick Coke Company to Mark Sugarman and Ada Sugarman, his wife, containing an area of 0.185 of an acre and HAYING THEREON erected a frame single dwelling house known as No. 88 of Colonial No. 3, Mining Village, now Rows Run, Inc. and a/k/a 541 HILL TOP AVENUE, GRINDSTONE, PA 15442. Subject to exceptions and reservations of record.

Tax Parcel # 30-11-0025
Reference Fayette County Deed Book 3076, Page 128.

Phelan Hallinan Diamond & Jones, LLP

No. 2412 of 2015 GD
No. 177 of 2017 ED

Specialized Loan Servicing LLC,
Plaintiff,
vs.

Luther Deon Wormack a/k/a Luther D.
Wormack
Christa Wormack,
Defendant(s).

By virtue of a Writ of Execution No. 2412
-OF-2015-GD, Specialized Loan Servicing LLC
v. Luther Deon Wormack a/k/a Luther D.
Wormack Christa Wormack, owner(s) of
property situate in the SOUTH
CONNELLSVILLE BOROUGH, Fayette
County, Pennsylvania, being 1706 South
Pittsburgh Street, Connellsville, PA 15425-4846
Parcel No.: 33-06-0098
Improvements thereon: RESIDENTIAL
DWELLING

JUDICIAL OPINION

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

PAUL SESEK, and STEPHANIE :
SESEK his wife :
Plaintiffs, :
vs. :
WILLIS LIPPENCOTT : Case No. 2489 of 2015, G.D.
Defendant. : JUDGE LINDA R. CORDARO

OPINION AND ORDER

Linda R. Cordaro, J.

This case comes before the Court by Motion for Summary Judgment filed by Willis Lippencott ("Defendant"). Upon review of the pleadings and the relevant legal authority, this Court hereby GRANTS the Defendant's Motion for Summary Judgment for the reasons set forth herein.

BACKGROUND

On August 27, 2015, Defendant, while mowing his grass, ran into Plaintiffs air conditioning unit ("AC Unit") {1} with his mowing tractor, damaging the AC Unit. (Deposition of Paul Sesek, at 14). Defendant admitted to hitting the AC Unit by accident, but added that because the AC Unit was "on his property" it was "actually" his. Id. at 24. That same evening, Defendant posted a "no trespass" sign on his property thus preventing Paul and Stephanie Sesek ("Plaintiffs") from accessing the AC Unit in order to make repairs. (Petition For Entry to Private Property). Defendant has also refused to compensate Plaintiffs for the damages caused to the AC Unit. Id. Plaintiffs brought action and ask this Court to grant them permission to enter Defendant's property to repair the AC Unit. Id. They also seek damages in excess of \$50,000.00 for damages caused to the AC Unit, fees, and other costs. Id. Defendant counterclaimed seeking to eject Plaintiffs from his property. (Counterclaim in Ejectment). Plaintiffs oppose the ejectment action claiming that the manner in which they used Defendant's land, since 1995, has created an "easement by prescription." (Answer to Counterclaim in Ejectment). Defendant disputes Plaintiffs' easement claims, and filed this summary judgment motion.

{1} Plaintiff's air conditioning unit was installed completely within Defendant's property.

DISCUSSION

After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment as a matter of law whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense[. Or], if, after the completion of discovery relevant to the motion, an adverse party failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

Pa.R.C.P. No. 1035.2. For the purposes of summary judgment, a "material fact" is one that directly affects the outcome of the case. *Bartlett v. Bradford Publishing, Inc.*, 885 A.2d 562 (2005). For purposes of Summary Judgment, the record includes pleadings and depositions. Pa.R.C.P.10 35.1. Summary judgment may be granted only where the right is clear and free from doubt. *Musser v. Vilsmeier Auction Co. Inc.*, 562 A.2d 279, 280 (1989). The moving party has the burden of proving that there is no genuine issue of material fact. *Thompson Coal Co. v. Pike Coal Co.*, 412 A.2d 466 (1979). The record and any inferences therefrom must be viewed in the light most favorable to the nonmoving party, and any doubt must be resolved against the moving party. *Davis v. Pennzoil*, 438 Pa. 194, 264 A.2d 597 (1970).

To understand this case, it is helpful to understand the history of the properties involved. In 1988, Paul Sesek ("Mr. Sesek") purchased the parcel of land, which included a dwelling place, bearing the address of 615 Howard Street, Brownsville, PA 15417. (Deposition Paul Sesek, p. 8). He has resided at said property since his purchase. *Id.* Plaintiffs' property is identified as "Lot 22." *Id.* at 61. In 2012, Defendant purchased Lot 23, the parcel of land adjacent to Plaintiffs property. {2} Defendant's property is identified as "Lot 23". *Id.* at 62. When Plaintiff purchased Lot 22, the home did not have an AC Unit. *Id.* at 8, 9. In 1995, Plaintiffs purchased and installed an AC Unit for the home. *Id.* at 9. However, due to the manner in which Plaintiffs' house is situated, they had to install the AC Unit on Lot 23, which at the time was owned by Defendant's predecessor in title. {3} *Id.* at 50. Prior to installing the AC Unit on Lot 23, Mr. Sesek obtained permission from Lillian Jenkins, the owner of Lot 23 at the time, to install the AC Unit on Lot 23. *Id.* at 39. After installing the AC Unit in 1995, Plaintiffs have been permitted to access the AC Unit, with no previous Lot 23 owner denying access to the AC Unit, until now. *Id.* at 64.

At the heart of the dispute is whether Plaintiffs' use of Defendant's land was adverse. To establish a prescriptive easement, a plaintiff must prove that, for a period of 21 years, the use of the property was all of the following: (1) adverse; (2) open; (3) notorious; and (4) continuous and uninterrupted. *Odette's, Inc. v. Com., Dep't of Conservation & Nat. Res., Bureau of State Parks*, 699 A.2d 775,784 (Pa. Commw. Ct. 1997).

{2} The registered address for Lot 23 is 613 Howard Street, Brownsville, PA 15417. (Plaintiff's Deposition, p.26).

{3} Mr. Sesek testified that he installed the air conditioner on Lot 23 "if you put it on the other side of the house in the direct sunlight it affects the heating, and the --- it affects the cooling of the central air unit, so you don't want to put it in the direct sun." (Plaintiff's Deposition, p. 50).

Although Plaintiffs do not dispute that the AC Unit is completely within Defendant's property (Deposition Paul Seseck, at 65), Plaintiffs contend that because they openly, notoriously, and continuously used Lot 23, since 1995, without any interruptions, an easement by prescription through adverse possession was created.

"An 'easement' is a nonpossessory right to enter and use land in the possession of another and obligates the possessor not to interfere with the uses authorized by the easement." *Marvin M. Brandt Revocable Trust v. United States*, 134 S. Ct. 1257, 188 L. Ed. 2d 272 (2014) citing Restatement (Third) of Property: Servitudes § 1.2(1) (1998). Whereas, adverse possession is a claim of ownership of a property and, thus, distinct from an easement. See *Dunlap v. Larkin*, 493 A.2d 750,756 (Pa. Super. 1985):

[A]n easement is a right to use property as distinguished from a claim of title to the land itself. It's simply the right to go across the property or to use the property, even though the legal title, the deed title [is with another]. ... [A]dverse possession are words that speak for themselves. It's a possession claimed adversely against the title owner or the rightful [sic] owner of land.

In other words, "[t]he chief distinction between the doctrines is that in adverse possession the claimant occupies or 'possesses' the land of fee owner, whereas in prescription the claimant makes some easement-like use of it." *Newell Rod & Gun Club, Inc. v. Bauer*, 597 A.2d 667, 669 (Pa. Super. 1991). Because Plaintiffs have not exerted any claims of ownership over Defendant 's property, but rather that a right-of-way was created, we analyze this case under easement by prescription principles.

"It is ancient and unquestioned law that to acquire an easement by prescription, the exercise of possession must be adverse, open, notorious and uninterrupted for a period of at least twenty-one years." *Lewkowicz v. Blumish*, 275 A.2d 69, 70 (Pa. 1971). That Plaintiffs' use of Lot 23 was open, notorious, and continuous for 21 years is undisputed by the parties. {4} However, their use of Lot 23 was not adverse.

Mr. Seseck testified he obtained Lillian Jenkins' (owner of Lot 23 in 1995) permission to install the AC Unit on Lot 23. Had Plaintiffs used Lot 23 uninterrupted for 21 years, without objections, and without permission, an easement would have been created. However, their use of Lot 23 was by permission, and the courts have made it clear that in order to create an easement, the use of property must be without leave. See *Loudenslager v. Mosteller*, 307 A.2d 286 (Pa. 1973) quoting *Garrett v. Jackson*, 20 Pa, 331, 335-336 (1853) ("[W]here one uses an easement whenever he sees fit, without asking leave, and without objection, it is adverse, and an uninterrupted adverse enjoyment for twenty-one years is a title which cannot be afterwards disputed."); see also *Klavon*, supra, ("Where one uses an easement whenever he sees fit, without asking leave, and without objection, the use is adverse... ").

{4} Although Plaintiff testified to using Lot 23 from 1995 - 2015, Defense counsel only disputes the "adverse" element of easement by prescription and does not dispute the temporal requirement needed to satisfy the elements of easement by prescription.

Here, and by Mr. Seseek's own admission, he obtained leave to install the AC Unit on Lot 23. By obtaining leave from the rightful owner, an easement by prescription was not created because the use of land was not adverse, but rather permissive. Plaintiffs admit that the AC Unit is completely within Defendant's land. (Plaintiffs Deposition, at 65). Additionally, Mr. Seseek admitted that a right-of-way to Lot 23 was not conveyed through the deed, that no other document in existence conveys a right-of-way to Lot 23, and that the Defendant has never granted a right-of-way to his property. Id. at 56.

Based on the record, this Court finds that the Plaintiffs' use of Lot 23-Defendant's land- was permissive and, therefore, terminable. Furthermore, because Plaintiffs obtained permission to install and maintain the AC Unit on Lot 23, the act was by leave and, therefore, not adverse. Consequently, because not all of the requirements of easement by prescription have been satisfied, Defendant is entitled to summary judgment as a matter of law. Lastly, in light of these findings, this Court finds that Defendant did not owe Plaintiffs any duty whatsoever with regard to the care of the AC Unit. Therefore, Plaintiffs' claim for damages is hereby dismissed.

ORDER

AND NOW, this July, 2017, it is hereby ORDERED, ADJUDGED and DECREED that the Defendant's Motion for Summary Judgment is hereby GRANTED. The Complaint filed in this matter is hereby dismissed with prejudice.

BY THE COURT:
LINDA R. CORDARO, JUDGE

ATTEST:
Prothonotary

SAVE THE DATE

Fayette County Bar Association
Bench Bar Conference

The Historic Summit Inn
Wednesday, October 11, 2017
9:00 a.m.

FREE CLE & RECEPTION**FEDERAL COURTS 101**

Wednesday, September 20, 2017

Save the date to join your fellow Fayette County Bar colleagues at “Federal Courts 101”, presented by a distinguished panel of Judges from the Western District of Pennsylvania, including: Chief Judge Joy Flowers Conti; Judge Mark R. Hornak, Judge Cathy Bissoon, Magistrate Judge Cynthia Reed Eddy, and Chief Bankruptcy Judge Jeffery A. Deller.

Moderated by Fayette’s own Anne N. John, Esquire and Samuel J. Davis, Esquire, this event will introduce you to federal court procedures, and a reception following the CLE will provide you with an opportunity to introduce yourselves and chat with the Judges.

Please mark your calendars to join us on Wednesday, September 20, 2017 at 3:30 at Nemaquin Woodlands Resort for this unique and informative session. Attendees will receive one complimentary Substantive CLE credit.

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