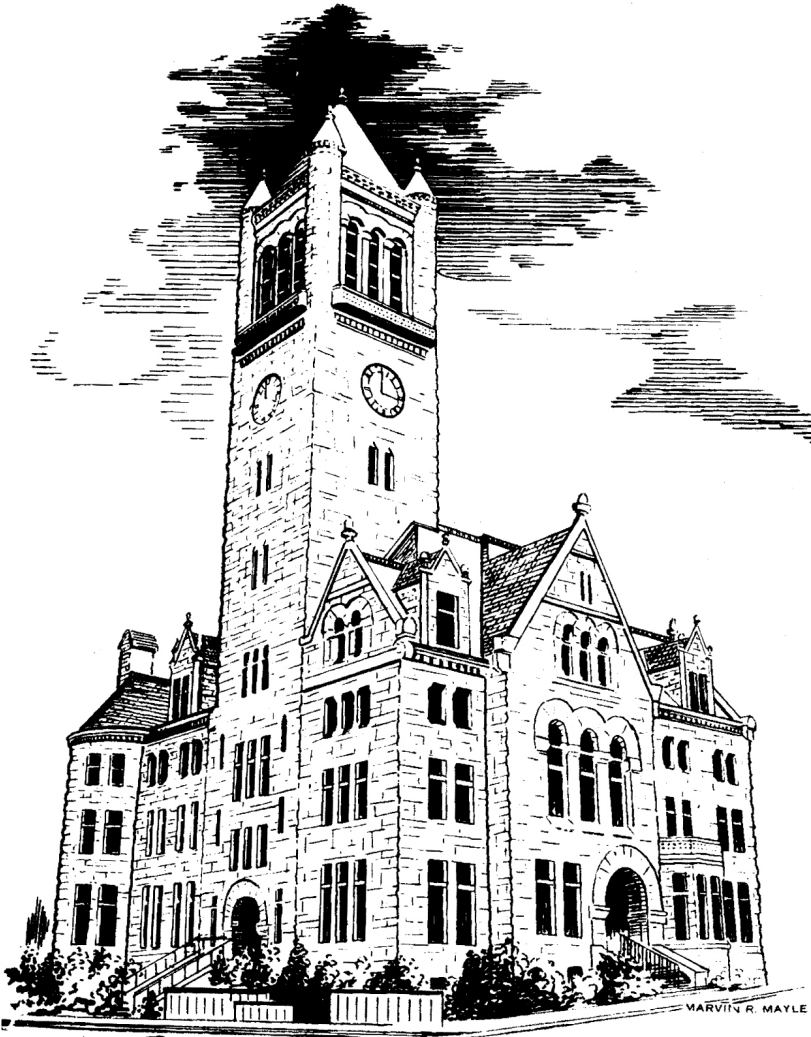


# FAYETTE LEGAL JOURNAL

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## FAYETTE LEGAL JOURNAL

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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

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

*Personal Representative:* Lanny R. Gaudiano  
c/o Watson Mundorff Brooks & Sepic  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Charles W. Watson

**WANDA M. SHERRY, a/k/a WANDA MAE SHERRY**, late of Wharton Township, Fayette County, PA (3)

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

**MABEL STEVENS**, late of Uniontown, Fayette County, PA (3)

*Executrix:* Christina Spear  
c/o Higinbotham Law Offices  
45 East Main Street, Suite 500  
Uniontown, PA 15401  
*Attorney:* James E. Higinbotham, Jr.

**BETTY MARIE ZUR, a/k/a BETTY M. ZUR**, late of Connellsville, Fayette County, PA

*Executrix:* Gregory Zur (3)  
c/o Donald McCue Law Firm P.C.  
Colonial Law Building  
813 Blackstone Road  
Connellsville, PA 15425  
*Attorney:* Donald J. McCue

## Second Publication

**BETTY JEAN ANTONUCCI**, late of Luzerne Township, Fayette County, PA (2)

*Personal Representative:*  
Linn Kay Buraczewski  
c/o Watson Mundorff Brooks & Sepic, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

**PATRICIA J. ENDSLEY**, late Luzerne Township, Fayette County, PA (2)

*Co-Administratrix:* Dana L. Zias  
*Co-Administrator:* Richard J. Endsley, Jr.  
c/o Webster & Webster  
51 East South Street  
Uniontown, PA 15401  
*Attorney:* Webster & Webster

**CLARA LEE MANOWN**, late of Washington Township, Fayette County, PA (2)

*Executrix:* Cheryl Ann Belowich  
168 Eckstein Road  
Renfrew, PA 16053  
c/o 823 Broad Avenue  
Belle Vernon, PA 15012  
*Attorney:* Mark E. Ramsier

**JAMES E. MIDDLETON**, late of Luzerne Township, Fayette County, PA (2)

*Personal Representative:* Gloria McGhee  
139 North Morgantown Street  
Fairchance, PA 15423  
c/o P.O. Box 488  
California, PA 15419  
*Attorney:* Lisa J. Buday

**SHIRLEY A. MISENKO**, late of Luzerne Township, Fayette County, PA (2)

*Administratrix:* Marie A. Beck  
415 Route 88  
Carmichaels, PA 15320  
c/o 1202 West Main Street  
Monongahela, Pa 15063  
*Attorney:* James W. Haines, Jr.

**BETTY RAFAIL, a/k/a BETTY M. RAFAIL,  
a/k/a BETTY MARIE RAFAIL**, late of

Uniontown, Fayette County, PA (2)

*Executrix:* Mary Jane Artis  
c/o John & John  
96 East Main Street  
Uniontown, PA  
*Attorney:* Anne N. John

**TWILA J. THURBY, a/k/a TWILA J.  
THURBY**, late of Uniontown, Fayette County,  
PA (2)

*Personal Representative:*  
Kathy Thurby-Hazelton  
c/o George Port & George  
92 East Main Street  
Uniontown, PA 15401  
*Attorney:* Joseph M. George

**CHARLES WILLIAMS, a/k/a CHARLES R.  
WILLIAMS**, late of Menallen Township,  
Fayette County, PA (2)

*Co-Executors:*  
Neal B. Williams and Wes P. Williams  
c/o 45 East Main Street, Suite 500  
Uniontown, PA 15401  
*Attorney:* James E. Higginbotham, Jr.

**RAYMOND FRANK DALZELL, a/k/a  
RAYMOND F. DALZELL, a/k/a  
RAYMOOND DALZELL**, late of Georges  
Township, Fayette County, PA (1)

*Co-Administratrices CTA:* Evelyn J. Simmons  
and Louanne Nicholson  
c/o Zebley Mehalov & White, P.C.  
18 Mill Street Square  
P.O. Box 2123  
Uniontown, PA 15401  
*Attorney:* Daniel R. White

**JOSEPH G. FRIEDHOF**, late of Uniontown,  
Fayette County, PA (1)

*Administratrix:* Margaret Friedhof  
c/o Radcliffe & DeHaas, L.L.P.  
2 West Main Street, Suite 700  
Uniontown, PA 15401  
*Attorney:* Ernest P. DeHaas, III

**MADELEINE P. JOHN**, late of South Union  
Township, Fayette County, PA (1)

*Executrix:* Simone L. John  
c/o Fitzsimmons and Barclay  
55 East Church Street, Suite 102  
Uniontown, PA 15401  
*Attorney:* James N. Fitzsimmons, Jr.

## First Publication

**VERNA CULLEN, a/k/a VERNA  
WOZNIAK CULLEN**, late of Point Marion  
Borough, Fayette County, PA (1)

*Executrix:* Colleen Cullen  
410 Highland Avenue  
Point Marion, PA 15474  
c/o 76 East Main Street  
Uniontown, PA 15401  
*Attorney:* Douglas S. Sholtis

**BERTHA E. FISHER SANTINI, a/k/a  
BERTHA E. SANTINI**, late of Washington  
Township, Fayette County, PA (1)

*Executrix:* Sharon L. Valentine  
c/o 382 West Chestnut Street, Suite 102  
Washington, PA 15301  
*Attorney:* Frank C. Roney, Jr.

## LEGAL NOTICES

**NOTICE OF ACTION IN MORTGAGE  
FORECLOSURE  
IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
CIVIL ACTION – LAW  
CIVIL DIVISION  
No. 310-OF-2017-GD**

LSF9 MASTER PARTICIPATION TRUST,  
Plaintiff,  
vs.  
JANICE M. LUFT,  
Defendant.

### NOTICE

To JANICE M. LUFT

You are hereby notified that on February 14, 2017, Plaintiff, LSF9 MASTER PARTICIPATION TRUST, 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. 310-OF-2017-GD. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 118 BROAD STREET, SCOTTDAL, PA 15683-1808 whereupon your property would be sold by the Sheriff of FAYETTE County.

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

### NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH**

BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service:  
Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
100 South Street.  
P.O. Box 186  
Harrisburg, PA 17108  
Telephone (800) 692-7375

**IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY  
CIVIL ACTION – LAW  
Civil Action No. 478 of 2017 GD**

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

Robert Deline a/k/a Robert Jesse Deline and  
Christina Deline a/k/a Christina A. Deline,  
Defendants.

To: Robert Deline a/k/a Robert Jesse Deline and  
Christina Deline a/k/a Christina A. Deline,  
Defendants, whose last known address is 208  
Hammondville Street, Mount Pleasant, PA  
15666.

You have been sued in mortgage foreclosure on  
premises: 208 Hammondville Street, Mount  
Pleasant, PA 15666 based on defaults since May  
1, 2010. You owe \$237,080.39 plus interest.

### NOTICE

**YOU HAVE BEEN SUED IN COURT.** If you wish to defend against the claims set forth in the notice above, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned

that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH THE 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.

Southwestern PA Legal Aid Society, Inc.  
48 E. Main St., Uniontown, PA 15401,  
724.439.3591

Steven K. Eisenberg, M. Troy Freedman,  
Andrew J. Marley & Edward J. McKee, Attys.  
for Plaintiff  
Stern & Eisenberg, PC  
1581 Main St., Ste. 200  
The Shops at Valley Sq.  
Warrington, PA 18976  
215.572.8111

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### INCORPORATION NOTICE

Notice is hereby given that Articles of Incorporation have been filed with, and approved by, the Department of State of the Commonwealth of Pennsylvania on September 7, 2017, for a non-profit business corporation which was incorporated pursuant to the Pennsylvania Nonprofit Corporation Law of 1988. The name of the corporation is HOT METAL CREW CM Corporation, a non-profit corporation.

JULIAN LAW FIRM  
E. J. JULIAN, ESQUIRE  
71 North Main Street  
Washington, PA 15301

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## SHERIFF'S SALE

Date of Sale: November 16, 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, November 16, 2017, at 2:00 p.m. in Courtroom Number Five at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (3 of 3)

James Custer  
Sheriff Of Fayette County

---

Phelan Hallinan Diamond & Jones, LLP

No. 1360 of 2017 GD  
 No. 234 of 2017 ED

**Pennymac Holdings, LLC,**  
**Plaintiff,**  
**vs.**

**Michael J. Ansell**  
**Jackie R. Ansell,**  
**Defendant(s).**

By virtue of a Writ of Execution No. 1360 OF 2017, Pennymac Holdings, LLC v. Michael J. Ansell Jackie R. Ansell, owner(s) of property situate in the UPPER TYRONE TOWNSHIP, Fayette County, Pennsylvania, being 145 McClure Rd a/k/a, 125 Pony Lane, Mount Pleasant, PA 15666

Parcel No.: 3905002302

Improvements thereon: RESIDENTIAL DWELLING

No. 2264 of 2016 GD  
 No. 230 of 2017 ED

**WELLS FARGO BANK, N.A.,**  
**Plaintiff,**  
**vs.**

**Timothy Beachy**  
**Heather Day-Beachy,**  
**Defendants.**

ALL THAT RIGHT, TITLE, INTEREST AND CLAIMS OF TIMOTHY BEACHY AND HEATHER DAY-BEACHY OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN PERRY TOWNSHIP, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED AT DBV 2723 PAGE 254

BEING KNOWN AS 28 CEMETERY ROAD, PERRYOPOLIS, PA 15473-1043 TAX MAP NO. 27-20-0010

KML Law Group, P.C.

Suite 5000 - BNY Independence Center 701  
 Market Street  
 Philadelphia, PA 19106  
 215-627-1322 - Attorney for Plaintiff

No. 1128 of 2017 GD  
 No. 223 of 2017 ED

**NATIONSTARMORTGAGE LLC**  
**8950 Cypress Waters Boulevard**  
**Coppell, TX 75019,**

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

**THERESA BILLER**  
**Mortgagor(s) and Record Owner(s)**  
**127 Harnmonsville Street**  
**Mount Pleasant, PA 15666,**  
**Defendant.**

ALL THAT CERTAIN seven (7) Lots of land, known as Lot Nos. 251, 252, 253, 254, 255, 256 end 257 in the Hammonville-Plan of Lots situate in the Township of Bullskin, County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #04-16-0015

PROPERTY ADDRESS: 127 Hammonsville Street Mount Pleasant, PA 15666  
 IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF:  
 THERESA BILLER

Phelan Hallinan Diamond & Jones, LLP

No. 1689 of 2016 GD  
 No. 233 of 2017 ED

**JPMorgan Chase Bank, N.A.,**  
**Plaintiff,**  
**vs.**

**Aaron W. Eicher,**  
**Defendant(s).**

By virtue of a Writ of Execution No. 1689 OF 2016 GD JPMorgan Chase Bank, N.A. v. Aaron W. Eicher, owner(s) of property situate in the LUZERNE TOWNSHIP, Fayette County, Pennsylvania, being 1123 High Street, Brownsville, PA 15417-2233

Parcel No.: 19080214

Improvements thereon: RESIDENTIAL DWELLING

KML Law Group, P.C.  
 Suite 5000 - BNY Independence Center 701  
 Market Street  
 Philadelphia, PA 19106  
 215-627-1322

No. 743 of 2017 GD  
 No. 214 of 2017 ED

**PNC BANK, NATIONAL ASSOCIATION,  
 SUCCESSOR BY MERGER TO  
 NATIONAL CITY BANK, SUCCESSOR BY  
 MERGER TO NATIONAL CITY BANK OF  
 PENNSYLVANIA**

**3232 Newmark Drive  
 Miamisburg, OH 45342**

**Plaintiff,  
 vs.**

**BRIAN L. MATTHEWS as Executor of the  
 Estate of Icie J. Matthews Deceased  
 Mortgagor(s) and Record Owner(s)  
 211 Keyser Street A/K/A 211 Keiser Avenue  
 Point Marion, PA 15474**

**Defendant(s).**

ALL THAT CERTAIN lot of land situate  
 in the Borough of Port Marion, County of  
 Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #29-02-0178

PROPERTY ADDRESS: 211 Keyser  
 Street A/K/A 211 Keiser Avenue Point Marion,  
 PA 15474

IMPROVEMENTS: A residential  
 dwelling.

SOLD AS THE PROPERTY OF: BRIAN  
 L. MATTHEWS as Executor of the Estate of  
 Icie J. Matthews Deceased

No. 1116 of 2017 GD  
 No. 224 of 2017 ED

**PENNSYLVANIA HOUSING FINANCE  
 AGENCY,**

**PLAINTIFF,  
 vs.**

**DAVID L. MYERS,  
 DEFENDANT.**

ALL that certain lot in Dunbar Township,  
 Fayette County, Pennsylvania, being Lot No.  
 20, Plan of Lots by John W. Galbreath dba  
 John W. Galbreath & Co. Fayette Plan Book 8,

page 252. HAVING THEREON ERECTED  
 DWELLING KNOWN AS 118 5TH STREET  
 (fka 3537 5TH STREET) MONARCH-  
 DUNBAR, PA 15431.

TAX PARCEL#: 09-22-0014

Fayette Deed Book 2838, page 932.

TO BE SOLD AS THE PROPERTY OF  
 DAVID L. MYERS UNDER FAYETTE  
 COUNTY JUDGMENT NO. 1116 OF 2017  
 GD.

No. 2679 of 2014 GD  
 No. 227 of 2017 ED

**PNC BANK, NATIONAL ASSOCIATION,  
 successor by merger to NATIONAL CITY  
 BANK,**

**Plaintiff,  
 vs.**

**ROBERT WALTER PAZICNI,  
 ADMINISTRATOR OF THE ESTATE OF  
 ROBERT W. PAZICNI A/K/A BOB  
 PAZICNI,**

**Defendant.**

ALL THE RIGHT TITLE, INTEREST  
 AND CLAIMS OF ROBERT WALTER  
 PAZICNI, ADMINISTRATOR OF THE  
 ESTATE OF ROBERT W. PAZICNI A/K/A  
 BOB PAZICNI, OF, IN AND TO THE  
 FOLLOWING DESCRIBED PROPERTY:

ALL THAT PARCEL OF LAND  
 SITUATE IN REDSTONE TOWNSHIP,  
 FAYETTE COUNTY, PA, BEING PARCEL  
 30370022, MORE FULLY DESCRIBED IN  
 OR BOOK 3305, PAGE 1217.

BEING KNOWN AS 614 SECOND  
 STREET, FAIRBANK, PA 15435.

TAX PARCEL NO. 30370022



STERN & EISENBERG PC  
M. TROY FREEDMAN, ESQUIRE

No. 137 of 2017 GD  
No. 216 of 2017 ED

**Quicken Loans Inc.,  
Plaintiff,  
vs.**

**Shannon Kieta, Known Heir of the Estate of  
William Vicola and The Unknown Heirs,  
Executors and Devisees of the Estate of  
William Vicola,  
Defendants.**

SITUATE IN THE SOUTH UNION  
TOWNSHIP, FAYETTE COUNTY,  
PENNSYLVANIA, BEING KNOWN AS 98  
MARIE ALLEY, UNIONTOWN, PA 15401.

PARCEL NO. 34-21-0042  
IMPROVEMENTS - RESIDENTIAL  
REAL ESTATE

SOLD AS THE PROPERTY OF-  
SHANNON KIETA, KNOWN HEIR OF THE  
ESTATE OF WILLIAM VICOLA AND THE  
UNKNOWN HEIRS, EXECUTORS AND  
DEWISEES OF THE ESTATE OF WILLIAM  
VICOLA

---

KML Law Group, P.C.  
SUITE 5000 - BNY Independence Center 701  
MARKET STREET  
Philadelphia, PA 19106-1532  
215-627-1322

No. 1879 of 2016 GD  
No. 215 of 2017 ED

**JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION  
c/o 3415 Vision Drive  
Columbus, OH 43219,  
Plaintiff,  
vs.**

**ERIC R. WEAVER  
Mortgagor(s) and Record Owner(s)  
170 Horseshoe Bend Road  
Acme, PA 15610  
Defendant(s).**

ALL THAT CERTAIN piece, parcel or lot  
of ground situate in the Township of Bullskin,  
County of Fayette and Commonwealth of

Pennsylvania.

TAX PARCEL #04-14-0198  
PROPERTY ADDRESS: 170 Horseshoe  
Bend Road Acme, PA 15610  
IMPROVEMENTS: A residential  
dwelling.

SOLD AS THE PROPERTY OF: ERIC R.  
WEAVER

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No. 1336 of 2017 GD  
No. 229 of 2017 ED

**PENNSYLVANIA HOUSING FINANCE  
AGENCY,  
PLAINTIFF,  
vs.  
DAVID C. WHYEL,  
DEFENDANT.**

**PARCEL ONE - TAX PARCEL #19-18-  
0008/191530:**

ALL that certain lot ground in the  
Township of Luzerne, County of Fayette,  
Pennsylvania, being Lot No. 5, Joseph Merino  
Plan of Lots, Fayette Plan Book 1, page 36 1/2.  
BEING A VACANT LOT OF residential land  
located on Rose Street, Allison, PA 15412.

TAX PARCEL #: 19-18-0008  
Fayette County Deed Book 2082, page  
323.

**PARCEL TWO - TAX PARCEL #19-18-  
0003/191531:**

ALL that certain lot of ground in the  
Township of Luzerne, County of Fayette,  
Pennsylvania, being Lots Nos. 9 and 10, Joseph  
Merino Plan of Lots, Fayette Plan Book Volume  
1, page 36 1/2. HAVING THEREON  
ERECTED outbuildings located on Rose Street,  
Allison, PA 15413.

TAX PARCEL #: 19-18-0003  
Fayette County Deed Book 2082, page  
323.

**PARCEL THREE- TAX PARCEL #19-18-  
0006/191532:**

ALL those two lots of ground in the  
Township of Luzerne, County of Fayette,  
Pennsylvania, being Lots Nos. 3 and 4, Joseph  
Merino Plan of Lots, Fayette Plan Book 1, page  
36 1/2. HAVING THEREON ERECTED  
DWELLING KNOWN AS: 1 ROSE STREET  
ALLISON, PA 15413.

TAX PARCEL#: 19-18-0006  
Fayette Deed Book 2082, page 323.

ALL PARCELS TO BE SOLD AS THE PROPERTY OF DAVID C. WHYEL UNDER FAYETTE COUNTY JUDGMENT NO. 2017-01336.

McCABE, WEISBERG & CONWAY, P.C.  
Attorneys for Plaintiff  
123 South Broad Street, Suite 1400  
Philadelphia, PA 19109  
(215) 790-1010

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

No. 111 of 2014 GD  
No. 235 of 2017 ED

No. 584 of 2017 GD  
No. 225 of 2017 ED

**The Huntington National Bank,  
Plaintiff,**  
vs.

**Charles R. Wisilosky and Ranelle L.  
Wisilosky,  
Defendants.**

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

**DARLENE WILLIAMS, KNOWN HEIR  
OF RICKY A. WILLIAMS  
JOHNNY WILLIAMS, KNOWN HEIR OF  
RICKY A. WILLIAMS  
KELLY BRACKEN KNOWN HEIR OF  
RICKY A. WILLIAMS  
RICKY WILLIAMS, JR., KNOWN HEIR  
OF RICKY A. WILLIAMS  
RYAN WILLIAMS, KNOWN HEIR OF  
RICKY A. WILLIAMS  
UNKNOWN HEIRS, SUCCESSORS,  
ASSIGNS AND ALL PERSONS, FIRMS OR  
ASSOCIATIONS CLAIMING RIGHT,  
TITLE OR INTEREST FROM OR UNDER  
RICKY A. WILLIAMS,  
Defendant(s).**

All that certain piece or parcel or Tract of land situate in the Upper Tyrone, Fayette County, Pennsylvania, and being known as 130 Geary Drive, Connellsville, Pennsylvania 15425. Being known as: 130 Geary Drive, Connellsville, Pennsylvania 15425  
Title vesting in Charles R. Wisilosky and Ranelle L. Wisilosky, husband and wife, by deed from Jeremy R. Nunamaker, Unmarried dated January 30, 2006 and recorded February 1, 2006 in Deed Book 2976, Page 25.  
Tax Parcel Number: 39-13-0019

ALL THAT CERTAIN LOT OF LAND SITUATE IN STEWART TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA:  
BEING KNOWN AS 186 Maple Summit Road, Mill Run, PA 15464  
PARCEL NUMBER: 37-08-0058  
IMPROVEMENTS: Residential Property

## JUDICIAL OPINION

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

COMMONWEALTH OF PENNSYLVANIA, :  
vs. :  
COLIN MATTHEW MANSBERRY, : No. 888 of 2017  
Defendant. : JUDGE JOSEPH M. GEORGE, JR.

ATTORNEYS AND LAW FIRMS

*Meghann Mikluscak, Esquire*, Assistant District Attorney, For the Commonwealth  
*Jack Connor, Esquire*, For the Defendant

### OPINION

GEORGE, J.

August 31, 2017

This matter comes before the Court on an Omnibus Pre-Trial Motion filed on July 11, 2017, by the Defendant raising a Motion to Suppress Evidence and Statements. A preliminary hearing was held on May 10, 2017. At the hearing on the defendant's Omnibus Pre-Trial Motion, the parties stipulated to the admission of the transcript of the preliminary hearing. We will grant the motion.

### FACTS

The Commonwealth charged the Defendant with two counts of Manufacture, Delivery, or Possession of a Controlled Substance with Intent to Manufacture or Deliver; {1} two counts of Knowingly or Intentionally Possessing a Controlled Substance by a Person Not Registered; {2} and one count of Possession of Drug Paraphernalia. {3}

On Tuesday, August 9, 2016, between 6:30 p.m. and 7:00 p.m., Fayette County Bureau of Investigations Detective Thomas Patton was working on an unrelated case with other police officers in the Sunoco/Arby's parking lot located at 2013 Morgantown Road in Georges Township. Officers observed the Defendant in a Silver Volkswagen Jetta pull into the parking lot. The officers looked on as another individual pulled into the lot approximately five (5) minutes later in a Jeep Grand Cherokee. The driver of the Jeep then exited his vehicle and proceeded into the passenger's seat of the Defendant's Jetta. The two individuals sat in the car for approximately two (2) minutes. Then, the individual in the passenger's seat exited the Jetta, got back in his vehicle, and drove off. Neither Detective Patton nor any other officer on the scene testified that they saw anything that occurred inside the Jetta.

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{1} 35 Pa.C.S. § 780-113(a)(30)

{2} 35 Pa.C.S. § 780-113(a)(16)

{3} 35 Pa.C.S. § 780-113(a)(32)

Based upon these circumstances, Detective Patton's suspicions were aroused. Detective Patton pulled his vehicle behind the Defendant's vehicle. The Defendant was not able to pull out of the parking lot if he so desired without backing into the police vehicle behind him.

Detective Patton exited his vehicle and, upon approach, smelled marijuana emanating from the Defendant's car. The Defendant volunteered to the officers that he had marijuana underneath a blanket in the Jetta. Inside the Jetta, the officers found two (2) baggies of marijuana; a purple Crown Royal bag containing another bag of marijuana; a glass smoking device that, the residue inside of which tested positive for THC; a digital scale; and \$800 cash. The officers then placed the Defendant under arrest. The Defendant then stated that he sells marijuana.

### DISCUSSION

The Defendant asserts that the facts as described cannot support a finding that Detective Patton formed the reasonable suspicion needed for an investigatory detention. There exist three levels of interactions between citizens and police officers under Fourth Amendment jurisprudence:

The first of these is a "mere encounter" (or request for information) which need not be supported by any level of suspicion, but carries no official compulsion to stop or respond. The second, an "investigative detention," must be supported by reasonable suspicion; it subjects a suspect to a stop and period of detention, but does not involve such coercive conditions as to constitute the functional equivalent of arrest. Finally, an arrest or "custodial detention" must be supported by probable cause.

*Commonwealth v. Phinn*, 761 A.2d 176, 181 (Pa. Super. 2000) (quoting *Commonwealth v. Ellis*, 662 A.2d 1043, 1047 (Pa. 1995)).

In order to discern whether an officer's contact with a citizen is a mere encounter or an investigatory detention, Pennsylvania courts utilize the "totality of the circumstances" test. See *Commonwealth v. Strickler*, 757 A.2d 884 (Pa. 2000); see also *Florida v. Royer*, 460 U.S. 491 (1983).

It is well established that a police officer may conduct a brief investigatory stop of an individual if the officer observes unusual conduct which leads him to reasonably conclude, in light of his experience, that criminal activity may be afoot....Such an investigatory stop is justified only if the detaining officer can point to specific and articulable facts which, in conjunction with rational inference[s] derived from those facts, give rise to a reasonable suspicion of criminal activity and therefore warrant the intrusion.

*Commonwealth v. Ingram*, 814 A.2d 264, 269 (Pa. Super. Ct. 2002) (quoting *Commonwealth v. E.M.*, 735 A.2d 654, 659 (Pa. 1999)).

Therefore, the test we apply remains an objective one and will not be satisfied by an officer's hunch or unparticularized suspicion. *Commonwealth v. Arch*, 654 A.2d 1141 (1995).

Here, the Defendant was not free nor could he have felt free to leave as Detective Patton pulled in behind the Defendant's Jetta, allowing him no egress from his parking spot. Therefore, this was no mere encounter. It is clear that an investigatory detention took place, requiring at a minimum that the officers had a reasonable suspicion that crime was afoot. See *Commonwealth v. Mulholland*, 794 A.2d 398 (Pa. Super. 2002).

However, the Court finds the circumstances here did not give rise to a reasonable suspicion to justify a seizure of the Defendant. Detective Patton testified only that he saw someone get into the Defendant's car with the Defendant for two (2) minutes. He did not testify that he observed an exchange of any kind. Pennsylvania courts have found a lack of reasonable suspicion where the facts presented provided a much stronger case than here. See *Commonwealth v. Tither*, 671 A.2d 1156 (Pa. Super. 1996) (finding no reasonable suspicion where the area the police apprehended the Defendant had a reputation for drug deals, a man reached into the Defendant's car, someone yelled "5-0, 5-0" warning that the police were near, and the man reaching into the Defendant's car walked into a house as the Defendant drove away); see also *Commonwealth v. Malson*, 642 A.2d 520 (Pa. Super. 1994) (upholding suppression of evidence where the officer observed an exchange of an item the Defendant took out of a change purse and what the officer believed to be money); see also *Commonwealth v. Greber*, 385 A.2d 1313 (Pa. Super. 1978) (holding that the investigatory detention was not valid in a high-crime area where a juvenile walked back and forth, to and from the parking lot of a bowling alley; the juvenile approached the vehicle; the driver of the vehicle handed him a bag which he smelled; the juvenile appeared to hand the driver money; and the juvenile walked back to the front of the bowling alley).

Here, there is no evidence or testimony that the area where the events giving rise to this action took place is known for drug deals; nor is there any evidence or testimony that the location is within a high-crime area. Further, Detective Patton testified that he did not see an exchange inside the Defendant's vehicle between the Defendant and the other person. While Detective Patton's interest may have been piqued by the events that occurred, there is not sufficient evidence in the record from which to adduce that the officers in this case had a reasonable, articulable suspicion which amounted to more than a mere hunch.

Therefore, we find that the evidence seized from the car and the Defendant's statements to the police are subject to the application of the exclusionary rule and are therefore suppressed. For the foregoing reasons, the Court will enter the following Order:

#### ORDER

AND NOW, this 31st day of August, 2017, upon and after consideration of Defendant's Omnibus Pretrial Motion, it is hereby ORDERED that the Defendant's Motion is GRANTED. All evidence and statements obtained by the Commonwealth are SUPPRESSED.

BY THE COURT:  
JOSEPH M. GEORGE, JR., JUDGE

ATTEST:  
CLERK OF COURTS



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