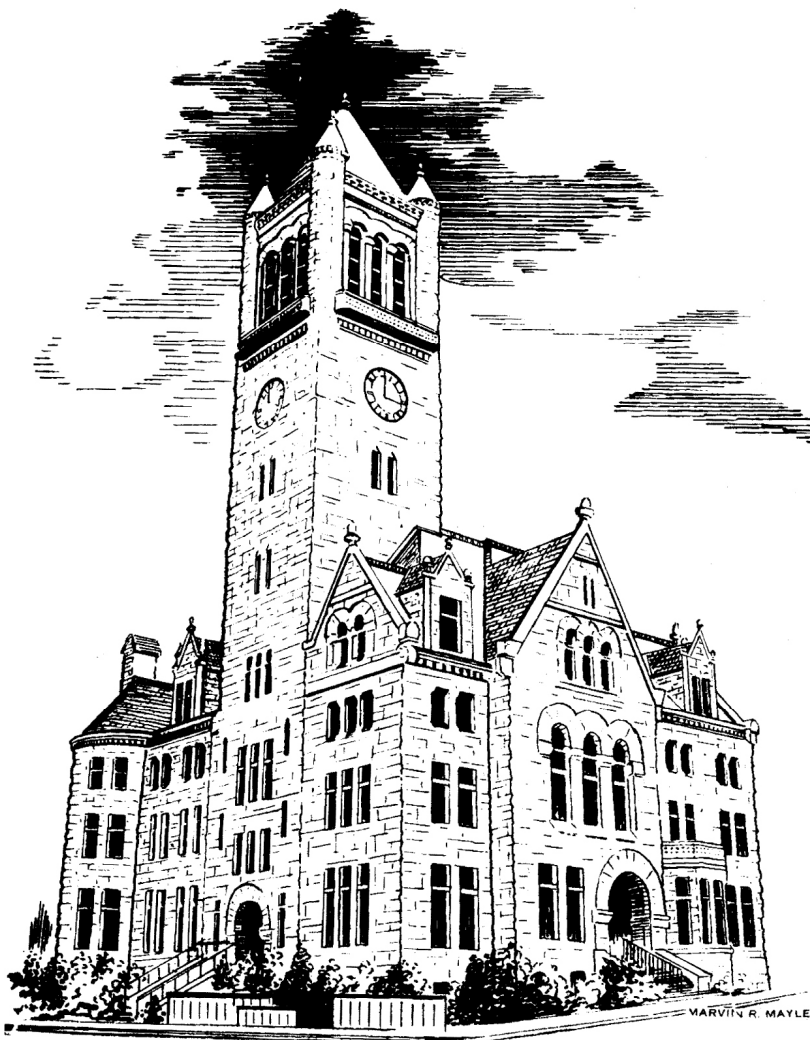


FAYETTE LEGAL JOURNAL

VOL. 83

AUGUST 29, 2020

NO. 35



FAYETTE LEGAL JOURNAL

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

Co-Editors: Garnet L. Gordon and Melinda Deal Dellarose

Cover Design by Marvin R. Mayle, 207 Lick Hollow Road, Hopwood, PA

FAYETTE COUNTY BAR ASSOCIATION Board of Directors

President: Louise D. Monaghan
President Elect: Gretchen A. Mundorff
Vice-President: Charles O. Zebley, Jr.
Secretary: Anne N. John
Treasurer: Vincent J. Roskovensky, II
Past President: James E. Higinbotham, Jr.

Executive Director: Garnet L. Gordon

Directors
 Jennifer M. Casini
 Rachel A. Clark
 Jeremy J. Davis
 Benjamin F. Goodwin
 Robert A. Gordon
 Sheryl R. Heid
 Margaret Zylka House
 Wendy L. O'Brien
 Douglas S. Sholtis

ETHICS HOTLINE

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.

Call (800) 932-0311, ext. 2214.

LAWYERS CONCERNED FOR LAWYERS

Our assistance is confidential,
non-judgmental, safe, and effective

To talk to a lawyer today, call:
 1-888-999-1941
 717-541-4360

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

ROGER S. GALLET, a/k/a ROGER SIMON GALLET, late of Chalk Hill, Fayette County, PA (3)

Executor: Louis Roger Gallet
c/o Radcliffe Law, LLC
648 Morgantown Road, Suite B
Uniontown, PA 15401
Attorney: William M. Radcliffe

ELMER M. SEMENTA, a/k/a ELMER MARK SEMENTA, late of South Union Township, Fayette County, PA (3)

Co-Executors: Patricia D. David and John W. David
c/o Adams & Adams
55 East Church Street, Suite 101
Uniontown, PA 15401
Attorney: Jason Adams

A. JEFFREY G. S. WILSON, late of Confluence, Fayette County, PA (3)

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

Second Publication

THOMAS R. BAILEY, late of Connellsville, Fayette County, PA (2)

Executrix: Janice E. Bailey
1210 Oak Street
Connellsville, PA 15425
c/o Fike, Cascio & Boose
Scull Building
124 North Center Avenue

P.O. Box 431
Somerset, PA 15501-0431
Attorney: Lois W. Caton

BEGRENDA MEADOWS, a/k/a BEGREDA MEADOWS, late of Uniontown, Fayette County, PA (2)

Executrix: Sonja Penwell
458 Kingpin Hill Road
Dunbar, PA 15431
c/o 111 East Main Street
Uniontown, PA 15401
Attorney: Robert R. Harper

NORMA K. SMITH, a/k/a NORMA SMITH, late of Brownsville Borough, Fayette County, PA (2)

Personal Representative: Ray Smith, III
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

LINDA TISSUE, a/k/a LINDA L. TISSUE, late of Henry Clay Township, Fayette County, PA (2)

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

First Publication

MELVIN R. BASINGER, late of Connellsville, Fayette County, PA (1)

Executrix: Diane R. Moran
c/o Molinaro Law Offices
141 West Peach Street
P.O. Box 799
Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

GERALD R. DOMONKOS, a/k/a GERRY DOMONKOS, late of Fayette County, PA (1)

Executors:
Courtney Roebuck
896 Buena Vista Road
Vanderbilt, PA 15486
Brian G. Pirilla, Attorney-at-Law
P.O. Box 718
Belle Vernon, PA 15012

c/o P.O. Box 718
1310 Cross Street
Belle Vernon, PA 15012
Attorney: Brian G. Pirilla

VINCENT J. GROTE, late of Menallen Township, Fayette County, PA (1)
Executrix: Pamela M. G. Howarth
c/o Fitzsimmons and Barclay
55 East Church Street, Suite 102
Uniontown, PA 15401
Attorney: James N. Fitzsimmons, Jr.

**STEPHEN P. KALAFSKY, JR., a/k/a
STEPHEN PAUL KALAFSKY, JR.**, late of Masontown, Fayette County, PA (1)
Administratrix: Diane R. Kalafsky
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

MYRA L. MILES, late of Connellsville, Fayette County, PA (1)
Executrix: Paula J. Monahan
c/o Molinaro Law Offices
P.O. Box 799
Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

**JOSEPH ROBERT WOJTANOWSKI, a/k/a
ROBERT WOJTANOWSKI**, late of Fayette County, PA (1)
Administratrix: Wanda Elzeer
c/o 1724 Fifth Avenue
Arnold, PA 15068
Attorney: John E. Pallone (1)

LEGAL NOTICES

Janet S. Gasparatz, late of Hopwood, Fayette County, Pennsylvania, entered into The Janet S. Gasparatz Revocable Living Trust Agreement, as amended May 21, 2018. Janet S. Gasparatz, Settlor, died on October 12, 2019. Notice is hereby given to all persons indebted to said Trust to make payment to the undersigned without delay, and to those having claims or demands against said Trust to make known the same to the undersigned.

Submitted by:
Faith A. Burton and James S. Hall, Trustees
c/o William M. Radcliffe, Esquire
RADCLIFFE LAW, L.L.C.
648 Morgantown Road, Suite B
Uniontown, PA 15401
1-724-439-3939

(3 of 3)

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
No. 1277 of 2020, G.D.
CIVIL ACTION - LAW

IN THE MATTER OF
PETITION FOR CHANGE OF NAME OF
GLENN CHRISTOPHER WEATHERS, JR.

NOTICE

Notice is hereby given that on the 11th day of August, 2020, the Petition of Glenn Christopher Weathers, Jr. was filed in the Fayette County Court of Common Pleas at No. 1277 of 2020, G.D., seeking to change the name of Petitioner from Glenn Christopher Weathers, Jr. to Nicholas Christopher Weathers. The Court has fixed September 23, 2020, at 10:00 a.m. in Courtroom #2 in the Fayette County Courthouse, 61 East Main Street, Uniontown, Pennsylvania 15401 as the date for hearing of the Petition. All persons interested in the proposed change of name may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

SHERIFF'S SALE

Date of Sale: October 15, 2020

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 15, 2020, 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

STERN & EISENBERG, PC
1581 MAIN STREET, SUITE 200
WARRINGTON, PENNSYLVANIA 18976

No. 572 of 2020 GD
No. 124 of 2020 ED

**Notable Capital Fund, LLC
Plaintiff
v.**

**Diana Gower a/k/a Diana L. Gower , solely in her capacity as Administratrix of the Estate of Charles Gower a/k/a Charles M. Gower, deceased and United States of America
Defendant(s)**

RE: PREMISES: 1164 Walnut Hill Road,
Smithfield, PA 15478

DEAR SHERIFF:

SHOULD PLAINTIFF BE SUCCESSFUL
BIDDER, TITLE WILL BE VESTED IN:

Notable Capital Fund, LLC

GEBHARDT & SMITH LLP

Shaan S. Chima, Esquire
I.D. No. 312429

One South Street, Suite 2200
Baltimore, Maryland 21202

Phone: 410-385-5109

Fax: 443-957-4329

Email: shaan.chima@gebbsmith.com

No. 182 of 2020 GD
No. 137 of 2020 ED

**UNITED BANK, successor-by-merger to
CENTRA BANK,
2071 Chain Bridge Road, Suite 600
Vienna, Virginia 22182-2622
Plaintiff,**

v.

**KEJ PROPERTIES, LP,
201 Lexington Place
Uniontown, Pennsylvania 15401
Defendant.**

By virtue of Writ of Execution No. 137 of 2020
ED (Case/Docket No. 2020-00182)

SHERIFF'S SALE OF REAL ESTATE
FAYETTE COUNTY COURTHOUSE
Courtroom No. 1
61 East Main Street
Uniontown, Pennsylvania 15401
Thursday, October 15, 2020

2:00 O’Clock P.M. Prevailing Time.

All that certain tract and parcel of land situate, lying and being in Fayette County, Pennsylvania, with all improvements thereon, owned by KEJ Properties, LP and generally known as 20 Highland Park Drive and 25 Highland Park Drive, South Union Township, Uniontown, Fayette County, Pennsylvania 15401 and having Uniform Parcel Identification Numbers of 34-1-68-14, 34-05-0356-A00 and 34-05-0356-B.

The improvements are believed to consist of commercial buildings.

Judgment Amount: \$1,088,781.42

To be sold as the property of KEJ Properties, LP.

Shaan S. Chima, Esquire

P.A. Bar No. 312429

GEBHARDT & SMITH LLP

One South Street, Suite 2200

Baltimore, Maryland 21202-3281

(410) 385-5109

TO ALL PARTIES IN INTEREST AND CLAIMANTS: Take notice that a Schedule of Distribution will be filed within thirty (30) days from the date of sale and distribution will be made in accordance with the Schedule of Distribution unless exceptions are filed thereto within ten (10) days thereafter. No further Notice of the filing of the Schedule of Distribution will be given.

Phelan Hallinan Diamond & Jones, LLP

No. 399 of 2020 GD

No. 128 of 2020 ED

Pennsylvania Equity Resources, Inc.

Plaintiff

v.

Matthew T. Leonard

Defendant(s)

By virtue of a Writ of Execution No. 2020-00399, Pennsylvania Equity Resources, Inc. v. Matthew T. Leonard, owner(s) of property situate in the CONNELLSVILLE CITY, Fayette County, Pennsylvania, being 1227 Vine Street, Connellsville, PA 15425-4736

Parcel No.: 05160029

Improvements thereon: RESIDENTIAL DWELLING

Phelan Hallinan Diamond & Jones, LLP

No. 586 of 2020 GD

No. 121 of 2020 ED

Legacy Mortgage Asset Trust 2019-Gs7

Plaintiff

v.

Monty Lilley

Defendant(s)

By virtue of a Writ of Execution No. 2020-00586, Legacy Mortgage Asset Trust 2019-Gs7 v. Monty Lilley, owner(s) of property situate in the MENALLEN TOWNSHIP, Fayette County, Pennsylvania, being 7409 National Pike Road, A/K/A 7409 National Pike, Uniontown, PA 15401-5112.

Parcel No.: 2217001901

Improvements thereon: RESIDENTIAL DWELLING

Phelan Hallinan Diamond & Jones, LLP

No. 1029 of 2017 GD

No. 126 of 2020 ED

Mtqlq Investors, L.P.

Plaintiff

v.

KEITH RAFAY, in his capacity as Administrator and Heir-at-Law of FERNE M. RAFAY, Deceased

STEPHANIE BRANGARD, in her capacity as Heir-at- Law of FERNE M. RAFAY WILLIAM RAFAY, in his capacity as Heir-at -Law of FERNE M. RAFAY

Unknown Heirs, Successors, Assigns, and All Persons, Firms, or Associations Claiming Right, Title or Interest From or Under Ferne M. Rafay, Deceased

Defendant(s)

By virtue of a Writ of Execution No. 1029 OF 2017 GD, Mtqlq Investors, L.P. v. KEITH RAFAY, in his capacity as Administrator and Heir-at-Law of FERNE M. RAFAY, Deceased, STEPHANIE BRANGARD, in her capacity as Heir-at-Law of FERNE M. RAFAY WILLIAM RAFAY, in his capacity as Heir-at-Law of FERNE M. RAFAY, Unknown Heirs, Successors, Assigns, and All Persons, Firms, or Associations Claiming Right, Title or Interest From or Under Ferne M. Rafay, Deceased, owner(s) of property situate in the Fayette County, Pennsylvania, being 176 Rankin Airshaft Road, Uniontown, PA 15401-2124

Parcel No.: 25120039

Improvements thereon: RESIDENTIAL DWELLING

No. 1737 of 2019 GD
 No. 136 of 2020 ED

PENNSYLVANIA HOUSING FINANCE AGENCY, PLAINTIFF
vs.
PHILLIP H. SCHWARTZ, DEFENDANT

ALL that lot of land in North Union Township, Fayette County, Pennsylvania, being Lot No. 86, Laurel Terrace Plan of Lots, Fayette Plan Book Volume No. 6, page 158. HAVING THEREON ERECTED DWELLING KNOWN AND NUMBERED AS: 35 ROOSEVELT DRIVE UNIONTOWN, PA 15401.

Tax Parcel# 25-43-0146

Fayette Deed Book 3061, page 308

TO BE SOLD AS THE PROPERTY OF PHILLIP H. SCHWARTZ UNDER FAYETTE COUNTY JUDGMENT NO. 1737 OF 2019 GD.

Phelan Hallinan Diamond & Jones, LLP

No. 833 of 2019 GD
 No. 122 of 2020 ED

PNC Bank, National Association Plaintiff

v.

Unknown Heirs, Successors, Assigns, and All Persons, Firms, or Associations Claiming Right. Title or Interest From or Under Joseph M. Misselli a/k/a Joseph M. Misselli, Jr, Deceased Defendant(s)

By virtue of a Writ of Execution No. 833-01"-2019-GD, PNC Bank, National Association v. Unknown Heirs, Successors, Assigns, and All Person. , Firms, or Associations Claiming Right, Title or Interest From or Under Joseph M. Misselli a/k/a Joseph M. Misselli, Jr, Deceased, owner(s) of property situate in the BULLSKIN TOWNSHIP, Fayette County, Pennsylvania, being 174 Bethann Road, Acme, PA 15610-1244.

Parcel No.: 04-20-0109 and 04-20-0110

Improvements thereon: RESIDENTIAL DWELLING

*** END SHERIFF SALES ***

SEARCH UNCLAIMED PROPERTY

Fayette County has unclaimed property waiting to be claimed.

For information about the nature and value of the property, or to check for additional names, visit www.patreasury.gov

Pennsylvania Treasury Department

Notice of Names of Persons Appearing to be Owners of Abandoned and Unclaimed Property

Fayette County
 Listed in Alphabetical Order by Last Known Reported Zip Code

Fayette County

15012

- Autosh John J
- C Harper Chevrolet
- Caito Charles A, Thora M
- Collage Frank
- Davis Carolyn R
- Delbel Elsie, Edith
- Exxon 70
- Frolo Tiffany
- Gaudio Albino L
- Grandview Barge Line
- Jingguo Mei
- Jyachosky Michelle
- Kirkpatrick Arthur F
- Kolodychak Timothy
- Kulik Nick
- Lange Marx
- Lux Jeannine B
- Manetta Bernardo
- Mann Carol N
- Marek George J
- Marish Martin A
- Mcshane Deanna E
- Mcvey Connie J
- Miller Elizabeth
- Panarella Patricia

Pfile Ross John
 Pickels Nancy L
 Rebraca Arielle
 Roberts Neil A
 Rostraver Apts
 Sabol John M
 Satter Christine
 Sedlak Joseph E Jr, Mary
 Sinsley Lyle
 Sivek Mary C
 Smith Shirley F
 Summers Lori
 Sunil Rayan MD
 Szczerba Frank L
 Vasquez Samuel
 Vrstyak Stephen Jr
 Wiker Mary Margaret, John S
 Wilson Jacquelyn

15401

Apone Mary
 Austin Henrietta
 Bajgier Mary E
 Baran Lenora J, Mary B
 Baran Mary B Mrs
 Bartock Sherri
 Bass David
 Baughman Delores
 Blacka Matilda Estate
 Brazier Norma J
 Brown Mark
 C and C Backhoe
 Cabe Apete P
 Centennial Chevrolet
 Coldren Frances T
 Corrales Judith A
 Cramer Charles, Janet
 Davys Centennial Chevrolet
 Delorenzo Jennifer L, Robert E
 Dickinson Taylor
 Doman Margaret L
 Douglas Lecorchick Est
 Dupej Jerome A
 Duppe Michaline
 Dursa Antonia L
 Eberly Orville
 Elias Wendy, Paul
 Elite Motors
 Eperjesi Michell M
 Fayette County
 Fayette County Medical Society
 Fayette Medical Associates
 Fischer Robert F
 Ford Jessie R
 Fordyce Carl
 Frank Vanessa C
 Frost Foundation Llc
 Garlow John M

Glad Lawrence J, Nancy A
 Greensburg Fraternity of Polish
 Harper Robert
 High Jermaine D
 Holden Jeffery
 Horne Mary L
 Hostetler Mary J
 Howell Kimberly L
 Hustosky John M
 Hyundai Motor Finance
 Jarrett Loretta
 Johnson Joann L
 Jones Gina M
 Jordon Sharon L
 Kiger Patricia L
 Klens Katherine L, Paul P
 Klens Peter P
 Kotoituvana Panipasa S
 Kozlina Veronica A
 Krempa Anna Mae
 Kuhns Harry J
 Kushner Andrew
 Lake Bobby
 Laurel Pediatrics Pc
 Lavery Elzie E
 Lecorchick Douglas
 Licciardi Michael Lee, Jenny
 Marinelli Julie R
 Marker G M
 Migacz Elsie M
 Miller Thomas W
 Mrosko Joshua L
 Nicholson Shana
 Nicklow Richard F Sr
 Oglevee William H, Janice S
 Olbeter Wanda J
 Oprechalk Betty
 Orville Eberly Estate
 Orz Software
 Parker Chris
 Patricio Alejandro M
 Pizza Hut
 Podolinski Joseph T
 Powell Richard
 Rattay Bernadine E
 Raymond Thomas
 Risha Jessie Estate
 Ritchie Robert E, Rachel A
 Servpro Of Fayette County
 Shades Sunglasses Booth
 Smith Bernadette
 Snow Timothy H
 Snyder Denver R Jr Est, Denver R III
 Snyder Luann
 Solomon Teslovich Inc
 Stefancin Peter
 Sucevic Piccolomini & Kuchar
 Teets Brenda R

Thomas Janine M		Burnsworth Joan	
Thomas Leon Russell		Colbert Justin	
Tiffany Susan K		Cole Harold L	
Torrey Vikki		Connellsville Area Sch Dis	
Township of Menallen		Connellsville Little League	
Trozzo Anthony		Crosby Susan	
Ustie Magdalene M		Elizabeth Ross	
Vukmer Beth A		Eutsey George	
Weisbarth Loretta J		Falco Regis E	
Wells Fargo Dealer Services		Gause Albert	
Whitlock Ray		Geisler Darla	
Youler Joseph Estate		Grow Charlotte J	
Zemo George		Hardin Wanda Jean	
	15410	Highlands Hospital	
		Hodge Lori R	
Cumberland Ann		Hutchinson Kristina L	
Karpel Bernard		Jantzi Ross	
Roman Georgetta		Keystone Ice Miners	
	15413	Mclaughlin Karen A	
		Mehalek Robert	
Gadish Martha		Mockabe Lorraine M	
Saunders A L		New Haven Hose Co	
Tedrow Raymond L Jr Est, Raymond L		Nicholson Christhoper	
	15415	Onell John R	
		Osler Nellie M	
Upreach Radio		Parkinson Johanna J	
	15417	Pierce Penny L	
		Ross Rocco J	
Avery Anita L		Showman Lisa	
Bradey Randy		Shreve William & Sharon	
Brown Quinton		Shupe Brenda	
Caldwell David E		Skowronek Robert E	
Conte Nina Bella, Donald J		Soles Bobby	
Corazzi Cheryl A		Spotts Edward Jr DMD	
Edmiston Annamae C		Stagner John	
Frezzell Terri L		Teminsky Alice	
Groves Tracey		Thomas Bradley W	
Hawthorne Mary		Tulley Selina J	
Hogue Amanda M		Turek Walter E	
Jones William		United Commercial Travelers Fayette	
Kadar Eugene		Vincent Auto Body Llc	
Leclerc Daniel		Walker Gladys	
Lucas Elizabeth M		Warnick Edwin	
Martin John B Est		Wertz Paul	
Richards Flora			15428
Schwenger Robert		Basinger Kathleen	
Shaffer Jean		Christner Irma	
Swift Brian A, Tammy			15431
Tadros Joseph		Bartholow Lucas M	
Trimble Charles E Est, Craig H		Cole Raymond E	
West Point Health Corp		Daniel Murphy Delina Thomas	
	15420	Decara Sam	
		Martin Jesse Est of Jr	
Montagna David Julius		Miller Dorothy M	
	15425	Sarver Bonnie M	
Barclay Mabel F			
Brooks Larry K			

Didominic Shari A Maximo Mary	15433	Lane Broadcasting Corp Stewart Darrell	15450
Eicher Todd Myers Glenn R, Patti Rhodes Terry Wilson Chasity	15436	Perry Thelma A Piatt Shannan S, Daniel Tricot Raoul	15451
Bontrager Joanna J Lee Christina Mccollister Julie Orazi Terry M Jr Rigg Caroline Gorley	15437	Benlogic Inc Butner Isaac Dimatteo Rebecca Est Gray Vanessa L Harris Levi Kenes Michael, Karen Laurel Highlands SD Rish Alan A Rosano Louise E Scott Robert A Walts Lounge Inc	15456
Gray Tommie R Hoffman Erik W Klenes Katherin L Monack Frank Reich Dorothy Strong Mary S	15438	Grooms James H Shultz Tony C Toll Nancy	15458
Darnell David A	15439	Baughman Delores Humberston James Tennille F Humberston Jeffrey Marla Marclay Ambulance Service Moravetz Francis W	15459
Bak Contracting Inc Brumley Catherine A Harvey Michele Stagner Dorothy M	15442	Benford Anna M Brodak Beer Distributor Inc Cumberland Vincent Debolt Betty J Felio John D Hines William G Kloock Lenora, C Liptock Steven Mcclain Donald A Myers William Suba Mary A Taylor Allen William Hines Est Woods Melissa L Yeager Melissa	15461
Butler Marsha	15443	Leasure Helen M	15462
Flowers Betty J	15444	Valerie J Moore	15463
Crawford Donald Girard Ross A Johnson Elizabeth Ann Mcintyre William S J R, Maryann Menarcheck Janet A Newberry Sandra Rokotavaga Vereti T Shaffer Richard F Sr Slazek Benjamin Tracy Lee	15445		
Younkin Brittany N	15446		
Smith Harold	15447		

15466
Boyes Brandon J

15467
Provance Christopher S
Provance Ruby L

15468
Bounds Kevin J
Garden Thomasina
Grahek Reita J
Miko Albert
Panone James R
Patterson Judy D
Taylor Richard
White Timothy Est
White Timothy L

15469
Lilley Jeffery
Stewart Dennis L

15473
Darkangelo John J
Ketchel Peter J
Ludwig James K
Richard A Kurnik Len
Rotola Motors
Steinberger Francis P
Troutman James, Terri

15474
Andreas Margaret A
Guthrie Janet
Halfin Goldie E Est
Malone Katie L

15475
Mischisin Mike

15478
Carter Lloyd
D Sines Lawn Inc
Fairchance Smithfield Ministerial
Gibbs Linda
Goodwin Ray
Koza Penny L
Lavery Michael
Rich Thomas
Stout Chad E
Sutton Mary D

15480
Dailey Kathryn M
Lawver Barry L
Mccollum Joshua

15486
Chaikcic Jenifer

15488
Maust Charles C Jr

15489
Martin Bobbie J
W Leisenring Community

15490
Henry Margie A
Russek John W

15631
Lane Marie A
Schomer Natalie N
Shaw Sylvia
Smith Jeanine

For information about the nature and value of
the property, or to check for additional
names, visit:
www.patreasury.gov

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 8, 2020, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2620-0828	CONSTANCE ROSS BERRY	David Edward Manion, Executor
2618-0398	DORIS W. COLDREN	Scott W. Coy, Executor
2619-0466	EARL E. CALHOUN	Barbara Casini and Donna Zimmerman, Co-Executors

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

Monday, September 21, 2020, at 9:30 A.M.

in Courtroom 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 8, 2020, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2618-0481	JOHN A. LEONI a/k/a JOHN ANTHONY LEONI a/k/a JOHN LEONI	Fred Ciarochi, Executor

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

Monday, September 21, 2020, at 9:30 A.M.

in Courtroom No. 5 of the **Honorable Joseph M. George Jr.** or his chambers, 3rd 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.

JUDICIAL OPINION

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

JEFFREY MARTEN,	:
Plaintiff,	:
v.	:
	:
THOMAS ANTHONY WILLIAMS,	: No. 2609 of 2019
Defendant.	: Honorable President Judge John F. Wagner, Jr.

OPINION AND ORDER

Wagner, P.J.

July 24, 2020

Before the Court is the Defendant’s Motion for Summary Judgment. The Defendant asserts that the Plaintiffs action should be dismissed as a matter of law as the Plaintiff’s claim fails to state a claim upon which relief can be granted as the actions of the employee do not fall within any exceptions to sovereign immunity.

FACTS

The Plaintiff, Jeffrey Marten is an incarcerated person serving a sentence at the State Correctional Institution at Fayette (hereinafter “SCI-Fayette”). The Defendant, Thomas Anthony Williams, is a Corrections Commissary Supervisor employed at SCI-Fayette. The Plaintiff asserts that on July 25, 2019, he was to receive two bags of commissary items. The items contained in the bags of commissary items that he did receive did not contain the items he had ordered. Ultimately, it was determined that the items contained in the bags were ordered by another inmate and were eventually turned over to that other inmate. The Plaintiffs alleges that he received some of his ordered items, however, a second bag containing other items which the Plaintiff ordered were retained by the Defendant. The Plaintiff alleges that the Defendant would not tum over the other items to him. Plaintiff asserts that the items in the second bag that the

Defendant refused to tum over to him contained items totaling Nineteen Dollars and Eighty-Four Cents (\$19.84). The Plaintiff alleges that the Defendant never gave him the items located in the second bag or reimbursed him for those items. The Plaintiff asserts that the Defendant was negligent and breached his duty of care in failing to tum over the items or compensate him for their value.

In response, the Defendant filed an Answer denying that he was negligent at any time and denies that the Plaintiff is entitled to any relief. The Defendant filed New Matter alleging that the Plaintiff fails to state a claim on which relief can be granted as his action is barred by the Doctrine of Sovereign Immunity. He asserts that the action is not within any of the permitted exceptions to immunity.

PROCEDURAL HISTORY

The Plaintiff filed his prose civil complaint on November 21, 2019. Thereafter, on January 9, 2020, the Defendant, represented by the Office of the Attorney General filed an Answer and New Matter. The Plaintiff filed a Reply to the New Matter on January 29, 2020. On June 29, 2020, the Defendant filed a Motion for Summary Judgment claiming that the Plaintiff has failed to state a claim on which relief can be granted. Plaintiff filed a response in which he asserts that the Defendant breached his duty to deliver the entire commissary order.

DISCUSSION

Pennsylvania Rule of Civil Procedure 1035 provides that summary judgment may be rendered if the record shows that there is no genuine issue as to any material fact. A Motion for Summary Judgment is a means to eliminate the waste of time and resources of both litigants and the courts in cases where a trial would be a useless formality. The party moving for summary judgment has the burden of demonstrating that no genuine issue of material fact exists and that he is entitled to judgment as a matter of law. In deciding a motion for summary judgment, the record must be viewed in a light most favorable to the non-moving party and may only be entered where the right is clear and free from doubt.

Defendant's motion for summary judgment is premised on the argument that the Plaintiff has failed to raise a claim on which relief may be granted. The Plaintiff is an inmate incarcerated in a state correctional facility who ordered a significant number of food items from the commissary. Initially, an error was made and the Plaintiff received items from another inmate's order. The Defendant asserts that he received most of his items but contends that his other items were in another bag which the Defendant would not turn over to him. He states in his Response to Defendant's Motion for Summary Judgment (hereinafter "Response") that the Defendant did not provide the Plaintiff with the remainder of the Plaintiff's commissary items and further asserts that "those commissary items were never in plaintiff's possession at any time period when the defendant received them from the PCI on July 19, 2019." (Response Paragraph 15). The Plaintiff's assertion that he never possessed the items clashes with his assertion that the Defendant took possession of the Defendant's property.

On July 25, 2019, the Plaintiff was given items marked for him but were not the ones he had ordered. That problem was corrected and the items he initially received were turned over to another inmate who had ordered those items. The Defendant turned over some of the items on the Plaintiff's request list but did not turn over other items. The Plaintiff asserts that those items were in a second bag and the Defendant refused to give those items to the Plaintiff on that day or at any later time. He asserts that the Defendant took sole possession of the bag containing two bags of Wise Regular Potato Chips, five bags of Whole Enchilada Party Mix, five bags of Whole Shabang Potato Chips and three bags of nacho Cheese Tortilla Chips with a value of Nineteen Dollars and Eighty-Four Cents. (\$19.84). (Complaint).

The Defendant raises the issue of sovereign immunity. As a Prison Commissary Officer, it is apparent that the Defendant meets the definition of a person who acts on

behalf of a commonwealth party, a state correctional facility, as he is compensated and employed by that agency. 42 Pa. C.S. § 8501. The doctrine of sovereign immunity states that it is the intent of the General Assembly that the Commonwealth, and its officials and employees acting within the scope of their duties, shall continue to enjoy sovereign immunity and official immunity and remain immune from suit except as the General Assembly shall specifically waive the immunity. 1 Pa. C.S.A. § 2310. The General Assembly waives immunity in the specific instances detailed in 42 Pa. C.S.A. § 8522(b) for negligent acts. 42 Pa. C.S.A. § 8522(a). The Plaintiff has asserted that his claim falls under the exception related to the care, custody or control of personal property which states:

The care, custody or control of personal property in the possession or control of Commonwealth parties, including Commonwealth-owned personal property and property of persons held by a Commonwealth agency...

42 Pa. C.S.A. §8522(b)(3),

Under Pennsylvania law, there are two ways to overcome sovereign immunity, first, sovereign immunity is waived by statute in nine specific areas; and second, sovereign immunity does not protect employees acting outside the course and scope of their employment. *Sarin v. Magee*, 333 F.Supp.3d 473(2018).

The Plaintiff asserts that the Defendant acted negligently when he took the bag of Plaintiffs food items and retained sole possession of those items. (Complaint Paragraph 12). He attempts to demonstrate that the actions of this officer comes under an exception to the doctrine of sovereign immunity in that the “Defendant assumed direct care, custody, and control over plaintiffs purchased commissary items.” (Complaint Paragraph 15). While the Plaintiff has asserted that these items were taken into the sole custody of this prison officer, he has failed to establish that these items ever were his personal property. In his reply, the Plaintiff asserts that he never possessed these items after he ordered the m. (Response, Paragraph 15). While the Plaintiff ordered items, he has failed to establish that these particular food items ever became his personal property.

Additionally, Plaintiffs allegations against the Defendant do not constitute negligence. It is apparent that he is raising a claim of conversion when he asserts that the Defendant took the items into his sole possession and never turned them over to the Plaintiff. While the Defendant has denied that he ever took the Plaintiffs items, the act of conversion is an intentional tort not covered by the exceptions to sovereign immunity. The Pennsylvania Supreme Court has defined the intentional tort of conversion as “an act of willful interference with a chattel, done without lawful justification, by which any person entitled thereto is deprived of use and possession. *Norriton West Realty Corp v. Central-Penn National Bank*. 254 A.2d 637 (Pa. 1969), quoted in *Price v. Simcox*, 207 WL 4287870 (Pa. Cmwlth. September, 2017).

Employees of the Commonwealth are protected by sovereign immunity from liability for actions arising from intentional tort claims provided they acted within the scope of their duties. If an action for intentional misconduct occurred, relief is barred by sovereign immunity if the Commonwealth employee was within the scope of his duties. *Williams v. Strickman*, 917 A.2d 915, 917 (Pa. Cmwlth. 2006).

The Plaintiff has presented no evidence that the Defendant acted outside the scope of his duties. He has alleged, without providing any evidentiary support, that the Defendant acted outside the scope of his employment. Clearly as a commissary officer, he was acting in the course of his employment when he distributed commissary orders and adjusted orders.

Plaintiff's claim that the Defendant acted purposely when he confiscated and took sole possession of the bag of commissary items is clearly a claim of intentional misconduct. Plaintiff has failed to raise a claim on which relief can be granted. For the reasons stated, the Plaintiff has failed to establish that he had a property interest in the items in the second bag or that the Defendant acted in a negligent manner. Therefore, the Defendant's Motion for Summary Judgment must be granted in accordance with the preceding Opinion.

ORDER

AND NOW, this 24th day of July 2020, after full consideration of the record, the pertinent statutes and the arguments of the parties, it is hereby ORDERED and DECREED that the Defendant's Motion for Summary Judgment is hereby granted and the Plaintiffs action is dismissed.

BY THE COURT:
WAGNER, P.J.

ATTEST:
Clerk of Courts

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

COMMERCIAL/RESIDENTIAL/CURRENT OWNER/MINERAL TITLE

A DECADE OF EXPERIENCE

E&O INSURED

WILL TRAVEL

ACCEPTING NEW CLIENTS

LUNCH & LEARN SERIES

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

- Date: **Wednesday, September 16th** from 12:00 p.m. to 1:30 p.m.
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topics:
Sentencing Guidelines and the Justice Reinvestment Initiative
- Presenters:
Honorable Joseph M. George, Jr. - Judge, Fayette County Court of Common Pleas
Ryan S. Meyers - Pennsylvania Commission on Sentencing
Joshua Britt - Fayette County Adult Probation

CLE Credit

1.5 hours of Substantive CLE credit for the program. The fees are as follows:

Members of the FCBA

- No charge for attendance without CLE Credit
- \$10 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2012

- No charge for attendance with CLE Credit

Non-members of the FCBA

- \$10 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

**** All fees to be paid at the door ****

A light lunch will be provided.

RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or by email to cindy@fcbar.org on or before Monday, September 14th.

MEMORIAL SERVICE

The Fayette County Bar Association will hold a memorial service before the Court for Judge Fred C. Adams, Sr. at the Fayette County Courthouse in Courtroom No. 1 on Thursday, September 3, 2020, at noon.

*Quality... Experience... Results...
It's what your clients deserve.*

Medical Malpractice • Auto Accidents • Personal Injury



GISMONDI

& ASSOCIATES

412-281-2200

www.gislaw.com

700 Grant Bldg., 310 Grant St., Pgh., PA 15219