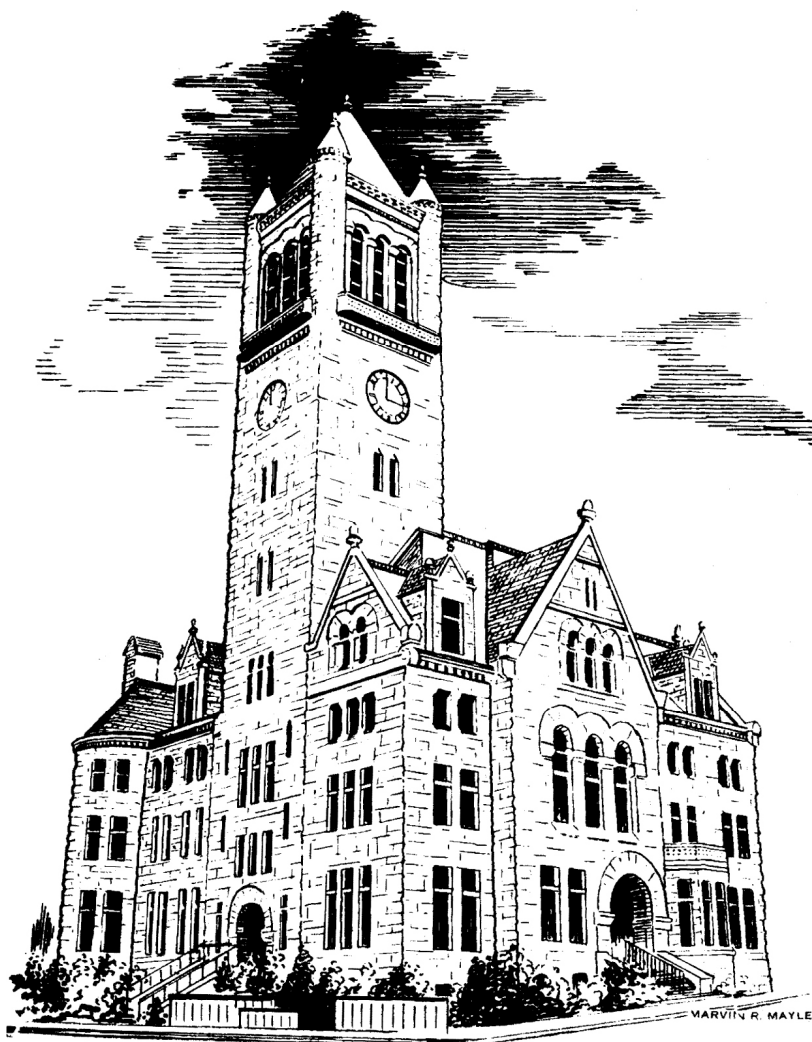


FAYETTE LEGAL JOURNAL

VOL. 89

JULY 11, 2026

NO. 28



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: Michelle L. Kelley
President Elect: Jeffrey S. Proden
Vice-President: Melinda D. Dellarose
Secretary: Anne N. John
Treasurer: Rachel A. Clark
Past President: Sheryl R. Heid
Executive Director: Garnet L. Gordon

Directors
Michael A. Aubele
Jennifer M. Casini
Sarah E. Connelly
James E. Higinbotham, Jr.
Sean M. Lementowski
Daniel D. Taylor

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

RUBY CATHERINE BONNEY, a/k/a CATHERINE BONNEY, a/k/a RUBY C. BONNEY, late of South Union Township, Fayette County, PA (3)

Executor: Thomas E. Bonney
224 East Street Road, Suite 1
Kennett Square, PA 19348
Attorney: John R. Twombly, Jr.

JOSEPHINE C. HAGER, late of Menallen Township, Fayette County, PA (3)
Administratrix: Janet Marie Smearcheck
c/o Newcomer Law Offices
4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Ewing D. Newcomer

JAMES KLINK, late of Uniontown, Fayette County, PA (3)
Executrix: Ashley Zebro
c/o 401 First Street
Chestnut Ridge, PA 15422

PATRICIA TATE, a/k/a PATRICIA A. TATE, a/k/a PATRICIA ANN TATE, late of Redstone Township, Fayette County, PA (3)
Administrator: Paul J. Tate
c/o DePaulis Law, LLC
1711 Lincoln Way
White Oak, PA 15131
Attorney: Amanda DePaulis

Second Publication

LOUIS T. CANTALAMESSA, a/k/a LOUIS TITO CANTALAMESSA, late of Uniontown, Fayette County, PA (2)

Executrix: Pamela J. Cantalamessa
c/o Davis & Davis Attorneys at Law
107 East Main Street
Uniontown, PA 15401
Attorney: Samuel J. Davis

GERALD GLENN DALE SR., late of Perryopolis Borough, Fayette County, PA (2)
Administrator: Gerald Glenn Dale, Jr.
101 Morgan Street
PO Box 277
Newell, PA 15466

HOWARD FRANCIS JOHNSTON, a/k/a HOWARD F. JOHNSTON, late of Jefferson Township, Fayette County, PA (2)
Executrix: Karen T. Johnston
c/o Bassi Vreeland & Associates, P.C.
PO Box 144
111 Fallowfield Avenue
Charleroi, PA 15022
Attorney: Bradley M. Bassi

MARY E. SHURM, late of North Union Township, Fayette County, PA (2)
Administrator: Walter B. Shurm III
45 Adele Street
Uniontown, PA 15401

SARAH ETTA WORK, a/k/a SARA E. WORK, late of Springfield Township, Fayette County, PA (2)
Personal Representative: Randall E. Work
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Shane M. Gannon

DAVID ZEPPPO, late of Uniontown, Fayette County, PA (2)
Executrix: Tina W. Wargo
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401

First Publication

MARKELL DESHAWN McKOY, late of
Uniontown, Fayette County, PA (1)
Administratrix: ShawnTay Snyder
c/o DelVecchio & Miller, LLC
428 Boulevard of the Allies, Suite 300
Pittsburgh, PA 15219
Attorney: Christopher Miller

**WAUNITA MILLER, a/k/a LOUISE
MILLER**, late of Redstone Township, Fayette
County, PA (1)
Personal Representative:
Ryan Douglas Noakes
c/o Mitchell Law Office
P.O. Box 310
902 First Street
Hiller, PA 15444
Attorney: Herbert G. Mitchell, Jr.

JUANITA C. MORRISON, late of Bullskin
Township, Fayette County, PA (1)
Personal Representative: Jean Stansak
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

**JUSTINE MARIE STACOVIAK, a/k/a
JUSTINE M. STACOVIAK**, late of German
Township, Fayette County, PA (1)
Executrix: Stacie L. Rude
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401

LEGAL NOTICES

Notice of Intent to Obtain Title

To: Patrick Distelrath

Notice is hereby given that Raymond
McClintic, residing at 3930 Bristol Pike,
Bensalem, PA, 19020 is in possession of a 1968,
Special Construction, Avenger GT12, VIN#
CA567571. The above vehicle is currently titled
in the name of Patrick Distelrath whose last
known address is 240 Yauger Hollow Road,
Lamont Furnace, PA 15456. Said vehicle was
transferred without proper notarization or
completion of title requirements. Multiple
attempts have been made to contact the title
owner, including regular mail and certified mail
which has gone unclaimed or unanswered. If the
above-named titled owner has any claim to this
vehicle, they must contact the undersigned
within 30 days of publication of this notice.
Failure to respond within this time period will
result in the undersigned taking appropriate legal
action to obtain proper title to the vehicle
through the Commonwealth of Pennsylvania.
Contact: Raymond McClintic, 3930 Bristol Pike,
Bensalem, PA 19020.

SHERIFF'S SALE

Date of Sale: September 17, 2026

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 September 17, 2026, at 2:00 pm at <https://fayette.pa.realforeclose.com>.

The Conditions of sale are as follows:

All bidders must complete the Realauction on-line registration process at <https://fayette.pa.realforeclose.com> to participate in the auction.

All bidders must place a 10% deposit equal to the successful bid for each property purchased to Realauction via wire transfer or ACH per Realauction requirements. Upon the auction's close, buyer shall have 10 business days to pay the remaining balance to the Fayette County Sheriff's Office via cashier's check. No cash will be accepted. Failure to comply with the Conditions of Sale, shall result in a default and the down payment shall be forfeited by the successful bidder and applied to the costs and judgments. The schedule of distribution will be filed no later than 30 days after the sale of real property. If no petition has been filed to set aside the sale or objections to the distribution are filed within 10 days of filing the distribution, the Sheriff will prepare and record a deed transferring the property to the successful bidder.

(1 of 3)

James Custer
Sheriff of Fayette County

ROBERTSON, ANSCHUTZ, SCHNEID,
CRANE & PARTNERS, PLLC
A Florida professional limited liability company
133 GAITHER DRIVE, SUITE F
MT. LAUREL, NJ 08054
855-225-6906

No. 1922 of 2025 G.D.

No. 146 of 2026 E.D.

**PNC BANK, NATIONAL ASSOCIATION,
Plaintiff**

v.

**VALERIE W. ANNIS,
Defendant**

ALL THOSE CERTAIN LOTS OR
PIECES OF GROUND SITUATE IN THE
DAWSON BOROUGH, FAYETTE COUNTY,
PENNSYLVANIA:

BEING KNOWN AS: 102 GRISCOM ST,
DAWSON, PA 15428

BEING PARCEL NUMBER: 07-03-0049
IMPROVEMENTS: RESIDENTIAL
PROPERTY

No. 201 of 2026 G.D.

No. 123 of 2026 E.D.

**PNC Bank, National Association
PLAINTIFF
VS.**

**Steve Boiaroff, Jr. a/k/a Steven Boiaroff Jr.
DEFENDANT**

ALL the following pieces or parcels of land
situate in Wharton Township, Fayette County,
Pennsylvania,

COMMONLY KNOWN AS: 903 Wharton
Furnace Road a/k/a 893 Wharton Furnace Road,
Farmington, PA 15437

TAX PARCEL NO. 42-20-0003

No. 2562 of 2024 DSB
No. 151 of 2026 E.D.

**BRANCH BANKING AND TRUST
COMPANY, by EDGEFIELD HOLDINGS,
LLC, Assignee,
Plaintiff,
v.
SPENCER TODD CHRISTOPHER,
Defendant.**

ALL that certain lot situate in the
Township of North Union, County of Fayette,
and Commonwealth of Pennsylvania,
BEING known and designated as Tax ID
No. 25-06-0171,
BEING the same premises conveyed to
Timothy A. Demott and Darla M. Demott, his
wife, by deed of Alfred E. Kraft and Mary E.
Kraft, his wife, dated August 21, 2009, recorded
in Fayette County Record Book 3102, Page
1660, and thereafter conveyed to Spencer T.
Christopher by deed of Alfred E. Kraft and Mary
E. Kraft, his wife, dated April 15, 2013.

KML LAW GROUP, P.C.
Suite 5000
701 Market Street
Philadelphia, PA 19106-1532
(215) 627-1322

No. of 2026 G.D.
No. of 2026 E.D.

**LAKEVIEW LOAN SERVICING, LLC
4425 Ponce De Leon Blvd
Mail Stop Ms5/2SI
Coral Gables, FL 33146
Plaintiff
vs.
CLIFFORD FISHER AKA CLIFFORD E.
FISHER
TIFFANY FISHER AKA TIFFANY L.
FISHER
Mortgagor(s) and Record Owner(s)
212 214 North Jefferson Street
Connellsville, PA 15425
Defendant(s)**

ALL THAT CERTAIN LOT OF LAND
SITUATE IN CITY OF CONNELLSVILLE,
COUNTY OF FAYETTE AND
COMMONWEALTH OF PENNSYLVANIA.
BEING KNOWN AS: 212 214 NORTH
JEFFERSON STREET, CONNELLSVILLE,
PA 15425
TAX PARCEL #05-09-0097
IMPROVEMENTS: A RESIDENTIAL
DWELLING

SOLD AS THE PROPERTY OF:
CLIFFORD FISHER AKA CLIFFORD E.
FISHER AND TIFFANY FISHER AKA
TIFFANY L. FISHER

1325 Franklin Avenue, Suite
160 Garden City, NY 11530
(212) 471-5100

No. 108 of 2026 G.D.
No. 2500 of 2024 E.D.

**U.S. Bank Trust, National Association as
Trustee for LB-Dwelling Series VI Trust
v.
Thomas E. Fisher; Linda Fisher**

By virtue of Writ of Execution No. 108 of
2026 ED, U.S. Bank Trust, National Association
as Trustee for LB-Dwelling Series VI Trust v.
Thomas E. Fisher; Linda Fisher
Docket Number: 2024-02500
Property to be sold is situated in the
Township of Stewart, County of Fayette and
Commonwealth of Pennsylvania.
Commonly known as: 1178 Kentuck Road,
Ohiopyle, PA 15470 Parcel Number: 37-10-
000202
Judgment Amount: \$94,587.41
Residential Dwelling

STERN & EISENBERG, PC-
STEVEN P. KELLY, ESQ.

No. 2877 of 2025 G.D.
No. 105 of 2026 E.D.

**Rocket Mortgage, LLC f/k/a Quicken Loans,
LLC f/k/a Quicken Loans Inc.
Plaintiff
v.
Cherie Fort, solely in her capacity as heir of
Harry C. Echard, deceased
Defendant(s)**

SITUATE IN CONNELLSVILLE,
FAYETTE COUNTY, PENNSYLVANIA,
TOWNSHIP OF BULLSKIN BEING KNOWN
AS 156 RICH HILL RD, CONNELLSVILLE,
PA 15425-6310
PARCEL NO. 04360079
IMPROVEMENTS - RESIDENTIAL
REAL ESTATE
SOLD AS THE PROPERTY OF-Audrey
R. Echard, Harry C. Echard

No. 1324 of 2026 G.D.
No. 115 of 2026 E.D.

Frick Financial Federal Credit Union
Plaintiff,
vs.
Zachary E. Pringle
Defendant.

ALL that certain parcel of land lying and being situate in the Township of Georges, County of Fayette, and Commonwealth of Pennsylvania, known as 113 Shoaf Road, Smithfield, PA 15478 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 14-12-0046

BEING the same premises which Antonio Marco Pantalo and Tiffany Pantalo, husband and wife, by Deed dated April 13, 2018 and recorded in and for Fayette County, Pennsylvania in Deed Book 3369, Page 53, granted and conveyed unto Zachary E. Pringle, single.

1325 Franklin Avenue, Suite 160
Garden City, NY 11530
(212) 471-5100

No. 380 of 2026 G.D.
No. 112 of 2026 E.D.

US Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust
v.

Clinton L. Rikken III

By virtue of Writ of Execution No. 112 of 2026, E.D., US Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust v. Clinton L. Rikken III

Docket Number: 380 of 2026 GD

Property to be sold is situated in the Township of North Union, County of Fayette and Commonwealth of Pennsylvania.

Commonly known as: 95 Chaffee Street, Uniontown, PA 15401

Parcel Number: 25-47-0179

Improvements thereon of the residential dwelling or lot (if applicable): Residential Dwelling

Judgment Amount: \$145,417.29

No. 847 of 2026 DSB
No. 114 of 2026 E.D.

UNITED BANK, a Virginia banking corporation
Petitioner,
v.

ROADSIDE PROPERTIES, LLC, a Pennsylvania limited liability company,
Respondent.

2005 Dinner Bell / Five Forks Road, Farmington, PA 15437-1058, Commercial Bar/Lounge, Residential 1 Family, Wharton Township, Fayette County, Pennsylvania

ALL that certain piece, parcel or tract of land situate in the Wharton Township, Fayette County, Pennsylvania, and containing an area of 0.755 of an acre, as per survey of Walter R. Hager, dated February 20, 1975, which survey is attached to deed recorded in the Recorder's Office of Fayette County, Pennsylvania, in Deed Book 1191, Page 903.

DEED DATE: July 29, 2008

RECORDED in Record Book 3068, at Page 1044

TAX IDENTIFICATION: 42-22-0062

BEING 2005 Dinner Bell / Five Forks Road Farmington, PA 15437

ROBERTSON, ANSCHUTZ, SCHNEID,
CRANE & PARTNERS, PLLC
133 GAITHER DRIVE, SUITE F
MT. LAUREL, NJ 08054
855-225-6906

No. 948 of 2024 G.D.
No. 152 of 2026 E.D.

U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR RCF 2 ACQUISITION TRUST,

Plaintiff

v.

CANDY S. SCOTT; ROBERT H. SCOTT
Defendant(s)

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN NORTH UNION TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS: 232 MADISON AVENUE HOPWOOD, PA 15445 BEING PARCEL NUMBER: 25530066

IMPROVEMENTS: RESIDENTIAL PROPERTY

McCABE, WEISBERG & CONWAY, LLC
1420 Walnut Street, Suite 1105
Philadelphia, PA 19102
(215) 790-1010

No. 2947 of 2025 G.D.
No. 124 of 2026 E.D.

PennyMac Loan Services, LLC
Plaintiff

v.

Elaine M. Shelton a/k/a Elaine Shelton
Defendant

First:

All that certain Lot of ground situated in the City of Connellsville, Fayette County, Pennsylvania, known as Lot Number Sixty-Seven (67) on a plan of lots laid out by George May, September 5th, 1882, bounded and described as follows, to-wit:

Bounded on the South by Washington Avenue, on the East by Sycamore Street, on the North by Wood Alley, and on the West by Lot Number Sixty-Three (63), fronting forty-one and two-thirds (41 2/3) feet on said Washington Avenue, and running back One Hundred and Twenty (120) feet to said Alley. Containing Five Thousand (5,000) square feet of land.

Second:

A certain piece of ground situate in the City of Connellsville, Fayette County, Pennsylvania, being part of Lot No. 63 on a plan of lots laid out by George May, September 5, 1882, bounded and described as follows, to wit:

Beginning at a point on the North side of Washington Avenue, corner of Lot No.67 in said plan of Lots; thence in a Northerly direction along said Lot No.67 (hereinabove described as item "first") One Hundred and Twenty (120) feet to Wood Alley; thence in a Westerly direction along said alley Fifteen (15) feet, more or less; thence in a Southerly direction, through said Lot No. 63, and along the fence erected thereon, and to the West of an Apple Tree, One Hundred and Twenty (120) feet to said Washington Avenue; thence along said Washington Avenue in an Easterly direction Fifteen (15) feet, more or less, to the place of beginning.

All that certain piece or parcel or Tract of land situate Fayette County, Pennsylvania, and being known as 312-312 1/2 East Washington Avenue, Connellsville, PA 15425.

Title vesting in Elaine M. Shelton a/k/a Elaine Shelton by deed from John W. Rugg and Connie Rugg dated August 6, 2015 and recorded August 28, 2015 in Deed Book 3286, Page 1259.

Tax Parcel Number: 05120005

KML LAW GROUP, P.C.
Suite 5000
701 Market Street
Philadelphia, PA 19106-1532
(215) 627-1322

No. 193 of 2019 G.D.
No. 144 of 2026 E.D.

NATIONSTAR MORTGAGE LLC D/B/A
MR. COOPER AS SUCCESSOR BY
MERGER TO PACIFIC UNION
FINANCIAL, LLC
800 State Highway 121 B4P
Lewisville, TX 75067

Plaintiff

vs.

JASON STARK
Mortgagor(s) and Record Owner(s)
596 Liberty Street
Perryopolis, PA 15473
Defendant(s)

ALL THAT CERTAIN LOT OF LAND
SITUATE IN BOROUGH OF PERRYOPOLIS,
COUNTY OF FAYETTE AND
COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 596 LIBERTY
STREET, PERRYOPOLIS, PA 15473

TAX PARCEL #28-03-0016

IMPROVEMENTS: A RESIDENTIAL
DWELLING

SOLD AS THE PROPERTY OF: JASON
STARK

Padgett Law Group
ALYK L. OFLAZIAN, ESQUIRE (312912)
1055 E. Baltimore Pike, Suite 201
Media, PA 19063
(850) 422-2520

No. 125 of 2026 G.D.
No. 2986 of 2025 E.D.

SELENE FINANCE, LP
v.
DAVID JAMES STULL

By virtue of Writ of Execution No. 2025-02986, SELENE FINANCE, LP v. DAVID JAMES STULL

Property Address: 16 1st Street, Star Junction, PA 15482 Township of Perry, County of Fayette, Commonwealth of Pennsylvania

Tax Parcel Number: 27-15-0043

Improvements thereon: Single family residential dwelling

Judgment Amount: \$131,562.04

No. 1725 of 2026 G.D.
No. 103 of 2026 E.D.

AMOS FINANCIAL LLC

Plaintiff,

vs.

**UNKNOWN HEIRS, SUCCESSORS,
ASSIGNS, AND ALL PERSONS, FIRMS,
OR ASSOCIATIONS CLAIMING RIGHT,
TITLE, OR INTEREST FROM OR UNDER
THOMAS R. CARAFA SR., DECEASED
Defendant(s).**

ALL THOSE THREE (3) CERTAIN
LOTS OF LAND SITUATE IN THE
BOROUGH OF MASONTOWN, FORMERLY
GERMAN TOWNSHIP, FAYETTE COUNTY,
PENNSYLVANIA KNOWN AND
DESIGNATED AS LOTS NO. 7, 8, AND 9 IN
BLOCK 37 IN THE REVISED PLAN OF
LOTS OF THE MASONTOWN LAND
IMPROVEMENT COMPANY, WHICH SAID
PLAN IS RECORDED IN THE RECORDER'S
OFFICE OF FAYETTE COUNTY,
PENNSYLVANIA IN PLAN BOOK VOLUME
9, PAGE 10.

IMPROVEMENT THEREON: A frame
residential dwelling being known and numbered
314 Cottage Avenue, Masontown, PA 15461
TAX PARCEL NUMBER: 21-06-0040.

Property seized and taken in Execution as
the property of UNKNOWN HEIRS,
SUCCESSORS, ASSIGNS, AND ALL
PERSONS, FIRMS, OR ASSOCIATIONS
CLAIMING RIGHT, TITLE, OR INTEREST
FROM OR UNDER THOMAS R. CARAFA
SR., DECEASED.

No. 2430 of 2025 G.D.
No. 122 of 2026 E.D.

PNC Bank, National Association

PLAINTIFF

VS.

Dustin VanDivner

DEFENDANT

All that certain lot or piece of ground
situate in the Township of Perry, Fayette
County, Pennsylvania, known as Lot No. 25 in
the Weiss Plan of Lots, recorded in the Office of
the Recorder of Fayette County in Plan Book
Volume 8, Page 52.

COMMONLY KNOWN AS: 122 First
Street, Perryopolis, PA 15473

TAX PARCEL NO. 27-07-0009

No. 601 of 2026 G.D.
No. 116 of 2026 E.D.

Equity Resources, Inc.

Plaintiff,

vs.

**Michael R. Wolfe; Allison Wolfe
Defendants.**

ALL that certain parcel of land lying and
being situate in the Borough of Vanderbilt,
County of Fayette, and Commonwealth of
Pennsylvania, known as 507 2nd Street,
Vanderbilt, PA 15486 having erected thereon a
dwelling house.

Being known and designated as Tax ID
No.: 40-01-0008

BEING the same premises which GJ & AJ
Properties, LLC, by Deed dated July 23, 2021
and recorded in and for Fayette County,
Pennsylvania in Deed Book 3482, Page 73,
granted and conveyed unto Michael R. Wolfe
and Allison Wolfe, husband and wife.

McCalla Raymer Leibert Pierce, LLP
485F Route 1 South, Suite 300
Iselin, NJ 08830-3072

No. 119 of 2026 G.D.
No. 773 of 2026 E.D.

**THE BANK OF NEW YORK MELLON
F/K/A THE BANK OF NEW YORK, AS
SUCCESSOR IN INTEREST TO
JPMORGAN CHASE BANK, AS TRUSTEE
FOR CENTEX HOME EQUITY LOAN
TRUST 2004-0**

V.

DAWN L. ZEKIR AND JAMES ZEKIR

THE BANK OF NEW YORK MELLON
F/K/A THE BANK OF NEW YORK, AS
SUCCESSOR IN INTEREST TO JPMORGAN
CHASE BANK, AS TRUSTEE FOR CENTEX
HOME EQUITY LOAN TRUST 2004-0 v.
DAWN L. ZEKIR AND JAMES ZEKIR

All that certain tract or parcel of land
situate in South Union Township, Fayette
County, Pennsylvania.

Parcel ID: 34-27-0349

Property Address: 277 Hopwood
Fairchance Road, Uniontown, PA 15401
Improvements thereon: Residential
Dwelling

Judgment Amount: \$58,063.73

*** END SHERIFF'S SALE ***

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

JUDICIAL OPINION

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

McLUCKEY DEVELOPMENT, LLC, :
Plaintiff, :
vs. :
GNAGEY DEVELOPMENT COMPANY, L.P., :
Defendant, :
vs. :
HARRY W. BURD, JR., and BARBARA JO :
BURD, his wife, and BURD PLAZA, INC., :
Additional Defendants. :
vs. :
WHARTON TOWNSHIP, : No. 1375 of 2025, G.D.
Additional Defendants. : Honorable Nancy D. Vernon

OPINION AND ORDER

VERNON, J. June 29, 2026

Before the Court are Preliminary Objections filed by Additional Defendant Whar-
ton Township to the Complaint in Mandamus filed by Additional Defendants Harry W.
Burd, Jr., and Barbara Jo Burd, his wife, and Burd Plaza, Inc.

In 2020, Plaintiff McLuckey Development, LLC purchased commercial property
operating as a service station located at 4142 National Pike in Wharton Township, from
Defendant Gnagey Development Company, L.P. McLuckey later learned from a De-
partment of Environmental Protection action that no permit had ever been issued for the
on-site sewage system servicing the property and that the existing system could not be
used.

McLuckey sued Gnagey asserting claims based upon representations in the parties’
sales agreement that a valid sewage permit existed. Gnagey joined Harry W. Burd, Jr.,
Barbara Jo Burd, and Burd Plaza, Inc. (“the Burds”), as the original owners of the ser-
vice station, alleging that the Burds made the same representations to Gnagey during the
2015 sale of the property. The Burds subsequently joined Wharton Township, ultimate-
ly filing a Complaint in Mandamus on June 25, 2025, seeking either issuance of a re-
placement sewage permit or issuance of an original permit based upon allegations that
all required steps for issuance had been completed in 2003 and that the Township either
lost the records or failed to issue the permit due to clerical error. Wharton Township
filed Preliminary Objections to the Burds’ Complaint in Mandamus.

By Opinion dated June 10, 2025, the Honorable Judge Joseph M. George, Jr. issued
rulings on prior motions for summary judgment wherein he held that discovery revealed
that no actual permit could be located and that Wharton Township admitted in discovery

that it had no record of issuing a permit. However, Judge George concluded there remained factual disputes as to whether a permit may nevertheless have been issued and specifically distinguished between “no record of issuance” and “a definitive statement that the permit was never issued.” Thereafter, Judge George recused and the within matter was transferred to this Court.

In its preliminary objections, Wharton Township raises three arguments:

1. a demurrer for the Burds alleged failure to state a legally sufficient mandamus claim;
2. lack of subject matter jurisdiction for the Burds failure to exhaust statutory and administrative remedies under the Pennsylvania Sewage Facilities Act, the Pennsylvania Local Agency Law, and the Pennsylvania Administrative Agency Law; and
3. that the Pennsylvania Department of Environmental Protection is a necessary party.

The first preliminary objection is in the nature of a demurrer to the Burds’ mandamus claim. A preliminary objection in the nature of a demurrer is properly granted where the contested pleading is legally insufficient. *Cardenas v. Schober*, 783 A.2d 317, 321 (Pa. Super. 2001) citing Pa.R.C.P. 1028(a)(4). A demurrer admits every well-pleaded material fact set forth in the pleadings to which it is addressed as well as all inferences reasonably deducible therefrom, but not conclusions of law. *Gekas v. Shapp*, 364 A.2d 691 (Pa. 1976). “Preliminary objections in the nature of a demurrer require the court to resolve the issues solely on the basis of the pleadings; no testimony or other evidence outside of the complaint may be considered to dispose of the legal issues presented by the demurrer.” *Cardenas* at 321–22. “[C]onclusions of law, unwarranted inferences from the facts, argumentative allegations or expressions of opinion” need not be accepted as true. *Myers v. Ridge*, 712 A.2d 791, 794 (Pa.Comm. 1998). “Preliminary objections, the end result of which would be dismissal of a cause of action, should be sustained only in cases that are clear and free from doubt.” *League of Women Voters of Pennsylvania v. Commonwealth*, 692 A.2d 263, 267 (Pa.Comm. 1997). In order to sustain the demurrer, it is essential that the plaintiff’s complaint indicate on its face that his claim cannot be sustained, and the law will not permit recovery. *Id.*

“A writ of mandamus is an extraordinary remedy used to compel official performance of a ministerial act,” which is an act that “a public officer is required to perform upon a given state of facts in a prescribed manner in obedience to the mandate of legal authority and without regard to his own judgment or opinion concerning the propriety or impropriety of the act.” *Council of City of Phila. v. Street*, 856 A.2d 893, 896 (Pa. Cmwlth. 2004). Plaintiffs would be entitled to prevail in the mandamus action if they can establish a clear legal right to relief, a corresponding non-discretionary duty on the part of Wharton Township to issue the sewage permit, and the lack of another adequate or appropriate remedy. *Lehigh Asphalt Paving and Const. Co. v. Bd. Of Supervisors of East Penn Township*, 830 A.2d 1063, 1070 (Pa. Cmwlth. 2003).

The Burds allege that they completed all required steps necessary for issuance of a sewage permit; that Wharton Township’s sewage enforcement officer conducted testing

and inspections; that the sewage system was ultimately constructed and utilized for years; that Wharton Township personnel later acknowledged records may have been lost; that a permit may have existed; and that the Township's failure to issue or preserve the permit was due to clerical error.

At the pleading stage, the issue is whether the allegations, if proven, could support mandamus relief. The Court is not deciding whether the Burds can ultimately prove these allegations. A review of the Complaint to Join Additional Defendant reveals sufficient facts, which if proven, could support an inference that the Burds completed all requirements necessary for permit issuance and that the Township either failed to issue the permit as required or failed to properly preserve the records of issuance. At this stage, Wharton Township's demurrer to the Burds' mandamus claim must be overruled.

In its next preliminary objection, Wharton Township alleges that the Burds failed to exhaust administrative remedies available. The Pennsylvania Sewage Facilities Act provides administrative remedies for "granting or denying a permit, issuing an order or other actions taken under this act." 35 P.S. § 750.16. The Sewage Facilities Act does not contemplate this situation where no official action can be located. The record is devoid of any administrative decision or denial from which an appeal could have been taken.

Again, accepting as true the allegations as pled, the Court cannot conclude that the Burds failed to pursue an available statutory appeal remedy. Rather, if no permit denial or adjudication occurred, it is not apparent from the pleadings what administrative remedy would even be available to exhaust. This preliminary objection must be overruled. In its last preliminary objection, Wharton Township maintains that Pennsylvania Department of Environmental Protection is a necessary party.

"A necessary party is one whose presence, while not indispensable, is essential if the court is to resolve completely a controversy and to render complete relief." *Podolak v. Tobyhanna Twp. Bd. of Supervisors*, 37 A.3d 1283, 1289 (Pa. Cmwlth. 2012). Unlike the absence of an indispensable party which deprives the court of jurisdiction to issue an enforceable decree or order, the failure to join a necessary party does not affect the jurisdiction of the court. *Allegheny County v. Department of Public Welfare*, 376 A.2d 290, 292 (Pa. Cmwlth. 1977).

Pennsylvania courts apply a three-part test to determine whether a party is necessary: (1) whether the absent party has a right or interest related to the claim; (2) whether that right or interest is essential to the merits of the issue; and (3) whether justice can be served without violating the absent party's due process rights. *Downs Racing, L.P. v. Luzerne County*, 297 A.3d 20 (Pa. Cmwlth. 2023).

The Burds' Complaint alleges that Wharton Township possessed authority to process and issue sewage permits under the Pennsylvania Sewage Facilities Act. The Burds seek relief from Wharton Township's action (issued a permit but did not maintain proper records) or inaction (failed to issue a permit when it should have). Accepting these allegations as true, the Burds' claims rest against Wharton Township and the Court cannot conclude that the Department of Environmental Protection's rights or interests are so intertwined with the claims asserted that relief cannot be granted in its absence.

While discovery may reveal that the Pennsylvania Department of Environmental Protection has a substantial interest in the matter, the present record does not establish that it is a necessary party. Accordingly, Wharton Township's Preliminary Objection for failure to join a necessary party is overruled without prejudice.

WHEREFORE, we will enter the following Order.

ORDER

AND NOW, this 29th day of June, 2026, upon consideration of the Preliminary Objections of Additional Defendant Wharton Township to the Complaint in Mandamus filed by Additional Defendants Harry W. Burd, Jr., and Barbara Jo Burd, his wife, and Burd Plaza, Inc., and in accordance with the foregoing Opinion, it is hereby ORDERED and DECREED that the Preliminary Objections are OVERRULED. Additional Defendant Wharton Township shall file an Answer to the Complaint within thirty (30) days.

BY THE COURT:
NANCY D. VERNON, JUDGE

ATTEST:
Prothonotary

LUNCH & LEARN SERIES

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

- Date: **Wednesday, July 15th** from **12:00 p.m. to 1:30 p.m.**
- Location: **Fayette County Courthouse - Courtroom Four**
- Discussion topic: Recent Updates in Pennsylvania Real Estate Law
- Presenter: **Stacey Papa, Esquire**, Moderator; **Stefani Lucas**, Pennsylvania Real Estate Salesperson and Realtor®, and Pa. Registered Home Improvement Contractor; and **Scott Lucas**, InterNACHI Certified Home Inspector and Pa. Registered Home Improvement Contractor

CLE Credit

1.5 hours of Substantive CLE credit for the program.

Attendance Fees

Members of the FCBA - \$15

Attorneys admitted after January 1, 2021 - \$5

Non-members of the FCBA - \$40

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

Lunch will be provided.

RSVP

If interested in attending, please call Leslie at the Bar office at 724-437-7994 or email to admin@fcbar.org on or before Monday, July 13th.