

# The Greene Reports

Official Legal Publication for Greene County, Pennsylvania  
Owned and operated by Greene County Bar Association  
Greene County Courthouse, Waynesburg, PA 15370

**Vol. XXXVIII, No. 50**

**August 5, 2021**

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Serving the Legal Community of Greene County  
Since October 1982

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**COURT OF COMMON PLEAS**  
Honorable Louis Dayich, President Judge

## MOTIONS

Criminal & Civil & O.C.:  
August 9 and 11, 2021

## CRIMINAL

Arraignments: August 9, 2021  
ARDs: September 19, 2021  
ARD Revocations: September 19, 2021  
Parole Violations: August 9, 2021  
Plea Court: August 10, 11, and 12, 2021  
License Suspension Appeals: August 16, 2021  
Argument Court: August 23, 2021

## ORPHANS

Accounts Nisi: August 2, 2021  
Accounts Absolute: August 12, 2021

## SUPREME COURT

## SUPERIOR COURT

## COMMONWEALTH COURT

Convenes in Pgh.: October 25-29, 2021

Convenes in Pgh.: August 17-19, 2021

Convenes in Pgh.: October 18-22, 2021

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## THE GREENE REPORTS

Owned and published by the GREENE COUNTY BAR ASSOCIATION

Editor: Kayla M. Sammons

E-mail address: [editor.greenerreports@yahoo.com](mailto:editor.greenerreports@yahoo.com)

## EDITORIAL POLICY

All articles published in The Greene Reports are intended to inform, educate or amuse. Any article deemed by the editorial staff to be reasonably interpreted as offensive, demeaning or insulting to any individual or group will not be published.

The views expressed in the articles represent the views of the author and are not necessarily the views of The Greene Reports or the Greene County Bar Association.

The Greene Reports welcomes letters to the Editor both for publication and otherwise. All letters should be addressed to: Editor, The Greene Reports, Greene County Courthouse, 10 East High Street, Waynesburg, PA 15370. Letters must include signature, address and telephone number. Anonymous correspondence will not be published. All letters for publication are subject to editing and, upon submission, become the property of The Greene Reports.

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## THE GREENE COUNTY BAR ASSOCIATION

Jessica L. Phillips, President

Christopher M. Simms, Vice-President

Cheryl Cowen, Secretary

Timothy M. Ross, Treasurer

Christine N. Nash, Ex-Officio

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## ARGUMENTS

Argument Court: August 23, 2021

## CIVIL

Domestic Relations Contempts: August 23, 2021  
Domestic Relations Appeals: August 23, 2021

## JUVENILE

Plea Day: August 19, 2021

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## DEED TRANSFERS

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The following property transfers have been recorded in the Greene County Recorder of Deeds office.

### CENTER TOWNSHIP

Barbara A. Wemlinger, et ux., to The Mineral Company, 12.5 Acres, O&G, \$8,593.75 (8-2-21)

### CUMBERLAND TOWNSHIP

Everett James McDonough, et ux., to Michael Gulley, et ux., Lots 63 & 64 in Colonial Heights, \$239,900.00 (7-28-21)

Timothy W. Hughes, et ux., to Karl Fenske, Lot 180 March in Nemaocolin, \$18,000.00 (7-28-21)

Brian Steinmiller to John Albert Glendenning, Lot 49 in Nemaocolin, \$500.00 (8-3-21)

### DUNKARD TOWNSHIP

Herschel F. Mathews, Sr., Estate, et al., to James H. Baker, .937 Acre, \$85,000.00 (7-28-21)

### FRANKLIN TOWNSHIP

Karen S. Cramer Estate A/K/A Karen Sue Cramer Estate, et al., to Mark C. Faux, et ux., 2 Lots in North Waynesburg Plan, \$56,250.00 (8-2-21)

### JEFFERSON TOWNSHIP

First Link of Dry Tavern LP to Carilli Real Estate Holdings LLC, Tract, \$645,000.00 (8-2-21)

### MONONGAHELA TOWNSHIP

Timothy Meese to Roxanne M. McHugh, Lot 6 in Parcel C Warwick Group Plan, \$40,000.00 (8-2-21)

### MORRIS TOWNSHIP

Thomas J. Hauch, et ux., to Adam Hornbeck, et ux., 14.582 Acres, \$436,975.00 (8-3-21)

### PERRY AND WHITELEY TOWNSHIPS

Gladys H. Springer Revocable Deed of Trust, et ux., to The Mineral Company, et ux., 126.31 Acres, O&G, \$33,843.57 (8-2-21)

### RICHHILL TOWNSHIP

Linda Norcia to VES Land LLC, 76.77 Acres, O&G, \$21,568.25 (8-2-21)

### SPRINGHILL TOWNSHIP

Ruth E. Keffer Estate, et ux., to The Mineral Company, et ux., 8 Acres, O&G, \$10,207.04 (8-2-21)

Charles L. Thomas to The Mineral Company, et ux., 5.6875 Acres, O&G, \$12,796.88 (8-2-21)

### WASHINGTON TOWNSHIP

Charles A. Harry to Paul Sliva, 39.503 Acres, \$430,000.00 (7-29-21)

### WAYNE TOWNSHIP

Shelda R. Kendralla A/K/A Shelda Kendralla to The Mineral Company, et ux., 313.504 Acres, O&G, \$9,975.85 (8-2-21)

Christina M. Littleton, et ux., to EQT Production Company, 71.278 Acres, O&G, \$2,201.00 (8-2-21)

Gregory Daughtery to EQT Production Company, 71.278 Acres, O&G, \$2,201.70 (8-2-21)

Donna D. Santucci, et ux., to EQT Production Company, 71.278 Acres, O&G, \$2,201.70 (8-2-21)

David D. Kerr, et ux., to The Mineral Company, et ux., 8.375 Acres, O&G, \$5,692.38 (8-2-21)

### WAYNESBURG BOROUGH

Charles Deyell, et ux., to Charles A. Deyell, Lot 300 in R Munnell & S Hunnell Plan, \$28,000.00 (7-29-21)

Justin M. Rhodes, et ux., to Kristin Smith, Lot, \$174,000.00 (7-29-21)

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## ESTATE NOTICES

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**NOTICE** is hereby given of the grant of letters by the Register of Wills to the Estates of the following named decedents. All persons having claims are requested to make known the same and all persons indebted to the decedent are requested to make payment to the personal representative or his attorney without delay.

### FIRST PUBLICATION

COMBA, EDNA R. and THE COMBA FAMILY TRUST dated December 18, 2000  
Late of Franklin Township, Greene County, Pennsylvania  
Co-Executrices: Valerie A. Rabatin, 327 Colonial Drive, Waynesburg, PA 15370 and  
Victoria R. Santucci, 23 Walnut Street, Clarksville, PA 15322  
Attorney: Eva H. Ahern, Esquire, Peacock Keller, LLP 95 West Beau Street, Suite 600,  
Washington, PA 15301

SOVA, JOANN DOLORES  
Late of Cumberland Township, Greene County, Pennsylvania  
Administrator: Shawn E. Sova, 365 Glenn Street, Washington, PA 15301  
Attorney: Christopher Michael Simms, Esquire, POLLOCK MORRIS BELLETTI &  
SIMMS, LLC, 54 South Washington Street, Waynesburg, PA 1370

### THIRD PUBLICATION

PRATT, MARK A.  
Late of Perry Township, Greene County, Pennsylvania  
Administrator: Russell Pratt, 117 Duquesne Street, Greensboro, PA 15338  
Attorney: None

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## FICTITIOUS NAME NOTICE

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Notice is hereby given of the filing of an application for Registration of Fictitious Names as follows:

The Fictitious Name is: Bubble Butt BBQ LLC

The address of the principal office or the principal place of business to be carried on is: 2 Eastview Court, Waynesburg, PA 15370

The name and address of the person who is party to the registration is: Duane Arbogast, 2 Eastview Court, Waynesburg, PA 15370

An application for a fictitious name was filed on July 27, 2021 in the Department of State, under the Fictitious Names Act, 54 Pa.C.S.A. 302 et seq., Act of December 16, 1982, No. 295, P.L. 1039.

Lukas B. Gatten, Esquire  
LOGAN & GATTEN LAW OFFICES  
54 N. Richhill Street  
Waynesburg, PA 15370

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## SHERIFF'S SALE

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**By Virtue of a Writ of Execution  
No. ED-13-2021 AD-765-2020**

Issued out of the Court of Common Pleas of Greene County, Pennsylvania and to me directed, I will expose the following described property at public sale at the Greene County Courthouse in the City of Waynesburg, County of Greene, Commonwealth of Pennsylvania on:

**FRIDAY, AUGUST 13, 2021  
AT 10:00 O'CLOCK A.M.**

All parties in interest and claimants are further notified that a proposed schedule of distribution will be on file in the Sheriff's Office no later than twenty (20) days after the date of the sale of any property sold hereunder, and distribution of the proceeds will be made in accordance with the schedule ten (10) days after said filing, unless exceptions are filed with the Sheriff's Office prior thereto.

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ALL THAT CERTAIN PARCEL OF LAND SITUATE IN THE TOWNSHIP OF CUMBERLAND, GREENE COUNTY, PENNSYLVANIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL NO. 05-32-123

ALSO KNOWN AS 230 GLADE RUN ROAD, CARMICHAELS, PA 15320 BEING THE SAME PREMISES WHICH MARTIN FRANCIS KIMES AND JULIA LOUISE KIMES, HUSBAND AND WIFE, BY DEED DATED DECEMBER 12, 2002 AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF GREENE COUNTY ON DECEMBER 31, 2002 IN DEED BOOK 0270, PAGE 0443, GRANTED AND CONVEYED UNTO PAUL J. KRON AND KIMBERLY A. KRON, HUSBAND AND WIFE. INFORMATIONAL NOTE: KIMBERLY A. KRON DIED ON APRIL 18, 2016, AND PURSUANT TO THE SURVIVORSHIP LANGUAGE IN THE ABOVE-MENTIONED DEED, ALL HER INTERESTS PASSED TO PAUL J. KRON.

PROPERTY ADDRESS: 230 Glade Run Road, Carmichaels, PA 15320

**Seized and taken into execution to be sold as the property of MICHELLE L WISE AKA MICHELLE LYNN MILLS, AS ADMINSTRATOR OF THE ESTATE OF PAUL J KRON in suit of U.S. BANK NATIONAL ASSOCIATION.**

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**Attorney for the Plaintiff:**  
Manley Deas Kochalski LLC  
Columbus, OH 614-220-5611

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**MARCUS N. SIMMS, Sheriff  
Greene County, Pennsylvania**

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**SUPREME COURT NOTICE**

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**SUPREME COURT OF PENNSYLVANIA  
CIVIL PROCEDURAL RULES COMMITTEE**

**NOTICE OF PROPOSED RULEMAKING**

**Proposed Amendment of Pa.R.C.P. No. 1035.3**

The Civil Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Rule 1035.3 for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They will neither constitute a part of the rules nor be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

**Karla M. Shultz, Counsel  
Civil Procedural Rules Committee  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
PO Box 62635  
Harrisburg, PA 17106-2635  
FAX: 717-231-9526  
[civilrules@pacourts.us](mailto:civilrules@pacourts.us)**

All communications in reference to the proposal should be received by **September 30, 2021**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Civil Procedural Rules Committee,  
John J. Hare  
Chair

**PUBLICATION REPORT**

The Civil Procedural Rules Committee is considering proposing to the Supreme Court an amendment to Pa.R.C.P. No. 1035.3 governing summary judgment to permit a party to request the trial court to provide on the record the reasons for the denial of summary judgment.

This proposal arose from a request of a state association seeking a procedural requirement for a court, upon motion, to state the reasons for granting or denying a motion for summary judgment. In support of its request, the association contended:

In Common Pleas courts, decisions granting and denying critical and often complex motions for summary judgment are sometimes issued by way of orders with no opinion explaining the basis for the decision. Orders without any stated reasons for the decision appear to be more common in some counties and less common in others.

When these important motions are decided without opinion, the parties are left without knowledge of what issues have been decided and how they were decided, often making it difficult to know how to proceed further with the case in regard to issues for trial and whether to attempt to settle. Often later judges in the same case, or in a subsequent case where the decision becomes pertinent, are in the dark as to the meaning of the decision.

The association noted that the present practice varies among judicial districts with some providing the rationale and others not at all. A rule would provide some level of statewide consistency. It also recognized the tension between the benefit of the parties receiving reasons and the anticipated burden on the judges who currently do not provide reasons.

Upon review of the proposal, the Committee agreed there is a benefit to the parties in understanding the rationale for the decision insofar as it better informs the parties as to which outstanding questions of material facts may exist, the applicability of the law to those facts, and whether a right of appeal may exist. This information may result in more productive settlement discussions, pretrial conferences, and trial of contested matters especially when the parties' stipulations and admission do not facilitate identification of material items of dispute.

In the absence of data to indicate the precise scope of present judicial practice of providing rationale, the Committee is unable to determine the extent of the burden such a requirement may place on judges who currently do not provide reasons. To lessen any burden, the Committee agreed that a statement of reasons should not be tantamount to a full opinion; rather, the reasons may be set forth in a brief written opinion, a written note appended to or footnoted in an order, or, as stated previously, orally on the transcribed record. Further, the Committee revised the proposal to remove any requirement for reasons for granting a motion for summary judgment. That rationale would be forthcoming in the form of a Pa.R.A.P. 1925 opinion if and when an appeal is taken from a final order. Moreover, the Committee believed that any procedural mechanism for requesting a statement of reasons should not result in the possibility of prolonging litigation or create more work than is necessary for the judge. Therefore, the Committee added to the rule that judicial non-compliance should neither be an appealable order nor serve as a basis for seeking judicial relief. As for the timing element, the Committee did not believe that 15 days was overly burdensome on a judge to disclose reasons for a recent decision. This deadline was intended to be directory, not mandatory.

In sum, the proposal would amend Rule 1035.3 to add subdivision (f) to permit a party to request the trial court to provide its reason for denying a motion for summary judgment and for the judge to provide the same within 15 days of the request. This new subdivision may change the present practice for some judges and the Committee specifically seeks input from those jurists. There may be a day when subdivision (f) becomes unnecessary when all judges, as a matter of course, provide their reasoning contemporaneous with an order denying a motion for summary judgement.

The Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.

#### **4 Rule 1035.3. Response. Judgment for Failure to Respond.**

(a) Except as provided in subdivision (e), the adverse party may not rest upon the mere allegations or denials of the pleadings but must file a response within **[thirty] 30** days after service of the motion identifying

(1) one or more issues of fact arising from evidence in the record controverting the evidence cited in support of the motion or from a challenge to the credibility of one or more witnesses testifying in support of the motion, or

Note: If the moving party has supported the motion with oral testimony only, the response may raise the defense that there is a genuine issue of material fact because the cause of action is dependent upon the credibility and demeanor of the witnesses who will testify at trial. **[See] See** *Nanty-Glo v. American Surety Co.*, 309 Pa. 236, 163 A. 523 (1932); *Penn Center House, Inc. v. Hoffman*, 520 Pa. 171, 553 A.2d 900 (1989).

(2) evidence in the record establishing the facts essential to the cause of action or defense which the motion cites as not having been produced.

(b) An adverse party may supplement the record or set forth the reasons why the party cannot present evidence essential to justify opposition to the motion and any action proposed to be taken by the party to present such evidence.

(c) The court may rule upon the motion for judgment or permit affidavits to be obtained, depositions to be taken or other discovery to be had or make such other order as is just.

(d) Summary judgment may be entered against a party who does not respond.

Note: Procedural requirements with respect to argument and briefs are governed by local rule.

In certain counties, the failure to respond to a motion may result in the motion being deemed uncontested and the entry of the judgment sought.

**[See] See** Rule 1035.2 providing for the entry of judgment in whole or in part.

(e)(1) Nothing in this rule is intended to prohibit a court, at any time prior to trial, from ruling upon a motion for summary judgment without written responses or briefs if no 5 party is prejudiced. A party is prejudiced if he or she is not given a full and fair opportunity to supplement the record and to oppose the motion.

(2) A court granting a motion under subdivision (e)(1) shall state the reasons for its decision in a written opinion or on the record.

Note: Subdivision (e) does not abrogate the requirement that a motion for summary judgment be timely filed pursuant to Rule 1035.2 or case management order.

If a motion is not timely filed, subdivision (e) provides the court with the discretion as to the manner of proceeding, including whether to consider the motion at all. The court should not consider the motion except in the interests of justice.

**(f) If the reasons for the order denying summary judgment do not appear of record, any party may, within ten days of the order, request the trial court to provide the reasons for such ruling, either in writing or orally, on the record within 15 days of the request. The failure of the trial court to provide such reasons pursuant to this subdivision shall not be immediately appealable nor an independent basis for judicial relief.**