

Adams County Legal Journal

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IN THIS ISSUE

COMMONWEALTH OF PENNSYLVANIA VS.
JOSE M. UTRERA-JUAREZ

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LEGAL NOTICE – ANNUAL MEETING

The annual meeting of the policyholders of the Protection Mutual Insurance Company of Littlestown will be held at the office located at 101 South Queen Street, in Littlestown, PA, between the hours of 1:00 and 2:00 pm on January 12, 2019 to elect directors and to transact any other business properly presented.

Attest: Scott A. Hawk
Secretary

12/14, 21, 28, & 1/4

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on December 18, 2018, with the Department of State of the Commonwealth of Pennsylvania, for the purpose of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania Corporation Law of 1988, approved December 21, 1988, L.P. 1444, No. 177, as amended.

The name of the corporation is SMITH-MERRY COUNSELING SERVICE INC., with its principal office or place of business at 665 Mehring Road, Littlestown, Pennsylvania 17340. The name and address of the person owning or interested in said business are: Nicole Smith-Merry: 665 Mehring Road, Littlestown, PA 17340.

12/28

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on or about December 12, 2018, with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the purpose of obtaining a Certificate of Incorporation for a business corporation organized under the Business Corporation Law of 1988, Act of December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is, GOOD FAITH ACCOUNTING, INC. The registered office of the corporation is P.O. Box 250, 8438 Carlisle Pike, York Springs, PA 17372.

This notice is given pursuant to Section 1307 of the Business Corporation Law of 1988.

John C. Zepp, III, Esq.,
P.O. Box 204
York Springs, PA 17372

12/28

DISSOLUTION NOTICE

NOTICE IS HEREBY GIVEN that DCMS, LLC, a Pennsylvania limited liability company, has voluntarily dissolved and now is engaged in the process of winding up and settling its affairs under the provisions of Subchapter G (15 Pa.C.S. §§ 8871 et seq.) of the Pennsylvania Uniform Limited Liability Company Act of 2016, as amended. As part of that process, under 15 Pa.C.S. §§ 8875, DCMS, LLC now gives notice that any persons having claims against DCMS, LLC present them in a detailed writing to the company, setting forth the amount and exact basis for the claim. The written notice describing the details of the claim shall be mailed to DCMS, LLC, c/o Cross & Company, 5301 Buckeystown Pike, Suite 304, Frederick, MD 21704. A claim against DCMS, LLC is barred unless an action to enforce the claim is commenced within two years after publication of this Notice.

J. Edgar Wine, Esq.
Dick, Stein, Schemel, Wine, & Frey, LLP
119 East Baltimore Street
Greencastle, PA 17225

12/28

COMMONWEALTH OF PENNSYLVANIA VS.
JOSE M. UTRERA-JUAREZ

1. Pennsylvania courts have employed an objective, totality of the circumstances approach in deciding whether an individual provided the necessary consent to search.

2. If the person voluntarily consents in response to an officer's request for a blood draw, there is no need to provide an explanation of the consequences of a refusal.

3. Citing an earlier case, the Superior Court explained the implied consent law 'does not require that a motorist's consent to a chemical test be informed but does require that a motorist's refusal be informed.'

4. Upon consideration of the totality of all the factors present in this case, this Court is of the opinion that the Commonwealth has met its burden of establishing that the Defendant's consent was the product of an essentially free and unconstrained choice, objectively valid and not the product of police coercion, deceit or misrepresentation. Therefore, Defendant knowingly and voluntarily consented to the search of his person and the warrantless blood draw was legal.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, CP-01-CR-626-2018, COMMONWEALTH OF
PENNSYLVANIA VS. JOSE M. UTRERA-JUAREZ

Robert A. Bain II, Esq., Attorney for Commonwealth

Raymond T. Dorizio, Esq., Attorney for Defendant

Wagner, J., December 6, 2018

OPINION ON DEFENDANT'S MOTION
FOR SUPPRESSION

Presently before the Court is Defendant Jose M. Utrera-Juarez' Motion to Suppress, filed October 15, 2018. A suppression hearing was held on November 15, 2018. The issue before this Court is whether Defendant gave knowing and voluntary consent to have his blood drawn in relation to his DUI arrest. Based upon the following Findings of Fact and Conclusions of Law, this Court will deny Defendant's Motion to Suppress.

FINDINGS OF FACT

1. Trooper Matthew Geiman is a Pennsylvania State Police Trooper with four years of experience as a law enforcement officer.
2. Trooper Geiman received training at the Pennsylvania State Police Academy and has conducted numerous vehicle stops in his career as a law enforcement officer.
3. On the morning of December 25, 2017 at 1:15 a.m., Trooper Geiman was on duty with Trooper Matthew Hochberg in full uniform and in a marked police vehicle at the intersection of

Route 234 and 194, East Berlin Borough, Adams County, Pennsylvania.¹

4. Trooper Geiman was stopped at a steady red traffic signal in the westbound lane of Route 234 when he observed a silver Honda Accord travelling west on Route 234 on the far side of the traffic signal. Trooper Geiman observed the Honda Accord accelerate rapidly, swerve in and out of the east and westbound lanes of Route 234 while spinning its tires and “fishtailing” side to side.
5. After the traffic light turned green, Trooper Geiman accelerated his vehicle, followed the Honda Accord and observed it cross the yellow center line numerous times.
6. Trooper Geiman observed the Honda Accord make a right turn onto Sixth Street without using a turn signal.² After making the turn, the Honda Accord pulled over, partially in the lane of travel, and stopped briefly before proceeding north on Sixth Street.³
7. Trooper Geiman observed the Honda Accord make a wide right turn on a curved section of Sixth Street and travel into the oncoming travel lane. Trooper Geiman observed the Honda Accord swerve back and forth across both travel lanes several times. The Honda Accord activated its right turn signal and drove through a properly marked stop sign without stopping or turning.⁴
8. Trooper Geiman activated his police vehicle’s emergency equipment after he observed the Honda Accord drive through the stop sign.
9. The Honda Accord stopped and Trooper Geiman identified Defendant as the driver of the Honda Accord.
10. Based upon Trooper Geiman’s observations of Defendant’s driving and his interactions with Defendant at the scene, Trooper Geiman placed Defendant under arrest for DUI and transported Defendant to Hanover Hospital.

¹ Weather conditions were mostly clear with some precipitation.

² This is a violation of 75 Pa.C.S.A. § 3334.

³ An MVR from Trooper Geiman’s vehicle was admitted into evidence by stipulation as Commonwealth’s Exhibit 1.

⁴ This is a violation of 75 Pa.C.S.A § 3323 and 75 Pa.C.S.A. § 3334.

11. At Hanover Hospital, while in a private room, Trooper Geiman contacted Language Line, a phone service that provides certified interpreters. A Spanish interpreter was connected and Trooper Geiman conversed with Defendant through the Spanish interpreter utilizing his cellular telephone.⁵
12. Through the Spanish interpreter, Trooper Geiman relayed the events of the traffic stop to Defendant and advised Defendant he believed Defendant was under the influence of alcohol to a degree that impaired his ability to drive his vehicle safely. Trooper Geiman advised Defendant that as part of the investigation for DUI, he was seeking a blood draw of Defendant's blood. Defendant indicated through the interpreter that he understood why he was at the hospital and what was occurring. Trooper Geiman asked Defendant, through the interpreter, if he would voluntarily submit to the blood draw. Defendant indicated he would. Trooper Geiman reiterated the request for a voluntary blood draw and Defendant again indicated he was willing to submit to the blood draw.
13. Trooper Geiman did not warn Defendant of any civil or criminal penalties for refusal of the blood test. Trooper Geiman did not read O'Connell warnings or the DL-26B form to Defendant.
14. Defendant was cooperative with Trooper Geiman during this process.
15. Defendant's blood was voluntarily drawn and sent to NMS Labs for testing.

CONCLUSIONS OF LAW

1. Trooper Geiman had reasonable suspicion and probable cause to stop Defendant's vehicle.
2. Trooper Geiman had probable cause to arrest Defendant for DUI.
3. Defendant's consent to provide a blood sample was knowing and voluntary.

⁵ Defendant speaks Spanish.

LEGAL STANDARD

In a suppression hearing, the Commonwealth has the burden to establish, by a preponderance of the evidence, the admissibility of those items the accused seeks to preclude. **Commonwealth v. Ruey**, 892 A.2d 802, 807 (Pa. 2006).

The Fourth Amendment of the United States Constitution guarantees “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”⁶ The Fourth Amendment is applicable to the states through the Fourteenth Amendment of the U.S. Constitution. **Commonwealth v. Kohl**, 615 A.2d 308, 311 (Pa. 1992). Pennsylvania’s Constitution specifically guarantees citizens the right to be “secure in their persons . . . from unreasonable searches and seizures.”⁷ A search or seizure is reasonable only if “it is conducted pursuant to a search warrant issued by a magistrate upon a showing of probable cause.” **Kohl**, 615 A.2d at 313. When police obtain evidence in violation of an individual’s Fourth Amendment rights, the Commonwealth is precluded from using that evidence at trial. **Commonwealth v. Pratt**, 930 A.2d 561, 563 (Pa. Super. 2007).

“The taking of a blood sample or the administration of a breath test is a search.” **Birchfield v. North Dakota**, 136 S. Ct. 2160, 2173 (2016). See also **Commonwealth v. Ellis**, 608 A.2d 1090, 1092 (Pa. Super. 1992) (citing **Commonwealth v. Hipp**, 551 A.2d 1086 (Pa. 1988)) (“The administration of a blood test is a search within the meaning of the Fourth Amendment if it is performed by an agent of the government.”). In the current case, the police officer requested Defendant provide a blood sample after arresting him for a DUI offense. Since Defendant’s blood was taken at the request of law enforcement, the blood draw was a search and must comply with both the Fourth Amendment of the United States Constitution and Article I, Section 8 of the Pennsylvania Constitution to be admissible at trial.

The United States Supreme Court has explicitly held “the Fourth Amendment permits warrantless breath tests incident to arrest for

⁶ U.S. Const. amend. IV.

⁷ Pa. Const. art. I, § 8.

drunk driving.”⁸ **Birchfield**, 136 S. Ct. at 2184. Conversely, absent an exception to the warrant requirement, a blood test conducted without a warrant, “incident to a lawful drunk-driving arrest[,]” violates the Fourth Amendment.⁹ **Id.** at 2185 n. 8.

DISCUSSION

Trooper Geiman did not obtain a search warrant prior to the blood draw. As the Commonwealth has not established an exigent circumstance, Defendant’s blood test results must be suppressed as an unreasonable search and seizure in violation of Article I, Section 8 of the Pennsylvania Constitution unless the Commonwealth establishes Defendant provided knowing and voluntary consent.¹⁰

The stain of an unconstitutional search may be erased when an individual has validly consented to the search. See **Commonwealth v. Cleckley**, 738 A.2d 427, 429 (Pa. 1999) (citing **Commonwealth v. Slaton**, 608 A.2d 5, 8-9 (Pa. 1992)). Pennsylvania courts have employed an objective, totality of the circumstances approach in deciding whether an individual provided the necessary consent to search. **Smith**, 77 A.3d at 573. “In order for consent to be valid, it must be ‘unequivocal, specific, and voluntary.’ The appellant must have intentionally relinquished or abandoned a known right or privilege.” **Commonwealth v. Dunne**, 690 A.2d 1233, 1236 (Pa. Super. 1997) (citing **Commonwealth v. Gibson**, 638 A.2d 203, 207 (Pa. 1994)).

In **Smith**, the Pennsylvania Supreme Court aptly stated:

In determining the validity of a given consent [to provide a blood sample], ‘the Commonwealth bears the burden of establishing that a consent is the product of an essentially free and unconstrained choice-not the result of duress or coercion, express or implied, or a will overborne-under

⁸ The Court found breath tests did not offend the Fourth Amendment since “breath tests are significantly less intrusive than blood tests and in most cases amply serve law enforcement interests” **Id.** at 2185.

⁹ As compared to a breath test, blood tests entail a significant bodily intrusion, as well as implicate serious concerns regarding an individual’s privacy rights. **Id.** at 2178.

¹⁰ The Commonwealth bears the burden of establishing Defendant knowingly and voluntarily consented to the search. **Commonwealth v. Smith**, 77 A.3d 562, 573 (Pa. 2013).

the totality of the circumstances.’ ‘The standard for measuring the scope of a person’s consent is based on an objective evaluation of what a reasonable person would have understood by the exchange between the officer and the person who gave the consent.’ Such evaluation includes an objective examination of ‘the maturity, sophistication and mental or emotional state of the defendant. . . .’ Gauging the scope of a defendant’s consent is an inherent and necessary part of the process of determining, on the totality of the circumstances presented, whether the consent is objectively valid, or instead the product of coercion, deceit, or misrepresentation.

Smith, 77 A.3d at 573. (internal citations omitted).

The Pennsylvania Supreme Court has also explained:

[e]valuation of the voluntariness of a defendant’s consent necessarily entails consideration of a variety of factors, factors which, of course, may vary depending on the circumstances. Accordingly, no hard and fast rule can be gleaned that would dictate what factors must be considered in each instance. We find instructive, however, the following factors considered by the Supreme Court of Appeals of West Virginia when evaluating the voluntariness of a defendant’s consent: 1) the defendant’s custodial status; 2) the use of duress or coercive tactics by law enforcement personnel; 3) the defendant’s knowledge of his right to refuse consent; 4) the defendant’s education and intelligence; 5) the defendant’s belief that no incriminating evidence will be found; and 6) the extent and level of the defendant’s cooperation with the law enforcement personnel.

Cleckley, 738 A.2d at 433 n. 7 (Pa. 1999) (adopting the factors espoused by the Supreme Court of Appeals of West Virginia).

At the point Defendant consented to the blood draw he was under arrest and in custody. Given the inherently coercive atmosphere of custodial arrest, this factor leans against a finding of a knowing and voluntary consent. Defendant was also never advised he had a right to refuse consent. See **Commonwealth v. Strickler**, 757 A.2d 884, 901 (Pa. 2000). However, this is not outcome determinative to a finding

of knowing and voluntary consent. See **Cleckley**, 738 A.2d at 433 (“[O]ne’s knowledge of his or her right to refuse consent remains a factor to consider in determining the validity of consent; it simply is not a determinative factor since other evidence is oftentimes adequate to prove the voluntariness of a consent.”). Here, even though Defendant was not told he could refuse the blood test, he knew he was consenting to the taking and search of his blood by law enforcement.

Despite the fact Defendant was in custody at the time he consented, there are a number of factors leaning towards a finding of knowing and voluntary consent. Trooper Geiman contacted Language Line for a Spanish interpreter to ensure effective communication. No evidence was presented to show Trooper Geiman acted in a coercive manner or subjected Defendant to a coercive atmosphere.¹¹ Defendant affirmatively consented to the blood draw. Defendant was cooperative throughout the process and no evidence was presented to show Defendant was argumentative or belligerent. Defendant indicated his understanding and desire to consent. Defendant had an opportunity to refuse to submit to the blood draw as Trooper Geiman asked Defendant several times if he was sure he wanted to consent.

Trooper Geiman never advised Defendant of the DL-26 form or the **O’Connell** warnings. Defendant did not ask Trooper Geiman any questions about the blood draw or what would happen if he refused. No testimony was presented that Trooper Geiman referenced criminal penalties for a refusal or that he threatened or coerced Defendant into consenting.

Defendant asserts that a defendant cannot provide knowing and voluntary consent to a blood draw unless he is advised of the warnings contained in the DL-26 form. However, based upon a plain reading of the statute, it does not appear a police officer must read the DL-26 form to a person arrested for a DUI offense prior to asking the person to submit to a blood draw.¹² **75 Pa. C.S.A. § 1547(b)(1)**

¹¹ The facts indicate Trooper Geiman took Defendant to a quiet location in Hanover Hospital to facilitate communication through a Spanish interpreter on the phone.

¹² This Court has found no case law suggesting a contrary reading of the statute. Conversely, since a license suspension is triggered when an individual refuses to submit to the blood test, a person must be given the warnings before a license suspension can be imposed. **Weems v. Commonwealth, Dep’t of Transp., Bureau of Driver Licensing**, 990 A.2d 1208, 1211-12 (Commw. Ct. 2010).

states “[i]f any person placed under arrest for a violation of section 3802 is requested to submit to chemical testing and refuses to do so, the testing shall not be conducted. . . .” (emphasis added). If the person voluntarily consents in response to an officer’s request for a blood draw, there is no need to provide an explanation of the consequences of a refusal.

In **Commonwealth v. McCoy**, 895 A.2d 18, 27 (Pa. Super. 2006), Defendant consented to a blood draw after being arrested for DUI. On appeal Defendant claimed, among other things, his consent was invalid because the officer provided him with “incorrect implied consent warnings, gave incomplete warnings and gave an incorrect statement of the law. . . .” **Id.** at 24.¹³ Specifically, he argued the warning failed to tell him that a person who refuses the chemical test will receive a sentencing enhancement. **Id.** at 27. The Superior Court found Defendant’s argument unpersuasive because Defendant had consented to the blood draw. **Id.** at 27-28. Citing an earlier case, the Superior Court explained the implied consent law “does not require that a motorist’s consent to a chemical test be informed but does require that a motorist’s refusal be informed.” (internal citation omitted). **Id.** at 28. See also, **Commonwealth v. Gorbea-Lespier**, 66 A.3d 382 (Pa. Super. 2013) where the Superior Court stated:

Moreover, in **O’Connell**, our Supreme Court held that when an arrestee **refuses** to take a breathalyzer test, the police must inform the arrestee that his license will be suspended for one year. As such, we find the need for **O’Connell** warnings was not triggered in the current situation, for those warnings need only be given to an arrestee when the arrestee refuses to submit to a test to determine the alcoholic content of blood, whether it is a breathalyzer or actual blood test.

Id. at 389. (emphasis in original). Therefore, in the current case, because Defendant voluntarily consented to the blood draw, the fact he was never provided with the DL-26 form will not invalidate his consent.

Defendant cites to **Commonwealth v. Myers**, 164 A.3d 1162 (Pa. 2017) in support of his argument that a defendant cannot provide knowing and voluntary consent to a blood draw unless he is advised

¹³ The officer provided Defendant an older version of the DL-26 form. **Id.** at 27.

of the warning contained in the DL-26 form. In **Myers**, the Pennsylvania Supreme Court held that an unconscious defendant was unable to provide knowing and voluntary consent to have his blood drawn. In support of his argument, Defendant refers to the following language in **Myers**:

Consistent with our understanding of the statute in **O’Connell**, we conclude that a DUI arrestee must be provided with an opportunity to make a “knowing and conscious choice” between providing voluntary consent to a chemical test or accepting the consequences that will follow from the refusal to do so. Implied consent, standing alone, does not satisfy the constitutional requirements for the searches that the statute contemplates. If neither voluntary consent nor some other valid exception to the warrant requirement is established, then a chemical test may be conducted only pursuant to a search warrant.

Id. at 1180-1181.

It is noted that the section of the **Myers** opinion that Defendant references only received support from three justices, and thus, is not binding precedent. See, **Mt. Lebanon v. County Bd. of Elections of Allegheny County**, 368 A.2d 648 (Pa. 1977). Furthermore, Defendant’s reliance on the above language from **Myers** is misplaced. In **Myers**, the defendant was unconscious and therefore was unable to provide knowing and voluntary consent to have his blood drawn. The Superior Court has addressed applying **Myers** to a conscious defendant in **Commonwealth v. Miller**, 186 A.3d 448 (Pa. Super. 2018). The Superior Court in **Miller** noted:

First, Appellee relies heavily on [Myers] in support of his contention that his consent was not voluntary. This argument, however, is based on a misunderstanding of the facts in **Myers**. In **Myers**, the defendant was unconscious. Hence, our Supreme Court held that the defendant was pharmacologically incapable of consenting to a blood draw. [**Myers**, 164 A.3d] at 1181. **Myers** does not implicate consent by individuals who are conscious, like Appellee in this case. Accordingly, Appellee’s heavy reliance on **Myers** is misplaced.

Id. at 451 (citation modified for clarity).

It is clear that **Myers** applies to defendants who are unconscious and thus unable to make a knowing and conscious choice whether to provide voluntary consent. As Defendant was conscious at the time Trooper Geiman requested Defendant submit to a blood draw, **Myers** is not controlling.

Defendant does not cite to any appellate case decided after **Myers** which supports Defendant's position, that in order to obtain a knowing and voluntary consent to a blood test, a conscious DUI arrestee must be read the DL-26 form first. This Court has found no appellate authority supporting Defendant's position.

Furthermore, we note a recent Adams County case affirmed by the Superior Court after **Myers, Commonwealth v. Malinowski**, 401 MDA 2017 (Jan 17, 2018).¹⁴ In **Malinowski**, the Officer asked for appellant's consent to a blood draw, did not discuss consequences for refusal, and did not read the DL-26 form to appellant. Similar to the instant case, appellant indicated he would consent to the blood draw. The Superior Court rejected the appellant's argument that consent was not voluntary on the basis of his own subjective belief in enhanced penalties for refusal and applied a totality of the circumstances test in finding his consent voluntary.

Upon consideration of the totality of all the factors present in this case, this Court is of the opinion that the Commonwealth has met its burden of establishing that Defendant's consent was the product of an essentially free and unconstrained choice, objectively valid and not the product of police coercion, deceit or misrepresentation. Therefore, Defendant knowingly and voluntarily consented to the search of his person and the warrantless blood draw was legal. Defendant's Motion to Suppress the Blood Test results is denied.

¹⁴ In noting an unpublished Superior Court decision, this Court acknowledges **Malinowski** is non-precedential. See Superior Court Internal Operating Procedure § 65.37; 210 Pa.Code § 65.37 and **Liberty Mut. Ins. Co. v. Domtar Paper Co.**, 77 A.3d 1282, 1286 (2013). However, the **Malinowski** decision was based on several published opinions relied on by this Court. Furthermore, **Malinowski** is an appeal from an Adams County Court of Common Pleas decision.

SHERIFF SALES

IN PURSUANCE of writs of execution issuing out of the Court of Common Pleas of Adams County, Pennsylvania, and to me directed, will be exposed to Public Sale on Friday, the 18th day of January 2019, at 10:00 o'clock in the forenoon at the 4th floor Jury Assembly room in the Adams County Court House, 117 Baltimore Street, Gettysburg, Adams County, PA, the following real estate, viz.:

No. 18-SU-466
WELLS FARGO BANK, NA
 vs.
SHEILA K. BAKER, DENNIS E. BOONE
 Property: 753 White Hall Road, Littlestown, PA 17340
 Parcel: 32115-0009---000
 Property situate in the Mt. Pleasant Township, Adams County, Pennsylvania
 Improvements thereon: Residential Dwelling
 Judgment Amount: \$73,000.37
 Attorneys for Plaintiff:
 Phelan Hallinan Diamond & Jones, LLP

No. 18-SU-809
WELLS FARGO BANK, NA
 vs.
CORY A. BIXLER
 Property: 113 Linden Avenue, Hanover, PA 17331
 Parcel: 08008-0122
 Owner(s) of property situate in Conewago Township, Adams County, Pennsylvania
 Improvements thereon: Residential Dwelling
 Judgment Amount: \$90,459.42
 Attorneys for Plaintiff:
 Phelan Hallinan Diamond & Jones, LLP

No. 18-SU-784
THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2007-10
 vs.
DAVID L. BROCKHOEFT, THE UNITED STATES OF AMERICA, DENA M. BANDA BROCKHOEFT
 Property: 13 Helen Trail, Fairfield, PA 17320
 Parcel: 43016-0043---000.
 Borough of Carroll Valley, formerly Liberty Township, Adams County Pennsylvania
 Improvements thereon consist of Residential Real Estate
 Judgment Amount: \$488,152.00
 Attorneys for Plaintiff:
 Stern & Eisenberg, PC
 1581 Main Street, Suite 200
 The Shops at Valley Square
 Warrington, PA 18976

No. 17-SU-819
MTGLQ INVESTORS LP
 vs.
MEAGAN H. DELAWDER, PHOENIX A. DELAWDER
 Property: 18 Deep Powder Trail, Fairfield, PA 17320
 Parcel: 43007-0030---000
 Township or Borough: Carroll Valley Borough
 Improvements Thereon: Residential Dwelling
 Judgment Amount: \$250,506.61
 Attorneys For Plaintiff:
 Martha E. Von Rosenstiel, P.C.

No. 18-SU-644
BAYVIEW LOAN SERVICING, LLC
 vs.
CHARLES E. ELBURN, JR., JUDITH A. ELBURN
 Property: 2465 Emmittsburg Road, Gettysburg, PA 17325
 Parcel: 16-0012---000
 Cumberland Township
 Improvements: Residential Dwelling
 Judgment: \$101,902.93
 Attorneys for Plaintiff:
 Milstead & Associates, LLC
 1 E. Stow Road
 Marlton, NJ 08053
 (856) 482-1400

No. 18-SU-818
BAYVIEW LOAN SERVICING, LLC
 vs.
STEPHEN M. FARKAS
 Property: 1605 Waynesboro Pike, Fairfield, PA 17320
 Parcel: 25B17-0095-000
 Liberty Township, Adams County, Pennsylvania
 Improvements Thereon: Residential Dwelling
 Judgment Amount: \$240,452.17
 Attorneys for Plaintiff:
 KML Law Group, P.C.

No. 18-SU-78
BROAD STREET FUNDING TRUST I
 vs.
DEBRA FUNT, KNOWN SURVIVING HEIR OF MARVEL B. DRYBREAD, KATHY SMITH, KNOWN SURVIVING HEIR OF MARVEL B. DRYBREAD, RANDY DRYBREAD, KNOWN SURVIVING HEIR OF MARVEL B. DRYBREAD, UNKNOWN SURVIVING HEIRS OF MARVEL B. DRYBREAD, UNITED STATES OF AMERICA C/O UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
 Property: 1968 Wenksville Road, Biglerville, PA 17307
 Parcel: 29D05-0017---000
 All that certain piece or parcel or Tract of land situate in the Township of Menallen, Adams County, Pennsylvania

Improvements Thereon Are: Residential Dwelling
 Judgment Amount: \$85,212.70
 Attorneys for Plaintiff:
 McCabe, Weisberg & Conway, LLC
 123 South Broad Street, Suite 1400
 Philadelphia, PA 19109

No. 18-SU-370
MORGAN STANLEY MORTGAGE LOAN TRUST 2006-7, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR IN INTEREST TO BANK OF AMERICA, NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR BY MERGER TO LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE
 vs.
MEENA GANGWAL
 Property: 128-130 Carlisle Street, a/k/a 130 Carlisle Street, Gettysburg, PA 17325
 Parcel: 16007-0097--000
 Property situate in the Borough of Gettysburg, Adams County, Pennsylvania
 Improvements thereon: Residential Dwelling
 Judgment Amount: \$249,731.55
 Attorneys for Plaintiff:
 Parker McCay, PA
 9000 Midlantic Drive, Suite 300
 P.O. Box 5054
 Mount Laurel, New Jersey 08054

NOTICE directed to all parties in interest and claimants that a schedule of distribution will be filed by the Sheriff in his office no later than (30) thirty days after the date of sale and that distribution will be made in accordance with that schedule unless exceptions are filed thereto within (10) ten days thereafter.

Purchaser must settle for property on or before filing date. ALL claims to property must be filed with Sheriff before sale date.

AS SOON AS THE PROPERTY IS DECLARED SOLD TO THE HIGHEST BIDDER 20% OF THE PURCHASE PRICE OR ALL OF THE COST, WHICHEVER MAY BE THE HIGHER, SHALL BE PAID FORTHWITH TO THE SHERIFF.

James W. Muller
 Sheriff of Adams County
 www.adamscounty.us
 12/21, 12/28 & 1/4

SHERIFF SALES

IN PURSUANCE of writs of execution issuing out of the Court of Common Pleas of Adams County, Pennsylvania, and to me directed, will be exposed to Public Sale on Friday, the 18th day of January 2019, at 10:00 o'clock in the forenoon at the 4th floor Jury Assembly room in the Adams County Court House, 117 Baltimore Street, Gettysburg, Adams County, PA, the following real estate, viz.:

**No. 14-SU-863
WILMINGTON TRUST COMPANY, AS TRUSTEE FOR MERRILL LYNCH MORTGAGE INVEST**

vs.

SHAWN D. GREEN, GLEN D. GREEN
Property: 50 Five Forks Lane, Fairfield, PA 17320

Parcel: 18a17-0003a---000
Improvements thereon of Residential Dwelling

Judgment Amount: \$156,461.25
Attorneys for Plaintiff:
Manley Deas Kochalski, LLC
P.O. Box 165028
Columbus, OH 43216-5028
614-220-5611

**No. 17-SU-114
DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE FOR MERRILL LYNCH MORTGAGE INVESTORS TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007-MLN1**

vs.

SHANE MICHAEL HULL, EMILY HULL
Property: 40 Sowers Road, East Berlin, PA 17316

Parcel: 36K05-0033---000
Reading Township
Improvements: Residential
Judgment Amount: \$344,233.52
Attorneys for Plaintiff
Milstead & Associates, LLC
1 E. Stow Road
Marlton, NJ 08053
(856) 482-1400

**No. 17-SU-21
FIFTH THIRD MORTGAGE COMPANY**

vs.

KEVIN J. KRENTLER, TAMMY S. KRENTLER
Property: 1315 Red Hill Road, New Oxford, PA 17350

Parcel: 35K1-1-0105d--00
Property Situate in Oxford Township, Adams County, Pennsylvania
Improvements thereon: Residential Dwelling
Judgment Amount: \$89,890.99
Attorneys for Plaintiff:
Phelan Hallinan Diamond & Jones, LLP

**No. 18-SU-617
WELLS FARGO BANK, NA,
SUCCESSOR BY MERGER TO
WACHOVIA BANK, NA**

vs.

MEGAN S. MCCLINTOCK
Property: 152 Lumber Street,
Littlestown, PA 17340
Parcel: 27008-0328A-000
Improvements thereon of Residential Dwelling
Judgment Amount: \$99,876.30
Attorneys for Plaintiff
Manley Deas Kochalski, LLC
Columbus, OH 43216-5028
614-220-5611

**No. 18-SU-420
WELLS FARGO BANK, NA**

vs.

MONICA LYNN MEYER
Property: 3318 Carlisle Road, Gardners, PA 17324
Parcel: 22G03-0071---000
Township of Huntingdon, PA
Improvements of Residential Dwelling
Judgment Amount: \$69,595.09
Attorneys for Plaintiff
Manley Deas Kochalski, LLC
Columbus, OH 43216-5028
614-220-5611

**No. 13-SU-637
WELLS FARGO BANK NA**

vs.

BRENDA L. MOHNEY
Property: 6167 Old Harrisburg Road,
York Springs, PA 17372
Parcel: 22105-0071---000
Owner(s) of property situate in the
Huntington Township, Adams County,
Pennsylvania, being Residential
Dwelling
Judgment Amount: \$188,693.06
Attorneys for Plaintiff:
Phelan Hallinan Diamond & Jones, LLP

**No. 18-SU-871
LAKEVIEW LOAN SERVICING, LLC**

vs.

PATRICIA ELAINE NESS, REBECCA PEAKE
Property: 15 Rhododendron Drive,
Orrtanna, PA 17353
Parcel: 12A090096 000
Property situate in Franklin Township,
Adams County, Pennsylvania
Improvements thereon: Residential
Dwelling
Judgment Amount: \$176,033.84
Attorneys for Plaintiff:
Phelan Hallinan Diamond & Jones, LLP

**No. 16-SU-1053
WILMINGTON SAVINGS FUND
SOCIETY, FSB, D/B/A CHRISTIANA
TRUST**

vs.

CHARLES E. NICHOLSON
Property: 33 Red Bird Lane,
Gettysburg, PA 17325
Parcel 06002-0016---000
Bonneauville Borough, County of
Adams, Commonwealth of
Pennsylvania
Improvements: Residential Dwelling
Judgment Amount: \$118,921.53
Attorneys for Plaintiff:
Richard M. Squire & Associates, LLC
Jenkintown, PA 19046
Phone: 215/886-8790

**No. 18-SU-399
WELLS FARGO BANK, N.A., S/B/M
TO WELLS FARGO HOME
MORTGAGE, INC.,**

vs.

JOLENE E. POLLOCK
Property: 104 North Howard Avenue,
Gettysburg, PA 17325
Owner(s) of property situate in
Gettysburg Borough, Adams County,
Pennsylvania
Improvements thereon: Residential
Dwelling
Parcel: 16006-0047A---000
Judgment Amount: \$126,989.44
Attorneys for Plaintiff:
Phelan Hallinan Diamond & Jones, LLP

NOTICE directed to all parties in interest and claimants that a schedule of distribution will be filed by the Sheriff in his office no later than (30) thirty days after the date of sale and that distribution will be made in accordance with that schedule unless exceptions are filed thereto within (10) ten days thereafter.

Purchaser must settle for property on or before filing date. ALL claims to property must be filed with Sheriff before sale date.

AS SOON AS THE PROPERTY IS DECLARED SOLD TO THE HIGHEST BIDDER 20% OF THE PURCHASE PRICE OR ALL OF THE COST, WHICHEVER MAY BE THE HIGHER, SHALL BE PAID FORTHWITH TO THE SHERIFF.

James W. Muller
Sheriff of Adams County
www.adamscounty.us
12/21, 12/28 & 1/4

SHERIFF SALES

IN PURSUANCE of writs of execution issuing out of the Court of Common Pleas of Adams County, Pennsylvania, and to me directed, will be exposed to Public Sale on Friday, the 18th day of January 2019, at 10:00 o'clock in the forenoon at the 4th floor Jury Assembly room in the Adams County Court House, 117 Baltimore Street, Gettysburg, Adams County, PA, the following real estate, viz.:

Purchaser must settle for property on or before filing date. ALL claims to property must be filed with Sheriff before sale date.

AS SOON AS THE PROPERTY IS DECLARED SOLD TO THE HIGHEST BIDDER 20% OF THE PURCHASE PRICE OR ALL OF THE COST, WHICHEVER MAY BE THE HIGHER, SHALL BE PAID FORTHWITH TO THE SHERIFF.

James W. Muller
Sheriff of Adams County

www.adamscounty.us
12/21, 12/28 & 1/4

No. 18-SU-165
OCWEN LOAN SERVICING, LLC

vs.

BOBBI J. SAVELESKI, ROBERT LYNN SAVELESKI

Property: 50 700 Road, New Oxford, PA 17350

Parcel: 35110-0063-000
Oxford Township, County of Adams, Commonwealth of Pennsylvania
Improvements thereon: Residential Dwelling
Judgment Amount: \$126,989.44

No. 18-SU-168
FIRST NATIONAL BANK OF PENNSYLVANIA

vs.

VISTA INVESTMENTS, LLC, VISTA INVESTMENTS, LLC

Property: 3375 Carlisle Road, Gardners, PA 17324

Parcel: 40G04-0025A--000
Tyrone Township, Pennsylvania
Improvements on residential dwelling
Judgment Amount: \$926,928.93
Attorneys for Plaintiff:
Scott A. Dieterick, Esquire
JSDC Law Offices.

No. 14-SU-1484
CITIBANK, N.A., AS TRUSTEE ON BEHALF OF THE NRZ PASS-THROUGH TRUST VI,

vs.

DORIS M. WALTER, PAUL J. WALTER, JR.

Property: 17 Pin Oak Drive, Gettysburg, PA 17325

Parcel: 06-006-0009B-000
Improvements thereon consist of a residential dwelling
Judgment Amount: \$227,828.18
Attorneys for Plaintiff:
Stephen M. Hladik, Esquire
Hladik, Onorato & Federman, LLP
298 Wissahickon Avenue
North Wales, PA 1945

NOTICE directed to all parties in interest and claimants that a schedule of distribution will be filed by the Sheriff in his office no later than (30) thirty days after the date of sale and that distribution will be made in accordance with that schedule unless exceptions are filed thereto within (10) ten days thereafter.

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary or of administration to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION**ESTATE OF STEVEN FRED AIKENS, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Administratrix: Mrs. Jo Anne Aikens, 757 Lingg Road, New Oxford, PA 17350

Attorney: George W. Swartz, II, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF MARLENE ANN AUMEN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Michael Alan Aumen, 135 Sherry Drive, McSherrystown, PA 17344

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

ESTATE OF GERALD J. GROFT, SR. a/k/a GERALD J. GROFT, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executor: Gerald J. Groft, Jr., c/o Barley Snyder, LLP, 14 Center Square, Hanover, PA 17331

Attorney: Barley Snyder, LLP, 14 Center Square, Hanover, PA 17331

ESTATE OF TERRI L. NEIDERER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executrix: Christine A Clouser, c/o John J. Murphy III, Esq., Patrono & Murphy, LLC, 28 West Middle Street, Gettysburg, PA 17325

Attorney: John J. Murphy III, Esq., Patrono & Murphy, LLC, 28 West Middle Street, Gettysburg, PA 17325

ESTATE OF EFFIE LOU SHEELY, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania

Executor: Eugene Blake Lippy, 248 Glenville Road, Hanover, PA 17331

Attorney: Larry W. Wolf, P.C., 215 Broadway, Hanover PA 17331

SECOND PUBLICATION**ESTATE OF JEAN S. HOLDER, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executor: William L. Holder, 29 Long Lane, Middletown, CT 06457

Attorney: Teeter Law Office, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF EDNA REBECCA MATTHEWS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Patsy A. Leese, c/o Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

Attorney: Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

ESTATE OF LEROY C. MILHIMES, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Donald L. Milhimes, P.O. Box 4882, Gettysburg, PA 17325

Attorney: Henry O. Heiser, III, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RICHARD F. ORNDORFF, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executrix: Doris R. Bunty, 660-F Green Springs Road, Hanover, PA 17331

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

ESTATE OF MARY LILLIAN PIFER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Juanita Gonzalez, 21 Highland Avenue, Hanover, PA 17331

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

ESTATE OF HERMAN J. REDDING, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: Jane M. Redding, 14824 Sabillasville Road, Thurmont, MD 21788; William J. Redding, 1029 Ram Drive, Apt. 48, Hanover, PA 17331; Anthony D. Redding, 1029 Old Route 30, Orrtanna, PA 17353

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARY ESTHER REED, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

David E. Reed, 3903 Valrico Grove Drive, Valrico, FL 33594

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF FAYE G. SLUSSER, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executrix: Valerie S. Gemmill, 1124 Hawley Drive, Lancaster, PA 17603

Attorney: Teeter Law Office, 108 West Middle Street, Gettysburg, PA 17325

THIRD PUBLICATION**ESTATE OF NANCY K. BUCHER, a/k/a NANCY KERCHNER BUCHER, DEC'D**

Late of Conewago Township, Adams County, Pennsylvania

Executor: Leonard T. Bucher, 8 Wheaton Drive, Littlestown, PA 17340

ESTATE OF MARY P. COOKSON, DEC'D

Late of Union Township, Adams County, Pennsylvania

Sarah L. Cookson, 4872 Blue Hill Road, Glenville, PA 17329

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ANNE M. EVANS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: G. Glenn Evans, 8985 El Matador Drive, Gilroy, CA 95020

Attorney: Phillips & Phillips, 101 West Middle Street, Gettysburg, PA 17325

ESTATE OF GLORIA M. MCMASTER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executors: Denise E. McMaster Bechtel, 370 McSherry Woods Drive, Littlestown, PA 17340; David A. McMaster, 1603 Cottonwood Trail, Yorkville, IL 60560

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

THIRD PUBLICATION CONTINUED

ESTATE OF HELENA P. ROHRBAUGH, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Deborah C. Bragg, 8902 Parlo Road, Baltimore, MD 21236

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF PHILIP S. WRIGHT, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executrix: Elaine L. Craig, 369 Blooming Grove Road, Hanover, PA 17331

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

ESTATE OF CHARLES VEST, JR., DEC'D

Late of the Borough of Carroll Valley, Adams County, Pennsylvania

Executrix: Katherine V. Moore, 115 Settlement Drive, Hedgesville, WV 25427

Attorney: Matthew R. Battersby, Esq., Battersby Law Office, P.O. Box 215, Fairfield, PA 17320

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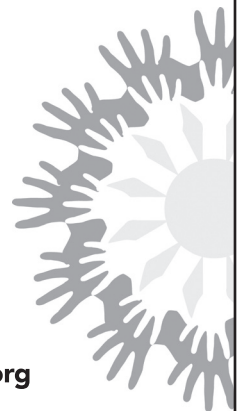
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