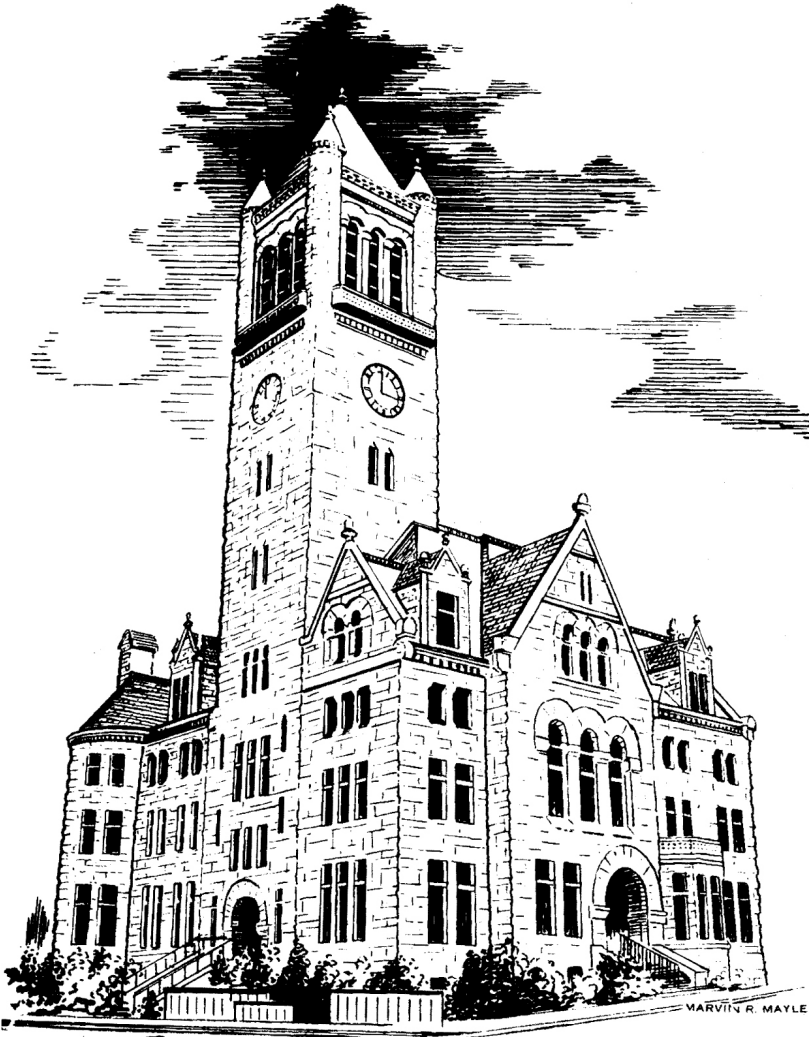


FAYETTE LEGAL JOURNAL

VOL. 80

JUNE 3, 2017

NO. 22



FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 2 West Main Street, Suite 711, 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. Crossland and Melinda Deal Dellarose

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

FAYETTE COUNTY BAR ASSOCIATION Board of Directors

President: John M. Purcell

President Elect: Gary N. Altman

Vice-President: James Higinbotham, Jr.

Secretary: Bernard C. John

Treasurer: Vincent J. Roskovensky, II

Past President: Anne N. John

Executive Director: Garnet L. Crossland

Directors

Davina D. Burd

Carolyn W. Maricondi

William M. Martin

Wendy L. O'Brien

Robert A. Gordon

Douglas S. Sholtis

Sheryl R. Heid

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.

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

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

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

DANIEL CASINI, A/K/A DANTE N. CASINI, late of Connellsville, Fayette County, PA (3)

Executor: Daniel Casini
c/o Casini & Geibig, LLC
615 West Crawford Avenue
Connellsville, PA 15425
Attorney: Jennifer M. Casini

CAROLYN A. HART, late of Everson Borough, Fayette County, PA (3)

Personal Representative: Dean A. Hart
329 Brown Street
Everson, PA 15631
c/o 815A Memorial Boulevard
Connellsville, PA 15425
Attorney: Margaret Zylka House

MARY KUZAR, late of Everson Borough, Fayette County, PA (3)

Personal Representative: Joan Orlando
c/o P.O. Box 760
Connellsville, PA 15425
Attorney: Carolyn W. Maricondi

ROBERT EUGENE LILLEY, late of Uniontown, Fayette County, PA (3)

Personal Representative: Dorothy Dale
c/o Zerega Law Office
212 North Gallatin Avenue
Uniontown, PA 15401
Attorney: Dianne H. Zerega

DONALD ROBERT PRITTS, A/K/A DONALD R. PRITTS, late of Saltlick Township, Fayette County, PA (3)

Personal Representative:
Allison Deanne Pritts
c/o 111 East Main Street
Uniontown, PA 15401
Attorney: Melinda Deal Dellarose

WILLIAM SNYDER, late of Bullsken Township, Fayette County, PA (3)

Executor: Mark Snyder
c/o 382 West Chestnut Street, Suite 102
Washington, PA 15301-4642
Attorney: Frank C. Roney, Jr.

Second Publication

MARY M. ALLOWATT, late of Franklin Township, Fayette County, PA (2)

Co-Executor: Betty J. Carpeal
805 First Street
Keisterville, PA 15449
Co-Executor: Patty A. Martini
228 Elm Lane
Duncansville, PA 16635

JOHN C. BOONE, A/K/A JOHN CLARENCE BOONE, late of Perryopolis, Fayette County, PA (2)

Executrix: Margaret Ann Clay
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

HELEN M. GUEST, late of Lower Tyrone Township, Fayette County, PA (2)

Personal Representative: Terry L. Kupets
c/o Riverfront Professional Center
208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

THOMAS MATTISH, late of Luzerne Township, Fayette County, PA (2)
Executor: Joseph A. Bochna
 c/o 51 East South Street
 Uniontown, PA 15401
Attorney: Anthony S. Dedola

JESSIE EILEEN POSTLETHWALT, A/K/A JESSIE EILEEN ADAMS, late of Connellsville, Fayette County, PA (2)
Executrix: Deborah Lynn Adams, a/k/a Deborah Lynn King
 c/o Casini & Geibig, LLC
 615 West Crawford Avenue
 Connellsville, PA 15425
Attorney: Jennifer M. Casini

EVELYN STAUFFER, late of Perry Township, Fayette County, PA (2)
Executrix: Yvonne K. Stauffer
 c/o Davis & Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: Gary J. Frankhouser

ERMA T. ZEMA, late of Belle Vernon Boro, Fayette County, PA (2)
Executor: Gary G. Zema
 57 Park Terrace East, Apt. B89
 New York, NY 10034
 c/o PO Box 384
 Shaner Road
 Rillton, PA 15678
Attorney: Kimberly J. Gallagher

First Publication

ROBERT ALDERTON, A/K/A ROBERT DALE ALDERTON, late of Menallen Township, Fayette County, PA (1)
Administratrix: Linda Lobash
 c/o P. O. Box 622
 Smithfield, PA 15478
Attorney: Charity Grimm Krupa

GARY GALENSKY, SR., late Belle Vernon, Fayette County, PA (1)
Executor: Gary Galensky, Jr.
 111 Pepper Drive
 Los Altos, CA 94022
 c/o Law Offices of Tamora L. Reese, LLC
 87 East Maiden Street, Suite 22
 Washington, PA 15301
Attorney: Tamora L. Reese

JACQUELYN GALLAGHER, late of Dunbar Township, Fayette County, PA (1)
Executrix: Denise L. Gallagher
 255 Creek Road
 Scottdale, PA 15683

VIOLA MEDVED, A/K/A VIOLA VIRGINIA MEDVED, late of Springhill Township, Fayette County, PA (1)
Executor: Michael Medved
 c/o P.O. Box 622
 Smithfield, PA 15478
Attorney: Charity Grimm Krupa

ETTA MAY SECHRIST, A/K/A ETTA M. SECHRIST, late of Lower Tyrone Township, Fayette County, PA (1)
Personal Representatives:
 Melvin D. Sechrist and Stacy J. Stillwagon
 c/o Watson Mundorff Brooks & Sepic
 720 Vanderbilt Road
 Connellsville, PA 15425
Attorney: Charles W. Watson

LEGAL NOTICES

NOTICE

Notice is hereby given that a Certificate of Organization of a Domestic Limited Liability Company has been approved and filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on February 16, 2017 for a Limited Liability Company, known as my: Glad Rags, LLC. Said Limited Liability Company has been organized under the provisions of the Business Corporation Law of 1998 of the Commonwealth of Pennsylvania.

The purpose of the Limited Liability Company is to engage in retail sales of women's clothing and related accessories and any and all lawful business related thereto for which Limited Liability Companies may be organized under the Business Corporation Law.

John A. Kopas III, Esquire
556 Morgantown Road
Uniontown, PA 15401
Telephone: 724-437-1111

NOTICE

NOTICE is hereby given pursuant to the provisions of Act 295 of December 16, 1982, P.L. 1309, that a Certificate was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about May 15, 2017 to conduct a business in Fayette County, Pennsylvania, under the assumed or fictitious name of Appalachian Mountain Quarry, with the principal place of business at 83 Swenglish Lane Smithfield, PA 15478. The name or names and addresses of persons owning and interested are Swenglish & Sons, Inc.

James Higinbotham
45 East Main Street, Suite 500
Uniontown, Pennsylvania 15401

NOTICE OF ACTION IN MORTGAGE
FORECLOSURE
IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL ACTION-LAW
NO. 2489 of 2016 GD

Lakeview Loan Servicing, LLC,
Plaintiff,
vs.
David A. Palmer,
Defendant.

NOTICE OF SALE OF REAL PROPERTY

To: David A. Palmer, Defendant, whose last known address is 58 Springer Avenue, Uniontown, PA 15401. Your house (real estate) at 58 Springer Avenue, Uniontown, PA 15401 is scheduled to be sold at the Sheriff's Sale on 10/12/17 at 2:00 p.m. at the Fayette County Courthouse, Uniontown, PA, to enforce the court judgment of \$82,340.35, obtained by Plaintiff above (the mortgagee) against you. If the sale is postponed, the property will be relisted for the Next Available Sale. PROPERTY DESCRIPTION: ALL that certain Lot or piece of ground situate in the City of Uniontown (formerly Township of North Union), County of Fayette and Commonwealth of Pennsylvania, being Lot No. 3 in the James A. Deffenbaugh Plan, recorded in the Recorder's Office of Fayette County, Pennsylvania, in Plan Book Volume 8, Page 120, and being bounded and described as follows: BEGINNING at a point on the Northeasterly side of Springer Avenue at the line dividing Lots Nos. 3 and 4 in said plan; thence along said dividing line North 31 degrees, 47 minutes East, 174.72 feet to the Southwesterly side of a 15-foot alley; thence along said side of said alley, South 56 degrees, 42 minutes East, 50.02 feet to a point on the line dividing Lots Nos. 2 and 3 in said plan; thence along said dividing line South 31 degrees, 47 minutes West, 173.58 feet to a point on the Northeasterly side of Springer Avenue; thence along said side of Springer Avenue North 58 degrees, 00 minutes West, 50 feet to line dividing Lots Nos. 3 and 4 in said plan, at the place of BEGINNING. EXCEPTING AND RESERVING thereout and therefrom all the nine-foot vein of Connellsville Coking Coal and underlying materials under said tot, together with all mining rights and privileges as

contained in deed from Jane E. Johnson to Presley H. Moore, dated January 28, 1889, and recorded in the Recorder's Office of Fayette County in Deed Book Volume 81, Page 383. BEING THE SAME PREMISES AS Carol Diane Palaisa, Executrix of the Last Will of Dorothy Jean Hopwood, by Deed dated February 18, 2011, and recorded on February 28, 2011, by the Fayette County Recorder of Deeds in Deed Book 3147, Page 2311, as Instrument Number 201100002384, granted and conveyed unto David A. Palmer. BEING KNOWN AND NUMBERED AS 58 Springer Avenue, Uniontown, PA 15401. TAX PARCEL NO. 38-05-0030. STERN & EISENBERG, PC, Attys. for Plaintiff, 1581 Main St., Ste. 200, The Shops at Valley Sq., Warrington, PA 18976, 215.572.8111

FICTITIOUS NAME REGISTRATION

Notice is hereby given that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on March 29, 2017 for T.T. Scales located at 612 Edwards Street Belle Vernon, PA 15012. The name and address of each individual interested in the business is Tyler Buck Belford 612 Edwards Street Belle Vernon, PA 15012. This was filed in accordance with 54 PaC.S. 311.

FICTITIOUS NAME REGISTRATION

Notice is hereby given that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on March 29, 2017 for BACK BAY AQUACULTURE located at 507 Hunter Lane Uniontown, PA 15401. The name and address of each individual interested in the business is Gerald E Lofstead 507 Hunter Lane Uniontown, PA 15401. This was filed in accordance with 54 PaC.S.311.

UNCLAIMED PROPERTY

Fayette County has unclaimed property waiting to be claimed.

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

Pennsylvania Treasury Department,
1-800-222-2046.

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

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

For information about the nature and value of the property, or to check for additional names, visit: www.patreasury.gov | 1.800.222.2046

Fayette County

15012
Allen Willie
Atkinson Jeffrey
Baird Bessie A
Balis Howard F
Baranowski Brian R
Bassila Kathy Krill
Blakley William J
Bolt Joshua D
Bonari C George
Brilliantstore Info
Britt Carole Estate
Buick Geo
C Harper Collision Center
Caputo Kathryn
Caruso Alarm
Chevrolet C H
Cornell Amy L
Coulson Kimberly B
Csokuly Raymond L
Curcio Michele L
Donley Ronald W, Nellie M
Dorazio Daniel J
Dunner David
Farmer Stella
Ferguson Eric J

Gaskill Wilma
Geer Sarah
Gonzalez Marina C
Graham Eugene
Haag Elizabeth A
Hafner Vickie J
Harper Chevrolet
Herron Sean
Hnatko Francis
Horrell Construction
Jackson Barbara
Johnston Lynn T
Kingsland Pamela
Kirkland W W
Kreis Mary E
Kuhns William
Landry Jonathan
Long Kimberly
Loranger Robert A
Manderino Elizabeth Haag
Marcavage John Jr Estate
Mickey Roy L
Mikolics Veronica
Muro Alan G
Mutich Charles M
Osborne Kim
Ostetrico Mark A
Palmer Ralph E
Panek Sophia
Patterson Linda
Premier Rehabilitation Enterprises
Regal Ann
Russell Patricia
Scott William
Shaw Robin E
Shutterly Jaimie
Slagus John J
Smith Shirley Frances
Solar Power Industries
Soltis Bernard E
Sopsc Swanee
Suppa Thomas
Tirpak Nathan R
Tri County Medical Practice
U T D 5 7 92 John Robert Ferguon & Theresa
Valko Mickey
Vaughn Michael
Washinski Steven W
Weatherford Jason
Wilson Andrew Estate
Wilson William

15401
Allamon Hazel Estate

Altman Barry, Robert
American Broadband Inc
Anderson Beryl U
Andrews John L
Babu B Netaji
Bakos Irene
Balash Lindsay
Barre Donna M
Bates Betty
Bayer Kathleen P, Donald E
Beal Mary K
Belt Arnold W
Bond Jarrett William
Bonucci Robert J
Bradley Andrea
Burd Lawrence W II
Burlock Gwendolyn A
Calloway Ronita L
Cavalcante Kathryn A
Centennial Chevrolet
Chmiel John F, Jean
Clark Delores
Clevenger R S
Clymer Joseph S
Cole Lisa J
Conn William H
Conoline Betty
Constantine Kristine, Larry E
Cooley Rosa
Cross Emma
Curry Elizabeth L Estate
Dauria Delma
David Ella
David Jessica M
Davis Robert G
Dickison Michelle R
Dietz Leslie R
Diggs Genia
Diggs Queen
Dupey Jerome
Edward Willis Glover
Elgie J Underwood Fam Tr
Estate of Neil W Hoppe
Finley Mary M
Fisher Diane
Flaherty Cathleen, Natalie F
Flesher Katie
Floyd Christopher
Fodor John A
Forman Alan D
Fornili Mark J
Franko William C
Freeman Lillie
Galanis Christina A
Gallard Guillermo Olaf
Gallo David
Gatcomb Anna M
Gismondi Victor
Gleason Earl E
Goisse Larry
Golembiewski Jeffrey S
Granchi Norbert W
Greeley David
Grooms Lillian A
Guseman James A
Guthrie Samuel, Sam
Guzzo Constance
Haky Mary Jane
Hall Edward
Haney Barry G
Harris Emma J
Hart Nicole E
Hayes Joseph
Helpy Peter J
Hicks Mary L
Higinbotham Edward
Hurt Guy S
Infectious Disease Assoc
Inks Danielle N, Debra G
Jackson Cynthia L
Jeffrey J Weaver Pa C
Johns Mary L
Johnson James J
Johnson Tonya
Jones Anna
Kalman Maureen, Mary A
Kanar James P
Kania James W
Kania William B
Kaplan Rehab & Emg
Kisko Rita J
Kissinger Helen Estate
Knopsnider Larry D
Kooser Carl E
Kuklar Kenneth K
Lanza Respiratory Services
Laurel Medical Imaging Associates
Laurel Pediatrics
Lazanich Blanche
Leeder Martha J Estate
Leskinen Enterprises Inc
Levato Guinevere O
Lincoln James R
Lovett Jones Cheryl
Loyacona Geral
Machesky Ronald E
Mahoney Lauren
Marian Sharon

Markovitch Martha	Shuford Jaleesa W
Marks Evelyn	Shute James D
Maruca Mildred	Shuter Michelle
Mcknight James D	Silbaugh Marvin D
Mclee Hortense	Simmen William Jacob
Mcraven Ella	Skelton Mary F
Mears Brian	Skibo William
Meinert Frances	Smallwood James A
Metz Hugh D	Smiley James
Mikuscak Joseph P	Smith Samuel R
Miller Constance	Soxman Francis J
Miller Jason B	Squeeze N Go
Miller Kenneth J II	Starback Margaret V, Joseph J
Moore Bryan R	Thomas Herman Jr
Morrison James, Verna	Thomas Leon Russell
Murphy Markle	Triplett Donald L
Nahas Jocelyne, Daniel	Tuttle Estate, Marie
Neely Virginia M, Frank H	Vaughns Fred L
Nicklo Donald	Wadworth Sadie
Oconnell Patricia	Washabaugh Karen
Pallini Amerigo P Estate, Hazel L	Watson Robert Jr
Paull Kim E	Waveck John Jr
Penn State Fayette Ems	Wells Lisa A
Perry Frances J	White Nicole L
Peton Kristin D	Wilkinson Geraldine
Petro Charles	Williams Patricia
Pitruzzella Salvatrice	Williams Raymond
Polink Marie Estate	Wolford Ruth
Poole Amber M	Wyda Josephine
Pratt Lindsay J	Wymard David H
Provence Dana Willia P	Yanak Dorothy B
Pyro Frank	Yauger Martha
Quinto Tracy	Zack Frances
Radcliffe Dehaas	Zacovic Norma J Miss
Rayoni Kinesha A	Zumerling Helen
Reagan Elizabeth M, Peggy A	
Rheubottom Esther	15408
Rice Heather R	Center Independent S
Riggen Heather M	
Riggen William, Betty J	15410
Robbins Nicholas S	Hatalla Marie J
Rocks Mary	Van Houten James D
Roebuck Patrick R	Wycinsky Mabel I
Rohaley Christina M	
Russo Helen Estate	15413
Saber George	Crapp Eva Mae
Saletrik Elmer G Jr	Halli J
Salutric Carl N, Leah R	
Santillo James A	15415
Sebesta Joseph T	Oshinsky Earl M
Seliga John R Estate	
Sg II Group	15416
Sharpless Cheyne	Sangston Mark A
Shreck Irene V	

15417
Andys Auto Body
Bakewell Nancy
Barnes Talvin T
Braum Anna L
Brothers Virginia
Brown William E
Brownsville Marine Products
Champlin Warren H
Cooley Leah
Craig Ronald W
Downer Ethel C
Eperjesi Casey
Everly Frances, Esther
Frazier Julia
Freeman Deborah J
Furlong David
Giannetti Ruth
Grago David E
Grega Rosalie A
Harvey George, Anna
Hosler James
Hrabak Marlin
Kadar Eugene
Kelley Pauline L
Knupsky Walter, Mary
Landis Justin W
Lusk Heather K
Mathes Kyle D
McCune Helen M
McMaster Charles
Miller Frances
Nebraska Marc
Novich Frances
Paholsky Sharon E
Peters William J
Pogue Est Nancy E
Pogue Nancy E
Randol B
Ricks Auto Svc
Rider Christine A
Roachi Marie
Rudinsky Gregory
Rymarchyk John Charles, Anne
Scott Robert L Jr
Sheehan Timothy H
Smith Pauline M
Snodgrass Amy L
Terreta Jamie
Ulerly John
Veatch Alfred E III, Tina III
Walker Josephine
Willard Joseph, Mary
Williamson D
Wilson Marian
Wladyslaw Bobak MD
Wyse Harold
15420
Smith Christina R
15421
Baranowski Patrice
Barclay Nora B
George France M
Lavaie Donna R Estate
Oneil Eliese L, David P
Vidale Suzanne M
15422
Fedutesjohn Monica
Lloyd Mary
Urbani Anna M
Wible Scott A
15425
Ambrosini Lori
Andrie Frank H
Balu Ravi Dmd
Battaglini Terry
Beatty William W
Belena Helen
Bell Rachael
Bennet Robert L
Beucher Jeffrey
Bishop Timothy E
Bradish Stanley M, Stanley
Brougham Eva
Brown Estate
Carbaugh Daniel G
Cecil George
Clarke James E
Demarco Frances M
Demiere William
Driscoll Kayla L
Felgar Caline
Frankhouser Mack
Fred Petrilla Estate
Garrison John L
Gearhart Tammie V
Greenawalt Eleanor R
Halfhill Terry R
Hankle Antoinette D
Harrer Timothy H, Lewis A
Harshman Marguerite
Hennessey George
Hensel Lori
Herbert Ronald

Hill Candace C	15428
Hooper Nicole A	Ackman Donna
Johnson Debra S	Cichocki Chad
Katona Douglas S	Higbee Edward S, Lola D
Kennedy Ronald W	Hixson Roger D
Knopsnider Bonnie, Domer	Keeney Ellie
Kozel Deborah A	Livingston Ruby
Kuhns Audrey J	Penick Alfred
Labuda Bernard J	Ruby Livingston Estate
Lomasney Lucy W	
Mahoney Evelyn G	15430
Malone Michelina	Porterfield Heather D
Mcclain Sara	Roadman Daniel E
Mcdougle Richard	
Mcrobbie Bonnie Jean, Betty	15431
Messman Raymond E	Bianchi Thelma P
Miller Karen A	Bittner Bonnie S
Nicol Martha A Est	Brown Lawrence O
Oglevee Kate	Carr Margaret
Orbin Shannon	Estate of Thelma R Bianchi
Petrasun Carolyn A	Garletts Hilda M, Keith A
Petrilla Fred	Getz Joseph
Platter Kora	Heller Teresa
Poorbaugh Timothy H	Huey Helen M, Luther, David
Pritts Brenda S	James Murray
Rager Ashley N	Keefer Victoria
Rowe Kathleen L	Leasure Duane E
Rugg Ernest T	Mancini John Jr
Salerno Nicholas L	Miller Clarence R, Agnes
Salvatore Emmanuel	Miller Martha
Sandusky Elizabeth	Phillips Suzanne
Sandusky Paul A	Rockhill Richard
Schenk Joseph P III	Saxon Roy
Schomer Robert D	Silcox Ruth L
Shavel Patricia C, John B	Snyder John E
Shepler Robert	Speedy Meedys Inc
Sherwood Brian Vincent	Szabo Brandi L
Siecinski Frank, Diane	Tressler Marjorie F
Skalecki Theodore, Helen	Yekel Patricia L
Soisson Derrick	Yoder Donald R
Soltis Michael J	Yourich Antoinette
Spotto Samuel L III	Zubovich Paul M, Paul
Stipanovich Laura J	
Tate Kenneth S	15433
Thomas Angela J	Lane William
Tomasko Diane L	Smith Joyce A
Torres Daniel	Whiteko Mary
Weimer Norman D	William Lane Estate
Williams Norma D	
Wright Carrie	15435
Younkin James	Reposky Louis
15426	
Shepler Robert	15436
	Barnhart Charles T

Best Thomas A
 Brittain Corleen M
 Catalogna Heather A
 Cramer Mary Gene
 Fairchance Pharmacy
 Grimes Elmer L
 Halbhook Ronald L
 Jacobs Drilling Service Llc
 Lieb Martha M
 Morris Laura
 Nixon Paul
 Rahm Yvonne W
 Tarpley Ethel

15437
 Forrestergreen Kimberly
 Green James
 Lei Jiafei
 Silbaugh George, Ruth

15438
 Bogorae Frances, Mary
 Estate of Charles F Hill
 Gardner William
 Hall Stacey
 Hamer Janet
 Lint Laurie A
 Modrak William R
 Roberts Auto Body
 Steele Joshua James

15442
 Buttler Lois J
 Cannon Venice
 King Brian L
 Rlm M Llc
 Sanders Malachi M
 Shumar Richard A
 Yoders Brenda L

15444
 Ashford James J Jr
 Cromwell Melissa, Eric
 Johnson Augusta
 Smith Gary W
 Strongosky Aimee

15445
 Blair Josephine
 Brachna Adam B
 Coolbaugh Robert S
 Di Carlo Kathryn
 Futchko Sherry L
 Henckel Donald R

Keffer Marilyn L
 Klink Robert
 Morrison Bernice
 Schultz Roberta

 15446
 Helen Kundley Estate
 Kundley Tonya
 Spinneweber Michael T

15447
 Wolosky Margaret

15450
 Davenport Lucius

15451
 Keller Sandra, Jerry
 Minemyer Emily N
 Westerman Bill R

15454
 Ewing Francine M

15456
 Cellurale Elizabeth A
 Eddy Terry J
 Jones Nikkia K
 Mari John R Jr
 Mcgregor Dale J
 Reed Justin W
 Risha Jesse J
 Snider Mary L

15458
 Clymer Jace
 Easter Regina
 Evans Robert L Jr, Robert L
 Friend Michael C
 Gehrish Linda S
 Hanchek Deborah A, Thomas M
 Magerko Cora Estate
 Mcnair Walter N, Gladys
 Perkins Peggy Lee
 Reed Theodore
 Santello Donald
 Shaffer Marie K
 Sperko Joseph Jr
 Sperko Loretta
 Whyel Loretta

15459
 Clarence E Savage Plumbing
 Estate of Janet B Martin

Fisher Debra	15466
Foster Christopher N	Lane Joe
Knight William	
Margraff Hazel Estate	15468
Schroyer James C, Edna	Edwards Elizabeth
Walton Lisa	Elizabeth Edwards Estate
Workman Vallie E	Everly Lucille
Yough Lake Sports Shop	Gross Joshua J
	Kovach Annetta
15461	Krizner Anthony Dr
Carozza Antoinette, Lisa	Lantz John W
Copeland Ashleigh	Minteer Megan L
Edwards Josephine	New Salem Pharmacy
Girard Rachelle L	Oneil James H Jr
Hower Charlie, William	Pikulski Anthony J
Huey Scarlett S	Serafin Eleanor Z
Lapp Kevin S	Shiner Donna
Maher Cecelia F	Smith Richard R Estate
Matyus Joseph P III	Taft Les
Packroni Bernadette A, Ronald G	Tolbert Josephine J, Vaughn Jr
Pulley Nigel A	Turnbaugh Renee M
Rayfield Betty	Zawacki Donald, Mary
Rendina Madeline M	
Robbins Robert	15469
Silvis David S	Angelo John A II
Springer Mary L	Beaver Caroline R Estate
Urs Energy Construction	Brown Thomas J
Volpe Mildred L	Farkas John S
Zinn William	Gallentine Douglas E Jr
	Mccurdy William M
15462	
Clyde Brooks Funeral Home Inc	15470
Columbia Northwest Inc 401k	Hostetler Brian C
Hinkle Harold J	Marietta Shirley, Robert
Olinzock Frank R	Thompson Richard J
Randall Douglas	
	15472
15463	Bryte Dolores
Henshaw Winifred R	Budd Scale
Hiles Terrance Sr	Duritsa Michele
Hromada David F	Kolarik Mary
15464	15473
Bigam William T	Blair Dolores T
Bittner Connie	Hawker Jeremy
Blair Shirley A	Johnson Russell L
Daniels Edgar A Jr	Kranik Gerold J Estate, Mary Ann
Greenbaum James K	Morrow Yvonne I
Hall Catina	
Richter Ricky D	15474
Williams Robert	Devault Edna R
	Gibson William
15465	Guthrie Jeffery L
Cook Patricia	Hoone Roger G

Malone Katie L	Walters Herbert J Estate
Mary Ardena F	
Neighbors Michael L	15482
Pekar Kathy J	Culligan Water Systems
Roberts John	Lan Zhu Mei
Roberts Larrimer	Matty Thomas J Estate
Shaffer Patricia C	
Smith Dennis K	15484
Uhler Robert L	Manchas James J
15475	15486
Csonka Patricia	Arison Vicki A
Eadie Craig A	Baker John D
Houston Katherine L	Beveridge Charles
Royster Goldie E	Fuller Roy G
Thompson Alfred E	Griffin Elizabeth R
	Love Pat
15476	Lukaesko Kayla M
Steen Nathan A	Mendez Luis A
	Mosier Richard T
15478	Myers Megan An
Back Rhonda L	Orlando Ethel Rae
Calfrac	Shroyer William, Betty
Cieszynski Charles J Jr	Shultz Anna L
Crytser Patricia A	Torok Marika
Cutlip Bobbie J	White Joshua C
David Melvin L, Carol L	
Demaske Charles	15488
Friend Laurine	Jackson Betty A Cust, Emily J
Gilliland Michael M	Malloy Michelle L Stoffa
Griffith Jefferey C	Malloy Stoffa Michelle L
Grimm Helen	Nicklow John
Guthrie Jodie L	Voytek Edward E
Howell Jeffery C	
Keener Barbara A	15490
Koenig Peter F	Cuyspeld Velma B
Korpon Michele R	Sipe Randal E
Lynn William G	
Miller Michael, Jamie	15631
Opinsky Paul J	Frederick Thomas P
Rafaíl Carol	Lint Matthew, Sharon
Skala Andrew J	Manarczyk Barbara L
Smith David W	Miller David L
Stevulak Courtney	Shedlock Mark J, Jane L
Williams Thomas	Sladky Theresa
15480	Zip Codes Not Reported
Baker Donna	Brower Nelson, Nancy
Dursa Antonia	Jones Nannie B, John H
Modispaw Maureen E	Sebastian Mary C
Myers Edward R	Shroyer Dorothy E
Rinkhoff Barry A	
Stoffa Gloria J, Jack A	
Stoffa Michael Joseph, Michelle L	

JUDICIAL OPINION

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

COMMONWEALTH OF	:
PENNSYLVANIA,	:
v.	:
ROBBIE DEAN HALL,	: NO. 1008 OF 2016
Defendant.	: JUDGE NANCY D. VERNON

OPINION AND ORDER

VERNON, J.

May 26, 2017

Before the Court is a Motion to Dismiss filed by Defendant, Robbie Dean Hall, requesting this Court dismiss all charges since “the alleged victim was not injured or acting in his capacity as a police officer.”

STATEMENT OF FACTS

Dennis Heath, Jr. is a part time officer for Dunbar Borough and Perryopolis Borough Police Departments and a detective with the Fayette Bureau of Investigations. N.T, 8/15/2016, at 3-4. On March 12, 2016, Heath was traveling in his personal vehicle on Woodvale Street in Dunbar Borough at 1:45 a.m. when the vehicle of Defendant, Robbie Dean Hall, made two complete circles at an intersection then proceeded in the wrong lane head-on towards Heath. Id. at 5, 13. Heath was not in any type of uniform. Id. at 13. Heath began to blow his horn and applied his brakes when at the last minute, Defendant swerved to avoid the collision. Id. at 6. Defendant pulled his vehicle into the parking lot of Leapline Auto Repair and attempted to turn around. Id. Heath exited his vehicle and showed Defendant his Fayette County Detective Badge, identified himself as a police officer, and asked Defendant if he was okay. Id. at 6-7. Defendant’s speech was slurred, his eyes were glassy, and he smelled a strong odor of alcoholic beverage as he stated that he was attempting to drive home. Id. at 7.

Heath testified that his first concern was that Defendant was experiencing a medical emergency, but after interacting with him, he believed that Defendant was too impaired by alcohol to drive safely. Id. Heath directed Defendant to give him the keys to his vehicle, to which the Defendant refused. Id. at 8. Heath repeated that he is a police officer, showed his badge again, and said, “I need to have your keys.” Id. Heath then reached through the window in an attempt to shut off the vehicle. Id. Defendant grabbed Heath’s arm, bent it backwards, pushed it into his chest, pushed him back and said “get the (f...) off of me.” Id. Heath attempted a second time to reach the ignition when Defendant drove away. Id. Heath alleged that he was afraid for his safety and for anyone on Woodvale Street. Id. at 9.

Heath followed Defendant for approximately 50 yards when Defendant stopped at a residence and exited the vehicle. *Id.* Heath observed Defendant lose his footing on the front steps and as Defendant fell, Heath attempted to place handcuffs on his left arm. *Id.* Heath fell also and struggled with Defendant in front of the residence. *Id.* Defendant broke free and entered the residence through the unlocked front door. *Id.*

Heath followed Defendant and “at the door threshold” without entering the residence, Heath grabbed Defendant’s arm while yelling, “police, stop resisting.” *Id.* Defendant responded, “you’re trespassing, get the (f...) off my property.” *Id.* at 10. Heath continued to attempt to apply the handcuffs by pulling on Defendant and Defendant continued to try to get back inside. *Id.* Defendant slammed the door into Heath and caught Heath’s hands in the door causing Heath to lose his grip from Defendant’s arm and drop his handcuffs. *Id.*

Heath retreated to his personal vehicle and contacted county dispatch to confirm Defendant’s vehicle was registered to that address and to request Pennsylvania State Police assistance. *Id.* at 11. Pennsylvania State Police Troopers Delaini and Thompson arrived at Defendant’s residence along with several other units. *Id.* Heath identified Defendant for the Troopers by looking inside the window of the residence. *Id.* Heath testified that the only injury he suffered was his hand getting hurt in the doorway of the residence and that he did not receive medical attention. *Id.* at 15.

Trooper Jason Delaini testified that he arrived at Defendant’s residence as a result of the call placed by Heath. *Id.* at 18-20. Heath gave Trooper Delaini the information of what transpired and Trooper Delaini attempted to make contact at the door by knocking loudly and announcing, “State Police.” *Id.* at 20. A female identified herself as Defendant’s mother and stated that Defendant was upstairs but hadn’t done anything wrong. *Id.* at 20-21. Trooper Delaini observed Defendant through a solid glass door and watched as he came down the steps inside the residence. *Id.* at 21. Trooper Delaini described Defendant as having an unsteady gait, staggered when he walked, and was yelling at the officers that they were trespassing. *Id.*

Trooper Delaini asked Defendant to come outside, but Defendant instead went into an adjoining room and began to search through items beside a chair. *Id.* at 22. At this point, Trooper Delaini entered the residence because, for trooper safety, he did not know what Defendant was searching for around the chair. *Id.* Defendant failed to obey Trooper Delaini’s commands to get on the ground and instead lunged away from the Trooper requiring the Trooper to deploy his Taser. *Id.* at 22-23. Trooper Delaini transported Defendant to Highlands Hospital and during the ride asked if he would be willing to submit to a blood draw, to which Defendant responded, “yes.” *Id.* at 24-27.

DISCUSSION

The instant Criminal Complaint stems from the alleged drunken driving of Defendant, a purported violation of the Motor Vehicle Code. In deciding the Omnibus Pretrial Motion pending before the Court, we must determine whether Dennis Heath, Jr.’s actions amounted to an arrest, or attempted arrest, of Defendant. Generally, Section 6304 embodies the authority to arrest without a warrant pursuant to the Motor

Vehicle Code:

- (a) Pennsylvania State Police.--A member of the Pennsylvania State Police who is in uniform may arrest without a warrant any person who violates any provision of this title in the presence of the police officer making the arrest.
- (b) Other police officers.--Any police officer who is in uniform may arrest without a warrant any nonresident who violates any provision of this title in the presence of the police officer in making the arrest.
- (c) Other powers preserved.--The powers of arrest conferred by this section are in addition to any other powers of arrest conferred by law.

75 Pa.C.S.A. § 6304.

Section 3811 expands the arrest authority to authorize the arrest of an individual without a warrant if the officer has probable cause to believe that the individual has violated section 3802 relating to driving under the influence of alcohol or controlled substance.

“A police encounter with a suspect may be characterized as a mere encounter, an investigative detention, a custodial detention or a formal arrest.” *Commonwealth v. Haupt*, 389 Pa.Super. 614, 567 A.2d 1074 (1989). The Supreme Court has stated that an “arrest” occurs when “any act that indicates an intention to take [a person] into custody and that [act] subjects him to the actual control and will of the person making the arrest.” *Commonwealth v. Richards*, 327 A.2d 63 (Pa. 1974). An “arrest” can include either a formal arrest or its functional equivalent, a custodial detention. *Commonwealth v. Kiner*, 697 A.2d 262 (Pa.Super. 1997). “Whether an arrest has been made is viewed in light of the reasonable impression conveyed to the person subjected to the seizure rather than in terms of the subjective views of the police officer making the arrest.” *Commonwealth v. Carter*, 643 A.2d 61 (Pa. 1994)

Among the factors courts generally consider in making the assessment whether a detention becomes an arrest include the cause for the detention, the detention’s length, the detention’s location, whether the suspect was transported against his or her will, whether physical restraints were used, whether the police used or threatened force, and the character of the investigative methods used to confirm or dispel suspicions. *Commonwealth v. Stevenson*, 894 A.2d 759, 770 (Pa. Super. 2006).

Here, Heath was not on-duty in any capacity as an officer or detective. Heath was in a personal vehicle and was not in any type of uniform. Heath displayed a badge for the Fayette Bureau of Investigations. Heath twice reached into the window of Defendant’s vehicle in an attempt to remove the keys, announcing that he was a police officer, and also, verbally commanded Defendant to shut off his vehicle. Heath followed Defendant to his home. Outside of the residence, Heath “attempted to place handcuffs on [Defendant’s] right arm.” By Heath’s own words, he “struggled” with Defendant on the front steps, but Defendant was “able to break free.” Defendant opened the unlocked front door and Heath “basically followed [Defendant].” Heath denied entering the home, rather describing the encounter as occurring at the “door

threshold” and that he “was able to grab [Defendant’s] arm again.” Throughout the encounter, Heath was yelling “police, stop resisting.” At the door, Heath described the two as “tugging back and forth.” Heath stated that Defendant was pulling back inside the house as he attempted to apply the handcuffs again. Defendant slammed the door thereby breaking Heath’s “grip from his arm and handcuffs.”

Viewed in light of the reasonable impression conveyed to the person under arrest rather than in terms of the subjective views of the police officer making the arrest, the totality of the circumstances here establish that Heath attempted to arrest Defendant rather than simply detain him when Heath followed Defendant to his home, scuffled in the front yard, followed him up the steps, gripped his arm, and twice attempted to place handcuffs on Defendant. Heath’s actions were attempts to restrain Defendant’s physical movement and to take him into custody. Heath’s words of identifying himself as a police officer while Defendant was in the vehicle confirm that Heath was acting in his alleged capacity as a police officer. Heath’s exclaiming “police, stop resisting” illustrate that he was attempting to make an arrest as the word “resisting” indicates an arrest is being conducted.

Turning now to the position from which the Commonwealth alleges Heath’s authority to arrest Defendant was derived. Heath serves as a part time officer for Dunbar Borough and Perryopolis Borough Police Departments and a detective with the Fayette Bureau of Investigations. Heath was not on-duty as an officer or detective, nor was he wearing any uniform associated with any department. Heath showed his badge from the Fayette Bureau of Investigations, a badge which did not convey on him the authority to arrest while off-duty and without uniform.

By statute, 75 Pa.C.S.A. § 6304, the authority to arrest without a warrant pursuant to a violation of the Motor Vehicle Code vests solely in uniformed Pennsylvania State Police, while local police are restricted to the issuance of citations for Motor Vehicle Code Violations except when the powers of arrest are further enumerated. Section 3811 grants the arrest power to local police to arrest without a warrant when probable cause exists for violations of driving under the influence of alcohol or controlled substance. Nonetheless, Section 6304 strictly requires the arresting officer act only while “in uniform.”

The remaining alternative for the authority to arrest is whether Heath was acting in his capacity as a private citizen. The Superior Court addressed by footnote the distinction of when an officer is permitted to arrest under the private citizen concept and so held that when an officer acts under the color of state law in effectuating an arrest, the officer is acting in his official capacity and not as a private citizen. Kiner, *supra*. Therefore, in order for the arrest to be valid, the officer must have authority to effectuate the arrest. *Id.* The factors of Heath identifying himself as a police officer, showing a badge, and attempting to use handcuffs confirm that his actions were under his authority as a police officer and not as an arrest made by a private citizen.

A review of all evidence reveals that Heath lacked statutory authority for his actions in stopping Defendant for an alleged violation of the Motor Vehicle Code and thereafter, attempting to arrest him, since Heath was not on-duty and not in uniform

pursuant to 75 Pa.C.S.A. § 6304 and § 3811.

The Court is cognizant that from the viewpoint of this Defendant, an unknown man approached his vehicle at approximately 1:45 a.m. claiming to be a police officer; the man was not in uniform and was driving a personal vehicle. The man showed a badge, but the badge did not confer authority to stop or arrest for Motor Vehicle violations while off-duty and out of uniform. The man followed the Defendant to his home and physically attempted to restrain him by holding his arm, scuffling with him, and attempting to place him in handcuffs. The courts have held that the legislature's intent in requiring an officer to be in uniform is "to enable the motorist to be as certain as possible that the person who arrests him is, in fact, a police officer." *Commonwealth v. Turner*, 487 A.2d 404, 408 (Pa.Super. 1985). In an age with reports of frequent police impersonators and with arrests being attempted by officers out of uniform, the Court must determine whether these actions by Heath require suppression of the evidence.

Suppression of the evidence is the appropriate remedy for an arrest in the absence of statutory authority. *Kiner*, *supra.*, citing *Commonwealth v. Savage*, 403 Pa.Super. 446, 589 A.2d 696 (1991). The remedy of exclusion under such facts is not invoked as a means of punishing the state, but rather as a means of assuring that a defendant's constitutional rights are protected adequately when infringed upon by the use of unlawful state action." *Id.* Our Supreme Court has held that in determining whether the exclusionary rule applies, the good or bad faith of an individual acting under the color of state law is irrelevant. *Id.* "If we did not suppress the evidence in this type of case, the law could be made a mockery by willful noncompliance without any adverse consequences. *Id.*

As in *Kiner*, Heath, acting under the color of state action, acted beyond his statutory authority when he attempted to arrest Defendant. Heath's failure to effectuate the arrest because Defendant broke free from his grasp is of no consequence. The arrival of on-duty, uniformed Pennsylvania State Police Officers who ultimately took Defendant into custody does not cure the fatal defect, since without Heath's actions, the blood evidence would not have been seized.

Defendant stands charged with the following ten counts:

- Count 1 – Aggravated Assault {18 Pa.C.S.A. §2702(A)(3)};
- Count 2 – Aggravated Assault {18 Pa.C.S.A. §2702(A)(6)};
- Count 3 – Flight to Avoid Apprehension {18 Pa.C.S.A. §5126(A)};
- Count 4 – DUI General Impairment {75 Pa.C.S.A. §3802(A)(1)};
- Count 5 – DUI Highest Rate {75 Pa.C.S.A. §3802(C)};
- Count 6 – Resisting Arrest {18 Pa.C.S.A. §5104};
- Count 7 – Disregarding Traffic Lane {75 Pa.C.S.A. §3309(1)};
- Count 8 – Careless Driving {75 Pa.C.S.A. §3714(A)};
- Count 9 – Reckless Driving {75 Pa.C.S.A. §3736(A)}; and
- Count 10 – Failure to use safety belt {75 Pa.C.S.A. §4581(A)(2)(ii)}.

As a result of the foregoing analysis, this Court is constrained to dismiss all charges pursuant to the Motor Vehicle Code, namely Counts 4, 5, 7, 8, 9, and 10. Remaining for

the Court's consideration are the two charges of Aggravated Assault and the charges of Flight to Avoid Apprehension and Resisting Arrest.

At Count 1, Defendant is charged with aggravated assault in that it is alleged he attempted to cause or intentionally or knowingly caused bodily injury to an officer enumerated at 18 Pa.C.S.A. §2702(c), being "Officer Dennis Heath, Dunbar Borough Police Department, while in the performance of his duty, did shove the victim and drove away while the officer was attempting to remove the keys from the ignition." See, Information.

At Count 2, Defendant is charged with aggravated assault in that it is alleged he attempted by physical menace to put an officer enumerated at 18 Pa.C.S.A. §2702(c), being "the defendant did shove the victim, Officer Dennis Heath and fled the scene with the victim in close proximity to his vehicle." See, Information.

To sustain the charges of aggravated assault would require a finding that Dennis Heath, Jr. was acting "in the performance of [his] duty" as a police officer. We have found, *supra.*, that Heath was not acting under his authority as an officer and as such, must dismiss the charges of aggravated assault.

At Count 3, Defendant stands charged with flight to avoid apprehension being the facts alleged in the Information that he concealed himself within his residence to avoid apprehension.

At Count 6, Defendant is charged with resisting arrest for his alleged intent of preventing Trooper Jason Delaini of the Pennsylvania State Police from effectuating a lawful arrest for an aggravated assault on a law enforcement official and driving under the influence.

Counts 3 and 6 require an examination of whether the actions of the Pennsylvania State Police were able to cure the defects of Heath. We have held they did not, and as such, are constrained to dismiss the remaining charges of flight to avoid apprehension, where Defendant was not properly charged with a felony, and resisting arrest, where the Pennsylvania State Police Troopers were also without cause to arrest Defendant.

WHEREFORE, we will enter the following Order dismissing all charges.

ORDER

AND NOW, this 26th day of May, 2017, upon consideration of the Motion to Dismiss filed by Defendant, Robbie Dean Hall, it is hereby ORDERED and DECREED that the Motion is GRANTED. It is further ORDERED and DECREED that all charges are DISMISSED.

BY THE COURT:
NANCY D. VERNON, JUDGE

ATTEST:
CLERK OF COURTS

LUNCH AND LEARN**SELLING AT AUCTION**

Tuesday, June 13, 2017
1.0 Substantive CLE Credit

The advantages of selling at auction will be covered including areas on Divorce, Estates, Bankruptcy, Real Estate, Business Liquidation, and Partnerships, as well as a discussion on the appraisal process.

Presenter: Bill Work, Auctioneer and Territory Manager
Joe R. Pyle Complete Auction & Realty Service

REGISTRATION:

Cindy at the Fayette County Bar Association
(724) 437-7994 or cindy@fcbbar.org
12:00 noon to 1:00 p.m.
First Niagara Building
Lower level - Corporate Training Center
Cost to attend: \$30
\$20 young lawyer

ATTORNEY APPOINTMENT**NOTICE**

Any Fayette County lawyer interested in an appointment to any of the following lists should contact the District Court Administrator at (724) 430-1230 by June 30, 2017:

Criminal Conflicts Counsel

Death Penalty Certified

Counsel for children and indigent parents in involuntary termination and adoption proceedings

Master in Partition

Receivers

Trustees

John F. Wagner, Jr.
President Judge

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

Medical Malpractice • Auto Accidents • Personal Injury



GISMONDI

& ASSOCIATES

412-281-2200

www.gislaw.com

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