

# York Legal Record

A Record of Cases Argued and Determined in the Various Courts of York County

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No. 1

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## CASES REPORTED

COMMONWEALTH OF PENNSYLVANIA v. Gray 2004 Mercedes Benz CLK, PA LIC # BMORE C,  
VIN#WDBTJ65J04F074549 and all contents in vehicle, RED 1996 Dodge Neon, PA LIC JMV9768,  
VIN #IB3ES42C5TD646387 and all contents in vehicle, \$924.10 Cash, Phillips TV, Vizio TV,  
Amt .0380 Cal Pistol Ser # A70895, Black Safe

Page 1

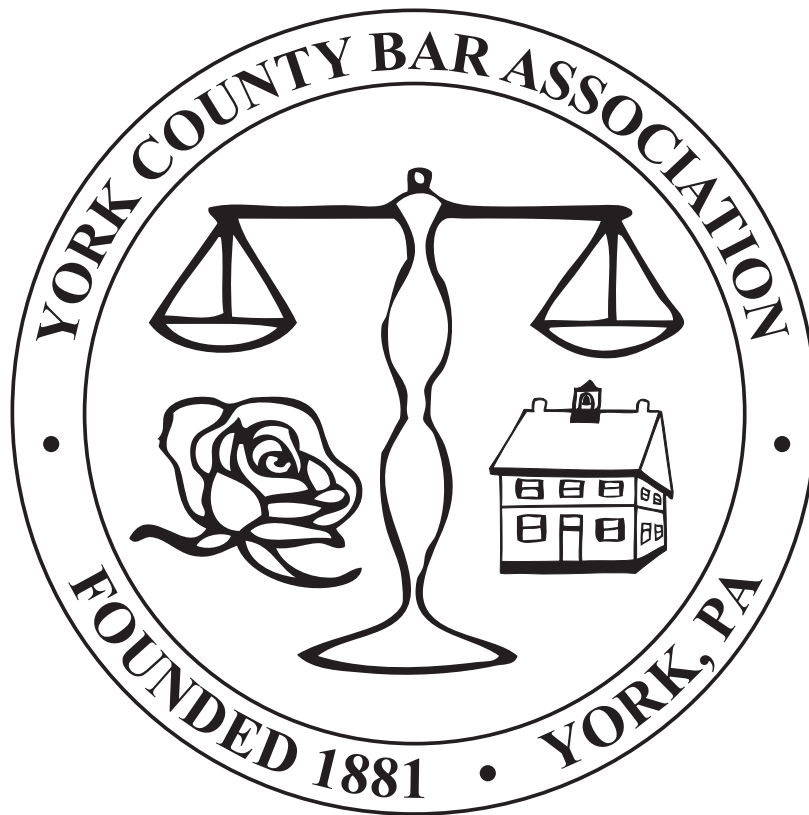
## ARTICLE OF LEGAL INTEREST

Do You Know Your Client's Date of Marriage?

By Lynnore K. Seaton, Esquire – The Law Office of Lynnore K. Seaton

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Dated Material Do Not Delay

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COMMONWEALTH OF PENNSYLVANIA v. Gray 2004 Mercedes Benz CLK, PA LIC # BMORE C, VIN#WDBTJ65J04F074549 and all contents in vehicle, RED 1996 Dodge Neon, PA LIC JMV9768, VIN #IB3ES42C5TD646387 and all contents in vehicle, \$924.10 Cash, Phillips TV, Vizio TV, Amt .0380 Cal Pistol Ser # A70895, Black Safe

### Forfeiture

1. The Commonwealth sought forfeiture of the above referenced property pursuant to 42 Pa.C.S.A. § 5802 et seq.
2. The Court held that there is no basis for the seizure of any vehicle from the Defendant. The vehicles were ordered to be returned to the custody of the Defendant or his designated family members and all cost of storage are placed upon the Commonwealth. The two televisions sets were ordered to be returned to the Defendant or his designated representative in working condition within three days, as there was no lawful basis whatsoever to seize this property.

### IN THE COURT OF COMMON PLEAS YORK COUNTY PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CP-67-MD-0001853-2016

vs.

Gray 2004 Mercedes Benz CLK, PA LIC # BMORE C, VIN#WDBTJ65J04F074549 and all contents in vehicle, RED 1996 Dodge Neon, PA LIC JMV9768, VIN #IB3ES42C5TD646387 and all contents in vehicle, \$924.10 Cash, Phillips TV, Vizio TV, Amt .0380 Cal Pistol Ser # A70895, Black Safe

RE: Christopher Michael Hawkins

### APPEARANCES:

Deirdre Sullivan, Esquire, Counsel for the Commonwealth

Korey Leslie, Esquire, Counsel for the Defendant

### OPINION AND ORDER

On October 30, 2018, Defendant Christopher Michael Hawkins pled guilty in the Court of Common Pleas of York County, Judge Craig T. Trebilcock presiding, to Delivery of Heroin, Possession with Intent to Deliver Heroin, and Possession of Heroin. He also pled guilty to being a Person not to Possess a Firearm. Subsequently, the Commonwealth initiated a forfeiture action pursuant to the guilty plea against the property enumerated in the caption above. A forfeiture hearing was held on December 17, 2018, with the parties permitted to submit supplemental briefs and argument. This opinion follows.

### LEGAL AUTHORITY

The Commonwealth seeks forfeiture of the above referenced property pursuant to 42 Pa.C.S.A. § 5802 et seq. The legislature enacted this statute, as amended, to “eliminate economic incentives of drug-related activity and thereby deter such activity.” *Commonwealth v. Heater*; 899 A.2d 1126, 1132 (Pa. Super 2006). Civil forfeitures are a quasi-criminal proceeding that is a penalty for engaging in wrongdoing prohibited by statute.

Property is forfeited not as a result of [a] criminal conviction, but through a separate proceeding, civil in form but quasi-criminal in nature, in which the agency seeking the property must show, by a preponderance of the evidence, a nexus between the property sought and the possessor’s illegal activity...

*Commonwealth v. Jackson*, 53 A.3d 952, 956 (Pa. Cmwlth 2012).

In order to prevail in a forfeiture action the Commonwealth must establish by a preponderance of the evidence that a nexus exists between the pertinent illegal activity and the property subject to forfeiture; when that burden is sustained, the burden of proof shifts to the property owner to disprove the evidence or establish statutory defenses to avoid for-

feiture. *Commonwealth v. 1992 Chevrolet*, 844 A.2d 583 (Pa. Cmwlth 2004). The forfeiture statute grants the police extensive powers to seize the personal property of citizens, without prior judicial approval or order when the police claims establish a nexus between the possession/ownership of property and illicit drug activity.

Under the statute, upon an order of the court forfeiting property, the property is sold at auction (hearing transcript of December 17, 2018 at page 40, hereinafter Tr. 40). Proceeds from the auction are then utilized to help finance the operations of the Drug Task Force through the District Attorney’s Office (Tr. 43). The Drug Task Force is the police entity whose officers are involved in the seizure of the property involved in this case (Tr. 2, 40).

### FACTS OF THE CASE

Claimant, Christopher Hawkins, is a convicted drug dealer. On March 22, 2016, Officers of the York County Drug Task Force set up a purchase of heroin from Mr. Hawkins at his home at 298 Rathton Road, York Pennsylvania. The purchase was conducted through a confidential informant. Mr. Hawkins resided at 298 Rathton Road with his girlfriend, Christina Oliveras. His adult son sometimes resided at the residence as well. Mr. Hawkins was the owner of 4 to 5 vehicles at the time of the relevant drug transactions. The exact number is not important to the ultimate disposition of this case and there was conflicting testimony on that point. Amongst the vehicles that the Defendant did own were two of the vehicles the Commonwealth seeks to forfeit in this case, specifically a gray 2004 Mercedes Benz CLK, VIN# WDBTJ65J04F074549 and a red 1996 Dodge Neon VIN# IB3ES42C5TD646387.

On March 22, 2016, Detective S. of the York County Drug Task Force watched Mr. Hawkins exit from his residence at 298 Rathton Road to meet with the confidential informant for the sale of heroin. Mr. Hawkins performed the sale, then returned into his residence. The informant returned to the police surveilling the transaction and turned over the heroin he had just purchased from Hawkins.

On the following day, March 23, 2016, Detective S. met with a 2<sup>nd</sup> confidential informant. The 2<sup>nd</sup> informant again went to the address, 298 Rathton Road, to conduct a controlled buy from Mr. Hawkins. The 2<sup>nd</sup> CI purchased heroin from Mr. Hawkins. The confidential informant immediately told the police that he had purchased the drugs from Mr. Hawkins utilizing the official funds he had been provided. The CI turned over the heroin that he had just purchased. The Defendant did not use any vehicles in the sale of any drugs on the 22<sup>nd</sup> or 23<sup>rd</sup> (Tr. 15-16).

Immediately following the second sale, Detective F. of the District Attorney’s Office obtained a search warrant for the Rathton Road residence. In the interim, Mr. Hawkins had left his residence and was taken into custody during a traffic stop. At that time he was driving a black Ford Escape with the vanity tag, “CRISSY”. During the apprehension Mr. Hawkins was found to be in possession of \$526.00, of which \$80 were official funds that had been used in the purchase of illegal narcotics just prior to leaving the house. This vehicle was not sought for forfeiture.

Subsequent to his arrest, Mr. Hawkins was interviewed by Detective F., while Detective S. assembled a team to execute the search warrant on 298 Rathton Road. Pursuant to the search warrant, Detective S. and his team entered the residence at 298 Rathton Road. Inside they located defendant’s son, Christopher Hawkins Jr, who indicated that he sometimes stayed in the residence (Tr. 8). The son identified Defendant’s bedroom as the northeast bedroom of the house. In the course of searching that particular room, the police located marijuana, an AMT .380 pistol, and a black safe which contained \$138.10 and 4 ecstasy pills. They also located two boxes of ammunition for the pistol. There were other pills, packaging materials, and digital scales throughout the room. In addition, a Vizio TV was located in that same bedroom. A Phillips TV was located and seized in the living room. Both televisions were seized, solely because they had resale value. (Tr. 20).

Detective S. testified that they seized a 1996 red Dodge Neon, a Jeep, as well as the 2004 Mercedes Benz, which were taken back to the police station. Detective S. concluded that that the Jeep and Ford Escape were not involved in any criminal activity and the police could not see any nexus between the drugs and those two vehicles, so they were returned (Tr. 12).

Detective S. testified that the Dodge Neon and the Mercedes were kept by the police because “we thought there was clear and convincing nexus between drugs and those vehicles” (Tr. 12). However, no credible facts were provided by Detective S. to substantiate these conclusions<sup>1</sup>. During cross examination, Detective S. indicated the vehicles did not play any role in the drug transactions on the 22<sup>nd</sup> or 23<sup>rd</sup> (Tr. 15-16). De-

tective F. was the investigator who took the lead in questioning Hawkins (Tr. 17). Detective S. only heard a “very little bit of it.” (Tr. 17). Mr. Hawkins indicated that he went to Baltimore two or three times a week to get drugs (Tr. 17). However, he never specified that he used the Mercedes (Tr. 17). Detective S. testified that Mr. Hawkins indicated that he did drive the Mercedes Benz around York to “meet people for money primary for drugs.” This is a verbal statement that was not recorded, nor preserved in any way other than in the officer’s memory.<sup>2</sup> It is not a statement corroborated by Detective F., and the Court finds Detective S’s memory to be faulty on that point. Detective S. testified that there was no lien on either the Neon or Mercedes Benz (Tr. 19), the apparent sole distinguishing factor as to why they were seized, instead of the other vehicles.

Regarding the televisions, during cross examination, Detective S. was asked “What is the connection between drugs and the TV, specifically the Phillips TV that was found in the living room?” Detective S. indicated that the sole basis in seizing the TV was that “Mr. Hawkins wasn’t employed, therefore, not able to have money to obtain such items.”<sup>3</sup> This conclusion was made despite not knowing the age of the TV. The detective acknowledged that the girlfriend was working and that she could have afforded the TV, and that “it was seized because there was value to that TV to sell it.” (Tr. 20) As further evidence in the hearing revealed, the supposition that Hawkins had not been legitimately employed was wrong. When asked why the Vizio TV in the bedroom was taken, the officer responded “same theory” (Tr. 21). The Defense counsel asked Detective S. to elaborate, asking “Since he wasn’t working to afford it, it must have come from ill-gotten means?” Detective S. responded “Correct.” The officer conceded once again that the Defendant’s wife/girlfriend, Ms. Oliveras, who resides at 298 Rathton Road, does work. On further cross examination the officer acknowledged that he does not know the age of the Vizio TV, nor whether Mr. Hawkins had ever worked previously. In short, there was no factual evidence to support the conclusion that Mr. Hawkins (or another resident) could not legitimately afford a television being present in his home. The task force seized the property simply because it had resale value.

The Court then engaged in a brief questioning of the witness to inquire how the police decide which items to take and which items not to take when dealing with a suspected drug dealer. This Court has noted in numerous forfeiture proceedings initiated by the Drug Task Force in the past year that large screen TVs are very frequently seized from the houses of drug suspects, as are video game systems, regardless of any nexus to drug activity or funds. Accordingly, in the instant case, the Court inquired if there was an SOP that led or directed police towards those items. Detective S. indicated that there was not. The Court further inquired why other items of value are not taken, such as silverware or Hummels (collectibles), or furniture. Detective S. responded “I can only say we may take those items if there is value in those items. There is not typical value in furniture or typically value in general silverware. Whereas there is value in those other items.” (Tr. 25).

Detective F. then testified and indicated that his role was to assist with the controlled purchase in the afternoon of March 23, 2016. He indicated that he observed the controlled buy between Mr. Hawkins and the informant, and remained at 298 Rathton where the purchase had been made (Tr. 27). Detective F. ultimately arrested and questioned Mr. Hawkins. Detective F. read Mr. Hawkins his Miranda warnings, which he waived. Mr. Hawkins revealed that he obtained his heroin in Baltimore and in York, buying bundles of gram quantity to “take care of” a couple of people, mainly friends (Tr. 31). He also acknowledged possession of the handgun. In short, he made credible and non-evasive statements against his personal interest.

When asked what vehicles he drove to Baltimore, he said that he would “take whatever was available.” (Tr. 31). It was at that point, or just before, that Detective S. walked in upon the conversation. (Tr. 31).

Detective F. asked Mr. Hawkins specifically if he took the Dodge Neon and the Mercedes to Baltimore. He said that he did, but when asked if he took the Mercedes to Baltimore to pick up heroin, he responded simply by indicating that “he took whatever vehicle was around.”<sup>4</sup> The discussion between the Detective and the Defendant continued as the police sought clarification. The Defendant indicated to Detective F. that it sounded to him as if the police were seeking to get him to admit that he used the car so that they can take it (Tr. 32). Detective F. responded that he wanted to clarify as to what the Defendant did with his vehicle when it came to heroin sales, and at that point the Defendant stopped responding to questions about the Mercedes.

The Defendant made the same general statement in regard to inquiries about links between the Dodge Neon and drug activity, i.e., that “he would take whatever vehicle was around.” Detective F. indicated that the

atmosphere in discussing matters with Mr. Hawkins was not antagonistic and that he was discussing things very freely. He discussed “his heroin sales,... what he sold it for, where he purchased his heroin for resale, things like that...” (Tr. 34). Detective F. conceded that the Defendant never acknowledged that he used either the Mercedes or the Dodge Neon for drug distribution or purchases (Tr. 35). Detective F. also admitted that the police did not have any evidence that he used either vehicle for drug transactions (Tr. 36). The Court finds the testimony of Detective F. credible.

Upon questioning by the Commonwealth, Detective F. indicated that if there was financial information, such as receipts or recent purchase information as to who made a purchase of personal property, that the police will take that information, in order to determine whether property should be forfeited (Tr. 39). Upon questioning by the Court, Detective F. indicated that items seized to be forfeited are sold at auction twice a year, with the proceeds going “to the District Attorney’s Office to the Drug Task Force” (Tr. 40). Detective F. clarified on recross that the funds are going to fund the Drug Task Force active training, equipment, and overtime (Tr. 43). Forfeitures, in part, therefore, result in additional income streams to the very officers seizing the property, a source of concern to this Court.

Christina Oliveras, the Defendant’s girlfriend, testified at the hearing (Tr. 44). The Court noted that her testimony would be received with doubt, because as she was walking up to the witness stand, she paused and exchanged information in a hushed voice with the Defendant at the Defense table. This appeared to the Court to be an attempt to either influence his testimony or her own (Tr. 44). Ms. Oliveras testified that the TV in the living room belonged to her and that she purchased the TV in 2015 from Sam’s Club. She indicted Mr. Hawkins purchased the TV in the bedroom in March 2016. She also testified that the Defendant was working just prior to his arrest to March 2016. She further testified that the Red Dodge Neon belonged to Mr. Hawkins, but that she and the Defendant bought the Gray 2004 Mercedes Benz together (Tr. 48). The Mercedes Benz was bought with a trade-in of a Dodge Magnum, which they previously owned, as well as a \$1,500 down payment at that time, and a \$1500 payoff within a month or two (Tr. 49). Ms. Oliveras placed the date of purchase at February 1, 2014. Ms. Oliveras testified that she was working at a nursing home in 2014 making between \$19.80 to \$22.80 per hour on a full time basis. The Court finds that Ms. Oliveras statements regarding her work record and pay to be credible, as well as information provided regarding her relationship with the Defendant, such as the fact that she cohabitated with the Defendant at the time of the seizure. This testimony was corroborated by other evidence in the case. The Court also finds her testimony credible that the Defendant was working up until just prior to his arrest in 2016. As to any other testimony regarding ownership of property in this case, the Court gives no weight to her testimony due to her misconduct as she approached the witness stand.

Christopher Hawkins next testified, and the Court finds that the Defendant testified credibly. The Defendant presented employment records for the Court’s consideration to corroborate his testimony that he had regular employment until just before his arrest. He testified that he had been dealing heroin and that he had also been employed in a series of temporary jobs leading up to March 2016, including through a temporary agency (Tr. 57). The Defendant testified that in 2014 he was working for Ferguson Trenching Company, a subcontractor for Baltimore Gas and Electric, and that he may have also worked for a moving company. The Defendant testified that he purchased a Gray 2004 Mercedes Benz from D and M Motors for a trade in, \$1500 down, and the balance payoff in 30 to 60 days. The Court finds that the Defendant legitimately purchased this vehicle with lawfully obtained funds, and there is no evidence to indicate that the vehicle was bought with the proceeds from any drug transactions. The Court also finds that there is no evidence that the Defendant bought the Dodge Neon with the proceeds from any drug transactions. The Defendant denied ever selling drugs out of the Mercedes Benz and the Court finds there is not sufficient evidence either vehicle was used for drug transactions.

The Commonwealth and Defense counsel entered into a stipulation that beginning in 2014, specifically January 29, 2014 through April 12, 2014, Defendant was working on a part time basis for the moving service (Tr. 61). The Defendant was also working through February 2016 and presented bank records to substantiate that fact, that he was working through Aerotek. (Tr. 62-62). Accordingly, the suppositions and conjecture upon which the task force justified seizing the televisions was completely without factual basis.

## **ANALYSIS**

This Court holds that the forfeiture statute enacted by the Pennsylvania Legislature, 42 Pa.C.S.A. 5802 et seq., is not constitutionally vague,



accomplishes a legitimate government purpose, and is not intended to be punitive in nature. It is within the legitimate authority of the legislature and the Court to ensure that Defendants who engage in the illegal sale of narcotics do not enrich themselves by engaging in the sale of illicit and dangerous narcotics by removing the profit motive. It is also a legitimate government purpose to deter drug dealing by prohibiting defendants from spending or investing drug proceeds into other property to raise their quality of life. Accordingly, forfeiting such drug money or drug money financed property is a legitimate government purpose, if done consistent with due process and other legal precedent designed to protect the rights of citizens accused of wrongdoing.

However, a lawful statute can be applied in a manner that is unlawful in execution. This Court equally finds that the forfeiture statute, as applied in this case by the Drug Task Force, was constitutionally impermissible. Specifically, the actions of the police in this case constituted the illegal seizure of private property from citizens in an arbitrary manner without due process. This seizure was conducted in violation of the United States Constitution protection against illegal seizure of property under the Fourth Amendment, as applied to the states through the Fourteenth Amendment of the Constitution, as well as violating, Pennsylvania Constitution Article 1, Section 8, that protects Pennsylvania citizens from unreasonable seizure of their possessions<sup>5</sup>.

This case is being decided on the facts of this case alone. It is important to note, however, that overzealous forfeiture actions by the Drug Task Force in the time frame of this case have not been isolated in nature. Dozens of forfeiture actions are brought before this court each year. While the property seized may vary from case to case, with some cases involving automobile, firearms or other property, a disconcerting pattern is evident that Drug Task Force officers seize big screen TV's that are present in the property regardless of any link to drug money or illegal activity. In addition, they disproportionately seize all game systems and video games, present in the property. The decision as to which property to seize is driven, in the words of Detective S., by which property has resale value. The Drug Task Force does not seize furniture or clothing, silverware, or other items that have low resale value. (Tr. 25). They focus upon items that have high resale value. That is not a problem in itself, until the police begin to ignore that there must be a nexus to drug dealing or drug money to seize those higher high value assets. This nexus is essential, because property itself cannot be considered derivative contraband merely because it is owned by or occasionally used by a criminal drug offender for legitimate purposes. *Commonwealth v. One 1985 Dark Blue Mercedes Benz Car*, 571 A.2d 482 (Pa.Super. 1990). Objects do not acquire a "guilt by association" simply because they are owned by someone engaged in criminal activity. *Petition of Maglisco*, 491 A.2d 1381, 1385 (Pa.Super. 1985). In this case, the Drug Task Force personnel ignored the need for such a nexus and engaged in a shopping spree, for the benefit of their budget, based solely on the property's value.

The Court finds the two televisions were seized solely because the Defendant was involved in drug sale activities and because he possessed items of resale value (Tr. 20). There was no nexus. The Court finds that the Task Force members knew or should have known there was no evidence linking the televisions in any way to drug dealing or drug money. They seized the property solely because the Defendant was a drug dealer and the property had resale value. There is no law to support such an arbitrary exercise of police power in violation of the Fourth Amendment to the U.S. Constitution (as applied to the states through the Fourteenth Amendment), as well as in violation of the Pennsylvania Constitution, Article 1, Section 8.

The Defendant in this case lives in a home in York County, with his girlfriend who had a job. The defense presented evidence during the forfeiture hearing that the Defendant was regularly employed before his arrest and conviction, and that the Defendant's adult son resided in the premises off and on during all dates relevant to the action. At no time related to this case did the police take, seek, or seize any financial record of the Defendant to support their claim he could not legitimately afford the televisions. The police did not seek to determine whether the electronic devices had been purchased with drug proceeds or through bona fide means. They did not seek to determine ownership of the items as being belonging to the defendant solely, to his wife, or to his son. The officers simply saw items of value that had a market resale value in a drug dealer's home, and seized those items without a valid basis in law.

The Defendant and his family were denied the use of the property for 2 ½ years, a period of time where the property had no evidentiary value to the police, during which it depreciated in value, and during which the Defendant's family had to choose to buy replacement property, or to live 2 ½ years without access to their unlawfully seized property.

There is no dispute that the Defendant in this case is a bad actor. He

does not have clean hands and is a criminal. However, the protections of the Constitution of the United States, and that of Pennsylvania, do not create two tiers of protection against unlawful and arbitrary seizure of private property by the police. All citizens of the United States and the Commonwealth are protected equally from an arbitrary and unreasonable taking of their property<sup>6</sup>. The Court finds that the police seizure and ongoing possession of the items in this case was manifestly unreasonable.

When the taking of property from a criminal suspect has neither evidentiary relevance to a case, nor nexus to a drug transaction or drug money, the police are not only in violation of statute, but acting outside of the law. Such police procedures are arbitrary and may comprise a form of pre-verdict punishment inflicted by the police, without judicial approval. The United States Supreme Court has recognized that when private property is lawfully seized pursuant to a forfeiture statute, then that seizure is not a taking under the law. *Bennis v. Michigan*, 516 U.S. 442, 452 (1996). As in this case, where private property is unlawfully taken from a suspect and denied to him and his family, the rightful owners, for a period of years, the police have performed an unlawful "taking" of property under the law. If the police target drug suspects for this disparate treatment, they are punishing a suspect who is still presumed to be innocent under the law. They are also inflicting punishment upon the lawful and bona fide owners of the property as well, who may be facing no charges. Such punishment, imposed in the sole discretion of the police, is not supported by the law, and is in fact a violation of their duty to protect the private property of all citizens of the Commonwealth. The Superior Court has recently held that a property owner may not appeal a forfeiture of property until there is a final order in his criminal case. *Commonwealth v. Bowers*, 185 A.3d, 358 ( Pa. Super 2018).

The potential consequences of police engaging in the overzealous seizure of private property may have detrimental second and third order effects in criminal prosecutions. The seizure of personal property, without lawful authority, becomes a potential tool of coercion against suspects that was not in the legislature's intent in passing the forfeiture statute. When not restrained by the Courts, this can become a form of collateral financial coercion, which this Court will not tolerate. *Luis v. U.S.*, 136 S.Ct. 1083, 1086 (2016). An overbroad seizure of an individual's property, without meeting the requirements of the forfeiture statute, provides the police with undue leverage to potentially coerce suspects to become confidential informants in order to regain their family's property that has been unlawful seized.<sup>7</sup>

Overbroad seizure of property further places potentially coercive influence upon plea negotiations and the voluntariness of pleas negotiated before the court. *Commonwealth v. Forbes*, 299 A.2d 268, 271 (Pa. 1973). When property has been improperly seized and withheld for an unreasonable period of time, the choice to the defendant is no longer merely whether to accept a period of probation or incarceration, but the added pressure is levied on the defendant to accept the deal in order to retrieve his or his families' legitimate property, of which they have been possibly wrongly deprived. Where the property is highly valuable, or where the value of the property is substantial and the defendant is of modest means, the decision to enter into a plea might no longer be viewed by the Court as freely and voluntarily entered into, where it is built upon a foundation of financial coercion.<sup>8</sup>

This Court is not willing at this time, upon this record, to go so far as to hold that the Drug Task Force has engaged in such coercive practices regarding statements of pleas. This particular record does not reflect that such coercion has occurred in this Defendant's guilty plea. However, in the absence of reform and a greater demonstration of responsibility in future Drug Task Force practices, this issue will remain to be decided to the voluntariness of plea deals, questions of double jeopardy, and the personal or institutional liability/culpability of those officers who seize private property unlawfully.

Finally, the Court also notes, in practical application, that as most forfeitures proceed after sentencing, and as a defendant does not have a right to be represented by legal counsel in a forfeiture action, many defendants are incarcerated in prison at the time of their forfeiture action without ready access to legal counsel to defend their interests. This creates a system where excesses in the exercise of police authority are not easily remedied. It is also a common practice that defendants are asked to negotiate away their forfeiture claims as a condition of a reduced sentence in a pretrial negotiation with the prosecutor.

Accordingly, significant legal hurdles and disincentives are put in the path of a defendant to assert a claim to their own bona fide property when it is seized contrary to law. Asserting such a claim to their own legitimate property may cause the prosecutor to withdraw a plea offer, resulting in extended incarceration. The absence of counsel may cause an

unsophisticated or uninformed defendant to lose their claim to property, as they have exhausted their funds on legal representation in their underlying criminal matter. The systemic protections are meager. Accordingly, this Court will require hearings in all future forfeiture actions, to ensure compliance with the forfeiture statute's intent.

Taken in its entirety, the testimony of the officers in this case indicates that the police made the subjective assessment that the Defendant is too poor, absent drug dealing, to have nice possessions. This was nothing more than a hunch, unsupported by any investigative rigor, and clouded by an overzealous desire to forfeit the possessions.

### **CONCLUSION**

In regard to the two vehicles, the Commonwealth has not proven their case. The Defendant and his family owned four to five cars depending on whose testimony was presented. Two of the cars seized were the Dodge Neon and the 2004 Mercedes. No credible evidence was presented that the Defendant used any specific car for drug activity or that he used all of them. Counsel for the defense established that the police seized the two vehicles that had no liens on them, while leaving behind vehicles that either had liens or may have had liens. To forfeit a specific vehicle on this record would be nothing more than guessing, not a decision based on a preponderance of the evidence.

Accordingly, there is no basis for the seizure of any vehicle from the Defendant. The vehicles will be returned to the custody of the Defendant or his designated family members and all cost of storage are placed upon the Commonwealth. The two televisions sets will be returned to the Defendant or his designated representative in working condition within three days, as there was no lawful basis whatsoever to seize this property.

The Clerk of Court is directed to serve a copy of this Opinion to the York County District Attorney, Korey Leslie, Esquire, Counsel for the Defendant, and to the Defendant, Christopher Hawkins.

### **BY THE COURT:**

**CRAIG T. TREBILCOCK, JUDGE**

### **FOOTNOTES**

<sup>1</sup> There was no testimony during the hearing that distinguished the Neon/Mercedes from the Jeep/Ford Escape as far as connection to drug trafficking or drug money.

<sup>2</sup> The Court had the opportunity to observe the demeanor of the witness as well as his level of certainty in his recollection of this statement, and concludes based upon this, as well as subsequent testimony from Detective F. that the Defendant made no such statement. In fact, the Defendant was scrupulously evasive at all times about what specific vehicles he used, if any, to support his drug dealing business.

<sup>3</sup> This conclusion was later refuted by evidence and a stipulation presented later in the hearing that the Defendant was working until shortly before his arrest.

<sup>4</sup> There is no violation of the Controlled Substance Act by a person taking a vehicle to Baltimore. It is up to the police to establish by preponderance of the evidence that the vehicle was taken to Baltimore for the purpose of an illicit drug purchase or other action contrary to law. *Commonwealth v. 1992 Chevrolet*, 844 A.2d 583 (Pa. Cmwlth 2004). In this case the police were not able to do that.

<sup>5</sup> Constitutional protection against unreasonable government seizures of property existed in Pennsylvania more than fifteen years before promulgation of the Federal Fourth Amendment to the U.S. Constitution. *Commonwealth v. Sell*, 504 Pa. 46, 63, 470 A.2d 457 (1983).

<sup>6</sup> At this point, the scope of this opinion does not apply to the seizure of evidence or other property by the police that has evidentiary value to the investigation of a case. The police have broad discretion and authority to seize property pursuant to a search warrant that has probative value to prove or disprove the commission of a crime. That is not the issue at bar in this case. This case involves the seizure of property solely for forfeiture purposes.

<sup>7</sup> The Court takes judicial notice that operating as a confidential informant is an inherently dangerous activity.

<sup>8</sup> This is an issues that might impact the voluntariness of statements taken by the police as well.

## 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 required to make known the same, and all persons indebted to said estate are requested to make payment without delay to the executors or administrators or their attorneys named below.**

## FIRST PUBLICATION

ESTATE OF DOROTHY E. BAILEY  
a/k/a DOROTHY ELIZABETH BAILEY,  
DECEASED  
Late of Springfield Twp., York County, PA.  
Executor: Randy E. Bailey, Sr., c/o Laucks  
& Laucks, PC, 105 West Broadway, Red  
Lion, PA 17356  
Attorney: David M. Laucks, Esquire,  
LAUCKS & LAUCKS, PC, 105 West  
Broadway, Red Lion, PA 17356 04.04-3t

ESTATE OF JACOB A. BERKHEIMER, III,  
DECEASED  
Late of West Manchester Twp., York County, PA.  
Administrator-Executor: Nancy Platts,  
4011 Carlisle Road, Appt. A, Dover, PA  
17315  
Attorney: David Turocy, Esquire, Ream,  
Carr, Markey, Woloshin & Hunter LLP, 53  
East Canal St., Dover, PA 17315 04.04-3t

ESTATE OF MARDELLA K. BOLTON,  
DECEASED  
Late of York Twp., York County, PA.  
Executor: Grant D. Bolton, c/o 2025 E.  
Market Street, York, PA 17402  
Attorney: Richard H. Mylin, III, Esquire,  
2025 E. Market Street, York, PA 17402  
04.04-3t

ESTATE OF MEARL R. BOYER, DECEASED  
Late of Penn Twp., York County, PA.  
Executrix: Kimberly A. Laughman, c/o  
Elinor Albright Rebert, Esquire, 515  
Carlisle Street, Hanover, PA 17331  
Attorney: Elinor Albright Rebert, Esquire,  
515 Carlisle Street, Hanover, PA 17331  
04.04-3t

ESTATE OF MARY K. CORKLE, DECEASED  
Late of New Cumberland, York County, PA.  
Executor: Linda DeAngelo, Wormleysburg,  
PA  
Attorney: Barbara Sumple-Sullivan, Esquire,  
549 Bridge Street, New Cumberland, PA  
17070 04.04-3t

ESTATE OF LINDA LEE FORSYTHE,  
DECEASED  
Late of Springettsbury Twp., York County, PA.  
Administrators: Chris A. Wolf and Craig E.  
Wolf, c/o Elinor Albright Rebert, Esquire,  
515 Carlisle Street, Hanover, PA 17331  
Attorney: Elinor Albright Rebert, Esquire,  
515 Carlisle Street, Hanover, PA 17331  
04.04-3t

ESTATE OF THOMAS WILLARD GEISSER,  
JR., DECEASED  
Late of York County, PA.  
Administrator-Executor: Shelley Geisser, 945  
Ripple Dr., Hanover, PA 17331 04.04-3t

ESTATE OF SIMONE ROYCE GOFFMAN,  
DECEASED  
Late of Shrewsbury Borough, York County, PA.  
Administrator-Executor: Allison S.  
Siegelman, c/o Bellomo & Associates,  
LLC, 3198 East Market Street, York, PA  
17402  
Attorney: Irene Sartalis, Esquire, Bellomo &  
Associates, LLC, 3198 East Market Street,  
York, PA 17402 04.04-3t

ESTATE OF FRANCES L. GROSS,  
DECEASED  
Late of Dover Twp., York County, PA.  
Executor: Donna L. Stare, c/o The Hamme  
Law Firm, LLC, 1946 Carlisle Road,  
York, PA 17408  
Attorney: Rachel Dodson Hamme, Esquire,  
The Hamme Law Firm, LLC, 1946  
Carlisle Road, York, PA 17408 04.04-3t

ESTATE OF CARRIE L. GROVE, a/k/a  
CARRIE LUELLA GROVE, DECEASED  
Late of Dover Twp., York County, PA.  
Co-Executors: Lance E. Grove and Victoria  
E. Kells, c/o Stock and Leader, 221 West  
Philadelphia Street, Suite 600, York, PA  
17401  
Attorney: MacGregor J. Brillhart, Esquire,  
STOCK AND LEADER, Susquehanna  
Commerce Center East, 221 West  
Philadelphia Street, Suite 600, York, PA  
17401-2994 04.04-3t

ESTATE OF ROBERT C. KEATON,  
DECEASED  
Late of Newberry Twp., York County, PA.  
Executor: Jennifer Algae Keaton, c/o Susan  
H. Confair, Esquire, Reager & Adler, PC,  
2331 Market Street, Camp Hill, PA 17011  
Attorney: Susan H. Confair, Esquire, Reager  
& Adler, PC, 2331 Market Street, Camp  
Hill, PA 17011 04.04-3t

ESTATE OF MIRIAM A. LEASE, DECEASED  
Late of West Manchester Twp., York County, PA.  
Executor: Richard Dohm, c/o Richard R.  
Reilly, Esquire, 54 North Duke Street,  
York, PA 17401-1210  
Attorney: Richard R. Reilly, Esquire, 54  
North Duke Street, York, PA 17401-1210  
04.04-3t

ESTATE OF ARLENE M. LEIB, a/k/a  
ARLENE MAE LEIB and ARLENE LEIB,  
DECEASED  
Late of York City, York County, PA.  
Executrix: Diane M. Leib, 303 Stonegate  
Road, York, PA 17408  
Attorney: Terence J. Barna, Esquire,  
BENNLAWFIRM, 103 East Market  
Street, P.O. Box 5185, York, PA 17405-  
5185 04.04-3t

ESTATE OF FRANCES W. MILLER,  
DECEASED  
Late of West Manheim Twp., York County, PA.  
Administrator-Executor: Robert W. Miller,  
3176 Hanover Pike, Hanover, PA 17331  
04.04-3t

ESTATE OF JOAN B. MILSTEN, DECEASED  
Late of Manchester Twp., York County, PA.  
Administrator-Executor: Craig Milsten, c/o  
Bellomo & Associates, LLC, 3198 East  
Market Street, York, PA 17402  
Attorney: Bellomo & Associates, LLC, 3198  
East Market Street, York, PA 17402  
04.04-3t

ESTATE OF GENEVELYN L. MYERS,  
DECEASED  
Late of North Codorus Twp., York County, PA.  
Executrix: Christine P. Mummert, c/o Elinor  
Albright Rebert, Esquire, 515 Carlisle  
Street, Hanover, PA 17331  
Attorney: Elinor Albright Rebert, Esquire,  
515 Carlisle Street, Hanover, PA 17331  
04.04-3t

ESTATE OF DANIEL M. PINDZOLA,  
DECEASED  
Late of Spring Garden Twp., York County, PA.  
Executor: Jefferson Ander Pindzola, c/o  
Kearney Galloway Graybill, LLC, 940  
South Queen Street, York, PA 17403  
Attorney: Jack L. Graybill II, Esquire,  
Kearney Galloway Graybill, LLC, 940  
South Queen Street, York, PA 17403  
04.04-3t

ESTATE OF THERESA M. STAUB a/k/a  
THERESA MARY STAUB, DECEASED  
Late of Dover Twp., York County, PA.  
Co-Executors: Melinda J. Mott and Bernard  
C. Staub, c/o 129 East Market Street,  
York, PA 17401  
Attorney: Suzanne H. Griest, Esquire, 129  
East Market Street York, PA 17401  
04.04-3t

ESTATE OF DARYL SCOTT STONER a/k/a  
D. SCOTT STONER, DECEASED  
Late of Newberry Twp., York County, PA.  
Administratrix: Cynthia A. Gavin, c/o 340  
Pine Grove Commons, York, PA 17403  
Attorney: Robert Clofine, Esquire, Elder  
Law Firm of Robert Clofine, 340 Pine  
Grove Commons, York, PA 17403  
04.04-3t

## SECOND PUBLICATION

ESTATE OF DAVID CASTILLO, DECEASED  
Late of Manchester Twp., York County, PA.  
Administrator: Cassandra R. Castillo,  
c/o MPL LAW FIRM, LLP, 137 East  
Philadelphia Street, York, PA 17401-2424  
Attorney: John D. Miller, Jr., Esquire, MPL  
LAW FIRM, LLP, 137 East Philadelphia  
Street, York, PA 17401-2424 03.28-3t

ESTATE OF ROBERT GERALD EDDIS,  
DECEASED  
Late of York Twp., York County, PA.  
Administrator-Executor: Daniel Robert  
Zolin-Eddis, 76 Fox Run Dr., York, PA  
17403 03.28-3t

ESTATE OF DONALD R. EVELER,  
DECEASED  
Late of Chanceford Twp., York County, PA.  
Executrix: Angela F. Eveler, c/o 340 Pine  
Grove Commons, York, PA 17403  
Attorney: Robert Clofine, Esquire, Elder  
Law Firm of Robert Clofine, 340 Pine  
Grove Commons, York, PA 17403  
03.28-3t



ESTATE OF JAY MICHAEL FICKES a/k/a  
JAY M. FICKES, DECEASED  
Late of Springettsbury Twp., York County, PA.  
Administrator-Executor: Constance J. Fickes,  
c/o Rinaldi & Poveromo, P.C., 520 Spruce  
St., Scranton, PA 18503  
Attorney: Raymond C. Rinaldi, II, Esquire,  
Rinaldi & Poveromo, P.C., 520 Spruce St.,  
Scranton, PA 18503 03.28-3t

ESTATE OF MARION E. FROCK,  
DECEASED  
Late of Berwick Twp., Adams County, PA.  
Executor: Dennis A. Frock, c/o Elinor  
Albright Rebert, Esquire, 515 Carlisle  
Street, Hanover, PA 17331  
Attorney: Elinor Albright Rebert, Esquire,  
515 Carlisle Street, Hanover, PA 17331  
03.28-3t

ESTATE OF DRINDA A. GIBSON,  
DECEASED  
Late of York City, York County, PA.  
Executor: Seth W. Gibson, c/o Gregory H.  
Gettle, Esquire, 13 E. Market St., York, PA  
17401  
Attorney: Gregory H. Gettle, Esquire,  
GETTLE & VELTRI, 13 E. Market St.,  
York, PA 17401 03.28-3t

ESTATE OF GERALDINE R. GLASS,  
DECEASED  
Late of York Twp., York County, PA.  
Co-Executors: Lorrie A. Boyer, Pamela E.  
Noel, and John D. Glass, c/o Stock and  
Leader, 221 West Philadelphia Street,  
Suite 600, York, PA 17401  
Attorney: Thomas M. Shorb, Esquire,  
STOCK AND LEADER, Susquehanna  
Commerce Center East, 221 West  
Philadelphia Street, Suite 600, York, PA  
17401-2994 03.28-3t

ESTATE OF MARIA D. HOWARD,  
DECEASED  
Late of York County, PA.  
Executor: LuAnn Nuss Yañez, 412  
Latshmere Dr., Harrisburg, PA 17109  
Attorney: Laura C. Reyes Maloney, Esquire,  
1119 N. Front St., Harrisburg, PA 17102  
03.28-3t

ESTATE OF NOURHAN KAILIAN, a/k/a  
NOURHAN K. KAILIAN, DECEASED  
Late of Spring Garden Twp., York County, PA.  
Executor: Keith Kailian, c/o Stock and  
Leader, 221 West Philadelphia Street,  
Suite 600, York, PA 17401  
Attorney: Thomas M. Shorb, Esquire,  
STOCK AND LEADER, Susquehanna  
Commerce Center East, 221 West  
Philadelphia Street, Suite 600, York, PA  
17401-2994 03.28-3t

ESTATE OF MARCIA E. KEENER,  
DECEASED  
Late of Dover Twp., York County, PA.  
Administrator-Executor: Carol Strayer, 2351  
Deep Hollow Road, Dover, PA 17315  
03.28-3t

ESTATE OF HORACE KEESEY, III,  
DECEASED  
Late of West Manchester Twp., York County, PA.  
Co-Executors: Sallie H. K. Francis and Mark  
L. Keeseey, c/o Bradley J. Leber, Esquire,  
Blakey, Yost, Bupp & Rausch, LLP, 17  
East Market Street, York, PA 17401

Attorney: Bradley J. Leber, Esquire, Blakey,  
Yost, Bupp & Rausch, LLP, 17 East  
Market Street, York, PA 17401 03.28-3t

ESTATE OF RONALD E. KELLER,  
DECEASED  
Late of West Manchester Twp., York County, PA.  
Administratrix: Patricia A. Kriegbaum, c/o  
Richard R. Reilly, Esquire, 54 North Duke  
Street, York, PA 17401-1210  
Attorney: Richard R. Reilly, Esquire, 54  
North Duke Street, York, PA 17401-1210  
03.28-3t

ESTATE OF LORRAINE E. MANIERI,  
DECEASED  
Late of York Twp., York County, PA.  
Administratrix: Heather L. Valle-Arcilla, c/o  
Stock and Leader, 221 West Philadelphia  
Street, Suite 600, York, PA 17401  
Attorney: MacGregor J. Brillhart, Esquire,  
STOCK AND LEADER, Susquehanna  
Commerce Center East, 221 West  
Philadelphia Street, Suite 600, York, PA  
17401-2994 03.28-3t

ESTATE OF CAROL ANN MILLER, a/k/a  
CAROL A. MILLER, a/k/a CAROL S.  
MILLER, DECEASED  
Late of Franklin Twp., York County, PA.  
Executor: John V. Miller, III, c/o Benn Law  
Firm, Wm. D. Schrack, III, of Counsel,  
124 West Harrisburg Street, Dillsburg, PA  
17019-1268  
Attorney: Benn Law Firm, Wm. D. Schrack,  
III, of Counsel, 124 West Harrisburg  
Street, Dillsburg, PA 17019-1268 03.28-3t

ESTATE OF ANNA L. MILWAY a/k/a ANNA  
LEE MILWAY, DECEASED  
Late of New Freedom Borough, York  
County, PA.  
Executor: Anna Marie Britton, c/o 135 North  
George Street, York, PA 17401  
Attorney: Craig S. Sharnetzka, Esquire, CGA  
Law Firm, PC, 135 North George Street,  
York, PA 17401 03.28-3t

ESTATE OF SUZANNE E. REBERT,  
DECEASED  
Late of Penn Twp., York County, PA.  
Executor: Scott D. Rebert, c/o Elinor  
Albright Rebert, Esquire, 515 Carlisle  
Street, Hanover, PA 17331  
Attorney: Elinor Albright Rebert, Esquire,  
515 Carlisle Street, Hanover, PA 17331  
03.28-3t

ESTATE OF JUDITH HOPE ROSS a/k/a HOPE  
ROSS, DECEASED  
Late of Shrewsbury Twp., York County, PA.  
Executrix: Stacey Minoglio, c/o Samuel A.  
Gates, Esq., Gates & Gates, P.C., 250 York  
Street, Hanover, PA 17331  
Attorney: Samuel A. Gates, Esquire,  
Gates & Gates, P.C., 250 York Street,  
Hanover, PA 17331 03.28-3t

ESTATE OF RICHARD BENJAMIN SEGUIN,  
DECEASED  
Late of Springettsbury Twp., York County, PA.  
Executrix: Joan Marie Reger, c/o Gettle &  
Veltri, 13 East Market Street, York, PA  
17401  
Attorney: Gregory E. Gettle, Esquire,  
Gettle & Veltri, 13 East Market Street  
York, PA 17401 03.28-3t

ESTATE OF MIRIAM L. SHARP, DECEASED  
Late of Conewago Twp., York County, PA.  
Administrator-Executor: Donna Santa Maria  
& Patty Taylor, c/o 1215 Manor Drive,  
Suite 202, Mechanicsburg PA 17055  
Attorney: Kristen Snyder, Esquire, 1215  
Manor Drive, Suite 202, Mechanicsburg  
PA 17055 03.28-3t

ESTATE OF AGNES S. SMITH a/k/a MARY  
AGNES SMITH, DECEASED  
Late of Shrewsbury Twp., York County, PA.  
Executrix: Mary Daune Poklis, c/o 340 Pine  
Grove Commons, York, PA 17403  
Attorney: Robert Clofine, Esquire, Elder  
Law Firm of Robert Clofine, 340 Pine  
Grove Commons, York, PA 17403  
03.28-3t

ESTATE OF JAMES G. SNEERINGER, JR.,  
DECEASED  
Late of Manheim Twp., York County, PA.  
Administrator-Executor: Thomas M.  
Sneeringer, 3806 Jenifer Street, NW,  
Washington, DC 20015 03.28-3t

ESTATE OF CHERYL LYNN SPADAFORA,  
DECEASED  
Late of West Manchester Twp., York County, PA.  
Administrator: Melissa A. Diehl, c/o Kearney  
Galloway Graybill, LLC, 940 South  
Queen Street, York, PA 17403  
Attorney: Jack L. Graybill II, Esquire,  
Kearney Galloway Graybill, LLC, 940  
South Queen Street, York, PA 17403  
03.28-3t

ESTATE OF ALLEN D. STOVER a/k/a ALEN  
D. STOVER, DECEASED  
Late of Chanceford Twp., York County, PA.  
Executor: Nellie A. Wallace, c/o Scott A.  
Ruth, Esq. 123 Broadway, Hanover, PA  
17331  
Attorney: Scott A. Ruth, Esquire, 23  
Broadway, Hanover, PA 17331 03.28-3t

ESTATE OF SUSAN E. VALENTI,  
DECEASED  
Late of Springettsbury Twp., York County, PA.  
Administrator-Executor: Pamela S. Kincaid,  
c/o Randall K. Miller, Esq., 1255 S.  
Market St., Suite 102, Elizabethtown PA  
17022  
Attorney: Randall K. Miller, Esquire, 1255 S.  
Market St., Suite 102, Elizabethtown PA  
17022 03.28-3t

ESTATE OF MARY L. WEAVER, DECEASED  
Late of Penn Twp., York County, PA.  
Executor: Kevin A. Weaver, c/o Elinor  
Albright Rebert, Esquire, 515 Carlisle  
Street, Hanover, PA 17331  
Attorney: Elinor Albright Rebert, Esquire,  
515 Carlisle Street, Hanover, PA 17331  
03.28-3t

ESTATE OF TREVA V. WITMER,  
DECEASED  
Late of Spring Garden Twp., York County, PA.  
Executor: Richard Helfrick, III, c/o William  
B. Anstine, Jr., Esquire, Anstine & Sparler,  
117 East Market St., York, PA 17401  
Attorney: William B. Anstine, Jr., Esquire,  
Anstine & Sparler, 117 East Market St.,  
York, PA 17401 03.28-3t



**THIRD PUBLICATION****ESTATE OF DONALD E. BEAVERSON, DECEASED**

Late of West Manchester Twp., York County, PA.  
Executors: Mary Ann Beaverson and Jerry L. Beaverson, c/o 340 Pine Grove Commons, York, PA 17403

Attorney: Robert Clofine, Esquire, Elder Law Firm of Robert Clofine, 340 Pine Grove Commons, York, PA 17403 03.21-3t

**ESTATE OF MARIE B. BENNER, DECEASED**

Late of North Codorus Twp., York County, PA.  
Co-Executors: Melissa A. Renzulli and Mark A. Benner, c/o Richard R. Reilly, Esquire, 54 North Duke Street, York, PA 17401-1210

Attorney: Richard R. Reilly, Esquire, 54 North Duke Street, York, PA 17401-1210 03.21-3t

**ESTATE OF JERRY C. BERWAGER a/k/a JERRY CURTIS BERWAGER, DECEASED**

Late of Hanover Borough, York County, PA.  
Executor: Teresa Ann Riedel, 7 Two Taverns Road, Gettysburg, PA, 17325 and Sandra Elizabeth Buchma, 200 Drummer Drive, New Oxford, PA, 17350

Attorney: Arthur J. Becker, Jr., Esquire, Becker Law Group, P.C., 529 Carlisle Street, Hanover, PA 17331 03.21-3t

**ESTATE OF ARLENE BOLTON, a/k/a ARLENE J. BOLTON, DECEASED**

Late of York City, York County, PA.  
Executrix: Ida Berkheimer, c/o Stock and Leader, 221 West Philadelphia Street, Suite 600, York, PA 17401

Attorney: MacGregor J. Brillhart, Esquire, STOCK AND LEADER, Susquehanna Commerce Center East, 221 West Philadelphia Street, Suite 600, York, PA 17401-2994 03.21-3t

**ESTATE OF JOANN R. HARTMAN, DECEASED**

Late of Spring Garden Twp., York County, PA.  
Executor: Stewart E. Hartman, Jr., c/o 135 North George Street, York, PA 17401

Attorney: Timothy Bupp, Esquire, CGA Law Firm, PC, 135 North George Street, York, PA 17401 03.21-3t

**ESTATE OF MARY L. HERSEY, DECEASED**

Late of York Twp., York County, PA.  
Executrix: Sandra Stambaugh, 155 Country Club Road, Red Lion, PA 17356

Attorney: Clayton A. Lingg, Esquire, MOONEY & ASSOCIATES, 230 York Street, Hanover, PA 17331 03.21-3t

**ESTATE OF BETTY M. HOOVER, DECEASED**

Late of York County, PA.  
Administrator-Executor: Charles L. Hoover & John M. Hoover, c/o Bellomo & Associates, 3198 East Market Street, York, PA 17402

Attorney: Betty Hoover, Esquire, Bellomo & Associates, 3198 East Market Street, York, PA 17402 03.21-3t

**ESTATE OF LOIS A. MANIFOLD, DECEASED**

Late of York Twp., York County, PA.

Co-Executrices: Carol A. Lutz and Rebecca L. Wolford, c/o Stock and Leader, 221 West Philadelphia Street, Suite 600, York, PA 17401

Attorney: Ronald L. Hershner, Esquire, STOCK AND LEADER, Susquehanna Commerce Center East, 221 West Philadelphia Street, Suite 600, York, PA 17401-2994 03.21-3t

**ESTATE OF JOANN S. MOUL, DECEASED**

Late of York Twp., York County, PA.  
Co-Executrices: Jamie Moul and Julie Moul Gardner, c/o Eveler & DeArment LLP, 2997 Cape Horn Rd., Suite A-6, Red Lion, PA 17356

Attorney: Eveler & DeArment LLP, 2997 Cape Horn Rd., Suite A-6, Red Lion, PA 17356 03.21-3t

**ESTATE OF THERESA L. ROCK, DECEASED**

Late of North York Borough, York County, PA.  
Executrix: Patricia M. Rowbottom, c/o 340 Pine Grove Commons, York, PA 17403

Attorney: Robert Clofine, Esquire, Elder Law Firm of Robert Clofine, 340 Pine Grove Commons, York, PA 17403 03.21-3t

**ESTATE OF SANDRA L. SECHRIST, DECEASED**

Late of York Twp., York County, PA.  
Executrix: Beth A. Shaw, c/o Richard R. Reilly, Esquire, 54 North Duke Street, York, PA 17401-1210

Attorney: Richard R. Reilly, Esquire, 54 North Duke Street, York, PA 17401-1210 03.21-3t

**ESTATE OF FAYE H. STAMBAUGH, DECEASED**

Late of Hanover Borough, York County, PA.  
Executor: Jonathan Ingram, c/o 118 Carlisle St. Ste. 202, Hanover, PA 17331

Attorney: Donald W. Dorr, Esquire, 118 Carlisle St. Ste. 202, Hanover, PA 17331 03.21-3t

**ESTATE OF NORMA J. STERNER, a/k/a NORMA J. SMITH, DECEASED**

Late of Springettsbury Twp., York County, PA.  
Executor: Jon L. Sterner, 75 Bridlewood Way, B 32, York, PA 17402 03.21-3t

**ESTATE OF HELEN F. STILES, DECEASED**

Late of Windsor Twp., York County, PA.  
Executor: Ronald Barry Stiles, c/o Paul G. Lutz, Esquire, 110 South Northern Way, York, PA 17402

Attorney: Paul G. Lutz, Esquire, 110 South Northern Way, York, PA 17402 03.21-3t

**ESTATE OF DAVID J. SWIFT, DECEASED**

Late of Wrightsville Borough, York County, PA.  
Administrator-Executor: Christina Leiphart, c/o Russell, Krafft & Gruber, LLP, 930 Red Rose Court, Suite 300, Lancaster, PA 17601

Attorney: Russell, Krafft & Gruber, LLP, 930 Red Rose Court, Suite 300, Lancaster, PA 17601 03.21-3t

**ESTATE OF B. MARIE WALKER, a/k/a BESSIE MARIE WALKER, DECEASED**

Late of Jacobus Borough, York County, PA.  
Executrix: Brenda Elaine Snyder, c/o Goldfein and Joseph, P.C., 138 East

Market Street, York, PA 17401

Attorney: Leo E. Gribbin, Esquire, Goldfein and Joseph, P.C., 138 East Market Street, York, PA 17401 03.21-3t

**ESTATE OF LEONARD JAMES WIRICK a/k/a LEONARD J. WIRICK, DECEASED**

Late of West Manchester Twp., York County, PA.  
Executor: Kimberly Ann Jones, c/o P.O. BOX 606, East Berlin, PA 17316

Attorney: Sharon E. Myers, Esquire, CGA Law Firm, PC, P.O. BOX 606, East Berlin, PA 17316 03.21-3t

**ESTATE OF CHARLOTTE M. YOUNG, DECEASED**

Late of York City, York County, PA.  
Executrix: Sandra J. Andrews, c/o Gettle & Veltri, 13 East Market Street, York, PA 17401

Attorney: Gregory E. Gettle, Esquire, Gettle & Veltri, 13 East Market Street, York, PA 17401 03.21-3t

**ORPHAN'S COURT DIVISION AUDITING NOTICE**

To All legatees creditors and person interested: Notice is hereby given that the following accounts have been filed in the office of the Clerk of Orphans' Court Division for confirmation and distribution of the balance therein shown to the creditors, legatees next to kin, heirs and others legally entitled thereto on **April 10, 2019 at 9:00 a.m.** and will be called in the order named for audit and distribution by said Court, in **Courtroom No. 7003, on the 7<sup>th</sup> floor of the York County Judicial Center at 45 North George St. in the City of York, Pennsylvania.**

**1. HOUSE – The First and Final Account of Anthony D. House, Administrator of the Estate of Ertha L. House, Late of York City, York County, Pennsylvania, deceased, 6718-0346. (Rand A. Feder, Esq.)**

**2. GUTZWEILER – The First and Final Account of Martin W. Gutzweiler, Cassandra E. Kinnach, and Maureen B. Gutzweiler, Co-Executors of the First and Final Account of Martin J. Gutzweiler a/k/a Martin James Gutzweiler, Late of Fairview Township, York County, Pennsylvania, deceased, 6718-1124. (J. Diane Brannon-Nordtomme, Esq.)**

**FILED IN THE OFFICE OF THE CLERK OF ORPHANS' COURT DIVISION OF THE COMMON PLEAS COURT, YORK COUNTY, PENNSYLVANIA ON OR BEFORE MARCH 13, 2019.**

**BRADLEY C. JACOBS  
COURT OF COMMON PLEAS OF  
YORK COUNTY, PENNSYLVANIA,  
ORPHANS' COURT DIVISION**

03.28-2t

**CIVIL NOTICES****ACTION IN MORTGAGE FORECLOSURE**

Court of Common Pleas  
York County  
Civil Action – Law  
No. 2018-SU-001474

Notice of Action in Mortgage Foreclosure  
M&T Bank, Plaintiff vs. Patricia Arosemena, Solely in Her Capacity as Heir of Luther Ness Wallick, Deceased, Tana M. Hack, as Executrix of the Estate of Luther Ness Wallick, Deceased, James Wallick, Solely in His Capacity as Heir of Luther Ness Wallick, Deceased & Robert Wallick, Solely in His Capacity as Heir of Luther Ness Wallick, Deceased,  
Mortgagor and Real Owner, Defendants  
To: James Wallick, Solely in His Capacity as Heir of Luther Ness Wallick, Deceased, Mortgagor and Real Owner, Defendant, whose last known address is 1301 East King Street, Spring Garden, PA 17403. This firm is a debt collector and we are attempting to collect a debt owed to our client. Any information obtained from you will be used for the purpose of collecting the debt. You are hereby notified that Plaintiff, M&T Bank, has filed a Mortgage Foreclosure Complaint endorsed with a notice to defend against you in the Court of Common Pleas of York County, PA, docketed to No. 2018-SU-001474, wherein Plaintiff seeks to foreclose on the mortgage secured on your property located, 1301 East King Street, Spring Garden, PA 17403, whereupon your property will be sold by the Sheriff of York County. Notice: You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after the Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below. This office can provide you with information about hiring a lawyer. If you cannot afford to hire a Lawyer, this office may be able to provide you with information about agencies that may offer legal services to eligible persons at a reduced fee or no fee. Lawyer Referral Service of The York County Bar Assn. (Atty. Connections), York County Bar Center, 137 E. Market St., York, PA 17401, 717.854.8755. Michael T. McKeever, Atty. for Plaintiff, KML Law Group, P.C., Ste. 5000, BNY Independence Center, 701 Market St., Phila., PA 19106, 215.627.1322.

1

04.04-1t

Solicitor

**NOTICE OF ACTION IN MORTGAGE FORECLOSURE**

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PA  
CIVIL ACTION - LAW

PENNSYLVANIA HOUSING FINANCE AGENCY,  
PLAINTIFF

VS.

MICHELLE D. BAXTER,  
DEFENDANT

MORTGAGE FORECLOSURE  
NO. 2018 SU 003355

TO: MICHELLE D. BAXTER

You are hereby notified that on December 18, 2018, the Plaintiff, PENNSYLVANIA HOUSING FINANCE AGENCY, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend against you in the Court of Common Pleas of York County, Pennsylvania, docketed to No. 2018 SU 003355, wherein Plaintiff seeks to foreclose its mortgage securing your property located at 214 North Albemarle Street, York, PA 17403, whereupon your property would be sold by the Sheriff of York County.

You are hereby notified to plead to the above referenced Complaint on or before 20 DAYS from the date of this publication or a Judgment will be entered against you.

**NOTICE**

You have been sued in Court. If you wish to defend, you must enter a written appearance personally or by attorney, and file your defenses or objections in writing with the Court. You are warned that if you fail to do so, the case may proceed without you and a Judgment may be entered against you without further notice for the relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, TELEPHONE THE OFFICE BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ON AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

YORK COUNTY BAR ASSOCIATION  
137 East Market Street  
York, PA 17401  
(717) 854-8755, EXT. 201

Leon P. Haller, Esquire  
Attorney ID #15700  
1719 North Front Street  
Harrisburg, PA 17102  
717-234-4178

04.04-1t

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**IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA**

CIVIL ACTION-LAW  
NO. 2019-SU-000201

**NOTICE OF ACTION IN MORTGAGE FORECLOSURE**

PennyMac Loan Services, LLC, Plaintiff vs.  
Holly Aughinbaugh, Defendant

To: Holly Aughinbaugh, Defendant, whose last known addresses are 138 W. Jackson Street, Spring Grove, PA 17362 and 222 John Street, Hanover, PA 17331.

**COMPLAINT IN MORTGAGE FORECLOSURE**

You are hereby notified that Plaintiff, PennyMac Loan Services, LLC, has filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of York County, PA, docketed to NO. 2019-SU-000201, wherein Plaintiff seeks to foreclose on the mortgage secured on your property located, 222 John Street, Hanover, PA 17331, whereupon your property would be sold by the Sheriff of York County. NOTICE: YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the notice above, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH THE INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. LAWYERS REFERRAL SERVICE, 137 E. Market St., York, PA 17401, 717.854.8755. Jill Manuel-Coughlin, Amanda L. Rauer, Jolanta Pekalska, Harry B. Reese & Matthew J. McDonnell, Attys. for Plaintiff, Powers Kim, LLC, 8 Neshaminy Interplex, Ste. 215, Trevoze, PA 19053, 215.942.2090.

04.04-1t

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**NOTICE OF ACTION IN MORTGAGE FORECLOSURE**

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PA  
CIVIL ACTION - LAW

U.S. BANK NATIONAL ASSOCIATION  
AS TRUSTEE FOR THE PENNSYLVANIA  
HOUSING FINANCE AGENCY,  
PLAINTIFF

VS.

ANEESAH R. JAMISON  
DEFENDANT

MORTGAGE FORECLOSURE  
NO. 2019 SU 000083

TO: ANEESAH R. JAMISON

You are hereby notified that on January 11, 2019, the Plaintiff, U.S. BANK NATIONAL ASSOCIATION AS TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend against you in the Court of Common Pleas of York County, Pennsylvania, docketed to No. 2019 SU 000083, wherein Plaintiff seeks to foreclose its mortgage securing your property located at 430 North Pershing Avenue, York, PA 17401 whereupon your property would be sold by the Sheriff of York County.

You are hereby notified to plead to the above referenced Complaint on or before 20 DAYS from the date of this publication or a Judgment will be entered against you.

#### **NOTICE**

You have been sued in Court. If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the Court. You are warned that if you fail to do so, the case may proceed without you and a Judgment may be entered against you without further notice for the relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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(717) 854-8755, EXT. 201

Leon P. Haller, Esquire  
Attorney ID #15700  
1719 North Front Street  
Harrisburg, PA 17102  
717-234-4178

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#### **ACTION TO QUIET TITLE**

IN THE COURT OF COMMON  
PLEAS OF YORK COUNTY  
CIVIL ACTION – LAW & EQUITY

Docket No.: 2018-CV-1603

ACTION TO QUIET TITLE

#### **CIVIL ACTION – LAW & EQUITY**

CLEAVER MAYFIELD, LLC  
Plaintiff

v.

HIAWATHA GRIGGS POWELL  
Defendant.

#### **NOTICE OF PRAECIPE TO ENTER JUDGMENT BY DEFAULT**

To: Hiawatha Griggs Powell  
22634 Hickory Hill Square, #318  
Ashburn, Virginia 20148

Date of Notice: December 13, 2018

#### **IMPORTANT NOTICE**

Pursuant to PA RCP 237.1(a)(2)

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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LAWYER REFERRAL SERVICE OF THE  
YORK COUNTY BAR ASSOCIATION  
(ATTORNEY CONNECTIONS)  
YORK COUNTY BAR CENTER  
137 EAST MARKET STREET  
YORK, PENNSYLVANIA 17401  
TELEPHONE: (717) 854-8755

CGA Law Firm

Stephen R. McDonald, Esquire  
PA 310319  
CGA Law Firm  
135 North George Street  
York, Pennsylvania 17401  
Telephone: (717) 848-4900  
Facsimile: (717) 843-9039  
smdonald@cgalaw.com  
Counsel for Plaintiff

Dated: \_\_\_\_\_

04.04-1t Solicitor

#### **ARTICLES OF INCORPORATION NON-PROFIT CORPORATION**

NOTICE is hereby given that Articles of Incorporation - Nonprofit were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on February 19, 2019, for Bridgeview Homeowners Association, Inc. The said nonprofit corporation has been organized under the provisions of the Nonprofit Corporation Law of 1988.

BLAKEY, YOST, BUPP & RAUSCH, LLP  
John J. Baranski, Jr., Esquire

04.04-1t Solicitor

NOTICE is hereby given that Articles of Incorporation were filed with the Department of State, Commonwealth of Pennsylvania, on March 4, 2019, By **Keith Mitzel Ministries**, a Pennsylvania nonprofit corporation, with its registered office at 555 Deagen Rd., Hanover, York County, Pennsylvania, pursuant to the provisions of Article VII of the Nonprofit Corporation Law of the Commonwealth of Pennsylvania, as amended.

EVELER & DeARMENT LLP  
Solicitors

04.04-1t Solicitor

Notice is hereby given that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on March 13, 2019, for a proposed nonprofit corporation to be known as:

#### **RUTTER'S CHILDREN'S CHARITIES, INC.**

formed pursuant to the provisions of the Non-profit Corporation Law of 1988, 15 Pa. C.S. Section 5306, et seq.

The proposed nonprofit corporation is organized exclusively for Charitable, educational and scientific purposes as defined in Section 501(c)(3) of the Internal Revenue Code. In furtherance of its purposes, the corporation may exercise all rights, privileges, powers and authority of a corporation organized under the Nonprofit Corporation Law of 1988, as amended.

BARLEY, SNYDER LLP  
Attorneys

04.04-1t Solicitor



**CHANGE OF NAME**IN THE COURT OF COMMON PLEAS OF  
YORK COUNTY, PENNSYLVANIA

NOTICE is hereby given that on March 11, 2019 a petition for change of name was filed in the Court of Common Pleas, requesting a decree to change the name of: Angela Dawn Beharry to: Angela Dawn Wilson. The Court has fixed the day of May 31, 2019 at 2:30 pm in Courtroom 5004 at the York County Judicial Center, as the time and place for the hearing on said petition when and where all persons interested may appear and show cause, if any they have, why the prayer of the said petitioner should not be granted.

04.04-1t Solicitor

IN THE COURT OF COMMON PLEAS OF  
YORK COUNTY, PENNSYLVANIA

NOTICE is hereby given that on March 11, 2019 a petition for change of name was filed in the Court of Common Pleas, requesting a decree to change the name of: David Lawrence Beharry to: David Lawrence. The Court has fixed the day of May 31, 2019 at 3:00 pm in Courtroom 5004 at the York County Judicial Center, as the time and place for the hearing on said petition when and where all persons interested may appear and show cause, if any they have, why the prayer of the said petitioner should not be granted.

04.04-1t Solicitor

**FICTITIOUS NAME**

Notice is hereby given a certificate was or will be filed under the Fictitious Name Act approved May 24, 1945 in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that Alley Laser Art/Andrew Rodemaker, are the only person(s) owning or interested in a business, the character of which is: Metal Fabrication, and that the name, style and designation under which said business is and will be conducted is: Dillsburg, PA and the location where said business is and will be located is: PO Box 106, Dillsburg, PA 17019.

04.04-1t Solicitor

An application for registration of the fictitious name Bio Logic Builders, 100 Ducktown Rd., Hellam, PA 17406 has been filed in the Department of State at Harrisburg, PA, File

Date 02/19/2019 pursuant to the Fictitious Names Act, Act 1982-295. The name and address of the person who is a party to the registration is Passiflora Intuitive Designs LLC, 100 Ducktown Rd., Hellam, PA 17406.

04.04-1t Solicitor

Notice is hereby given a certificate was or will be filed under the Fictitious Name Act approved May 24, 1945 in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that Regan E. Bitler, 54 E. Elm Avenue, Hanover, PA 17331, are the only person(s) owning or interested in a business, the character of which is: selling gourd art and art supplies and tools used in the instruction of gourd art, and that the name, style and designation under which said business is and will be conducted is: Godahavom Gourds and the location where said business is and will be located is: 54 E. Elm Avenue, Hanover, PA 17331.

04.04-1t Solicitor

**NOTICE****NOTICE**

To the unknown father of Alexis Swords, age 14:

On August 1, 2018, an action in custody commenced in the Court of Common Pleas of York County at 2018-FC-1569-03 relating to the custody of the above-referenced individual. A custody conciliation is currently scheduled for April 18, 2019 at 2:00 P.M. in Hearing Room 4011 of the York County Judicial Center located at 45 N. George St., York, PA 17401.

You have been sued in Court. If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

Civil Action No.

PENNSYLVANIA STATE EMPLOYEES  
CREDIT UNION  
Plaintiff

vs.

RUSSELL P. BARA  
Defendant

**NOTICE TO DEFEND**

Pursuant to PA RCP No. 1018.1

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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LAWYER REFERRAL SERVICE OF THE  
York County Bar Association  
York County Bar Center  
137 East Market Street  
York, PA 17401  
(717) 854-8755

Effective September 1, 2003 Complaint

**EN LA CORTE DE ALEGATOS  
COMÚN DEL CONDADO DE YORK,  
PENNSYLVANIA  
DIVISIÓN CIVIL**

**AVISO PARA DEFENDER**

Conforme a PA RCP Núm. 1018.1  
USTED HA SIDO DEMANDADO/A EN  
LA CORTE. Si usted desea defender conta

la demanda puestas en las siguientes páginas, usted tienen queo tomar acción dentro veinte (2) días después que esta Demanda y Aviso es servido, con entrando por escrito una apariencia personalmente o po un abogado y archivando por escrito con la Corte sus defensas o objeciones a las demandas puestas en esta contra usted. Usted es advertido que si falla de hacerlo el caso puede proceder sin usted y un juzgamiento puede ser entrado contract usted por la Corte sin más aviso por cualquier dinero reclamado en la Demanda o por cualquier otro reclamo o alivio solicitado por Demandante. Usted puede perder dinero o propiedad o otros derechos importante para usted.

USTED DEBE LLEVAR ÉSTE PAPEL A SU ABOGADO ENSEGUIDA. SI USTED NO TIENE UN ABOGADO, VAYA O LLAME POR TELÉFONA LA OFICINA FIJADA AQUÍ ABAJO. ESTA OFICINA PUEDE PROVEERÉ CON INFORMACION DE COMO CONSEGUIR UN ABOGADO.

SI USTED NO PUEDE PAGARLE A UN ABOGADO, ÉSTA OFICINA PUEDE PROVEERE INFORMACION ACERCA AGENCIAS QUE PUEDAN OFRECER SERVICIOS LEGAL A PERSONAS ELIGIBLE AQ UN HONORARIO REDUCIDO O GRATIS.

SERVICIO DE REFERIDO A ABOGADO  
COLEGIO DE ABOGADOS DEL CONDADO  
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## Do You Know Your Client's Date of Marriage?

Lynnore K. Seaton, Esquire

What is your date of marriage? This may not be easy for one to answer, particularly for same-sex couples.

In Obergefell v Hodges, 135 S. Ct. 2584 (2015), the U.S. Supreme Court ruled that bans on same-sex marriage are unconstitutional. This ruling actually led to more questions than answers though in some areas of law. One issue is how to determine the proper date of marriage for same sex couples, who were married *before* the ban was lifted.

Unfortunately for some couples, marriage leads to divorce. One of the first questions that must be answered in a divorce is - what is the date of marriage? While some people may initially struggle to remember it, it is usually a date that is easily agreed upon because a marriage certificate usually exists. Additionally, since common-law marriage was abolished in Pennsylvania in 2005, there are fewer arguments that a common law marriage existed. The date of marriage is critical though, as marital assets are (generally) those that are acquired by the parties from their date of marriage until the date of separation. The length of the marriage is also a consideration when determining alimony.

For same sex couples who were married before the ban was lifted, this “easy” question may be complicated. Is their date of marriage the same date as the Obergefell opinion? Is it the day the couple married, or entered into a civil union, even if it was before same-sex marriage was legal in their state? Many same-sex couples established common law marriages before Obergefell. Can a same-sex couple be “common law married” if their state had a ban on same sex marriage?

The Pennsylvania Superior Court examined that very question in In re: Estate of Stephen Carter. (No. 1126 WDA 2016.) Stephen Carter and his partner, Michael Hunter met in 1996. On Christmas Day, in 1996, Mr. Hunter proposed to Mr. Carter and gave him a ring. Mr. Carter gave Hunter a ring on February 18, 1997, and the two celebrated their anniversary every year thereafter on February 18. They lived as a married couple, with a joint mortgage, wills, etc, until Mr. Carter died in 2013. In 2016, Mr. Hunter, petitioned for a declaration of marriage as part of processing the estate. Same-sex marriage was not legal in Pennsylvania until a year after Carter's death and common law marriage had been outlawed in Pennsylvania since 2005. Nevertheless, Mr. Hunter was asking the court to recognize their relationship as a same-sex common law marriage.

Many people still believe that common law marriage is established by living together for a set period of time, but this was never the requirement in Pennsylvania. There are actually two tests: the first test is for divorce or marriage cases, and both parties are living and able to testify; the second test is for estate cases, where one of the potential spouses has died and therefore not available to confirm or deny the allegation of a common law marriage. The first test requires proof that there was a present tense exchange of vows. In Carter, the court applied the second test where there is a rebuttable presumption of a common law marriage, if evidence shows cohabitation and reputation of marriage.

Hunter and Carter's relationship met all the requirements of cohabitation and reputation of marriage; therefore, their common law marriage was established. The final question for the court was whether this marriage was legal in light of the ban on same sex marriage at the time the men exchanged rings. Since Obergefell confirmed that all state and federal bans on same sex marriage were unconstitutional, it is as if the bans never existed, unless the court specifically states otherwise. In light of this, the court confirmed that Mr. Carter and Mr. Hunter were married in 1997 and at the time of Hunter's death in 2013.

The establishment of a common law marriage can also affect a variety of other areas, including federal benefits (social security spousal benefit is available to spouses married for at least ten years) and income tax filing status, as well as the appropriate amount of estate taxes that must be paid by the surviving spouse. Common law marriage may also play a role in the outcome of personal injury cases (loss of consortium claim) and same-sex common law marriage may also benefit children, by protecting their inheritance rights and preserving the parent-child relationship in custody matters.

The intersection of same-sex marriage and common law marriage will have many benefits for couples. It will also create some sticky situations, particularly for those who are divorcing.

**References:** Obergefell v Hodges, 135 S. Ct. 2584 (2015); In re: Estate of Stephen Carter. (No. 1126 WDA 2016.); and <https://www.jurist.org/commentary/2017/09/julie-colton-obergefell-common-law>.



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