

# The Greene Reports

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

**Vol. XXXVII, No. 16**

**January 10, 2019**

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Serving the Legal Community of Greene County  
Since October 1982

# The Greene Reports

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

## MOTIONS

Criminal & Civil & O.C.:  
Jan. 14, 16, & 18, 2019

## CRIMINAL

Arraignments: Jan. 14, 2019  
ARDs: Jan. 14, 2019  
ARD Revocations: Jan. 14, 2019  
Parole Violations: Jan. 22, 2019  
Plea Court: Jan. 15 & 16, 2019  
License Suspension Appeals: Feb. 19, 2019

## ORPHANS

Accounts Nisi: Feb. 4, 2019  
Accounts Absolute: Jan. 18, 2019

## SUPREME COURT

## SUPERIOR COURT

## COMMONWEALTH COURT

Convenes in Pgh.: April 8 - 12, 2019

Convenes in Pgh.: January 14 - 18, 2019

Convenes in Pgh.: February 11 - 15, 2019

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## THE GREENE REPORTS

Owned and published by the GREENE COUNTY BAR ASSOCIATION

Editor: Josephine L. Ketcham

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

## EDITORIAL POLICY

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the editorial staff to be reasonably interpreted as offensive, demeaning or insulting to any individual or group will not be published.

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

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 Anonymous correspondence will not be published.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

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## THE GREENE COUNTY BAR ASSOCIATION

Christine N. Nash, President

Christopher Simms, Vice-President

Adam Belletti, Secretary

Jessica Phillips, Treasurer

Brandon K. Meyer, Ex-Officio

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## DEED TRANSFERS

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

### CENTER TOWNSHIP

CNX Land LLC to CNX Midstream Devco I LP, R/W, \$1,506,750. (12-28-18)

### CUMBERLAND TOWNSHIP

Elliot N Rizer Sr to Ridgetop Appalachia LLC, 47 Acres O&G, \$270,710. (12-28-18)

### FRANKLIN TOWNSHIP

Escott Family Trust to Gary L Watson et ux, 2 Lots, \$127,000. (12-28-18)  
Greene County Industrial Developments Inc to EQM Gathering Opco LLC, R/W 122.15 Acres \$36,000. (1-3-19)

### GILMORE TOWNSHIP

Michael J Buckiso et ux et al to Monongalia County Coal Company, 2 Tracts, \$420,000. (12-31-18)

### GILMORE & WAYNE TOWNSHIPS

Paul E Fangman et ux to Mingo Creek Minerals LLC, Tracts O&G, \$39,712.80 (1-3-19)

### GREENE TOWNSHIP

Mepco LLC to David A Black et ux, 2 Tracts, \$20,000. (12-31-18)

### MONONGAHELA TOWNSHIP

Wilbur Black et ux to Robert Foster Hutchison et ux, 10.918 Acres, \$25,000. (12-28-18)

### MORGAN TOWNSHIP

Elmer W Boyle to John W Black et ux, 3 Tracts, \$18,000. (1-3-19)  
Thelma M Boyle Est to John W Black et ux, 3 Tracts, \$18,000. (1-3-19)

### RICHHILL TOWNSHIP

Shirley Grim Est to Steven Ray Lemley, 2 Lots, \$82,000. (12-28-18)

### RICHHILL & GRAY TOWNSHIPS

Consol Pennsylvania Coal Co LLC et al to CNX Midstream Devco I LP, R/W, \$115,790.40 (12-28-18)

### WASHINGTON TOWNSHIP

Cecelia Dorazio Est to John C McNay et ux, Lots 255-256 Waynesburg Lakes, \$2,000. (1-2-19)

### WHITELEY TOWNSHIP

Henrietta K Hanula Est to Three Rivers Royalty LLC, 16 Acres O&G, \$113,600. (1-2-19)

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

## FIRST PUBLICATION

TOLAND, THEODORE L.  
Late of Center Township, Greene County, Pennsylvania  
Administrator: Carl Lucas Toland, 2070 Oak Forest Road, Waynesburg, PA 15370  
Attorney: Brandon K. Meyer, Esquire, 76 North Richhill Street,  
Waynesburg, PA 15370

## SECOND PUBLICATION

NONE THIS PUBLICATION

## THIRD PUBLICATION

DETER, SR., ALBERT H.  
Late of Waynesburg, Greene County, Pennsylvania  
Executor: Albert H. Deter, Jr., 169 Little Shannon Run Road, Mt. Morris, PA 15349  
Attorney: Kimberly J. Simon-Pratt, Esquire, 223 East High Street,  
Waynesburg, PA 15370

KING, FRED D.  
Late of Cumberland Township, Greene County, Pennsylvania  
Administrator: David Mark King, 126 Highland Avenue, Waynesburg, PA 15370  
Attorney: Christopher Michael Simms, Esquire, Pollock Morris Belletti and Simms,  
LLC, 54 South Washington Street, Waynesburg, PA 15370-2036

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**SHERIFF'S SALE**  
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**By Virtue of a Writ of Execution (Mortgage Foreclosure)**  
**No. ED-58-2018 / AD-405-2018**

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

**FRIDAY, JANUARY 25, 2019**  
**AT 10:00 O'CLOCK A.M.**

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

PNC Bank, National Association, Successor by Merger to National City Mortgage a Division of National City Bank

v.  
John D. Childs  
Jamie L. Childs

Owner(s) of property situate in the CUMBERLAND TOWNSHIP, GREENE County, Pennsylvania, being 470 North Eighty-Eight Road, Carmichaels, PA 15320  
Parcel No. 05-02-138-B, 05-02-138-C (Acreage or street address)  
Improvements thereon: RESIDENTIAL DWELLING

Judgment Amount: \$106,019.88

PROPERTY ADDRESS: 470 North Eighty-Eight Rd, Carmichaels, PA 15320

UPI/TAX PARCEL NUMBER: 05-02-138-B, 05-02-138-C

**Seized and taken into execution to be sold as the property of JOHN D CHILDS, JAMIE L CHILDS in suit of PNC BANK, NATIONAL ASSOCIATION, SUCCESSOR BY MERGER TO NATIONAL CITY MORTGAGE A DIVISION OF NATIONAL CITY BANK**

Attorney for the Plaintiff:  
Phelan Hallinan Diamond & Jones

BRIAN A. TENNANT, SHERIFF  
Greene County, Pennsylvania

# The Greene Reports

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## SHERIFF'S SALE

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**By Virtue of a Writ of Execution (Mortgage Foreclosure)  
No. ED-45-2018 / AD-223-2018**

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

**FRIDAY, JANUARY 25, 2019  
AT 10:00 O'CLOCK A.M.**

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

WILMINGTON SAVINGS FUND SOCIETY, FSB, D/B/A CHRISTIANA TRUST, NOT INDIVIDUALLY BUT AS TRUSTEE FOR CARLSBAD FUNDING MORTGAGE TRUST % RUSHMORE LOAN MANAGEMENT SERVICES, LLC

VS  
JEFFREY A. PHILLIPS  
DONNA M. PHILLIPS

ALL THAT CERTAIN TRACT OF LAND SITUATE IN WHITELEY TOWNSHIP, GREENE COUNTY, PENNSYLVANIA, BOUNDED AND DESCRIBED AS FOLLOWS:

ADDRESS: 339 Patterson Run Road, Waynesburg, PA 15370  
PARCEL ID NO: 29-03-152-C

PROPERTY ADDRESS: 339 Patterson Run Road, Waynesburg, PA 15370

UPI/TAX PARCEL NUMBER: 29-03-152-C

**Seized and taken into execution to be sold as the property of JEFFREY A PHILLIPS, DONNA M PHILLIPS in suit of WILMINGTON SAVINGS FUND SOCIETY, FAB, D/B/A/ CHRISTIANA TRUST, NOT INDIVIDUALLY BUT AS TRUSTEE FOR CARLSBAD FUNDING MORTGAGE**

Attorney for the Plaintiff:  
KML Law Group, P.C.  
Philadelphia, PA 215-627-1322

BRIAN A. TENNANT, SHERIFF  
Greene County, Pennsylvania

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## SUPREME COURT NOTICE

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

**Rule 238. Damages for Delay in an Action for Bodily Injury, Death or Property Damage**

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### Addendum to Explanatory Comment (2019)

The prime rate as set forth in the first edition of the Wall Street Journal for a particular year is the basis for calculating damages for delay under Pa.R.C.P. No. 238 as revised November 7, 1988. The prime rate published in the first edition of the Wall Street Journal for each of the years specified is as follows:

Date of Publication	Prime Rate Percentage
<b>January 2, 2019</b>	<b>5 ½</b>
January 2, 2018	4 ½
January 3, 2017	3 ¾
January 4, 2016	3 ½
January 2, 2015	3 ¼
January 2, 2014	3 ¼
January 2, 2013	3 ¼
January 3, 2012	3 ¼
January 3, 2011	3 ¼
January 4, 2010	3 ¼
January 2, 2009	3 ¼
January 2, 2008	7 ¼
January 2, 2007	8 ¼
January 3, 2006	7 ¼
January 3, 2005	5 ¼
January 2, 2004	4
January 2, 2003	4 ¼
January 2, 2002	4 ¾
January 2, 2001	9 ½
January 3, 2000	8 ½
January 4, 1999	7 ¾
January 2, 1998	8 ½

NOTE: The prime rate for the years 1980 through 1997 may be found in the Addendum to the Explanatory Comment published in the **[Pennsylvania Bulletin, volume 33, page 634 (2/1/03)] Pennsylvania Bulletin, 33 Pa.B. 634 (February 1, 2003)**, and on the web site of the Civil Procedural Rules Committee at <http://www.pacourts.us>.

By the Civil Procedural Rules Committee  
David L. Kwass  
Chair

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

**NOTICE OF PROPOSED RULEMAKING**  
**Proposed Amendment of Pa.R.C.P. No. 237.3**

The Civil Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. No. 237.3 governing relief from judgment of *non pros* for failure to file a complaint or by default for failure to plead, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

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

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

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

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

All communications in reference to the proposal should be received by **March 22, 2019**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Civil Procedural Rules Committee,  
David L. Kwass  
Chair

**Rule 237.3. Relief from Judgment of *Non Pros* or by Default.**

(a) A petition for relief from a judgment of *non pros* or **[of] by** default entered pursuant to Rule 237.1 shall have attached thereto a copy of the complaint, preliminary objections, **and/or** answer which the petitioner seeks leave to file. **All grounds for relief shall be raised in a single petition.**

(b)(1) If the petition is filed within ten days after the entry of a judgment of *non pros* on the docket, the court shall open the judgment if the proposed complaint states a meritorious cause of action.

(2) If the petition is filed within ten days after the entry of a default judgment on the docket, the court shall open the judgment if one or more of the proposed preliminary objections has merit or the proposed answer states a meritorious defense.

Note: Rule 236 requires the prothonotary to give notice of the entry of any judgment and to note in the docket the giving of the notice.

The petitioner must act with reasonable diligence to see that the petition is promptly presented to the court if required by local practice.

See *Schultz v. Erie Insurance Exchange*, 477 A.2d 471 (Pa. 1984) for the requirements for opening a judgment by default and Rule 3051 as to a judgment of *non pros*. Rule 237.3 does not change the law of opening judgments. Rather, the rule supplies two of the three requisites for opening such judgments by presupposing that a petition filed as provided by the rule is timely and with reasonable explanation or legitimate excuse for the inactivity or delay resulting in the entry of the judgment. The requirement of this rule for proceeding within ten days is not intended to set a standard for timeliness in circumstances outside this rule.

See Rules 206.1 through 206.7 governing petition practice.

**Explanatory Comment**

The Civil Procedural Rules Committee is proposing the amendment of Rule 237.3 governing relief from judgment of *non pros* for failure to file a complaint or by default for failure to plead. In 2016, Rule 237.3 was amended by adding preliminary objections as a type of pleading that may be attached to a petition for relief from default judgment. It has been reported to the Committee that litigants have interpreted this provision to permit the filing of a petition for relief with proposed preliminary objections attached, and then, when that petition is denied, to permit the filing of an additional petition for relief by attaching the proposed answer, notwithstanding the requirement for filing within 10 days of the entry of default judgment. To promote procedural efficiency, the proposed amendment would require a litigant to raise all grounds for relief in a single petition.

By the Civil Procedural  
Rules Committee

David L. Kwass  
Chair