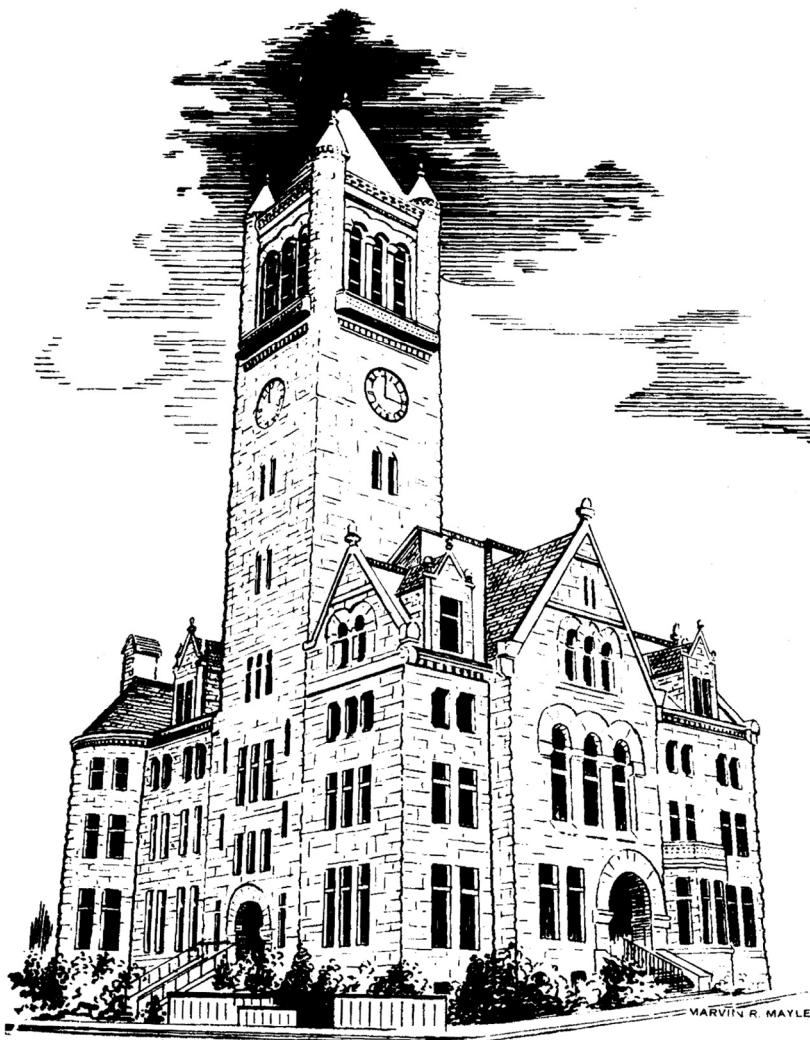


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The Ethics Hotline provides free advisory opinions to PBA members based upon review of a member's prospective conduct by members of the PBA Committee on Legal Ethics and Professional Responsibility. The committee responds to requests regarding the impact of the provisions of the Rules of Professional Conduct or the Code of Judicial Conduct upon the inquiring member's proposed activity. All inquiries are confidential.

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ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

LARRY R. MARKER, late of Bullskin Township, Fayette County, PA ⁽³⁾
Co-Executors: Jarrad R. Marker and Shawnee L. Smith
 c/o Proden & O'Brien
 99 East Main Street
 Uniontown, PA 15401
Attorney: Wendy L. O'Brien

MARGARET MAST, late Belle Vernon, Fayette County, PA ⁽³⁾
Executrix: Carol Lynn Rhodes
 205 Water Street
 Belle Vernon, PA 15012
 c/o Nathan J. Zarichnak & Associates, LLC
 601 ½ Broad Avenue
 Belle Vernon, PA 15012
Attorney: Nathan Zarichnak

JAMES E. OLESKO, late of Redstone Township, Fayette County, PA ⁽³⁾
Personal Representatives:
 Anthony J. Olesko and John Olesko, Sr.
 c/o Davis and Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: James T. Davis

KRISTIN YUCHA, a/k/a KRISTIN L. YUCHA, late of Masontown Borough, Fayette County, PA ⁽³⁾
Administrator: Michael E. Yucha, Jr.
 c/o John & John
 96 East Main Street
 Uniontown, PA 15401
Attorney: Anne N. John

Second Publication

DEBORAH ANN CHURILLA, late of North Union Township, Fayette County, PA ⁽²⁾
Personal Representative:
 William Glenn Churilla
 c/o Davis & Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: Jeremy J. Davis

WILLIAM SAYRE a/k/a JOHN SAYRE, JR. a/k/a JOHN W. SAYRE, JR., late of Perryopolis Borough, Fayette County, PA ⁽²⁾
Co-Executrix: Amy Margaret Stillwagon and Karen Ohler
 240 Porter Road
 Rostraver Township, PA 15012
 c/o 823 Broad Avenue
 Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

First Publication

ADAM S. DERR, late of Dawson, Fayette County, PA ⁽¹⁾
Executor: Adam S. Derr, Jr.
 609 Dawson Scottsdale Road
 Dawson, PA 15428
 c/o Brenlove & Fuller, LLC
 401 Washington Avenue
 Bridgeville, PA 15017
Attorney: Todd A. Fuller

JAMES E. DILLON, late of Wharton Township, Fayette County, PA ⁽¹⁾
Executrix: Michelle M. Dillon
 c/o 51 East South Street
 Uniontown, PA 15401
Attorney: Webster & Webster

FRANCES A. DUPONT, late of Redstone Township, Fayette County, PA ⁽¹⁾
Personal Representative:
 Charles E. Dupont, III
 c/o Davis and Davis
 107 East Main Street
 Uniontown, PA 15041
Attorney: Jeremy J. Davis

LEGAL NOTICES

NOTICE

Notice is hereby given that the Certificate of Organization has been approved and filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on August 24, 2022, for a limited liability company known as Hill Billy's Land LLC.

Said limited liability company has been organized under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

The purpose or purposes of the limited liability company is/are: real estate and any other lawful purpose related thereto for which the corporation may be organized under the Business Corporation Law.

DAVIS & DAVIS
BY: Gary J. Frankhouser, Esquire
107 East Main Street
Uniontown, PA 15401

NOTICE

Notice is hereby given that the Articles of Incorporation - For Profit have been approved and filed with the Department of State of the Commonwealth of Pennsylvania, on August 24, 2022, for a For Profit Corporation known as Hill Billy's Inc.

Said For Profit Corporation has been organized under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

The purpose or purposes of the corporation is/are: real estate holdings and other lawful purpose related thereto for which the for profit corporation may be organized under the Business Corporation Law.

DAVIS & DAVIS
BY: Gary J. Frankhouser, Esquire
107 East Main Street
Uniontown, PA 15401

LAWRENCE E. FILIAGGI, late of Menallen Township, Fayette County, PA (1)
Executor: Richard P. Filiaggi
c/o Radcliffe Law, LLC
648 Morgantown Road, Suite B
Uniontown, PA 15401
Attorney: William M. Radcliffe

JOSEPH F. MARUSZEWSKI, late of Menallen Township, Fayette County, PA (1)
Executrix: Bonnie J. Maruszewski
c/o Radcliffe Law, LLC
648 Morgantown Road, Suite B
Uniontown, PA 15401
Attorney: Robert R. Harper, Jr.

MARGARET RUTH MCCANN, late of Redstone Township, Fayette County, PA (1)
Personal Representative: Paul McCann
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

JOHN C. MCGILL, a/k/a JOHN MCGILL, a/k/a JOHN CHARLES MCGILL, late of Connellsville, Fayette County, PA (1)
Administratrix: Bobbie Lynn Siranni
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

JERRY TYRONE MCKINNEY, late of German Township, Fayette County, PA (1)
Administrator: Benjamin F. Goodwin
108 North Beeson Boulevard, Suite 400
Uniontown, PA 15401

IN THE UNITED STATES BANKRUPTCY
COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

Bankruptcy Case No. 20-20863 GLT
Chapter 13

Document No.: _____

Related to Document No.:

Responses due by: September 19, 2022

Hearing Date & Time:

Wednesday, October 12, 2022 at 1:00 p.m.

IN RE: Timothy J. Klink and Kimberly R.
Klink,
Debtors.

Timothy J. Klink and Kimberly R. Klink,
Movants,

vs.

CITIZENS BANK, FAYETTE COUNTY TAX
CLAIM BUREAU, NORTH UNION
TOWNSHIP / LAUREL HIGHLANDS
SCHOOL DISTRICT, AND DONALD
SMITLEY, PURCHASER
Respondents.

**NOTICE OF HEARING ON MOTION TO
SELL REAL ESTATE, FREE AND CLEAR
OF ALL MORTGAGES, LIENS, AND
ENCUMBRANCES**

**TO: ALL CREDITORS AND ALL
PARTIES IN INTEREST**

NOTICE IS HEREBY GIVEN THAT:

The DEBTORS, Timothy J. Klink and Kimberly R. Klink, have filed a motion for public sale of their real property known as 175 Turkeyfoot Road, Lemont Furnace, PA 15456-1259. The property consists single family split entry home of on 1/2 acres, Property ID No. 25-27-0260-01, Deed Book # 1307-706 . Debtors are seeking approval of the real estate sales transaction to the purchaser, Donald Smitley for an agreed price of \$ 170,000. A true and correct copy of the Agreement of Sale is attached to the Motion filed in this case as Exhibit "A."

An in-person hearing will be held on October 12, 2022, at 1:00 p.m. before Judge Gregory L. Taddonio in Courtroom A, 54th Floor U.S. Steel Tower, 600 Grant Street, Pittsburgh, PA, 15219. In accordance with Judge Taddonio's procedures, parties may appear for non-evidentiary matters remotely by utilizing the Zoom video conference platform. Parties

seeking to appear remotely must register for the hearing by submitting a registration form via the link published on Judge Taddonio's website (which can be found at <http://www.pawb.uscourts.gov/judge-taddonios-video-conference-hearing-information>) by no later than 4 p.m. on the business day prior to the scheduled hearing. All parties participating remotely shall comply with Judge Taddonio's General Procedures, (which can be found at <http://www.pawb.uscourts.gov/sites/default/files/pdfs/glt-proc.pdf>). Parties who fail to timely register for remote participation will be expected to attend the hearing in person. nly a limited time of ten (10) minutes is being provided on the calendar. No itnesses will be heard. If If there is an issue of fact, an evidentiary hearing will be scheduled by the Court for a later date.

Clerk, U.S. Bankruptcy Court
Date of Notice: August 31, 2022

Arrangements for inspection prior to said sale hearing may be made with:

Daniel R. White
Attorney for the Debtors
PA ID NO. 78718
P.O. Box 2123
Uniontown, PA 15401
724-439-9200

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. 829 OF 2022 GD

CITIBANK, N.A.
5800 SOUTH CORPORATE PLACE
SIOUX FALLS, SD 57108 Plaintiff
v.
PAUL J ZITNEY
208 COTTAGE ST
NEW SALEM, PA 15468-1010 Defendant

**NOTICE OF CIVIL ACTION
COMPLAINT IN CIVIL ACTION**

NOTICE TO: PAUL J ZITNEY
208 COTTAGE ST
NEW SALEM, PA 15468-1010

YOU HAVE BEEN SUED IN COURT.
NOTICE IS HEREBY GIVEN THAT Citibank, N.A. filed a Complaint in Civil Action against you in the Court of Common Pleas of Fayette County, Pennsylvania, Case No. 829 of 2022

GD. 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 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.

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.

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P.O. Box 186
Harrisburg, PA 17108
Telephone 1-800-692-7375

Further inquiry can be directed to counsel for Plaintiff as follows:

Matthew W Pomy, Esq.
PA ID No. 318403
Weltman, Weinberg & Reis Co., L.P.A.
436 7th Avenue, Suite 2500
Pittsburgh, PA 15219
Tel. (412) 434-7955

SHERIFF'S SALE

By virtue of the below stated writs out of the Court of Common Pleas of Fayette County, Pennsylvania, the following described properties will be exposed to sale by James Custer, Sheriff of Fayette County, Pennsylvania on Thursday November 17, 2022 at 2:00 pm at <https://fayette.pa.realforeclose.com>.

The Conditions of sale are as follows:

All bidders must complete the Realauction on-line registration process at <https://fayette.pa.realforeclose.com> to participate in the auction.

All bidders must place a 10% deposit equal to the successful bid for each property purchased to Realauction via wire transfer or ACH. Upon the auction's close, buyer shall have 10 business days to pay the remaining balance to the Fayette County Sheriff's Office via cashier's check. No cash will be accepted. Failure to comply with the Conditions of Sale, shall result in a default and the down payment shall be forfeited by the successful bidder and applied to the costs and judgments. The schedule of distribution will be filed no later than 30 days after the sale of real property. If no petition has been filed to set aside the sale or objections to the distribution are filed within 10 days of filing the distribution, the Sheriff will prepare and record a deed transferring the property to the successful bidder.

(3 of 3)

James Custer
Sheriff of Fayette County

McCABE, WEISBERG & CONWAY, LLC
123 South Broad Street, Suite 1400
Philadelphia, PA 19109
(215) 790-1010

No. 2196 of 2021, G.D.
No. 131 of 2022, E.D.

Reverse Mortgage Funding, LLC Plaintiff

v.

Carolyn Allen Defendant

All that certain piece or parcel or Tract of land situate in Redstone Township, Fayette County, Pennsylvania, and being known as 237 Filbert Orient Road, Cardale, Pennsylvania 15420.

Being known as: 237 Filbert Orient Road, Cardale, Pennsylvania 15420

Title vesting in Earl Allen Jr. and Carolyn J. Allen, husband and wife by deed from EARL ALLEN, JR. dated August 21, 2013 and recorded September 3, 2013 in Deed Book 003230, Page 0140 Instrument Number 201300010721. The said Earl Allen Jr. died on February 14, 2017 thereby vesting title in his surviving spouse Carolyn J. Allen by operation of law.

Tax Parcel Number: 30-27-0043 & 30-27-0044

No. 79 of 2022, G.D.
No. 136 of 2022, E.D.

KeyBank, NA, s/b/m First Niagara Bank, NA Plaintiff,

vs.

**David Richard Clark, Jr., as believed Heir and/or Administrator to the Estate of Janice Clark, AKA Janice K. Clark; John Michael Clark, as believed Heir and/or Administrator to the Estate of Janice Clark, AKA Janice K. Clark; Unknown Heirs and/or Administrators to the Estate of Janice Clark, AKA Janice K. Clark
Defendants.**

ALL that certain parcel of land lying and being situate in the Township of North Union, County of Fayette, and Commonwealth of Pennsylvania, known as 570 Coolspring Street, Uniontown, PA 15401 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 25-47-0088

BEING the same premises which Louise Gregor Silbaugh and John W. Silbaugh, her husband, Dolores A. Gregor, single, and Robert J. Gregor, single, by Deed dated July 10, 1973 and recorded in and for Fayette County, Pennsylvania in Deed Book 1150, Page 337, granted and conveyed unto David R. Clark and Janice K. Clark, his wife.

McCABE, WEISBERG & CONWAY, LLC
123 South Broad Street, Suite 1400
Philadelphia, PA 19109
(215) 790-1010

No. 562 of 2022, G.D.
No. 162 of 2022, E.D.

**Reverse Mortgage Funding LLC
Plaintiff**

v.

**Diane Hillen
Defendant**

All that certain piece or parcel or Tract of land situate in Jefferson Township, Fayette County, Pennsylvania, and being known as 9 Bedner Lane, Perryopolis, Pennsylvania 15473.

Being known as: 9 Bedner Lane, Perryopolis, Pennsylvania 15473

Title vesting in Diane Hillen by deed from Diane Hillen dated March 7, 2007 and recorded May 3, 2007 in Deed Book 3024, Page 407.

Tax Parcel Number: 17050046

Matthew C. Failings, Esquire
Stern & Eisenberg, PC
1581 Main Street, Suite 200
The Shops at Valley Square
Warrington, PA 18976
Phone: (215) 572-8111

No. 1532 of 2013, G.D.
No. 153 of 2022, E.D.

**Wilmington Savings Fund Society, FSB d/b/a
Christiana Trust, not in its individual
capacity but Solely as the Trustee for the
Brougham Fund I Trust**

v.

Susan Carol Johnson and Robert W. Johnson

By virtue of Writ of Execution No. 1532 of 2013 GD

Wilmington Savings Fund Society, FSB d/b/a Christiana Trust, not in its individual capacity but Solely as the Trustee for the

Brougham Fund I Trust v. Susan Carol Johnson and Robert W. Johnson, 694 Woodside Oldframe Road fka R.D. 2 Box 337 A, Nicholson Township, Smithfield, PA 15478, Tax Parcel No. 24-05-0009. Improvements thereon consisting of a Residential Dwelling, sold to satisfy judgment in the amount of \$106,505.54.

KML LAW GROUP, P.C.
Suite 5000
701 Market Street
Philadelphia, PA 19106-1532
(215) 627-1322

No. 1599 of 2018, G.D.
No. 160 of 2022, E.D.

LAKEVIEW LOAN SERVICING, LLC

**5151 Corporate Drive
Troy, MI 48098**

Plaintiff

vs.

BRYAN K. KELLY

Mortgagor(s) and Record Owner(s)

514 Washington Street aka

514 Washington Avenue

Belle Vernon, PA 15012

Defendant(s)

ALL THAT CERTAIN LOT OF LAND
SITUATE IN BOROUGH OF BELLE
VERNON, COUNTY OF FAYETTE AND
COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 514
WASHINGTON STREET AKA 514
WASHINGTON AVENUE, BELLE VERNON,
PA 15012

TAX PARCEL #01-04-0065 AND 01-04-0226

IMPROVEMENTS: A RESIDENTIAL
DWELLING

SOLD AS THE PROPERTY OF: BRYAN
K. KELLY

ATTORNEY: KML LAW GROUP, P.C.

McCABE, WEISBERG & CONWAY, LLC
123 South Broad Street, Suite 1400
Philadelphia, PA 19109
(215) 790-1010

No. 985 of 2022, G.D.
No. 170 of 2022, E.D.

Caliber Home Loans, Inc.
Plaintiff
v.

**Ronald Kenny, Administrator d.b.n.c.t.a. of
the Estate of Eugene Stanley Edwards**
Defendant

ALL THAT CERTAIN PIECE OR
PARCEL OR TRACT OF LAND SITUATE IN
THE CITY OF UNIONTOWN, FAYETTE
COUNTY, PENNSYLVANIA, AND BEING
KNOWN AS 28 MAPLE STREET,
UNIONTOWN, PENNSYLVANIA 15401.

BEING KNOWN AS: 28 MAPLE
STREET, UNIONTOWN, PENNSYLVANIA
15401

TITLE VESTING IN EUGENE
STANLEY EDWARDS BY DEED FROM
REDEVELOPMENT AUTHORITY OF THE
CITY OF UNIONTOWN DATED
DECEMBER 21, 2011 AND RECORDED
DECEMBER 21, 2011 IN DEED BOOK 3173,
PAGE 64 INSTRUMENT NUMBER
201100015335. CORRECTIVE DEED IS
RECORDED ON 03/05/2012, IN BOOK 3180,
PAGE 1430, INSTRUMENT 201200003536.
THE SAID EUGENE STANLEY EDWARDS
DIED ON JANUARY 22, 2021. LETTERS OF
ADMINISTRATION WERE GRANTED TO
RONALD KENNY, NOMINATING AND
APPOINTING HIM AS THE
ADMINISTRATOR OF THE ESTATE OF
EUGENE STANLEY EDWARDS.

TAX PARCEL NUMBER: 38040257

No. 1873 of 2019, G.D.
No. 137 of 2022, E.D.

Wells Fargo Bank, N.A.
Plaintiff,
vs.

**Kimberly Mackey, AKA Kimberly D.
Mackey, AKA Kim Mackey**
Defendant.

ALL that certain parcel of land lying and
being situate in the Township of Redstone,
County of Fayette, and Commonwealth of
Pennsylvania, known as 10 Kennedy Street,

Republic, PA 15475 having erected thereon a
dwelling house.

Being known and designated as Tax ID
No.: 30-26-0003

BEING the same premises which Deborah
Harmen, also known as Deborah Harman, by
Deed dated February 20, 2004 and recorded in
and for Fayette County, Pennsylvania in Deed
Book 2896, Page 788, granted and conveyed
unto Kimberly Mackey.

No. 131 of 2022, G.D.
No. 138 of 2022, E.D.

J.P. Morgan Mortgage Acquisition Corp.
PLAINTIFF
VS.

Joshua J. Monosky and Krystal L. Monosky
DEFENDANTS

ALL that certain lot or piece of ground
situate in the Borough of South Connellsville,
Fayette County, Pennsylvania, being Lot No.
371 in Plan of Lots laid out by Connellsville
Extension company, said Plan being recorded in
the Recorder's Office of Fayette County in Plan
Book Volume 1, page 114 and 115, and said lot
being more particularly bounded and described
as follows:

Fronting 40 feet on the west side of Second
Street and extending back of equal width 120
feet to a twenty-foot alley, bounded on the North
by Lot No. 370 and on the South by Lot No. 372
in said Plan.

There is also hereby conveyed all Grantors
interest in and to Lot 370 in Block 20 of said
Connellsville Extension Company Plan, South
Connellsville, Fayette County, Pennsylvania
PARCEL# 33-07-0098

FOR INFORMATIONAL PURPOSES
ONLY: Being known as 2216 Second Street,
Connellsville, PA 15425

COMMONLY KNOWN AS: 2216 Second
Street, South Connellsville, PA 15425
TAX PARCEL NO. 33-07-0098

No. 975 of 2022, G.D.
No. 161 of 2022, E.D.

**PENNSYLVANIA HOUSING FINANCE
AGENCY,
PLAINTIFF
VS.
MARY ANN MYERS,
DEFENDANT**

ALL those certain lots of land in German Township, Fayette County, Pennsylvania, known as Lot Nos. 2, 3, 4, 5, 6, 7 and 8 in the Frank Lutkowska Plan of Lots, Fayette Plan Book No. 4, page 135.

HAVING THEREON ERECTED DWELLING KNOWN AND NUMBERED AS: 14 LONG STREET, McCLELLANDTOWN, PA 15458.

TAX PARCEL#: 15-25-0066
FAYETTE DEED BOOK 2932, PAGE 1221

TO BE SOLD AS THE PROPERTY OF MARY ANN MYERS

STERN & EISENBERG PC
Robertson, Anschutz, Schneid, Crane
& Partners, PLLC
A Florida professional limited liability company
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
855-225-6906

No. 1791 of 2021, G.D.
No. 157 of 2022, E.D.

**CASCADE FUNDING MORTGAGE
TRUST HB5
Plaintiff
v.
DONNA M. WELCH
Defendant(s)**

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN THE BOROUGH OF MARKLEYSBURG, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS: 106 WELCH LANE, MARKLEYSBURG, PA 15459

BEING PARCEL NUMBER: 20-01-0007-01

IMPROVEMENTS: RESIDENTIAL PRQPERTY

*** END SHERIFF SALES ***

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN
518 Madison Drive
Smithfield, PA 15478
724-322-6529
johnfranciswarman@gmail.com

COMMERCIAL/RESIDENTIAL/CURRENT OWNER/MINERAL TITLE

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We are a multi-disciplined team, comprised of members with diverse, knowledgeable and extensive areas of experience. Our clients are long-term investors who value the breadth of our investment experience and unwavering focus on goal-oriented results.

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MEMBER: NYSE, FINRA, SIPC • REF. 787801-0822



LOCAL RULE - MEDIATION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA

IN RE: FAYETTE COUNTY :
 LOCAL RULE 212.5; :
 MEDIATION : NO. 1815 of 2022 GD

ORDER

AND NOW, this 19th day of September 2022, pursuant to Pennsylvania Rule of Judicial Administration 103(d), it is hereby ordered that Fayette County Civil Rule 212.5, Mediation, is amended as attached hereto.

The Prothonotary is directed as follows:

- (1) Two copies and CD-ROM of the Local Rule shall be distributed to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.
- (2) One copy of the Local Rule shall be filed with the Administrative Office of Pennsylvania Courts.
- (3) One copy of the Local Rule shall be sent to the Fayette County Law Library and the Editor of the Fayette Legal Journal.

The Administrative Office of Fayette County Courts is directed as follows:

- (1) Publish a copy of the Local Rule on the website of the Administrative Office of Fayette County Courts.
- (2) Thereafter, compile the Local Rule within the complete set of local rules no later than 30 days following the publication in the Pennsylvania Bulletin.

The amendment of the above listed Local Rule shall become effective thirty (30) days after publication in the Pennsylvania Bulletin.

By the Court,
JOHN F. WAGNER, JR.
PRESIDENT JUDGE

ATTEST:
Nina Capuzzi Frankhouser
PROTHONOTARY

RULE 212.5

MEDIATION

(a) Certification of Mediators.

- (1) The President Judge shall certify as many mediators as determined to be necessary.
- (2) All mediators will be members of the Fayette County Bar Association.
- (3) An attorney may be certified by the President Judge as a mediator if:
 - (i) he or she has been a member of the Pennsylvania bar for a minimum of ten (10) years;
 - (ii) he or she has been admitted to practice before the Fayette County Court of Common Pleas;
 - (iii) he or she has been referred to the President Judge by the Civil Rules Committee of the Fayette County Bar Association. Notwithstanding such referral, the President Judge may nonetheless certify an attorney as a mediator.
 - (iv) he or she has been determined by the President Judge to be competent to perform the duties of a mediator;
 - (v) he or she has professional liability insurance in the minimum amount of a \$300,000.00 single limit policy.
- (4) Each individual certified as a mediator shall take the oath or affirmation prescribed by 42 Pa.C.S.A. §3151 before serving as a mediator.
- (5) A list of all persons certified as mediators shall be maintained in the office of the Court Administrator.
- (6) A member of the bar certified as a mediator may be removed from the list of certified mediators by the President Judge for any reason.

(b) Payment of Mediators.

- (1) The parties shall pay the mediator directly. The court assumes no responsibility for the supervision or enforcement of the parties' agreement to pay for mediation services.
- (2) Any charges relating to the mediator's services shall be shared equally by the parties.
- (3) The mediator shall be paid a mediation fee of two hundred and fifty (\$250.00) dollars per hour, divided equally among all of the parties to the mediation. A deposit of two hundred and fifty (\$250.00) dollars shall be paid by each party within twenty (20) days of the order directing mediation. Failure to pay the deposit by all parties shall result in the cancellation of the mediation and shall subject the offending party to sanctions pursuant to Pa.R.Civ.P. 4019. Failure to pay the balance due twenty (20) days after receipt of the mediator's bill shall subject the offending party to sanctions pursuant to Pa.R.Civ.P. 4019.
- (4) Except as provided herein, a mediator shall not accept anything of value from any source for services provided under the court-annexed mediation program.

(c) Types of Cases Eligible for Mediation.

Every personal injury, medical or professional malpractice, wrongful death or damage to property action filed in the Fayette County Court of Common Pleas is eligible for mediation, except any case which the assigned judge determines, after application by any party or by the mediator, is not suitable for mediation.

(d) Voluntary Mediation.

The parties to any civil action, with the exception of arbitration and domestic relations/custody cases, may voluntarily submit the case to mediation by filing a joint motion of all parties with the assigned judge.

(e) Mandatory Mediation.

The assigned judge may order a case to mandatory mediation at any time. All cases selected for mandatory mediation by the assigned judge, and which are not settled or referred to arbitration, shall be given preference pursuant to Pa.R.Civ.P. 214(2) on the trial list of the assigned judge.

(f) Mediation Conference Scheduling.

(1) When the court makes a determination that referral to mediation is appropriate, it shall issue an order referring the case to mediation, appointing the mediator, directing the mediator to establish the date, time and place for the mediation session and setting forth the name, address, and telephone number of the mediator.

Within ten (10) days of his or her assignment, the mediator shall notify all parties and the Court Administrator of the date, time and place of the mediation, which shall be within forty-five (45) days of the assignment.

(2) The mediation session shall be held before a mediator selected by the assigned judge from the list of mediators certified by the President Judge.

(3) The court administrator shall provide the mediator with a current docket sheet.

(4) The mediator shall advise the court administrator as to which documents in the case file the mediator desires copies of for the mediation session. The clerk shall provide the mediator with all requested copies at no charge to the mediator. However, the assigned Judge, in his or her discretion, may require that the parties share in the cost of providing the necessary copies.

(5) Any continuance of the mediation session beyond the period prescribed in the referral order must be approved by the assigned judge.

(6) A party may assert the bias or prejudice of an assigned mediator by filing an affidavit with the assigned judge stating that the mediator has a personal bias or prejudice. The judge may, in his or her discretion, end alternative dispute resolution efforts, refer the case to another mediator, refer the case back to the original mediator or initiate another alternative dispute resolution mechanism

(g) The Mediation Session and Confidentiality of Mediation Communications.

(1) The mediation session shall take place as directed by the court and the assigned mediator. The mediation session shall take place in a neutral setting designated by the mediator.

(2) The parties shall not contact or forward documents to the mediator except as directed by the mediator or the court.

(3) At least ten (10) days prior to the Mediation, the parties and/or their attorneys shall be required to prepare and submit a Confidential Position Paper disclosed only to the mediator in the format attached or as modified by the mediator or the assigned judge. The Confidential position paper shall not become a part of the court record and shall be destroyed at the conclusion of the mediation.

(4) If the mediator determines that no settlement is likely to result from the mediation session, the mediator shall terminate the session and promptly thereafter file a report with the assigned Judge stating that there has been compliance with the require-

ments of mediation in accordance with the local rules, but that no settlement has been reached.

(5) In the event that a settlement is achieved at the mediation session, the mediator shall file a report with the assigned Judge stating that a settlement has been achieved. The order of referral may direct the mediator to file the report in a specific form.

(6) Unless stipulated in writing by all parties and the mediator or except as required by law or otherwise ordered by the court, all discussions which occur during mediation shall remain strictly confidential and no communication at any mediation session (including, without limitation, any verbal, nonverbal or written communication which refers to or relates to mediation of the pending litigation) shall be disclosed to any person not involved in the mediation process, and no aspect of the mediation session shall be used by anyone for any reason.

(7) No one shall have a recording or transcript made of the mediation session, including the mediator.

(8) The mediator shall not be called to testify as to what transpired in the mediation.

(9) Prior to the beginning of the mediation, all parties and their attorneys shall be required to sign a form developed by the Court wherein the parties agree:

(i) to the terms of the mediation; and

(ii) to waive any professional liability claims that they might assert against the mediator, the assigned Judge, the Court of Common Pleas of the 14th Judicial District, or Fayette County, as a result of their participation in the mediation process.

(h) Duties of Participants at the Mediation Session.

(1) Parties. All named parties and their counsel are required to attend the mediation session, participate in good faith and be prepared to discuss all liability issues, all defenses and all possible remedies, including monetary and equitable relief. Those in attendance shall possess complete settlement authority, independent of any approval process or supervision, except as set forth in subparagraphs (A) and (B) below.

Unless attendance is excused, willful failure to attend the mediation session will be reported by the mediator to the court and may result in the imposition of sanctions pursuant to Pa.R.Civ.P. 4019.

(A) Corporation or Other Entity. A party other than a natural person (e.g., a corporation or association) satisfies this attendance requirement if represented by a person (other than outside counsel) who either has authority to settle or who is knowledgeable about the facts of the case, the entity's position, and the policies and procedures under which the entity decides whether to accept proposed settlements.

(B) Government Entity. A unit or agency of government satisfies this attendance requirement if represented by a person who either has authority to settle or who is knowledgeable about the facts of the case, the government unit's position, and the policies and procedures under which the governmental unit decides whether to accept proposed settlements. If the action is brought by or defended by the government on behalf of one or more individuals, at least one such individual also shall attend.

(2) Counsel. Each party shall be accompanied at the mediation session by the attorney who will be primarily responsible for handling the trial of the matter.

(3) Insurers. Insurer representatives are required to attend in person unless excused, if their agreement would be necessary to achieve a settlement. Insurer representatives shall possess complete settlement authority, independent of any approval process or supervision.

(4) Request to be Excused. A person who is required to attend a mediation session may be excused from attending in person only after a showing that personal attendance would impose an extraordinary or otherwise unjustifiable hardship. A person seeking to be excused must submit, no fewer than ten (10) days before the date set for the mediation, a written request to the mediator, simultaneously copying all counsel. The written request shall set forth all considerations that support the request and shall indicate whether the other party or parties join in or object to the request. A proposed order prepared for the signature of the Judge shall be submitted to the mediator with the request. The mediator shall promptly consider the request and shall submit the proposed order to the Judge with a recommendation that the request be granted or denied. In the absence of an order excusing attendance, the person must attend.

Where an individual requests to be excused from personal participation at the mediation, a preference shall be given to attending by telephone at the expense of the excused party rather than complete excusal from the mediation.

(i) Mediator's Report.

Within fifteen (15) days of the mediation, the mediator shall send to the assigned judge a mediation report which shall advise that court whether the case has settled. If not, the mediation report shall set forth the following:

plaintiff's final settlement demand;

defendant's final settlement offer;

Mediator's assessment of liability;

Mediator's assessment of damages;

Mediator's opinion regarding potential range of verdict and settlement value of case; and

Mediator's recommendation regarding settlement of case.

The mediator shall provide all parties and the Court Administrator with a copy of the mediation report.

Appendix A: Form for Confidential Position Paper
Confidential Position Paper

Case Caption:

Docket #:

Assigned Judge:

Date of Report:

A. Summary of Critical Facts

B. Insurance Coverage

C. Prior demands and offers of settlement

D. Issues that may Assist the Mediator, with citations

E. Medical and Expert reports

F. Itemized list of damages

G. succinct statement of position regarding liability and damages

JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY
CIVIL DIVISION

PHILLIP B. RICHARDSON,	:
Plaintiff,	:
	:
v.	:
MIABELLA PROPERTY HOLDINGS, LLC,	:
DEL-SKY, LLC, ERIC MATTHEWS,	:
RYAN MATTHEWS, and CHAD	:
MATTHEWS	: No. 1841 of 2021 G.D.
Defendants.	: Honorable Linda R. Cordaro

OPINION

Linda R. Cordaro, J.	September 8, 2022
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SUMMARY

Currently before this Court is Plaintiff’s action in trespass, nuisance, and ejectment against Defendants. Plaintiff owns the parcel at tax ID 34-05-0034 in Uledi, Fayette County, Pennsylvania, and Defendants Eric, Ryan, and Chad Matthews are current owner of the parcel at tax ID 34-05-0025 and are grantees of the prior owners, Defendants Miabella Property Holdings, LLC and Del-Sky, LLC. The dispute is over the location of a boundary line that forms part of the western side of Plaintiff’s property and the north-eastern side of Defendants’ property. For the reasons set forth below, this Court finds the boundary line to be as depicted according to the expert testimony of Joseph Elwell given at the June 22, 2022 hearing and the March 2022 survey prepared by Polestar Engineering, Surveying, Environmental.

BACKGROUND

On October 2, 2021, agents or representatives of Defendants Miabella and Del-Sky, owners of the property at 124 Playford Road, moved a piece of construction equipment and a load of gravel onto the strip of land to the west of Playford Road. There, they began to excavate, remove shrubs, and lay down the gravel in order to facilitate access from Playford Road to the west. Plaintiff Richardson, owner of the property at 126 Playford Road, believing the strip of land to be part of his property, spoke with these individuals, who refused to leave.

On October 12, 2021, counsel for Plaintiff filed a complaint in trespass, nuisance, and ejectment and named Robert Dolansky as Defendant. On November 8, 2021, Plaintiff filed an amended complaint naming the entities Miabella Property Holdings, LLC (Miabella and Del-Sky, LLC (Del-Sky) as Defendants. {1} On December 2, 2021, Eric, Ryan, and Chad Matthews obtained the deed for 124 Playford Road from Miabella and Del-Sky. On December 21, 2021, Plaintiff filed a second amended complaint adding the Matthews as Defendants. The second amended complaint included four counts: trespass, nuisance, ejectment, and a request for declaratory judgment.

{1} Robert Dolansky is the owner of Del-Sky.

On February 24, 2022, Defendants' counsel filed preliminary objections and moved for injunctive relief after Plaintiff physically blocked access from Playford Road to Defendants' property. On March 16, 2022, Plaintiff's counsel also filed a motion for a preliminary injunction to prohibit Defendants from any further alteration of the land in question. This Court denied Plaintiff's motion on March 29, 2022, and at that time, the parties consented to provisions in the denial order that, in the interim, Defendants were prohibited from making any further alterations to the existing roadway and both parties were prohibited from blocking the use of the roadway. A hearing on Defendants' preliminary injunction was scheduled for June 22, 2022.

This Court held the hearing at the scheduled time and place and both sides presented witness testimony. Both sides also presented testimony from experts recognized by This Court as qualified in the field of surveying. In addition to testimony, the expert evidence presented also included survey reports: one showing the disputed section belong to the Plaintiff, with an explanatory memorandum, completed by McMillen Engineering, Inc. (McMillen) and one showing the disputed section belongs to the Defendant completed by Polestar Engineering, Surveying, Environmental (Polestar). Terry McMillen, Sr., testified as Plaintiff's expert from McMillen and Joseph Elwell testified as Defendants' expert from Polestar. At the conclusion of the hearing, counsel for both parties agreed that although the June 22, 2022 hearing was on Defendants' motion for injunction, neither party had additional evidence to present and so this Court would decide the entire case based on what already had been presented.

Two days later, on June 24, 2022, the undersigned and counsel for both parties visited and viewed the properties and access point in question, and counsel for both parties was ordered to serve closing briefs before final disposition. Counsel timely served their respective briefs according to the order.

Defendants' position is that they own the disputed section of land, as shown on the Polestar survey, and in the alternative, if Plaintiff is found to own the disputed section of land, that historical use warrants a prescriptive easement and/or they are entitled to access pursuant to the Private Road Act. 36 P.S. § 2731 et seq.

Plaintiff's position is that he owns the disputed section of land, as shown on the McMillen survey. He denies that Defendants satisfy all the elements required for a prescriptive easement and that Defendants improperly apply the Private Road Act to the circumstances.

DISCUSSION

This action is a boundary dispute between owners of adjacent properties. "When faced with a boundary dispute, the function of the court is to ascertain and effectuate the intention of the parties" and the case of a common grantor to the parties' predecessor in title, the plain meaning of a deed is the best indicator of that intention, *Doman v. Brogan*, 592 A.2d 104, 108 (Pa. Super. Ct. 1991); *Pencil v. Buchart*, 551 A.2d 302, 305- 06 (Pa. Super. Ct. 1988). If the stated location of boundaries to land in the deed are inconsistent, then the first resort is to consider" natural objects of landmarks, next to artificial monuments, then to adjacent boundaries - which are considered a sort of monument - and thereafter to courses and distances." *Baker v. Rosslyn Swim Club*, 213 A.2d 145, 148 (Pa. Super. Ct. 1965).

In an ejectment action, a plaintiff "must establish the right to immediate exclusive possession and must do so based on the strength of their title, not the weakness of defendant's title." *Doman*, 592 A.2d at 109. Plaintiff's complaint includes a claim for ejectment as well as nuisance and trespass, and these latter claims arise directly from the boundary dispute. As Plaintiff has also requested declaratory judgment finding that he is the rightful owner of the disputed property, he must identify the boundaries of the disputed property by a preponderance of the evidence. *Id.* at 108.

The record shows that Plaintiff's deed {2} does not include any measurement of direction, distance, metes, bounds, landmarks or monuments. At the June 22, 2022 hearing, both Plaintiff's expert and Defendants' expert testified that Plaintiff's section of land was the last in a series of divisions of a larger tract. As such, his property is what remained after distribution of the rest. This is supported by the fact that Plaintiff's deed does not include measurements of any kind. It is therefore of limited use in itself as far as establishing intent with regard to specific measurements of boundary limits. {3} Because Plaintiff's deed does not establish these limits with clarity, a resolution of the dispute cannot look only to the language of the deed and must consider other evidence - in this case, expert testimony and evidence.

The weight attributed to expert testimony is for the fact finder to determine, and it may accept or reject testimony of both expert and lay witnesses and believe all, some, or none of the evidence presented. See e.g., *Gaydos v. Gaydos*, 693 A.2d 1368, 1377-78 (Pa. Super. Ct. 1997). However, an expert opinion must be based on facts in the record and not mere conjecture. See e.g., *Reliance Universal, Inc. of Ohio v. Ernest Renda Contracting Co., Inc.*, 454 A.2d 39, 42 (Pa. 1982). If the findings of a trial court are supported by competent evidence and there is no error in the application of the law, then those findings will not be reversed. See e.g., *Metro Real Estate Investment, LLC v. Bemby*, 207 A.3d 336, 339 (Pa. Super. Ct. 2019).

Both Mr. McMillen and Mr. Elwell were recognized as qualified experts by this Court at the June 22, 2022 hearing, and evidence and testimony from both was admitted. Both experts testified that it is standard practice to use multiple sources of information to determine the boundaries of a given piece of property. These sources include prior surveys as well as the deeds of the subject and surrounding properties. In this case, because Plaintiff's deed did not include any measurements, each expert had to consult the deeds of properties adjoining Plaintiff's tract and "work backwards" to extrapolate the limits of Plaintiff's property. Both experts testified that in their professional opinion, their respective survey reports were accurate and valid.

Plaintiff's expert, Mr. McMillen, who did not visit the subject property, testified that the McMillen survey agreed with the description of property limits as in the deed for Miabella. The McMillen memorandum (Plaintiff's Exhibit B) also referenced consistency of the McMillen survey with other prior surveys. The McMillen memorandum did consider the plan of the property as prepared by Polestar and disputed that report. {4}

{2} Book 3437, Page 2111.

{3} Furthermore, it also would be fruitless to attempt to apply rules of construction to identify the intent of the original grantor.

{4} The memorandum described the Polestar plan as showing an "overlap" between the properties. However, it was clarified at the June 22, 2022 hearing that Polestar portrayed a section with diagonal lines on the plan merely to designate where the discrepancy existed, not to identify an "overlap" or jointly- owned property.

The survey presented by Plaintiff's expert (Plaintiff's Exhibit A) shows the north-eastern boundary line of Defendant's property beginning some distance west of Playford Road, then running south/southeast. It portrays the entire boundary line as set back from Playford Road, with the western boundary of Plaintiff's property extending beyond the western edge of Playford Road before adjoining with Defendants' property. Plaintiff's expert admitted that, with this configuration, Defendants have no access to the Playford Road without passing over Plaintiff's property and that this is the case despite normal practice that property have access to a roadway when it is being established. {5}

Defendants' expert, Mr. Elwell, who did visit the subject property, stated that the starting point for Polestar's survey was to first use available information to map the metes and bounds, then to verify that mapping on-site. The information Polestar gathered was combined with other sources such as CPS mapping, aerial photographs, and assessment records as well as the survey performed by McMillen.

The survey presented by Defendants' expert (Defendants' Exhibit 2) shows the north-eastern boundary line of Defendants' property beginning at a point immediately west of Playford Road, then running south/southeast so that Defendants' property and Plaintiff's property adjoin in the middle of Playford Road. With this configuration, the full north-eastern side of Defendants' property abuts Playford Road and encompasses both the disputed access point and land to the south/southeast.

After careful consideration of all expert testimony and evidence presented and after viewing the access point and respective properties, this Court finds that the Plaintiff has not shown by a preponderance of evidence that the boundary is as his complaint claims. This Court finds that the boundaries are as depicted in the Polestar survey, with the disputed northeastern boundary of Defendants' property adjoining Plaintiff's property in the middle of Playford Road. As this is the finding, this Court need not address the arguments in the alternative (e.g., prescriptive easement or access pursuant to the Private Road Act). Furthermore, in light of this finding, Defendants' motion for injunction is denied as moot.

ORDER

AND NOW, this 8th day of September, 2022, after a hearing on the matter, consideration of the expert testimony and evidence presented, and an in-person viewing of the disputed property, it is ORDERED and DIRECTED that, as depicted in the March 2022 survey prepared by Polestar Engineering, Surveying, Environmental for Chad, Eric, and Ryan Matthews, the northeastern boundary line of Defendants' property at 124 Playford Road, Uledi, Pennsylvania adjoins with Plaintiff's property at 126 Playford Road, Uledi, Pennsylvania in the middle of Playford Road.

In accordance with these findings, Defendants' February 24, 2022 motion for injunctive relief is DENIED AS MOOT.

BY THE COURT:
LINDA R. CORDARO, JUDGE

ATTEST:
Prothonotary

{5} Plaintiff's expert did not dispute that if the McMillen survey is accurate, then the northern boundary of Plaintiff's property actually runs through his porch.

BENCH BAR CONFERENCE

Fayette County Bar Association Bench Bar Conference
Wednesday, October 12, 2022
The Historic Summit Inn

AGENDA

- 8:30 **Meet the Sponsors & Breakfast Buffet**
- 9:00 **Getting Paid – Financial Management & Marketing Tips**
Ellen Freedman, CLM - Law Practice Management Coordinator
1.5 Ethics and 0.5 Substantive CLE Credits
- 11:00 **Break**
- 11:15 **Practice and Procedure Panel Discussion with the Judges of the Fayette County Court of Common Pleas**
President Judge John F. Wagner, Jr., Judge Steve P. Leskinen, Judge Nancy D. Vernon, Judge Linda R. Cordaro, and Judge Joseph M. George, Jr.
1.0 Substantive CLE Credit
- 12:15 **Remarks by Special Guests**
Justice Debra Todd, Pennsylvania Supreme Court
Pennsylvania Bar Association President Jay N. Silberblatt
- 12:30 **Lunch Buffet**

BENCH BAR CONFERENCE

Fayette County Bar Association Bench Bar Conference
Wednesday, October 12, 2022
The Historic Summit Inn

Panel Discussion/Questions & Answers

The Judges of the Fayette Court of Common Pleas are accepting questions for the panel Q&A discussion. Questions may cover trial tactics, local practice and procedure, or general legal questions, but should not inquire about cases pending or adjudicated before the Court. Questions are due by Wednesday, October 5th. To submit a question for consideration, please follow the link in your email invitation or email to cindy@fcbar.org.

Fees to Attend

FCBA members - \$75
Non-members of the FCBA - \$125
Attorneys admitted to practice in Pennsylvania
after January 1, 2017 - \$50
All fees to be paid at the door.

RSVP due Wednesday, October 5th to
Cindy 724-437-7994 or cindy@fcbar.org

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