

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. XXXVIII, No. 18

November 24, 2022



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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 Louis Dayich, President Judge
Honorable Jeffry N. Grimes, Judge

MOTIONS

Criminal & Civil & O.C.:
November 28 and 30, 2022

CRIMINAL

Arraignments: November 28, 2022
ARDs: December 12, 2022
ARD Revocations: December 12, 2022
Parole Violations: November 28, 2022
Plea Court: December 13, 14, and 15, 2022
License Suspension Appeals: December 20, 2022
Argument Court: TBD

ORPHANS

Accounts Nisi: December 5, 2022
Accounts Absolute: December 15, 2022

SUPREME COURT
SUPERIOR COURT
COMMONWEALTH COURT

Convenes in Pgh.: April 17-21, 2023
Convenes in Pgh.: December 13-14, 2022
Convenes in Pgh.: February 6-10, 2023

THE GREENE REPORTS

Owned and published by the GREENE COUNTY BAR ASSOCIATION
Editor: Kayla M. Sammons
E-mail address: editor.greenerreports@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the editorial staff to be reasonably interpreted as offensive, demeaning or insulting to any individual or group will not be published.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 Anonymous correspondence will not be published.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.

THE GREENE COUNTY BAR ASSOCIATION

Christopher M. Simms, President
Timothy M. Ross, Vice-President
Allen J. Koslovsky, Secretary
Lukas B. Gatten, Treasurer
Jessica L. Phillips, Ex-Officio

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DEED TRANSFERS

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

ALEPPO TOWNSHIP

Ridgetop Royalties LLC to J. Charles Farmer, et ux., 2 Tracts, O&G, \$2,100,000.00 (11-17-22)

ALEPPO AND SPRINGHILL TOWNSHIPS

Vera Fosnot to Three Rivers Royalty LLC, 4 Tracts, O&G, \$20,702.90 (11-16-22)

CENTER TOWNSHIP

Highland Imperial Inc to Michael Sunyich, 2 Tracts, O&G, \$1,821.96 (11-21-22)

CUMBERLAND TOWNSHIP

John C. McGrath, et ux., to Jason J. Barber, et ux., 10.637 Acres, \$340,000.00 (11-18-22)
Charles G. Smith by TCB, et ux., to Cumberland Township, Tax Claim, Lot, \$500.00 (11-16-22)

Dawn Province by TCB, et ux., to Cumberland Township, Tax Claim, Lot, \$500.00 (11-16-22)
Ira S. Higginbotham by TCB, et ux., to Timothy Cumberland, Tax Claim, Lot, \$500.00 (11-16-22)

John Fabean by TCB, et ux., to TW Plus LLC, Tax Claim, Lot, \$500.00 (11-16-22)
Susan Chisler by TCB, et ux., to Cumberland Township, Tax Claim, Lot, \$500.00 (11-17-22)
Patricia Crow Farmer by TCB, et ux., to Cumberland Township, Tax Claim, Lot, \$500.00 (11-17-22)

Tammy Lynn Higginbotham by TCB, et ux., to Cumberland Township, Tax Claim, Lot, \$500.00 (11-17-22)

Earl L. Guesman by TCB, et ux., to Cumberland Township, Tax Claim, Lot, \$500.00 (11-17-22)

Christopher L. Keffer by TCB, et ux., to Cumberland Township, Tax Claim, Lot, \$500.00 (11-17-22)

Mary Citrone by TCB, et ux., to Redevelopment Authority of Greene County, Tax Claim, Lot, \$500.00 (11-18-22)

Charles Reha, Jr., by TCB, et ux., to Redevelopment Authority of Greene County, Tax Claim, Lot, \$500.00 (11-18-22)

James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 30, Hartley Ridge Plan, \$500.0 (11-18-22)

James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 17, Hartley Ridge Plan, \$500.0 (11-18-22)

James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 21, Hartley Ridge Plan, \$500.0 (11-18-22)

James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 45, Hartley Ridge Plan, \$500.0 (11-21-22)

James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 46, Hartley Ridge Plan, \$500.0 (11-21-22)

James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 47, Hartley Ridge Plan, \$500.0 (11-21-22)

James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 48, Hartley Ridge Plan, \$500.0 (11-21-22)

James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 42, Hartley Ridge Plan, \$500.0 (11-21-22)

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James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 43, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 44, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 18, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 19, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 20, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 29, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 33, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 34, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 35, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 36, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 39, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 40, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 41, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 37, Hartley Ridge Plan, \$500.0 (11-21-22)
James Lawrence Hartley by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 38, Hartley Ridge Plan, \$500.0 (11-21-22)
Robert E. Shaw by TCB, et ux., to Dwayne E. Iams, et ux., Tax Claim, Lots, \$500.00 (11-22-22)
 Gloria Cobin by TCB, et ux., to MRG Enterprises LLC, Tax Claim, Lot 118, Nemaacolin, \$500.00 (11-22-22)
 Brenda L. Timms, by TCB, et ux., to Lynn Corl, III, Tax Claim, Lot, \$500.00 (11-22-22)
 Brenda L. Timms, by TCB, et ux., to Lynn Corl, III, Tax Claim, Lot, \$500.00 (11-22-22)
 Newton J. Yoders, by TCB, et ux., to Lynn Corl, III, Tax Claim, Lot 2, Nemaacolin, \$500.00 (11-22-22)
 Newton J. Yoders, by TCB, et ux., to Lynn Corl, III, Tax Claim, Lot, \$500.00 (11-22-22)
 Kenenth Varner by TCB, et ux., to Lynn Corl, III, Tax Claim, Lot 358, Nemaacolin, \$500.00 (11-22-22)
Paul H. Haught by TCB, et ux., to Lynn Corl, III, Tax Claim, Lot 305, Nemaacolin, \$500.00 (11-22-22)
John A. Cofchin by TCB, et ux., to Gregory Andrews, Tax Claim, Lot 94 \$500.00 (11-22-22)
John A. Cofchin by TCB, et ux., to Gregory Andrews, Tax Claim, Lot 77 \$500.00 (11-22-22)
John A. Cofchin by TCB, et ux., to Gregory Andrews, Tax Claim, Lot 78 \$500.00 (11-22-22)
John A. Cofchin by TCB, et ux., to Gregory Andrews, Tax Claim, Lot 79 \$500.00 (11-22-22)
John A. Cofchin by TCB, et ux., to Gregory Andrews, Tax Claim, Lot 80 \$500.00 (11-22-22)
John A. Cofchin by TCB, et ux., to Gregory Andrews, Tax Claim, Lot 95 \$500.00 (11-22-22)
 Glenn Darrah by TCB, et ux., to Gregory Andrews, Tax Claim, Lot 44 \$500.00 (11-22-22)

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Frank Morris Baily Estate by TCB, et ux., to Gregory Andrews, Tax Claim, \$500.00 (11-22-22)
Dale J. Higgs by TCB, et ux., to BP Investments & Property Management, Tax Claim, Lot 39-40, Hatfield, \$500.00 (11-22-22)
 Frank N. Smalich by TCB, et ux., to BP Investments & Property Management, Tax Claim, Lots, \$500.00 (11-22-22)
 DUNKARD TOWNSHIP
 Nova 1 Properties LLC to Dustin Rhodes, et ux., 2 Tracts, \$75,000.00 (11-21-22)
 Petitte Coal Co by TCB, et ux., to George Enterprises, Tax Claim, Tract, Sewickley Coal, \$500.00 (11-17-22)
 Evelyn Pettite by TCB, et ux., to George Enterprises, Tax Claim, Tract, Pittsburgh Coal, \$500.00 (11-18-22)
 Petitte Coals Inc by TCB, et ux., to George Enterprises, Tax Claim, Tract, Pittsburgh Coal, \$500.00 (11-18-22)
 FRANKLIN TOWNSHIP
 Shelly Koterak, et ux., to The Mineral Company, et ux., 167.571 Acres, O&G, \$33,018.05 (11-16-22)
 Iron Pennsylvania Land LLC, et ux., to William G. Nimpfer, 2 Tracts, O&G, \$141,775.00 (11-16-22)
 Margaretta M. Clark Estate, et ux., to Juan Pablo Del Angel Reyes, Tract, \$17,000.00 (11-22-22)
 FREEPORT TOWNSHIP
 Jeryl D. Bornstein A/K/A Jeryl Eichberg to The Mineral Company, et ux., 20.45 Acres, O&G, \$122,700.00 (11-18-22)
 GILMORE TOWNSHIP
 Norma Lee Riley by TCB, et ux., to George Enterprises, Tax Claim, Tract, Sewickley Coal, ¼ Interest, \$500.00 (11-17-22)
 GREENE TOWNSHIP
 Ralph John Ross by TCB, et ux., to George Enterprises, Tax Claim, Tract, Sewickley Coal, 1/3 Interest, \$500.00 (11-17-22)
 William S. Brewer by TCB, et ux., to George Enterprises, Tax Claim, Tract, Sewickley Coal, \$500.00 (11-17-22)
 JACKSON TOWNSHIP
 Linda R. Barney to The Mineral Company, et ux., 96.5375 Acres, O&G, \$2,815.68 (11-16-22)
 Tiffany L. Dean to The Mineral Company, et ux., 94.875 Acres, O&G, \$13,638.29 (11-16-22)
 Jennifer J. Lippencott, et al., to Justin E. Bular, et ux., 40.008 Acres, \$550,000.00 (11-17-22)
 JEFFERSON TOWNSHIP
 Diana L. McDaniel to Ethan Virgili, et ux., 19.145 Acres, \$28,717.50 (11-17-22)
 Joseph S. Mangione by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 64, Landing Heights Plan, ½ Interest, \$500.00 (11-16-22)
 Joseph S. Mangione by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 65, Landing Heights Plan, ½ Interest, \$500.00 (11-16-22)
 Joseph S. Mangione by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 66, Landing Heights Plan, ½ Interest, \$500.00 (11-16-22)
 Rose Mermelstein by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 71, Landing Heights, \$500.00 (11-16-22)
 John Howard Pontiac GMC by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 11, Delancy Heights, \$500.00 (11-16-22)
 John Howard Pontiac GMC by TCB, et ux., to TW Plus LLC, Tax Claim, Lot 10, Delancy Heights, \$500.00 (11-16-22)

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Iona Riggs Carson Estate by TCB, et ux., to George Enterprises, Tax Claim, Tract, Sewickley Coal, \$500.00 (11-18-22)

MONONGAHELA TOWNSHIP

Helen C. Houchell by TCB, et ux., to George Enterprises, Tax Claim, Tract, Sewickley Coal, \$5,000.00 (11-17-22)

Doug E. Malone by TCB, et ux., to Paul Woods, Sr., Tax Claim, Lot, \$500.00 (11-22-22)

Doug E. Malone by TCB, et ux., to Paul Woods, Sr., Tax Claim, Lot, \$500.00 (11-22-22)

Kevin K. Daniel by TCB, et ux., to Angela McCourt, et ux., Tax Claim, Lot, \$500.00 (11-22-22)

MORGAN TOWNSHIP

Billy Joe Pellegrini by POA, et al., to BAP Industries LLC, 2 Tracts, \$130,000.00 (11-17-22)

MORRIS TOWNSHIP

Jessica R. Anderson to The Mineral Company, et ux., 110.19 Acres, O&G, \$32,497.02 (11-16-22)

PERRY TOWNSHIP

Donna R. Gamble A/K/A Donna Renee Gamble, et ux., to The Mineral Company, et ux., 5 Acres, O&G, \$5,000.00 (11-16-22)

William L. Pack to VES Land LLC, 72 Acres, O&G, \$14,400.00 (11-17-22)

David Harris to Benjamin Ankrom, Lots 5-9, Block A, Martins Second Addition, \$165,000.00 (11-17-22)

RICHHILL TOWNSHIP

Matthew P. Rhome to EQT Production Company, 1.35 Acres, O&G, \$1,000.00 (11-18-22)

SPRINGHILL TOWNSHIP

Donna Lynn Love to The Mineral Company, et ux., 214.80 Acres, O&G, \$3,992.63 (11-16-22)

Randall G. Kimble to The Mineral Company, et ux., 13.10625 Acres, O&G, \$10,921.87 (11-16-22)

R. William Trussell A/K/A Bill Trussel to The Mineral Company, et ux., 2 Tracts, O&G, \$11,500.44 (11-16-22)

Debra D. Crews to The Mineral Company, et ux., 47.2060 Acres, O&G, \$5,409.02 (11-16-22)

Erwin Neal Veteto, et ux., to The Mineral Company, et ux., 3 Tracts, O&G, \$3,992.63 (11-18-22)

Vicky Maggard to EQT Production Company, 25 Acres, O&G, \$2,199.08 (11-18-22)

WAYNE TOWNSHIP

CNXL Land LLC to Mary Josephine Blake, .39 Acre, \$15,000.00 (11-17-22)

WAYNESBURG BOROUGH

Drew A. Johnson, et ux., to Andrew Franko, Lot, \$100,700.00 (11-17-22)

Crystal Rush, et ux., to James R. Gilbert, et ux., Lot, \$22,000.00 (11-22-22)

ESTATE NOTICES

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

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NORRIS, DARLENE L.

Late of Cumberland Township, Greene County, Pennsylvania

Executrix: Holly L. Riffle, 200 Solomon Avenue, Carmichaels, PA 15320

Attorney: Christopher Michael Simms, Esquire, Pollock Morris Belletti & Simms, LLC, 54 South Washington Street, Waynesburg, PA 15370

WHYTE, FERN ALDINE A/K/A FERN A. WHYTE

Late of Richhill Township, Greene County, Pennsylvania

Executrix: Pamela L. Hill, 378 Wheeling Creek Road, Wind Ridge, PA 15380

Attorney: David F. Pollock, Esquire, Pollock Morris Belletti & Simms LLC, 54 South Washington Street, Waynesburg, PA 15370

YAKUBAC, MICHAEL, SR., A/K/A MIKE YAKUBAC, SR., A/K/A MICHAEL YAKUBAC

Late of Nemaocolin, Greene County, Pennsylvania

Executor: David Yakubac, 52 Bliss Avenue, Nemaocolin, PA 15351

Attorney: Kirk A. King, Esquire, 77 South Washington Street, Waynesburg, PA 15370

SECOND PUBLICATION

ADAMS, RUSTY SHANE

Late of Waynesburg Borough, Greene County, Pennsylvania

Co-Executor: Kacy L. Umina, 3815 S. Lincoln Street, Englewood, CO 80113

Co-Executor: Sharon Yvonne Dowdy, 1630 Jameson Road, Fairview, WV 26570

Attorney: Lori J. Paletta-Davis, Esquire, Umina Legal, PLLC, 133 Greenbag, Road, Morgantown, WV 26501

LEMMON, MARVIN LUKE A/K/A MARVIN L. LEMMON A/K/A MARVIN LEMMON

Late of Orange County, California, with assets in Freeport and Gilmore Townships, Greene County, Pennsylvania

Administrator: Alex M. Lemmon, 423 N. 32nd Street, Harrisburg, PA 17111

Attorney: Mark D. Hipp, Sigma Legal Advisors, 1801 Market Street, Ste. 300, Camp Hill, PA 17011

NESTO, JOSEPH ANTHONY SR. A/K/A JOSEPH A. NESTO

Late of Rices Landing Borough, Greene County, Pennsylvania

Executrix: Shelby Nesto McLaughlin, 138 Center Avenue, Rices Landing, PA 15357

Attorney: Thomas P. Agrafiotis, Esquire, Melenyzer & Agrafiotis LLC, 411 Washington Avenue, Charleroi, PA 15022

TUSTIN, MCCLEESE JUNE

Late of Center Township, Greene County, Pennsylvania

Executrix: Debbie Tustin, C/O Lukas B. Gatten, Esquire, Logan & Gatten Law Offices, 54 N. Richhill Street, Waynesburg, PA 15370

Attorney: Lukas B. Gatten, Esquire, Logan & Gatten Law Offices, 54 N. Richhill Street, Waynesburg, PA 15370

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ROMESBURG, MICHAEL W. A/K/A MICHAEL WILLIAM ROMESBURG
Late of Cumberland Township, Greene County, Pennsylvania
Administrator: Joseph A. Romesburg, 210 Woodside Drive, Washington, PA 15301
Attorney: Brandon K. Meyer, Esquire, 76 North Richhill Street, Waynesburg, PA
15370

WINSLOW, EDWARD
Late of Franklin Township, Greene County, Pennsylvania
Executor: William Tod Winslow, 19813 Bittersweet Lane, Estero, FL 33928
Attorney: Lukas B. Gatten, Logan & Gatten Law Offices, 54 N. Richhill Street,
Waynesburg, PA 15370

THIRD PUBLICATION

DICKEY, JAMES W.
Late of Cumberland Township, Greene County, Pennsylvania
Administratrix: Mary Lou Balogh, 143 West Wood Avenue, PO Box 304, Nemaocolin,
PA 15351
Attorney: Lukas B. Gatten, Esquire, Logan & Gatten Law Offices, 54 N. Richhill
Street, Waynesburg, PA 15370

HOWARD, KAREN L.
Late of Greene Township, Greene County, Pennsylvania
Executrix: Jodi R. Hall, 150 Gapen Road, Garard's Fort, PA 15334
Attorney: Timothy N. Logan, Esquire, Logan & Gatten Law Offices, 54 N. Richhill
Street, Waynesburg, PA 15370

MEISSNER, DONALD L.
Late of Whitely Township, Greene County, Pennsylvania
Executor: Roger A. Wence, 163 Curry Road, Waynesburg, PA 15370
Attorney: Timothy N. Logan, Esquire, Logan & Gatten Law Offices, 54 N. Richhill
Street, Waynesburg, PA 15370

FIRST AND FINAL ACCOUNT

LIST OF FIRST AND FINAL ACCOUNTS TO BE PRESENTED TO THE COURT BY
SHERRY L. WISE, CLERK OF COMMON PLEAS COURT, ORPHANS' COURT
DIVISION ON December 5, 2022 FOR NISI CONFIRMATION AND ON December 15, 2022
FOR FINAL CONFIRMATION.

The First & Final Account of Christopher Michael Simms, Court Appointed Executor of the
Estate of Charles S Bedilion, late of Jefferson Township, Greene County, Pennsylvania

Attorney: Christopher Michael Simms

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54 South Washington Street
Waynesburg PA 15370

SHERIFF'S SALE

By Virtue of a Writ of Execution (Mortgage Foreclosure)
No. ED-32-2022 AD-3439-2022

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, DECEMBER 16, 2022
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.

ALL THAT CERTAIN PARCEL OF LAND SITUATE IN THE TOWNSHIP OF PERRY,
GREENE COUNTY, PENNSYLVANIA, MORE PARTICULARLY DESCRIBED AS
FOLLOWS:

PARCEL NO. 2/09/285/I
ALSO KNOWN AS 110 MAIN STREET, MOUNT MORRIS, PA 15349 BEING THE SAME
PREMISES WHICH TERESA MEJICO, BY DEED DATED APRIL 25, 2018, AND
RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF GREENE COUNTY ON
MAY 14, 2018 IN DEED BOOK 0514, PAGE 0405, GRANTED AND CONVEYED UNTO
TYLER J. WILSON, AN UNMARRIED MAN.

PROPERTY ADDRESS: 110 Main St., Mount Morris, PA 15349
UPI / TAX PARCEL NUMBER: 20/09/285-I

Seized and taken into execution to be sold as the property of TYLER WILSON A/K/A
TYLER JAY WILSON in suit of THE HUNTINGTON NATIONAL BANK.

Attorney for the Plaintiff:
Manley Deas Kochalski, LLC
Columbus, OH 614-220-5611

MARCUS N. SIMMS, Sheriff
Greene County, Pennsylvania

SUPREME COURT NOTICE

SUPREME COURT OF PENNSYLVANIA
ORPHANS' COURT PROCEDURAL RULES COMMITTEE

NOTICE OF PROPOSED RULEMAKING

Proposed Adoption of Pa.R.O.C.P. 10.7

The Orphans' Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the adoption of Pa.R.O.C.P. 10.7 relating to a filing made with the Register of Wills to facilitate disclosure of the digital assets or a catalog of electronic communications of a decedent, other than the content of such electronic communications, for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

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

Pamela S. Walker, Counsel
Orphans' Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9546
orphanscourtproceduralrules@pacourts.us

All communications in reference to the proposal should be received by February 17, 2023. 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 Orphans' Court
Procedural Rules Committee,

Hon. Emil A. Giordano (Ret.)
Chair

-The following text is entirely new-

Rule 10.7 Disclosure of Certain Digital Assets or a Catalog of Electronic Communications of a Decedent.

(a) At Time of Filing Petition for Grant of Letters. If a personal representative intends to access the digital assets or a catalog of electronic communications of a decedent, other than the content of the decedent's electronic communications, the personal representative may file with the petition an affidavit containing the recitals set forth in 20 Pa.C.S. § 3908(b). The affidavit shall be taken before and administered by the Register pursuant to 20 Pa.C.S. § 3908(c).

(b) After Filing Petition for Grant of Letters. If a personal representative intends to access the digital assets or a catalog of electronic communications of a decedent, other than the content of the decedent's electronic communications, the personal representative may file an affidavit with the Register containing the recitals set forth in 20 Pa.C.S. § 3908(b). The affidavit shall be taken before and administered by the Register pursuant to 20 Pa.C.S. § 3908(c).

(c) Upon Request of a Custodian. If a custodian requests a finding of the court with respect to a catalog of electronic communications of a decedent pursuant to 20 Pa.C.S. § 3908(a)(4)(iv) from a personal representative who has not already filed an affidavit as provided under subdivisions (a) or (b):

(1) the personal representative may file a verified statement with the Register pursuant to 20 Pa.C.S. § 3908(b)(1); and

(2) provide the custodian a copy of the verified statement bearing evidence of filing with the Register.

Comment: This rule is intended to implement § 3908 of the Revised Uniform Fiduciary Access to Digital Assets Act relating to the disclosure of certain digital assets or a catalog of electronic communications of a decedent, other than the content of such electronic communications, to a personal representative. See 20 Pa.C.S. § 3908. Relevant terms, such as "catalog of electronic communications," "content of electronic communication," "custodian," and "digital asset" are defined by statute. See 20 Pa.C.S. § 3902. This rule does not apply to access to the contents of a decedent's electronic communications; such access is governed by 20 Pa.C.S. § 3907.

A filing made pursuant to subdivision (a) or (b) is independent of any filing made pursuant to subdivision (c).

An verified statement filed by the personal representative with the Register pursuant to subdivision (c) is not required to be taken before and administered by the Register. See 20 Pa.C.S. § 3908(b)(1).

While Registers are not subject to the *Case Records Public Access Policy of the Unified Judicial System*, they are encouraged to ensure the confidentiality of identifying information contained in affidavits filed pursuant to this rule. See *Case Records Public Access Policy of the Unified Judicial System*, § 1.0, Comment.

SUPREME COURT OF PENNSYLVANIA
ORPHANS' COURT PROCEDURAL RULES COMMITTEE
RE-PUBLICATION REPORT
Proposed Adoption of Pa.R.O.C.P. 10.7

The Orphans' Court Procedural Rules ("Committee") is considering proposing to the Supreme Court of Pennsylvania the adoption of Pa.R.O.C.P. 10.7 in response to legislation providing for, among other things, the filing of an affidavit or verified statement with the Register of Wills for the disclosure of certain digital assets or a catalog of electronic communications of a decedent, other than the content of such electronic communications.

On July 23, 2020, Act 72 of 2020, the Pennsylvania Revised Uniform Fiduciary Access to Digital Assets Act ("Act"), was enacted. See 20 Pa.C.S. §§ 3901–3917. The Act provides generally "for user direction and agreements, for disclosure of digital assets and electronic communications, for functions of fiduciaries and for compliance and immunity for custodians of digital assets and electronic communications; and making conforming amendments." 7 *West's Pa. Forms*, Estate Planning § 1.26.

Section 3908 of the Act provides for the disclosure of certain digital assets or a catalog of electronic communications of a decedent, other than the content of such electronic communications, by prescribing procedures to be followed by the personal representative of a decedent's estate. Requests for disclosure of or access to the "content of electronic communications" of a decedent are not included in § 3908 or proposed Rule 10.7, and are outside the scope of the proposed rule.

The Committee previously published for public comment a proposed new Rule 10.7 cross-referencing the procedures set forth at 20 Pa.C.S. § 3908. See 51 Pa.B. 1796 (April 3, 2021). The Committee had considered other approaches to incorporating the relevant provisions of § 3908 into the rules, such as drafting a detailed rule or developing amendments to the petition for grant of letters. Ultimately, the Committee believed the procedures established by statute were adequate and self-explanatory. The practice of incorporation by reference to statutory procedures in rulemaking exists elsewhere in the statewide rules. See, e.g., Pa.R.O.C.P. 14.6(a) (procedure for determining incapacity and appointment of a guardian set forth at 20 Pa.C.S. §§ 5511, 5512, and 5512.1).

However, post-publication feedback made evident the proposal would benefit from clarification in two ways. First, it was recommended that the proposal distinguish between requests for access made at the time of filing the petition for grant of letters from those made after filing of the petition. In response, the Committee modified the proposal to distinguish these scenarios. Subdivision (a) now provides for an affidavit to be filed at the time of filing the petition for grant of letters to access certain digital assets or a catalog of electronic communications of the decedent, other than the content of electronic communications. Likewise, subdivision (b) provides for the affidavit to be filed after the filing of the petition for grant of letters.

It was further recommended that the proposal differentiate a filing made to satisfy the request of a custodian of a catalog of the decedent's electronic communications that the personal representative provide a finding of the court and no previous filings have been made. See 20 Pa.C.S. § 3908(b). In response, subdivision (c) now provides for a personal representative to file an affidavit with the Register of Wills, as set forth in § 3908, if the representative has been requested to provide a finding of the court with respect to a catalog of electronic communications of the decedent and no affidavit was previously filed pursuant to subdivision (a) or (b).

The Act prescribes differing methods of executing the affidavit for subdivisions (a) and (b) in contrast with subdivision (c). An affidavit filed by the personal representative pursuant to subdivision (a) or (b) is required to be sworn before the Register. See 20 Pa.C.S. § 3908(c)(2). In contrast, a verified statement filed pursuant to subdivision (c) does not require swearing before the Register. See 20 Pa.C.S. § 3908(b)(1); Pa.R.O.C.P. 1.3 (defining "verified").

Each subdivision of proposed Rule 10.7 requires the filing of an affidavit with the Register of Wills to satisfy the statutory requirements. However, § 3908 also permits the required averments to be made in the petition for grant of letters or a supplemental petition. Currently, there is a statewide form petition for grant of letters, Form RW-02. The Committee was not inclined to recommend the amendment of Form RW-02 for several reasons. First, the averments required by § 3908 are discrete and supplemental to the primary purpose of the petition for grant of letters. Additionally, access to certain digital assets or the catalog of electronic communications of the decedent, other than the content of the decedent's electronic communications, can be sought either concurrent with or subsequent to filing the petition. Revising Form RW-02 to incorporate the averments may suggest that the digital asset averments must be made at the time of filing the petition, even though the petitioner may not have identified the relevant accounts at the time of filing the petition. Finally, not all forms or notices permitted or required by statute are addressed in unique, statewide forms. See, e.g., 20 Pa.C.S. § 3102 (settlement of small estates by petition); Pa.R.O.C.P. 15.4(a) (contents of notice of hearing to relinquish or terminate parental rights set forth at 23 Pa.C.S. §§ 2503(b), 2504(b), and 2513(b)) (effective July 1, 2022).

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.