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Estate Notices

DECEDENTS ESTATES

NOTICE IS HEREBY GIVEN that letters testamentary or of administration have been granted in the following estates. All persons indebted to the estate are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors or their attorneys named below.

FIRST PUBLICATION

ESTATE OF MARY ANN DEMPSEY a/k/a MARY A. DEMPSEY, late of Lower Paxton Township, Dauphin County, Pennsylvania (died January 17, 2011). Executor: A. Bart Carpenter, 3401 Green Street, Harrisburg, PA 17110. Attorney: Herschel Lock, Esq., 3107 North Front Street, Harrisburg, PA 17110. f25-m11

ESTATE OF GLADYS M. TROUTMAN, late of Millersburg Borough, Dauphin County, Pennsylvania. Co-Executors: Dorothy M. Chubb, 122 Gearhart Street, Millersburg, PA 17061; Arlene M. Rickert, 853 East Union Street, Millersburg, PA 17061; Connie J. Ronau, 11855 Angola Road, Swanton, OH 43558; Donald E. Troutman, 630 North Street, Lykens, PA 17048; Richard D. Troutman, 11419 Potomac Oaks Drive, Rockville, MD 20850 and Linda S. Duck, 166 S. Enola Drive, Enola, PA 17025. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Telephone (717) 234-5600. f25-m11

ESTATE OF JAMES I. SCHEINER, late of the City of Harrisburg, Dauphin County, Pennsylvania (died February 1, 2011). Executrix: Kristin M. Scofield, 707 South Front Street, Harrisburg, PA 17104. Attorney: Stanley A. Smith, Esq., Rhoads & Sinon LLP, One S. Market Square, P.O. Box 1146, Harrisburg, PA 17108-1146. f25-m11

ESTATE OF EVELYN OMEGA PHOENIX, late of the City of Harrisburg, Dauphin County, Pennsylvania. Administratrix: Jovon L. Smith, 2010 North Street, Harrisburg, PA 17103. Attorneys: Butler Law Firm, 500 North Third Street, P.O. Box 1004, Harrisburg, PA 17108. f25-m11

ESTATE OF EVELYN W. LYNCH, late of Derry Township, Dauphin County, Pennsylvania (died February 13, 2011). Executrix: Patricia L. Maurer, 5583 Elizabethtown Road, Manheim, PA 17545. Attorney: John S. Davidson, Esq., 320 West Chocolate Avenue, P.O. Box 437, Hershey, PA 17033-0437. f25-m11

ESTATE OF VERLUE LORRAINE BLESS, late of the Township of Lower Paxton, Dauphin County, Pennsylvania. Executrix: Virginia L. Ream, c/o Jeffrey A. Keiter, J.D., 226 West Chocolate Avenue, Hershey, PA 17033. Attorney: Jeffrey A. Keiter, J.D., 226 West Chocolate Avenue, Hershey, PA 17033. f25-m11

FIRST PUBLICATION

Estate Notices

ESTATE OF PAUL B. BEERS, late of Harrisburg, Dauphin County, Pennsylvania. Executor: Hershey Trust Company, Attention: Lisa Piergallini, Vice President/Trust Officer, c/o Charles E. Shields, III, Esq., 6 Clouser Road, Mechanicsburg, PA 17055. Attorney: Charles E. Shields, III, Esq., 6 Clouser Road, Mechanicsburg, PA 17055. f25-m11

ESTATE OF BETTY J. KRUGER, late of Harrisburg, Dauphin County, Pennsylvania (died November 26, 2010). Executrix: Joyce Kruger, 6956 Beechwood Road, Harrisburg, PA 17112. Attorney: Amy M. Moya, Esq., 5011 Locust Lane, Harrisburg, PA 17109. f25-m11

ESTATE OF GERALDINE O. WELKER, late of Millersburg Borough, Dauphin County, Pennsylvania. Executrix: Kaye J. Millard, 743 Mill Drive, Halifax, PA 17032. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Telephone (717) 234-5600. f25-m11

ESTATE OF LEONA A. ARNOLD a/k/a LEONA A. ARNOLD-WERT, late of Upper Paxton Township, Dauphin County, Pennsylvania. Executor: Ricky Lee Arnold, P.O. Box 666, Elizabethville, PA 17023. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Telephone (717) 234-5600. f25-m11

ESTATE OF MARY ANN BRESNOCK a/k/a MARY ANN S. BRESNOCK, late of the Township of Derry, Dauphin County, Pennsylvania. Administrator: Edward P. Bresnock, 579 Windy Ridge Road, Cogan Station, PA 17728. Attorney: Eric M. Lieberman, Esq., Zimmerman, Lieberman & Tamulonis, 111 East Market Street, P.O. Box 238, Pottsville, PA 17901-0238. f25-m11

ESTATE OF EIZENS L. OZOLS, late of Steelton Borough, Dauphin County, Pennsylvania. Administrator: Ronald D. Butler, 500 North Third Street, P.O. Box 1004, Harrisburg, PA 17108. Attorneys: Butler Law Firm, 500 North Third Street, P.O. Box 1004, Harrisburg, PA 17108. f25-m11

ESTATE OF JENNIE D. CARSWELL a/k/a JENNIE CARSWELL, late of East Pennsboro Township, Cumberland County, Pennsylvania (died January 17, 2011). Personal Representative: Debra K. Loew, 1120 Wenrich Street, Harrisburg, PA 17112. Attorney: Vicky Ann Trimmer, Esq., Persun & Heim, PC., P.O. Box 659, Mechanicsburg, PA 17055-0659. f25-m11

ESTATE OF GLADYS J. HAFER a/k/a GLADYS JOYCE HAFER, late of Lower Paxton Township, Dauphin County, Pennsylvania (died July 4, 2010). Personal Representative: Manufacturers & Traders Trust Company, Attention: Ruth Ann McMillen, Assistant Vice President, 213 Market Street, Harrisburg, PA 17101. Attorney: Thomas A. Gacki, Esq., Eckert, Seamans, Cherin & Mellott, LLC, 213 Market Street, 8th Floor, Harrisburg, PA 17101. f25-m11

SECOND PUBLICATION

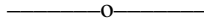
ESTATE OF ESTHER L. MOYER, late of the City of Harrisburg, Dauphin County, Pennsylvania (died September 7, 2010). Administratrix: Terry Martin, 253 N. Spring Street, Middletown, PA 17057. f18-m4

ESTATE OF GEARY D. KAUFFMAN, late of West Hanover Township, Dauphin County, Pennsylvania. Executor: Frank Felbaum, 246 Revere Street, Harrisburg, PA 17109. Attorneys: Butler Law Firm, Esq., 500 North Front Street, P.O. Box 1004, Harrisburg, PA 17108. f18-m4

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of time that is available for filing an appeal ... 30 days.” *Id.* at 737. Though the issue of defendant’s alcohol consumption was raised in the testimony, argued to a degree by counsel (see N.T. 37, 482, 493, 566-68) and addressed in the court’s instructions to the jury (see N.T. 597-98), the record is not developed sufficiently for this court to decide whether the course trial counsel chose in this instance was effective.⁵

Accordingly, this court issued a judgment of sentence on April 21, 2008.

**Commonwealth v. Britton****Crimes and Criminal Procedure — Post Conviction Relief Act Petition — Ineffective Assistance of Counsel — Alibi Witness.**

The Defendant was convicted of Attempted Homicide, Criminal Conspiracy/Aggravated Assault, Carrying a Firearm Without a License, Possession with Intent to Deliver a Controlled Substance, and Unlawful Possession of Drug Paraphernalia. She was sentenced to an aggregate term of imprisonment of 21-42 years, fines, costs, and restitution. After apprising the Defendant of the court’s intention to dismiss her Post Conviction Relief Act Petition, she filed an Objection based upon the claim of her trial counsel’s ineffectiveness for failure to call an alibi witness. The Court disposed of the objection by Final Order.

1. In order to demonstrate entitlement to post conviction relief, the petitioner must establish that the error so undermined the truth determining process that no reliable adjudication of guilt or innocence could have taken place. 42 Pa. C.S.A. §9543 (a)(2)(ii)(1998). Where petitioner claims that error occurred because of ineffectiveness of counsel, Petitioner has the burden of establishing ineffectiveness of counsel; counsel is presumed effective. *Commonwealth v. Speight*, 544 Pa. 451, 667 A.2d 317 (1996).

2. Further, ineffectiveness of counsel claims are reviewed according to the “performance and prejudice” test set forth in *Commonwealth v. Pierce*, 515 Pa. 153, 527 A.2d 973 (1987). Under this test, the petitioner must demonstrate that the claim of ineffectiveness has arguable merit, that counsel’s act was not reasonably designed to advance the interest of the defendant, and that there is a reasonable probability that but for counsel’s unprofessional errors, the result of the proceedings would have been different. *Pierce, Id.* The court

5. There are some exceptions to the rule announced in *Grant*, none of which are present in this case. See e.g. *Commonwealth v. Bomar*, 826 A.2d 831, 853-54 (Pa. 2003), *certiorari denied*, 540 U.S. 1115 (2004) (appellate court can consider on direct review an ineffective assistance of counsel claim raised for first time before trial court by post-sentence motion where trial court conducted hearings on the motion including taking testimony of trial counsel concerning the alleged ineffectiveness).

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may initially consider the issue of prejudice and deny relief without consideration of the performance prongs of *Pierce*, if the defendant fails to establish that the results of the proceedings would have been different. *Strickland v. Washington*, 466 U.S. 668, 697 (1984).

3. Not every claim of counsel's failure to interview or call a potential witness warrants relief. "When raising a failure to call a potential witness claim, the PCRA petitioner satisfies the performance and prejudice requirements of the *Strickland* test by establishing that: (1) The witness existed; (2) the witness was available to testify for the defense; (3) counsel knew of, or should have known of, the existence of the witness; (4) the witness was willing to testify for the defense; and (5) the absence of the testimony of the witness was so prejudicial as to have denied the defendant a fair trial." *Commonwealth v. Washington*, 592 Pa. 698, 927 A.2d 586, 599 (Pa. 2007). Further, "the findings of the post conviction court, which hears the evidence and passes on the credibility of witnesses, should be given great deference." *Commonwealth v. Jones*, 590 Pa. 202, 912 A.2d 268, 293 (Pa. 2006).

Objection to Dismissal of Post Conviction Relief Act Petition. C.P., Dau. Co., No. 13-CR-2005.

Jason E. McMurry, for the Commonwealth

Gail G. Souders and Elizabeth A. Hoffman, for Defendant

HOOPER, P.J., February 1, 2011. – This matter comes before the court on the counseled Objection to Dismissal of Defendant Derel Britton, (hereinafter, "Defendant") to the court's prior Notice of Intent to Dismiss Petition under the Post Conviction Relief Act. Having reviewed the single issue presented therein, for the reasons set forth, we OVERRULE Defendant's Objection to Notice of Intent to Dismiss and DISMISS Defendant's PCRA Petition.

PROCEDURAL HISTORY

Defendant was found guilty by a jury of charges of Attempted Homicide, Criminal Conspiracy / Aggravated Assault, Carrying a Firearm Without a License, Possession with Intent to Deliver a Controlled Substance, and Unlawful Possession of Drug Paraphernalia. The Defendant was found not guilty of Criminal Conspiracy / Attempted Homicide. On April 12, 2006, this court sentenced Defendant to an aggregate term of imprisonment of 21 – 42 years, fines, costs, and restitution. The Defendant, through his counsel, filed a Motion for Modification of Sentence on April 20, 2006, which the court denied on April 27, 2006. Subsequently, Defendant filed a Notice of Appeal on May 18, 2006. The Pennsylvania Superior Court affirmed the judgment of sentence on April 5, 2007.

Defendant filed a *pro se* PCRA Petition on April 7, 2008. The court appointed counsel on April 7, 2008. Counsel filed a Petition to Withdraw on November 18, 2008. The PCRA court issued an Opinion and Order

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on April 14, 2009 granting appointed PCRA Counsel's request to withdraw, and apprising Defendant of the court's intention to dismiss PCRA.

Defendant retained private PCRA counsel. On April 28, 2009, the court entered an order which granted new PCRA counsel 20 days within which to file objections to the dismissal of Defendant's petition.

On May 14, 2009, PCRA Counsel filed an Objection to the Dismissal of Defendant's Petition Under the Post Conviction Relief Act on the claim of trial counsel's alleged ineffectiveness for failure to call an alibi witness, Jalita Britton.¹ Counsel asserted no objections to the other issues addressed by the court in its Opinion and Order of April 14, 2009, and therefore no further discussion of those issues is required herein.² This Opinion and Order disposes of Defendant's Objection to the Dismissal of Defendant's Petition Under the Post Conviction Relief Act by Final Order.

The court conducted an evidentiary hearing on April 1, 2010, at which PCRA counsel presented the testimony of the individual asserted to be an alibi witness, Jalieta Britton, Trial Counsel, Royce Morris, and Defendant, Derel Britton. The testimony presented at that hearing, and the analysis thereof, is set forth herein.

1. Alternatively spelled "Jalieta" and "Jalita".

2. The issues dismissed are therefore:

- (a) Alleged ineffectiveness of Trial Counsel for alleged failure to investigate the victim's past;
- (b) Alleged ineffectiveness of Trial Counsel for refraining from presenting photographic evidence of an alleged separate crime scene;
- (c) Alleged ineffectiveness of Trial Counsel for attempts to suppress identification of the defendant;
- (d) Alleged existence of recantation testimony of the victim's identification of the Defendant;
- (e) Alleged ineffectiveness of Trial Counsel for allegedly failing to pursue evidence to challenge the victim's identification of Defendant;
- (f) Alleged ineffectiveness of Trial Counsel for allegedly failing to investigate and present evidence of alleged mitigation, including evidence that another person committed the crime;
- (g) Alleged contradictory nature of trial testimony;
- (h) Alleged violation by the Commonwealth of the "fruits of the poisonous tree doctrine";
- (i) Alleged ineffectiveness of Appellate Counsel in refraining from obtaining a Bill of Particulars;
- (j) Alleged ineffectiveness of Trial Counsel in refraining from objecting to statements of the prosecutor in closing argument.

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FACTS

The facts underlying this matter are as follows:

On October 18, 2004, Kenneth Pailen left his apartment in the Borough of Penbrook at about 9:30 or 10:00 p.m. and drove into the City of Harrisburg, looking to buy drugs. (Notes of testimony of Jury Trial dated January 9-12, 2006, at 104) (Hereinafter cited as “N.T.”). Pailen had been addicted to crack cocaine for about three years. (N.T. 102). Pailen routinely would drive into the area of Sixth and Curtin Streets in Harrisburg as often as twelve times a day to buy crack cocaine that he would smoke at home. (N.T. 128-29).

On this occasion, Pailen drove around the block a couple of times but did not see anyone that he knew selling drugs on the street. As a result, Pailen decided to drive to the area of a bar from which drugs are often sold but where he did not like to buy because of the amount of police activity in the area. *Id.* However, as he turned from Sixth to Schuylkill Street, Pailen saw Britton standing on the porch of the first row home on the right side of the block. (N.T. 106-07). Pailen thought that Britton might be a drug dealer from whom he could buy. (N.T. 106).

However, he then saw Sherrill on the same side of the street, so Pailen pulled over, after which Sherrill approached the car and opened the door. (N.T. 107-08). Pailen had pulled over to the left side of the street, about forty feet from the porch on which Britton was standing. (N.T. 109). After Sherrill opened the passenger door, he asked “What do you have?” (N.T. 110). Pailen gave Sherrill \$8. *Id.* Sherrill then asked, “Aren’t you the guy who beat my friend?” *Id.* Sherrill then walked away from the car toward Britton and asked “Hey isn’t this the guy that looks like he beat you?” (N.T. 111).

Becoming nervous, Pailen locked the car doors while Britton came around the back of the car and appeared next to the driver-side window, with Sherrill standing next to him. *Id.* Britton was standing about three feet from the car Pailen was driving. (N.T. 112). Pailen heard Sherrill scream, “Shoot him.” (N.T. 111, 116). At that

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point, the glass in the window broke and Pailen felt like he had been hit with a baseball bat. (N.T. 111). At one point, Pailen heard a loud noise at his rear driver-side door and later saw a large dent, as if someone had kicked the door. (N.T. 117).

After being shot, Pailen ducked down and “floored the car.” (N.T. 116). He was trying to reach a hospital but pulled over because he was passing out from loss of blood. *Id.* The next thing he remembered was a police officer asking him questions. *Id.*

As a result of the shooting, Pailen lost an eye. (N.T. 119). The bullet blew a part of his nose off, ripped his eyelashes off, fractured his jaw, and left permanent nerve damage causing pain in the right side of his face, “so it always feels like this side of my face is on fire.” *Id.* Pailen had to have his nose rebuilt and had to learn how to open his mouth again. He still has a bullet behind his nasal cavity and behind his eye socket. *Id.*

Detective John O’Connor of the Harrisburg Bureau of Police was assigned as the lead investigator of the shooting of Kenneth Pailen. (N.T. 171). He obtained consent from Travis Rager, the registered owner of the car that Pailen was driving, to search the car. (N.T. 171-72). The driver-side windows were “busted out.” (N.T. 172-73). There were bullet holes in the rear driver-side window and the rear window. (N.T. 172). There was a bullet lodged in the rear window at the base. *Id.* The rear driver-side door had a dent that looked as if it had been kicked in. There was a large quantity of blood on the steering wheel and the center console. *Id.*

Pailen provided Detective O’Connor with descriptions of the two men involved in the shooting. (N.T. 182). Later, during a meeting of detectives, Detective O’Connor repeated the descriptions provided by Pailen and Detective Tim Carter said that the descriptions sounded like Britton and Sherrill. (N.T. 183-84). Detective O’Connor learned from computer records that Britton lives at the address at which one of the individuals was standing on the porch, 548 Schuylkill Street, as did

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Sherrill. (N.T. 184-85). The records also showed an address of 225 Emerald Street in Harrisburg for Britton. *Id.*

Based on this information, Detective O'Connor created two photo arrays, one that included a picture of Britton and one that included a picture of Sherrill. (N.T. 185). Pailen identified both Britton and Sherrill as soon as he looked at the photo arrays. (N.T. 189-90).

Detective O'Connor then applied for warrants to search both 548 Schuylkill Street and 225 Emerald Street. (N.T. 190). No evidence was found at 548 Schuylkill Street. (N.T. 191). When Detective O'Connor went with other officers to 225 Emerald Street, he saw Sherrill and Britton standing on the front porch. (N.T. 192). As the officers approached, Sherrill was closer to the door. *Id.* Detective O'Connor reached out and touched Sherrill's arm and said, "You're under arrest." *Id.* Sherrill immediately flailed his arm and started running down the street. *Id.* Detective O'Connor chased Sherrill for about three blocks before catching him. *Id.* When he returned to the house, Britton was gone. *Id.*

The officers then searched 225 Emerald Street (N.T. 194). On the second floor, they found two bedrooms, one of which was obviously a girl's bedroom based on the contents of the room. (N.T. 195). The other bedroom on the second floor had bags of clothing and no furniture. *Id.* On the third floor, there again were two bedrooms, one of which was identified as being occupied by a woman based on the clothing and absence of "guy stuff". (N.T. 196). In the other bedroom, there were pictures of women and rap singers. *Id.* On a coffee table in this room, the police found baggies of suspected cocaine, a scale, and Britton's identification card. (N.T. 196-97). There was also a pornographic CD on the coffee table. (N.T. 198). Detective O'Connor saw a receipt for tires with Britton's name. (N.T. 197). A "Slim Jim" can contained \$450 in cash, an unsmoked cigar, and two more baggies of crack cocaine. *Id.* A box of unused sandwich bags was found with the "Slim Jim" can. *Id.* There was men's clothing and a dry-erase board with "Big Rel Derel B" written on it. (N.T. 197-98).

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Chief Detective John Goshert of the Dauphin County District Attorney's Office, Criminal Investigation Division, is an expert in the sale and use of illegal drugs in Harrisburg, i.e., the "drug subculture". (N.T. 330-38). He opined that the person who possessed the items found during the search possessed them with the intent to deliver. (N.T. 342-43).

(Appellate Brief of Commonwealth, pp. 3-7).

DISCUSSION

Our independent review of Defendant's claims, based upon the record herein, convinces the court that no ineffectiveness of counsel occurred, and that any alleged ineffectiveness did not affect the outcome of the proceedings.

In order to demonstrate entitlement to post conviction relief, the petitioner must establish that the error so undermined the truth determining process that no reliable adjudication of guilt or innocence could have taken place. 42 Pa. C.S.A. §9543 (a)(2)(ii)(1998). Where petitioner claims that error occurred because of ineffectiveness of counsel, Petitioner has the burden of establishing ineffectiveness of counsel; counsel is presumed effective. *Commonwealth v. Speight*, 544 Pa. 451, 667 A.2d 317 (1996).

Further, ineffectiveness of counsel claims are reviewed according to the "performance and prejudice" test set forth in *Commonwealth v. Pierce*, 515 Pa. 153, 527 A.2d 973 (1987). Under this test, the petitioner must demonstrate that the claim of ineffectiveness has arguable merit, that counsel's act was not reasonably designed to advance the interest of the defendant, and that there is a reasonable probability that but for counsel's unprofessional errors, the result of the proceedings would have been different. *Pierce, Id.* The court may initially consider the issue of prejudice and deny relief without consideration of the performance prongs of *Pierce*, if the defendant fails to establish that the results of the proceedings would have been different. *Strickland v. Washington*, 466 U.S. 668, 697 (1984).

Not every claim of counsel's failure to interview or call a potential witness warrants relief. When raising a failure to call a potential witness claim, the PCRA petitioner satisfies the performance and prejudice requirements of the *Strickland* test by establishing that:

- (1) The witness existed; (2) the witness was available to testify for the defense; (3) counsel knew of, or should have

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known of, the existence of the witness; (4) the witness was willing to testify for the defense; and (5) the absence of the testimony of the witness was so prejudicial as to have denied the defendant a fair trial.

Commonwealth v. Washington, 592 Pa. 698, 927 A.2d 586, 599 (Pa. 2007).

Further, “the findings of the post conviction court, which hears the evidence and passes on the credibility of witnesses, should be given great deference.” *Commonwealth v. Jones*, 590 Pa. 202, 912 A.2d 268, 293 (Pa. 2006) and *Commonwealth v. White*, 557 Pa. 408, 734 A.2d 374, 381 (Pa. 1999) (“[The] appellate court is bound by credibility determinations of PCRA court where determinations are supported by the record”).

We are not convinced that counsel knew or should have known of the proffered witness, Jalieta Britton, for a reasonable amount of time prior to trial. We question Jalieta Britton’s significance as a witness who could allegedly vouch for Defendant’s whereabouts at the time of the shooting, where, in spite of that knowledge, and the importance of such testimony, she was not known by Defense Counsel until weeks before the trial.

Most significantly, we do not find that reliable alibi testimony existed which could have been used at trial. Therefore, we conclude that no prejudice resulted to Defendant based upon the lack of trial testimony of the purported alibi witness.

In evaluating the credibility of Jalieta Britton, we look to not only her testimony at the evidentiary hearing, but the timing and circumstances of her identification as an alibi witness. It is instructive to review Defense Counsel’s representations at trial regarding Jalieta Britton and his intentions with respect to calling her as a witness.

At trial, Defense Counsel, Mr. Morris called a Jacqueline Thoryk, whom the defense timely identified as an alibi witness. (Transcript of Proceedings, Jury Trial, p. 420). Ms. Thoryk worked as a registered nurse at the Hershey Medical Center, where the defendant’s grandmother, Glenda Britton was a patient in the intensive care unit. (*Id.*, pp. 420-421). Ms. Thoryk recalled that the family was made aware that Mrs. Britton was in dire condition and would not survive. *Id.*, p. 421. She recalled that many family members visited during the days and evenings leading up to Mrs. Britton’s death. *Id.*

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Ms. Thoryk testified that Defense Counsel contacted her and asked her to confirm whether or not Derel Britton was at the hospital on October 18, 2004. *Id.*, p. 422. Ms. Thoryk testified that she recalled young males at the patient's bedside on October 18, 2004. *Id.*, p. 424. Ms. Thoryk testified that she was asked by the Defendant's aunt to write a letter stating that the Defendant was present at the hospital.

However, on cross examination, the Commonwealth sought to establish as unreliable the letter the nurse wrote placing Defendant at the hospital. Ms. Thoryk testified that her shift ended at 11 p.m. and therefore could not state who was present after that time; she stated that she wrote the letter based upon what Defendant's aunt told her, and would not have done so had she known the person about whom she was asked to write the letter was charged with criminal attempt — murder. (N.T. p. 434). At the time of her testimony, she had no independent recollection of the Defendant being at the hospital at a particular time. (N.T. p. 438).

Defense Counsel then attempted to call Jalieta Britton as a witness to rebut Ms. Thoryk's testimony. Counsel had not identified her as an alibi witness in advance of trial. Mr. Morris stated that he "just" became aware of Jalieta Britton or became aware of her "two weeks before trial". (N.T. p. 440).

We also note that after we provided the defense an opportunity to call Ms. Britton for the purpose of impeaching Nurse Thoryk's testimony regarding preparation of the letter, counsel did not call her. (N.T. p. 445). The court recessed early on the day of Counsel's request, to allow him to secure Ms. Britton's attendance the following day. Although she appeared the next morning, the defense elected not to present her testimony. (N.T. p. 473).

We acknowledge Mr. Morris' explanation of his late identification of Ms. Britton. He testified that he became concerned about Nurse Thoryk's alibi testimony, but had not inquired as to whether Ms. Britton lacked a criminal record, so as to render her a credible family witness. However, conflicts remain in the record as to when Mr. Morris became aware of Ms. Britton by name, regardless of her lack of a criminal record.

Mr. Morris testified that he could not be sure whether, other than two weeks before trial, Defendant identified Ms. Britton by name. (Notes of Testimony, Evidentiary Hearing, April 1, 2010, p. 24) (Hereinafter, "N.T.E.H."). Defendant testified that he gave counsel a list of names before the preliminary hearing. Defendant testified:

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PCRA Counsel (Ms. Hoffman) Do you recollect discussing with Mr. Morris any potential alibi witnesses?

Defendant: I do.

Ms. Hoffman: And do you recall when you discussed these possible witnesses with Mr. Morris.

* * *

Defendant: So I would say he was paid for the preliminary hearing and we might have discussed this before the preliminary hearing. I'm sure I gave him a list of names, because I wasn't familiar with the trial process. I'm under the assumption that the preliminary is pretty much the trial and everything that was going to have to be said was going to be said at the preliminary.

Ms. Hoffman: Let me stop you there then. It's your recollection that you gave him a list of names even before the preliminary hearing?

Defendant: Absolutely.

(N.T.E.H. p. 42)

Ms. Britton testified that she met or talked with Mr. Morris a month and a half before the trial. At no time did she provide a written statement to either the defense or police. (N.T.E.H. p. 15).

These conflicts cause us to question whether indeed Ms. Britton was a credible alibi witness of whom Mr. Morris knew or should have known. We find it peculiar that Jalieta Britton claims to have been present at the hospital with Defendant, and aware that her cousin was charged with the shooting, yet spoke to Mr. Morris only weeks before the trial.

We look to the substance of Jalieta Britton's testimony, and conclude that it lacks credibility. Ms. Britton's testimony was unclear and conflicting on the critical issue of when she arrived at the hospital, and at what time Defendant was present. In her testimony at the evidentiary hearing, she first stated that **she arrived at around 8:30 or 9:00 that evening, that the defendant was there**, and that he stayed there until after 4:00 the next morning. (N.T.E.H. p. 7). However, on cross examination, she testified:

MR. McMURRAY: You got to the hospital between 8:30 and 9:00?

Commonwealth v. Britton

WITNESS: **Um-hmm.**MR. McMURRAY: **You said Derel was already there?**WITNESS: **No. He arrived about, I would say, 45 minutes to an hour after I got there.**

(N.T.E.H. p. 12).

We find this contradiction as to the time of Defendant's arrival at the hospital to demonstrate a lack of credibility.

Finally, even without Ms. Britton's testimony, the jury heard the testimony of another witness as to Defendant's whereabouts around the time of the shooting. Defendant's mother, Diedre Walker, testified that she received a call at about 9:20 p.m. on October 18, 2004 from the Defendant's father, asking that she bring Defendant to the hospital because of the condition of his grandmother. (N.T. p. 376). Ms. Walker testified that Defendant was upstairs at home at the time, and that she called to him down to the hospital. *Id.* She testified that she drove Defendant to the Hershey Medical Center and dropped him off. (N.T. pp. 376-377).

Taking the record of the evidentiary hearing as a whole, with reference to the trial transcript, we find conflicts which render the testimony of the proffered witness non-credible. The jury had the opportunity to consider other testimony that the Defendant was visiting the hospital around the time of the shooting. Therefore, we find that Defendant was not prejudiced by the lack of Ms. Britton's testimony at trial, and that no basis exists for post-conviction relief.

Accordingly, we enter the following:

FINAL ORDER

AND NOW, this 1st day of February, 2011, we find that no genuine issues of fact exist, and that no purpose could be served by further proceedings.

Defendant is hereby apprised of the right to file an appeal of this FINAL ORDER to the Superior Court of Pennsylvania within *thirty days* of the date of this ORDER.

SECOND PUBLICATION

Estate Notices

ESTATE OF PHYLLIS B. WOLFE, late of East Hanover Township, Dauphin County, Pennsylvania (died December 21, 2010). Co-Executors: Gregory L. Wolfe and Terence L. Wolfe. Attorney: Nora F. Blair, Esq., 5440 Jonestown Road, P.O. Box 6216, Harrisburg, PA 17112. f18-m4

ESTATE OF WILLIAM R. SCHAFFSTALL, late of Susquehanna Township, Dauphin County, Pennsylvania. Executor: David Gregory Schaffstall, 117 Willow Road, Harrisburg, PA 17109-2641. Attorney: Steve C. Nicholas, Esq., 2215 Forest Hills Drive, Suite 37, Harrisburg, PA 17112-1099. f18-m4

ESTATE OF FRANCES G. HOCKENBERRY, late of the City of Harrisburg, Dauphin County, Pennsylvania. Executrix: Karen Lee Ramsdale, 761 Erford Road, Camp Hill, PA 17011-1126. Attorney: Steve C. Nicholas, Esq., 2215 Forest Hills Drive, Suite 37, Harrisburg, PA 17112-1099. f18-m4

ESTATE OF JEAN L. KRIDER, late of Lower Paxton Township, Dauphin County, Pennsylvania (died January 17, 2011). Executrix: Gail Dull, 37 Charisma Drive, Camp Hill, PA 17011. Attorney: Jan L. Brown, Esq., Jan L. Brown & Associates, 845 Sir Thomas Court, Suite 12, Harrisburg, PA 17109. f18-m4

ESTATE OF ISABELLE M. MOORE, late of Dauphin County, Pennsylvania (died July 2, 2003). Executrix: Linda K. Strohecker. Attorney: Patricia Cary Zucker, Esq., Daley Zucker Meilton Miner & Gingrich, LLC, 1035 Mumma Road, Suite 101, Wormleysburg, PA 17043. f18-m4

ESTATE OF DONALD E. MURRAY, late of Susquehanna Township, Dauphin County, Pennsylvania. Executrix: Sherrill A. Katzaman, 624 Shield Street, Harrisburg, PA 17109. Attorney: Elizabeth B. Place, Esq., Skarlatos & Zonarich LLP, 17 South Second Street, 6th Floor, Harrisburg, PA 17101. f18-m4

ESTATE OF GRACE E. NYE, late of the Township of Londonderry, Dauphin County, Pennsylvania. Executrix: Denise Nye-Ward, 2148 Foxianna Road, Middletown, PA 17057. Attorney: James H. Turner, Esq., Turner and O'Connell, 4701 North Front Street, Harrisburg, PA 17110. f18-m4

ESTATE OF JOHN E. TROUTMAN, late of Enhaut, Dauphin County, Pennsylvania (died January 11, 2011). Executor: Richard S. Friedman, Esq., 300 North Second Street, Suite 402, Harrisburg, PA 17101. Attorney: Charles E. Friedman, Esq., Richard S. Friedman, P.C., 300 North Second Street, Suite 402, Harrisburg, PA 17101. Telephone (717) 234-3441. f18-m4

THIRD PUBLICATION

ESTATE OF HELEN M. ZANGARI, late of Middletown Borough, Dauphin County, Pennsylvania. Executor: Randall V. Zangari. Attorney: Craig A. Diehl, Esq., CPA, 3464 Trindle Road, Camp Hill, PA 17011. f11-f25

ESTATE OF E. BARACCHINI a/k/a EDGARDO BARACCHINI, late of Lower Paxton Township, Dauphin County, Pennsylvania. Executrix: Susan A. Steffy, 1336 Crest Drive, West Chester, PA 19382. Attorney: Brian F. Boland, Esq., Kozloff Stoudt, 2640 Westview Drive, P.O. Box 6286, Wyomissing, PA 19610. f11-f25

THIRD PUBLICATION

Estate Notices

ESTATE OF ALBERT A. SNYDER, late of the Township of Washington, Dauphin County, Pennsylvania (died January 19, 2011). Executrix: Shirley E. Snyder, 130 North Stone Road, Millersburg, PA 17061. Attorney: Joseph D. Kerwin, Esq., Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, PA 17023.

f11-f25

ESTATE OF KAY LUBOLD a/k/a KAY K. LUBOLD, late of Harrisburg, Dauphin County, Pennsylvania (died December 24, 2010). Executrix: Kelly J. Rolfe. Attorneys: Hazen Elder Law, 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110.

f11-f25

ESTATE OF BARBARA A. CHARLES, late of Lower Paxton Township, Dauphin County, Pennsylvania. Executrix: Earla C. Bucher. Attorney: Jennifer B. Hipp, Esq., Law Offices of James D. Bogar, One West Main Street, Shiremanstown, PA 17011.

f11-f25

ESTATE OF EDWARD F. BATES, JR., late of Susquehanna Township, Dauphin County, Pennsylvania. Executrix: Barbara M. Bates. Attorney: Derek J. Cordier, Esq., 319 South Front Street, Harrisburg, PA 17104.

f11-f25

ESTATE OF KULDIP SINGH a/k/a KUPDIP SINGH, late of the City of Harrisburg, Dauphin County, Pennsylvania. Administrator: Param J. Singh, 2146 Greenwood Street, Harrisburg, PA 17104. Attorney: Luther E. Milspaw, Jr., Esq., 130 State Street, P.O. Box 946, Harrisburg, PA 17101.

f11-f25

ESTATE OF WALTER LEE DOSWELL, late of Susquehanna Township, Dauphin County, Pennsylvania (died October 7, 2010). Administratrix: Kinzah Doswell, 201 Clinton Road, Harrisburg, PA 17109. Attorney: Edward P. Seeber, Esq., James, Smith, Dietterick & Connelly, LLP, Suite C-400, 555 Gettysburg Pike, Mechanicsburg, PA 17055. Telephone (717) 533-3280.

f11-f25

ESTATE OF FORTUNA G. SINADINOS, late of Dauphin County, Pennsylvania. Co-Executors: George J. Sinadinos and Augustine R. Sinadinos. Attorney: Anthony J. Fitzgibbons, Esq., 279 North Zinn's Mill Road, Suite D, Lebanon, PA 17042. Telephone (717) 279-8313.

f11-f25

ESTATE OF GEORGE ATANASOFF, late of the Borough of Steelton, Dauphin County, Pennsylvania. Executor: John A. Atanasoff, 532 Orchard Drive, Steelton, PA 17113. Attorney: Allen D. Smith, Esq., 51 South Front Street, P.O. Box 7592, Steelton, PA 17113.

f11-f25

ESTATE OF FLORENCE M. KISTLER, late of Derry Township, Dauphin County, Pennsylvania. Executrix: Cheryl A. Shope. Attorney: Lowell R. Gates, Esq., Gates, Halbruner, Hatch & Guise, P.C., 1013 Mumma Road, Suite 100, Lemoyne, PA 17043.

f11-f25

ESTATE OF PAULINE H. LUTOSTANSKY, late of Middletown Borough, Dauphin County, Pennsylvania (died January 3, 2011). Personal Representative: Lynne M. Gomboc, Middletown, PA. Attorney: Christa M. Aplin, Esq., Jan L. Brown & Associates, 845 Sir Thomas Court, Suite 12, Harrisburg, PA 17109. Telephone (717) 541-5550.

f11-f25

THIRD PUBLICATION

Estate Notices

ESTATE OF RICHARD EYRICH, late of Swatara Township, Dauphin County, Pennsylvania (died December 22, 2010). Personal Representatives: Ernest J. Riegel and Gina L. Riegel, 310 Lanie Drive, Birdsboro, PA 19508. Attorney: John C. Bradley, Jr., Esq., Masano Bradley, LLP, 1100 Berkshire Boulevard, Suite 201, Wyomissing, PA 19610. f11-f25

ESTATE OF GRACE R. STINCHCOMB, late of South Hanover Township, Dauphin County, Pennsylvania (died January 29, 2011). Executor: Charles Stalnaker. Attorney: George W. Porter, Esq., 909 East Chocolate Avenue, Hershey, PA 17033. f11-f25

FIRST PUBLICATION

Corporate Notices

NOTICE IS HEREBY GIVEN that **ENERCOM, INC.**, a foreign business corporation incorporated under the laws of the State of Michigan where its principal office is located at 30600 Telegraph, Suite 3370, Bingham Farms, Michigan 48025, has applied for a Certificate of Authority in Pennsylvania where it will be doing business as **ENERCOM OF MICHIGAN, INC.** The Corporation has as its registered office for the State of Pennsylvania: National Registered Agents, Dauphin County, Pennsylvania.

The registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania. f25

NOTICE IS HEREBY GIVEN that **Tourette Syndrome Association of Western Pennsylvania, Inc.** was incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, effective October 1, 1989, as amended. f25

NOTICE IS HEREBY GIVEN that **Bellevue Bees, LLC**, a Pennsylvania Limited Liability Company under the laws of the Commonwealth of Pennsylvania, with its principal place of business at 971 Bellevue Road, Lykens, Pennsylvania 17048, was issued a Certificate of Organization from the Department of State of the Commonwealth of Pennsylvania on January 20, 2011.

The Pennsylvania Limited Liability Company is established under the provisions of the Pennsylvania Limited Liability Company Law of 1994, 15 Pa. C.S. 8913, as amended.

JOSEPH D. KERWIN, Esq.
Kerwin & Kerwin
4245 State Route 209
Elizabethville, PA 17023

f25

NOTICE IS HEREBY GIVEN that a Certificate of Authority for a Foreign Business Corporation was filed in the Department of State of the Commonwealth of Pennsylvania for **Sterling Equipment, Inc.** The address of its principal office under the laws of its jurisdiction is 555 South Street, Quincy, MA 02169. The Commercial Registered Office Provider is National Registered Agents, Inc. in the County of Dauphin.

The Corporation is filed in compliance with the requirements of the applicable provision of 15 Pa. C.S. 4124(b). f25

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on February 8, 2011, by **Juniper Networks (US), Inc.**, a foreign corporation formed under the laws of the State of California, where its principal office is located at 1194 N. Mathilda Avenue, Sunnyvale, CA 94089, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o CT Corporation System, Dauphin County, Pennsylvania. f25

FIRST PUBLICATION

Corporate Notices

NOTICE IS HEREBY GIVEN that a Certificate of Authority for a Foreign Business Corporation was filed in the Department of State of the Commonwealth of Pennsylvania for **SVANACO, INC.** The address of its principal office under the laws of its jurisdiction is 1 S. Northwest Highway, Park Ridge, IL 60068. The Commercial Registered Office Provider is Corporation Service Company in the County of Dauphin.

The Corporation is filed in compliance with the requirements of the applicable provision of 15 Pa. C.S. 4124(b). f25

NOTICE IS HEREBY GIVEN that a Certificate of Authority for a Foreign Business Corporation was filed in the Department of State of the Commonwealth of Pennsylvania for **Agileys Solutions, Inc.** The address of its principal office under the laws of its jurisdiction is 615 South Dupont Highway, Dover, DE 19901. The Commercial Registered Office Provider is Capitol Corporate Services, Inc. in the County of Dauphin.

The Corporation is filed in compliance with the requirements of the applicable provision of 15 Pa. C.S. 4124(b). f25

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed in the Department of State of the Commonwealth of Pennsylvania for **Alpha Card Services II Inc.** under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended. f25

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State for **Disrupt Marketing, Inc.**, a corporation organized under the Pennsylvania Business Corporation Law of 1988. f25

NOTICE IS HEREBY GIVEN that a Certificate of Authority for a Foreign Business Corporation was filed in the Department of State of the Commonwealth of Pennsylvania for **Rade Technology Corp.** The address of its principal office under the laws of its jurisdiction is 615 South Dupont Highway, Dover, DE 19901. The Commercial Registered Office Provider is National Corporate Research Ltd. in the County of Dauphin.

The Corporation is filed in compliance with the requirements of the applicable provision of 15 Pa. C.S. 4124(b). f25

NOTICE IS HEREBY GIVEN that **American Capital Energy, Inc.**, a foreign business corporation incorporated under the laws of the State of New Jersey, where its principal office is located at 1120 Bloomfield Avenue, Suite 204, West Caldwell, NJ 07007, has applied for a Certificate of Authority in Pennsylvania, where its registered office is located at Corporation Service Company, 2704 Commerce Drive, Harrisburg PA 17110, Dauphin County.

The registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania. f25

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on February 15, 2011, by **GEA Process Engineering Inc.**, a foreign corporation formed under the laws of the State of Maryland, where its principal office is located at 9165 Rumsey Road, Columbia, MD 21045, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o CT Corporation System, Dauphin County, Pennsylvania. f25

FIRST PUBLICATION

Corporate Notices

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on February 10, 2011, by **NY NJ Telco, Corp.**, a foreign corporation formed under the laws of the State of New York, where its principal office is located at 21 Robert Pitt Drive, Suite 244, Monsey, NY 10952, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o CT Corporation System, Dauphin County, Pennsylvania. f25

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on February 10, 2011, by **YourTel America, Inc.**, a foreign corporation formed under the laws of the State of Missouri, where its principal office is located at 2800 East 18th Street, Kansas City, MO 64127, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o CT Corporation System, Dauphin County, Pennsylvania. f25

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on February 15, 2011, by **CXT INCORPORATED**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 3808 N. Sullivan Road, Building #7, Spokane Valley, WA 99216, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o Corporation Service Company, Dauphin County, Pennsylvania. f25

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 4129 of the Business Corporation Law of 1988, **TBS Insurance Agency Services, Inc.**, a corporation of the State of Rhode Island, with principal office located at 40 Westminster Street, Providence, RI 02903, and having a Commercial Registered Office Provider and county of venue as follows: CT Corporation System, Dauphin County, which on January 13, 1999, was granted a Certificate of Authority, to transact business in the Commonwealth, intends to file an Application for Termination of Authority with the Department of State. f25

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on February 11, 2011, by **A BETTER CHANCE, INC.**, a foreign non-profit corporation formed under the laws of the Commonwealth of Massachusetts, where its principal office is located at c/o Corporation Service Company, 84 State Street, Boston, MA 02109, for a Certificate of Authority to do business under the provisions of the Pennsylvania Nonprofit Corporation Law of 1988, exclusively for religious, charitable, scientific, literary or educational purposes under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

The registered office in Pennsylvania is located at c/o Corporation Service Company, Dauphin County, Pennsylvania. f25

FIRST PUBLICATION

Fictitious Notices

NOTICE IS HEREBY GIVEN that **BF Products** for the conduct of business in Dauphin County, Pennsylvania, with a principal place of business at 1890 Old Crooked Hill Road, Harrisburg, PA 17110, was made to the Department of State on February 3, 2011.

The name of the interested party in said business is: LaBine Enterprises, Inc. f25

FIRST PUBLICATION

Miscellaneous Notices

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

No. 2010-CV-09018-MF

**NOTICE OF SHERIFF'S SALE
WELLS FARGO BANK, N.A., Plaintiff
vs.
JASON DUNN, Defendant**

NOTICE

TO: JASON DUNN

**NOTICE OF SHERIFF'S SALE
OF REAL PROPERTY**

BEING PREMISES: 3272 FULLING MILL ROAD, MIDDLETOWN, PA 17057-3173.

BEING in LOWER SWATARA Township, County of DAUPHIN, Commonwealth of Pennsylvania.

TAX PARCEL No. 36-007-0052-000-0000.

IMPROVEMENTS consist of residential property.

SOLD as the property of JASON DUNN.

YOU ARE HEREBY NOTIFIED that your house (real estate) at 3272 FULLING MILL ROAD, MIDDLETOWN, PA 17057-3173 is scheduled to be sold at the Sheriff's Sale on APRIL 14, 2011 at 10:00 A.M., at the DAUPHIN County Courthouse to enforce the Court Judgment of \$138,955.96 obtained by, WELLS FARGO BANK, N.A. (the mortgagee), against the above premises.

PHELAN HALLINAN
& SCHMIEG, LLP

f25

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

CIVIL ACTION – LAW

No. 2009 CV 18707

**SAMUEL M. KODA, JR. and
TRISSA R. KODA, Plaintiffs**

vs.

**DSG DEVELOPMENT CORPORATION,
RAY K. ESPENSHADE, RUTH E. DIENER,
and SHAFFER & SON, INC. Defendants**

NOTICE

TO: SHAFFER & SON, INC.

YOU ARE HEREBY NOTIFIED that on January 3, 2011, Plaintiffs, Samuel M. Koda, Jr. and Trissa R. Koda, filed a First Amended Complaint endorsed with a Notice to Defend against you in the Court of Common Pleas of Dauphin County, Pennsylvania, docketed to No. 2009 CV 18707, which has been reinstated, wherein Plaintiffs demanded that Defendants defend Plaintiffs' title to the Property; discharge all mechanics claims; indemnify and hold Plaintiffs harmless for all damages, costs, expenses, interest and attorneys fees; and for other relief as may be set forth in Plaintiff's First Amended Complaint.

On February 9th, 2011, the Court ordered the filing of the First Amended Complaint to be served upon you as provided by Pa.R.C.P. 430(b).

YOU ARE HEREBY NOTIFIED to plead to the above referenced First Amended Complaint on or before twenty (20) DAYS from the date of this publication or Judgment will be entered against you.

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend, you must enter a written appearance personally or by attorney, and file your defenses or obligations 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.

FIRST PUBLICATION

Miscellaneous Notices

YOU SHOULD TAKE THIS NOTICE 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.

DAUPHIN COUNTY
LAWYER REFERRAL SERVICE
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

EDWARD VOELKER JR., Esq.
Voelker & Associates, P.C.
Hampton Stoneworks Professional Building
3960 Route 8, Suite 200
Allison Park, PA 15101-3603
f25 (412) 486-8800

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

CIVIL ACTION – LAW

CIVIL DIVISION

No. 2010-CV-16249-MF

**NOTICE OF ACTION IN
MORTGAGE FORECLOSURE**

**FIRST GUARANTY MORTGAGE
CORPORATION, Plaintiff**

vs.

**DENISE MICHELE SPRAGLIN
a/k/a DENISE M. SPRAGLIN,
INDIVIDUALLY AND IN HER
CAPACITY AS HEIR OF
RICHARD G. SPRAGLIN, DECEASED**

**UNKNOWN HEIRS, SUCCESSORS,
ASSIGNS, AND ALL PERSONS,
FIRMS OR ASSOCIATIONS
CLAIMING RIGHT, TITLE OR
INTEREST FROM OR UNDER
RICHARD G. SPRAGLIN, DECEASED,
Defendant(s)**

NOTICE

**TO: UNKNOWN HEIRS, SUCCESSORS,
ASSIGNS, AND ALL PERSONS,
FIRMS OR ASSOCIATIONS
CLAIMING RIGHT, TITLE OR
INTEREST FROM OR UNDER
RICHARD G. SPRAGLIN,
DECEASED**

YOU ARE HEREBY NOTIFIED that on DECEMBER 29, 2010, Plaintiff, FIRST GUARANTY MORTGAGE CORPORATION, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of DAUPHIN County Pennsylvania, docketed to No. 2010-CV-16249-MF. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 4788 SWEETBRIER DRIVE, HARRISBURG, PA 17111-3611, whereupon your property would be sold by the Sheriff of DAUPHIN County.

YOU ARE HEREBY NOTIFIED to plead to the above referenced Complaint on or before twenty (20) days from the date of this publication or a Judgment will be entered against you.

NOTICE

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

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

FIRST PUBLICATION

Miscellaneous Notices

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.

DAUPHIN COUNTY
LAWYER REFERRAL SERVICE
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536 f25

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

CIVIL ACTION – LAW

No. 4694 S 2001

**NOTICE OF ACTION IN
MORTGAGE FORECLOSURE**

**FIRST UNION NATIONAL BANK
OF DELAWARE F/K/A FIRST UNION
HOME EQUITY, Plaintiff**

vs.

JOHN F. McWHITE, Defendant

**NOTICE OF SALE
OF REAL PROPERTY**

**TO: John F. McWhite, Defendant,
2331 North Fourth Street
Harrisburg, PA 17110**

YOU ARE HEREBY NOTIFIED that your house (real estate) at 2331 North Fourth Street, Harrisburg, PA 17110 is scheduled to be sold at the Sheriff's Sale on April 14, 2011 at 10:00 a.m., at the Dauphin County Administration Building, 4th Floor, Second and Market Streets, Commissioners Hearing Room, Harrisburg, PA,

to enforce the court judgment of \$44,929.24, obtained by Plaintiff above (the mortgagee) against you. If the sale is postponed, the property will be relisted for the Next Available Sale.

PROPERTY DESCRIPTION

ALL THAT CERTAIN PIECE OR PARCEL OF LAND SITUATE IN THE TENTH WARD OF THE CITY OF HARRISBURG, IN THE COUNTY OF DAUPHIN, AND THE STATE OF PENNSYLVANIA, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS, TO WIT:

BEGINNING AT A POINT ON THE EASTERN SIDE OF FOURTH STREET, ONE HUNDRED SIXTY (160) FEET, MORE OR LESS, SOUTH OF THE SOUTHERN LINE OF SENECA STREET; THENCE EASTWARDLY AT RIGHT ANGLES TO FOURTH STREET ALONG THE LINE OF PROPERTY NOW OR LATE OF HELEN MAY BATTEN HOOVER, ET VIR, BEING LOT NUMBER 116 ON THE PLAN OF LOTS HEREINAFTER MENTIONED, ONE HUNDRED THIRTY-FIVE (135) FEET TO ATLAS STREET (FORMERLY CALLED COTTAGE AVENUE); THENCE SOUTHWARDLY ALONG THE WESTERN LINE OF SAID ATLAS STREET FORTY (40) FEET TO LINE OF THE PROPERTY NOW OR LATE OF WILLIAM TYLER DOUGLAS, ET UX, BEING LOT NUMBER 119 ON SAID PLAN; THENCE WESTWARDLY ALONG SAID LOT LINE AT RIGHT ANGLES WITH ATLAS STREET ONE HUNDRED THIRTY-FIVE (135) FEET TO FOURTH STREET; AND THENCE NORTHWARDLY ALONG THE EASTERN LINE OF FOURTH STREET FORTY (40) FEET TO THE PLACE OF BEGINNING.

BEING LOTS NUMBERS 117 AND 118 ON THE PLAN OF LOTS LAID OUT BY "THE HARRISBURG LAND AND BUILDING ASSOCIATION", WHICH PLAN IS RECORDED IN THE OFFICE FOR THE RECORDING OF DEEDS IN AND FOR THE COUNTY OF DAUPHIN, AT HARRISBURG, PENNSYLVANIA, IN PLAN BOOK "A", PAGE 37.

HAVING THERON ERECTED A DWELLING HOUSE KNOWN AND NUMBERED AS 2331 NORTH FOURTH STREET, HARRISBURG, PENNSYLVANIA.

FIRST PUBLICATION

Miscellaneous Notices

BEING KNOWN AS: 2231 North Fourth Street, Harrisburg, PA 17110.

PROPERTY ID No. 10-038-023.

TITLE TO SAID PREMISES IS VESTED IN JOHN F. MCWHITE, AND MARY H. MCWHITE, HIS WIFE BY DEED FROM WILLIAM M. SCHWARTZ AND VIOLET L. SCHWARTZ, HIS WIFE DATED 2/3/72 RECORDED 2/3/72 IN DEED BOOK X57 PAGE 605.

UDREN LAW OFFICES, P.C.
111 Woodcrest Road, Suite 200
Cherry Hill, NJ 08003
(856) 482-6900

f25

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

CIVIL ACTION – LAW

CUSTODY

No. 2010 CV 7533 CU

DANIEL QUINONES, Plaintiff

vs.

BETHE SUAREZ, Defendant

ORDER

AND NOW, to wit, this 17th day of February, 2011, IT IS HEREBY ORDERED that the continuation of the Custody Trial will be held on Wednesday, March 30, 2011 at 1:30 P.M., in Courtroom No. 6, of the Dauphin County Court House, 101 Market Street, Harrisburg, Pennsylvania.

THE DEFENDANT, BETHE SUAREZ, is hereby ORDERED to personally appear at the above time, date and place. Failure of the Defendant to appear as Ordered above, shall constitute grounds for the imposition of separate sanctions, including a fine, court costs, service costs, attorney's fees and expenses,

together with other sanctions pertaining to the case itself and/or a finding of Contempt of Court being imposed against the Defendant if she fails to appear; and shall likewise form the basis for further legal proceedings to compel Defendant's attendance, by WARRANT OF ARREST, if deemed necessary by the Court.

Gail Guida Souders, Esquire, counsel for Plaintiff, Daniel Quinones, shall accomplish **SERVICE BY PUBLICATION** of a copy of this Order upon the Defendant, Beth Suarez.

The Plaintiff, Daniel Quinones, is hereby **ORDERED** to be present, in person, together with his respective counsel, **Gail Guida Souders, Esquire**, at the above time, date and place.

Appropriate Courtroom attire is required. Any party wearing shorts, jogging suits, t-shirts, halter or tank tops, or any other non-business attire shall not be permitted entrance into the Courtroom.

f25 /s/ LAWRENCE F. CLARK, JR., Judge

SECOND PUBLICATION

Miscellaneous Notices

NOTICE OF AUDIT

**TO LEGATEES, NEXT OF KIN,
CREDITORS AND ALL
OTHER PERSONS CONCERNED**

NOTICE IS HEREBY GIVEN that the following accounts have been filed by the respective accountants in the Office of the Register of Wills or with the Clerk of the Orphans' Court Division of the Common Pleas of Dauphin County, as the case may be, and that the same shall be duly presented to the said Orphans' Court Division at the Office of the Court Administrator for Audit, Confirmation and Distribution of the said ascertained balances to and among those legally entitled there to **on Tuesday, March 22, 2011**. Pursuant to Dauphin County Orphans' Court Rule 6.10.1, objections to an account must be filed in writing with the Register or Clerk **no later than the close of business on Tuesday, March 15, 2011**.

SECOND PUBLICATION

Miscellaneous Notices

1. BRADDY, ARASHAE M., a minor, First and Final Account of PNC Bank, National Association, formerly National City Bank, Trustee.
2. RAWLINGS, MARY M., Deceased., First and Final Account of Edward P. Rawlings, Executor.
3. VAGO, GERALDINE BABETTE, Deceased, First and Final Account of Lydia Baker, Administratrix.

Dated: February 11, 2011

/s/ SANDRA C. SNYDER
Register of Wills and

f18-f25 Clerk of the Orphans' Court Division

THIRD PUBLICATION

Miscellaneous Notices

**UPPER DAUPHIN AREA
SCHOOL DISTRICT**

COURT HEARING NOTICE

**PRIVATE SALE OF
407 NORTH MARKET STREET
LYKENS, PA 17048**

YOU ARE HEREBY NOTIFIED that Upper Dauphin Area School District intends to sell the real estate and improvements located at 407 North Market Street, Lykens, PA 17048 to a private buyer. Section 707(3) of the Pennsylvania Public School Code requires a court hearing be held prior to the sale of unused and unnecessary school lands and buildings. A court hearing will be held on March 16, 2011, at 8:00 a.m. at the Dauphin County Courthouse, 101 Market Street, Harrisburg, PA 17101, in Courtroom #3. At the hearing, the Court will consider public comment on the proposed sale of the 407 North Market Street Property. Any resident of Upper Dauphin Area School District may provide comment to the Court regarding the sale at the hearing. f11-f25

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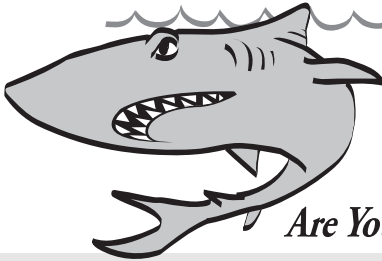
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REPORTING OF ERRORS IN ADVANCE SHEET

The Bench and Bar will contribute to the accuracy in matters of detail of the permanent edition of the Dauphin County Reporter by sending to the editor promptly, notice of all errors appearing in this advance sheet. Inasmuch as corrections are made on a continuous basis, there can be no assurance that corrections can be made later than thirty (30) days from the date of this issue but this should not discourage the submission of notice of errors after thirty (30) days since they will be handled in some way if at all possible. Please send such notice of errors to: Dauphin County Reporter, Dauphin County Bar Association, 213 North Front Street, Harrisburg, PA 17101-1493.

DAUPHIN COUNTY COURT SECTION

Motion Judge of the Month

FEBRUARY 2011
MARCH 2011

Judge Andrew H. DOWLING
Judge Richard A. LEWIS

Opinions Not Yet Reported

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MISCELLANEOUS SECTION

CITY SOLICITOR

Harrisburg, the capital City of Pennsylvania, is accepting applications for the position of City Solicitor. This position performs professional legal services for the City of Harrisburg and does related work as required. This is a diverse practice involving legal advice, trial case work and legislation drafting in all phases of municipal government. This position must exercise considerable independent judgment in preparation of cases, legal research and interaction with the public as well as government officials. The City Solicitor works under the general supervision of the Mayor. This is a management, FLSA-exempt position.

Qualified applicants must have a minimum four (4) years experience in the private or public sector practicing law in the following areas: litigation, bankruptcy, municipal law, land use and administrative law. Must possess a Juris Doctorate degree from an accredited law school and be admitted to the Pennsylvania Bar. Eligibility to practice law in the U.S. District Court for the Middle District of Pennsylvania and the Third Circuit Court of Appeals is preferred or any equivalent combination of experience and training which provides the required skills and abilities. Must have administrative and supervisory experience.

The salary range is \$77,000.00 to \$81,000.00 depending on qualifications, plus excellent fringe benefits. The successful candidate must establish residency within the corporate limits of the City of Harrisburg within one year from date of hire.

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BAR ASSOCIATION PAGE – Continued

MISCELLANEOUS SECTION

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Interested candidates must send a resume, writing samples, transcripts and references. Materials must be submitted no later than March 7th to: PSEA, Human Resources, ATTN: ASC, P.O. Box 1724, Harrisburg, PA 17105 or jobs@psea.org.

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