



# Dauphin County Reporter ADVANCE SHEET

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Bar Association Page

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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.

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##### FIRST PUBLICAITION

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ESTATE OF KATHERINE M. COLBY (died December 21, 2013) late of Susquehanna Township, Dauphin County, Pennsylvania. Executrix: Mary C. Gojda, 1504 Montfort Drive, Harrisburg, PA 17110 or to Attorney: Christa M. Aplin, Esquire, Jan L. Brown & Associates, 845 Sir Thomas Court, Suite 12, Harrisburg, PA 17109, Telephone: 717-541-5550. f14-28

ESTATE OF JOYCE T. RASIN (died January 8, 2014), late of Lower Paxton Township, Dauphin County, Pennsylvania. Executrix: Joanne Wilhelm, 894 Country Lake Drive, Harrisburg, PA 17111 or to Attorney: Jill M. Wineka, Esquire, Purcell, Krug & Haller, 1719 North Front Street, Harrisburg, PA 17102. f14-28

ESTATE OF BETTY LOUISE GOODWIN (died December 11, 2013), late of Susquehanna Township, Dauphin County, Pennsylvania. Executrix: Mrs. Ellen Jane Nelson, c/o Gary L. Rothschild, Esq., 2215 Forest Hills Drive, Suite 35, Harrisburg, PA 17112. Attorney: Gary L. Rothschild, Esq., 2215 Forest Hills Drive, Suite 35, Harrisburg, PA 17112. f14-28

ESTATE OF SARA J. SNYDER (died December 26, 2013), late of East Hanover Township, Dauphin County, Pennsylvania. Executrix: Ms. Terri L. Turns, 14 East Dulles Drive, Camp Hill, PA 17011. Attorney: Gary L. Rothschild, Esq., 2215 Forest Hills Drive, Suite 35, Harrisburg, PA 17112. f14-28

ESTATE OF DONNA L. SCHEIBLEHUT, late of Williamstown Borough, Dauphin County, Pennsylvania (died January 3, 2014). Co-Executrix: Tracey L. Zimmerman, P.O. Box 189, Enola, Pa 17025 or Co-Executrix: Ginger A. Sergott, 387 Aspen Street, Middletown, PA 17057 or Attorney: Ann E. Rhoads, Esquire, 244 West Main Street, Hummelstown, PA 17036. f14-28

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## Commonwealth v. Vega

Husband's payment to Wife for her equitable portion of the parties' marital estate, totaling \$1,299,025, shall be paid as follows: Husband shall pay Wife \$600,000 by rolling-over that amount from his 401(k) into a retirement account in Wife's name, or by a QDRO effectuating the same. The remaining amount, \$629,025, shall be paid to Wife within ninety (90) days, or as otherwise agreed by the parties.

Husband shall designate Wife as beneficiary on one of his life insurance policies to secure the APL award and secure future payment of the \$629,025 if an alternate payment plan is negotiated. All deeds or titles to vehicles or other property transferred under this Order shall be executed within thirty (30) days.

The parties shall immediately submit a Divorce Decree to be promptly entered by this Court.

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**Commonwealth v. Vega****Crimes and Criminal Procedure - Post Conviction Collateral Relief Act (PCRA)  
Petition - Prosecutorial Misconduct - Ineffective Assistance of Counsel**

The Petitioner sought a new trial after his conviction by jury of second degree murder, robbery, burglary and conspiracy. He claimed that the prosecution failed to produce impeachment evidence favorable to him and that his attorney provided him ineffective assistance.

1. The suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or punishment, irrespective of the good faith or bad faith of the prosecution. *Brady v. Maryland*, 373 U.S. 83, 87 (1963). To demonstrate a *Brady* violation, petitioner must show that (1) the prosecution concealed evidence; (2) which was either exculpatory evidence or impeachment evidence favorable to him; and (3) he was prejudiced by the concealment. *Commonwealth v. Simpson*, 66 A.3d 253, 264 (Pa. 2013).

2. A criminal defendant is entitled to know about any information that may affect the reliability of the witnesses against him. *Commonwealth v. Copeland*, 723 A.2d 1049, 1051 (Pa. Super. 1998) (citing *Commonwealth v. Moose*, 602 A.2d 1265, 1272 (Pa. 1992) ("nondisclosure of evidence affecting reliability falls within *Brady's* general rule")).

3. In order to succeed on a claim of ineffective assistance of counsel, the petitioner must prove: (1) that the claim is of arguable merit; (2) that counsel had no reasonable strategic basis for his or her action or inaction; and (3) that petitioner has been prejudiced; that is, but for the errors and omissions of counsel, there is a reasonable probability that the outcome of the proceedings would have been different. *Commonwealth v. Simpson* at 260. The failure to satisfy any prong of this test will cause the entire claim to fail. *Id.* Finally, counsel is presumed to be effective and petitioner has the burden of proving otherwise. *Id.*

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4. A mistrial is an extreme remedy required only where the nature of the event is such that its unavoidable effect is to deprive the defendant of a fair trial. *Commonwealth v. Chamberlain*, 30 A.3d 381, 420 (Pa. 2011). It is well established that a curative instruction is presumed to be sufficient to cure any prejudice to a defendant and that a jury is presumed to follow the trial court's instructions. *Commonwealth v. Thornton*, 791 A.2d 1190, 1193 (Pa. Super. 2001).

PCRA Petition. C.P., Dau. Co., No. CP-22CR-0340-2007. Petition denied.

*Office of the Dauphin County District Attorney*, for the Commonwealth  
*Brian J. Zeiger and Carolyn A. Castagna*, for Petitioner

## OPINION

Turgeon, J., January 27, 2014 – Before the court is Felipe Vega, Jr.'s petition under the Post Conviction Collateral Relief Act (PCRA).<sup>1</sup> Petitioner was previously convicted by a jury of second degree murder, robbery, burglary and conspiracy. He seeks a new trial under the PCRA on claims that the Commonwealth committed a *Brady* violation and that his trial attorney provided him ineffective assistance. Following evidentiary hearings on petitioner's claims and upon consideration of the briefs filed, I deny his request for PCRA relief.

## PROCEDURAL BACKGROUND

On April 25, 2008, following a four-day trial, a jury found the petitioner and his cousin, co-defendant Carlos Lopez-Malave, guilty of the second degree murder of Cung Duong, who was killed during a home invasion and robbery attempt on December 10, 2006. Both Vega and Lopez-Malave were also convicted of robbery, conspiracy to commit robbery, burglary and conspiracy to commit burglary. The jury found Lopez-Malave not guilty of first degree murder.

I sentenced petitioner May 9, 2008 to a life term for the murder conviction and to an aggregate, concurrent term of three to six years on the remaining charges. Petitioner filed a direct appeal to the superior court which denied his appeal, affirming the judgment of sentence on the basis of the trial court opinion. *Commonwealth v. Vega*, 934 MDA 2008 (Pa. Super. July 29, 2009). Vega's petition for allowance of appeal to the supreme court was later denied. *Commonwealth v. Vega*, 646 MAL 2009 (Pa. March 10, 2010).

Petitioner filed a *pro se* PCRA petition March 14, 2011 and was appointed PCRA counsel by this court. Petitioner later hired private counsel who replaced court-appointed counsel. PCRA counsel thereafter filed a supplemental PCRA petition which the Commonwealth

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1. 42 Pa.C.S.A. § 9541-9551

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answered. After a continuance request, I held an evidentiary hearing. Following that hearing, I directed the parties to file briefs addressing the issues raised.

## TRIAL

Five suspects were initially charged in connection with Cung Duong's murder: petitioner Vega, Lopez-Malave, Ronald Whitstye, Angel Luis Rivera-Figueroa and Quong Luong (a/k/a Quang Luong). According to the testimony, all of these persons except Luong were active participants in the home invasion. Prior to trial, Whitstye, Rivera-Figueroa and Luong entered guilty pleas and agreed to testify against petitioner Vega and Lopez-Malave. Whitstye and Rivera-Figueroa provided the chief eyewitness testimony against petitioner and Lopez-Malave, placing them both at the scene of the crimes and detailing their involvement in planning and carrying out the crimes. Luong provided eyewitness testimony as to petitioner's pre- and post-crime activities, also identifying him as the leader and organizer of the home invasion.<sup>2</sup>

The relevant evidence elicited from the trial is as follows: The victim was the owner of a Harrisburg pool hall and was a well-known bookie within the Asian community. Quong Luong was a friend of both the victim and of petitioner. (N.T. Trial 287-89, 324) In August or September of 2006, Luong recalled that while driving around with petitioner, they discussed football betting and how much bets cost with his bookie Duong. Luong told him the minimum bet was \$50 and the maximum \$10,000. (N.T. 290-91) Petitioner responded that was "big money." (N.T. 291) Luong also told petitioner that Cung Duong paid out all bets on Saturdays. (N.T. 300)

Luong testified that in September or October 2006, petitioner drove to Cung Duong's pool hall while Luong provided directions. Ostensibly, petitioner told Luong he wanted to place a bet though he did not do that once they got to the pool hall. (N.T. 293-94) Luong then showed petitioner where Cung Duong's house was located, which was near the pool hall. (N.T. 294, 365) About two weeks prior to the murder, Luong spoke

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2. The guilty pleas of the three Commonwealth witnesses were conditioned on their testifying against petitioner Vega and his co-defendant Lopez-Malave. (N.T. Trial 275-77, 348-49, 439-40) Following trial I sentenced Whitstye to 5 to 10 years imprisonment, Rivera-Figueroa to 12 to 24 years imprisonment and Luong to a 60 month intermediate punishment term.

Police later charged two other persons, Lebron Johnson and Manuel (Manny) Lopez, after their connection to the crimes was discovered. Neither Johnson nor Lopez testified against petitioner and Lopez-Malave at trial. Johnson later pled guilty before me to second degree murder in return for a negotiated term of 12 to 24 years imprisonment. Lopez pled guilty to minor crimes and was sentenced to 2½ to 5 years imprisonment.

with petitioner and told him that Duong carried a lot of money. (N.T. 296) About one week prior to the murder, the petitioner, Luong and Lebron Johnson met at a Block Buster video store in Camp Hill and got into Johnson's truck. Johnson drove them back across the river to Harrisburg where they drove by Cung Duong's home, including though the alleyway behind his house. (N.T. 299) Luong recalled that around the same time period, he was with petitioner when petitioner purchased walkie talkies from a Walmart. (N.T. 301, 331) In the months leading up to the murder Luong would generally contact petitioner by calling a cell phone petitioner used with the number XXX-5425. (N.T. 303-304)

Ronald Whitstynne testified that he was a friend of the petitioner and often hung out with him prior to moving from Harrisburg to New York. (N.T. 350-52) In October 2006, Whitstynne purchased a black Lincoln Navigator SUV from petitioner for \$13,000 cash, paying him \$10,000 upon purchase and owing him the rest. (N.T. 355, 422) He testified that shortly before the murder, petitioner called him in New York to try to convince him to come back to Harrisburg and promised that if he did so, Whitstynne would owe petitioner only half of the balance on the SUV. (N.T. 358) About a week prior to the murder, Whitstynne returned to the area and while loading some items that he had left behind in his old apartment, he was approached by petitioner. Quong Luong was a passenger in petitioner's car. Petitioner told Whitstynne about an old Asian bookie who kept a lot of cash in his house and indicated to Whitstynne that he wanted to gather up some people to rob him. (N.T. 357, 362) According to Whitstynne, petitioner told him it was an easy job because Duong was old and small, and that he would never report a robbery because of his illegal gambling activities. (N.T. 365)

Whitstynne testified that he drove back to New York but returned to Harrisburg on December 7, 2006, upon petitioner's prompting, to take part in the robbery. (N.T. 363) On the morning of December 9, 2006, which was a Saturday, Whitstynne and petitioner staked out Cung Duong's home. (N.T. 364) Over the course of the day, Whitstynne and petitioner recruited Angel Luis Rivera-Figueroa to participate in the robbery. (N.T. 369-70) According to Whitstynne, the three of them eventually drove to Rivera-Figueroa's home and obtained a 9 mm handgun from an acquaintance, Manny Lopez. Manny Lopez gave his gun to Whitstynne who placed it in his glove box of his Lincoln SUV. (N.T. 379-81, 420, 431)

According to Whitstynne, after they obtained the gun, petitioner decided he needed more people to commit the robbery so he called up his brother-in-law, Lebron Johnson, and his cousin, co-defendant Lopez-Malave. (N.T. 375-77) They drove and picked up Lopez-Malave who was given possession of Manny Lopez' 9 mm gun. (N.T. 383, 420)

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The conspirators, now including petitioner Vega, Lopez-Malave, as well as Whitstynes and Rivera-Figueroa, drove to the victim's home. Whitstynes testified that they waited in the area about five hours before the victim showed up, using petitioner's walkie talkies to communicate when they were out of the SUV. (N.T. 383-84, 390) According to Whitstynes, at some point, Johnson called and spoke with petitioner who told him they needed him because the robbery was about to go down. (N.T. 390) Sometime between 11:00 and 12:00 p.m., Johnson, who was a guard at the Dauphin County Prison, arrived wearing his uniform and carrying his handgun. He took a seat in the SUV. (N.T. 391-92)

Around 2:00 a.m., the victim drove up into his driveway and got out of his car. Petitioner announced his arrival to the SUV occupants who all got out and ran to the victim's house except petitioner who remained in the SUV. (N.T. 396-97) Whitstynes testified that he and Lopez-Malave kicked open the front door of the victim's home. (N.T. 398) Whitstynes saw the victim run to a back room after which he approached the victim's wife, knocking a phone out of her hand while he pulled her aside. (N.T. 399) Whitstynes watched as the victim returned with a gun and possibly shot at Whitstynes. (N.T. 400-01) Whitstynes ran around within a room and heard more shots until things got quiet. (N.T. 401) As he ran out, Whitstynes stepped over Rivera-Figueroa who was lying on the front porch. He caught up with Johnson and the two of them ran off together.

Rivera-Figueroa offered a similar narrative as that offered by Whitstynes. (N.T. 438-548) He testified that sometime prior to the date of the home invasion, petitioner approached him and revealed his plan to rob a Chinese man and inquired whether Rivera-Figueroa was interested in participating. Petitioner later drove Rivera-Figueroa by the victim's home at which point Rivera-Figueroa told petitioner he was not interested. (N.T. 446-47) On the day of the shooting, however, petitioner and Whitstynes appeared at Rivera-Figueroa's home and convinced him to join them in the black SUV. (N.T. 447-49) They initially drove to Whitstynes's girlfriend's apartment to obtain a shotgun but decided not to use it since it did not belong to Whitstynes. (N.T. 451-54) The three of them then drove to another apartment where they obtained a handgun, which Rivera-Figueroa testified possibly belonged to Manny Lopez who was a good friend of his. (N.T. 455-56) According to Rivera-Figueroa, before leaving this apartment, petitioner called LeBron Johnson but was unable to make contact. (N.T. 458) Petitioner then indicated they needed a fourth participant so petitioner called his cousin, co-defendant Malave-Lopez, using Rivera-Figueroa's phone. After they picked up Lopez-Malave, the four of them drove to the victim's home. (N.T. 460-61, 464)

Rivera-Figueroa testified that petitioner stayed in the SUV most of the night and communicated with the others by two-way radio when they were outside the SUV, either behind the victim's home or at an abandoned home across the street. (N.T. 465-66) According to Rivera-Figueroa, petitioner told them their plan was to grab the victim before he got into his house. Rivera-Figueroa was assigned the task of grabbing his money. (N.T. 467) About one-half hour before the victim arrived at his home, Johnson joined them in the SUV. (N.T. 468-69)

Around 2:00 a.m., the perpetrators observed the victim drive up to his home and get out of his car. Rivera-Figueroa, Lopez-Malave, Whitstyne and Johnson got out of the SUV and approached the house. Petitioner stayed in the SUV and moved into the driver's seat. (N.T. 470) Rivera-Figueroa approached on the side of the house and saw Lopez-Malave yanking and kicking at the front door. (N.T. 471-72) He heard the victim speaking in a foreign language and became frightened so he decided to remain at the side of the house. (N.T. 472)

Rivera-Figueroa testified that after the front door was broken down, he stood outside the door and peeked in at which time he was shot once in the chest. (N.T. 474-75) He was able to struggle off the premises and was eventually picked up by petitioner and Lopez-Malave in the SUV. (N.T. 480) They drove him to the Harrisburg Hospital during which time Rivera-Figueroa heard co-defendant Lopez-Malave admit to shooting the victim twice in the back. (N.T. 483, 497-98) Video surveillance at the hospital showed the black SUV arriving at 2:06 a.m. Rivera-Figueroa identified Lopez-Malave on the video tape and in still photos taken from the video in which he is shown helping Rivera-Figueroa out of the SUV and into the hospital and then running back out to the SUV, after which petitioner drove away. (N.T. 498-502) Rivera-Figueroa also identified petitioner as the driver of the SUV on the surveillance tapes. (N.T. 499)

The victim's wife, Huong Nguyen, testified that during the home invasion, she and her husband initially tried to push back against the door but were unsuccessful. (N.T. 227) After the robbers pushed their way in, Nguyen landed on the floor and reached for a phone to call for help, at which point, one of the robbers grabbed the phone from her hand and threw it. (N.T. 228) She testified that there were "a lot" of people in her house and she heard her husband say he was going to get a gun. After he returned, she heard a lot of gunshots and heard him say he was shot. (N.T. 230-32) The victim was later found to have been struck with six bullets and died from massive loss of blood.<sup>3</sup> (N.T. 258-59, 265)

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3. According to the Commonwealth, the perpetrators stole \$100,000 in cash from Duong. (N.T. 19)

Rivera-Figueroa was interviewed by police at the hospital and initially lied about what had happened to him, claiming he had been robbed of his sneakers and shot under the Mulberry Bridge in Harrisburg. A few weeks later, however, while still hospitalized, he made a statement to police implicating all the actors mentioned above except for Lebron Johnson. Rivera-Figueroa thought it would be dangerous to implicate Johnson since he was a guard at the Dauphin County Prison. (N.T. 503-06) Johnson was later implicated by Whitstynes in a statement he made to police in November 2007.

On the morning following the murder, Quong Luong, who suspected petitioner of having played a role in the crime, tried to call petitioner at his XXX-5425 number but was unable to because petitioner's phone had no minutes. (N.T. 304-05) Over the next two days, Luong tried to find petitioner at places he normally hung out, including at his father's auto body shop. (N.T. 305-08) Luong testified that he finally ran into petitioner four days after the murder at the auto body shop. Luong stated that petitioner appeared "scared and paranoid looking" and was also smoking cigarettes, which he had never seen petitioner do before. (N.T. 309) Luong confronted petitioner about Cung's murder and petitioner responded that "Lu got shot," referring to Angel Luis Rivera-Figueroa. He told Luong he did not want to talk about it. (N.T. 310) The two of them then went driving together. Luong described petitioner as nervous and constantly looking in the rearview mirror, noting he would turn on the radio every time he talked because he thought somebody might have put a recording device in his car. (N.T. 311) The next weekend Luong saw petitioner at the auto body shop and heard petitioner and his father talking about selling the shop and moving to Virginia. (N.T. 312) Petitioner asked Luong if he wanted to go on a drive which Luong refused because he thought he might get killed because he knew that petitioner knew what he did. (N.T. 312-13, 330)

At the crime scene, police recovered, among other items, eight 9 mm casings, a .22 handgun registered to the victim, one .22 caliber cartridge case and one yellow Talkabout radio (walkie talkie). (N.T. 63, 66-67, 81, 84-85, 118-19, 124, 665-66) Quong Luong testified that the yellow Talkabout radio was the same as the walkie talkies he had observed petitioner purchase from a Walmart. (N.T. 301-02) In addition, Detective Dennis Sorensen testified that he had obtained the phone calling records from seven numbers associated with the perpetrators in this case, which showed that between December 8 and December 11, 2006, dozens of calls were made between these numbers. (N.T. 717-749; Exhibits 155-162) The phone records included calls made to and from a T-Mobile

phone with the number XXX-5425, which was registered to a “Carlos Rivera.”<sup>4</sup> (N.T. 712)

#### LEGAL DISCUSSION

Petitioner raises five issues in his PCRA petition, including: (1) his constitutional rights under *Brady* were violated by the Commonwealth whereby it failed to turn over to petitioner evidence that Commonwealth witness Ronald Whitstyné had been convicted of *crimen falsi* crimes; (2) ineffective assistance of trial counsel for failing to obtain Whitstyné’s criminal history; (3) ineffective assistance of counsel for failing to obtain the notes of testimony from Manny Lopez’ preliminary hearing; (4) ineffective assistance of counsel for failing to object to a prejudicial photo array; and (5) ineffective assistance of counsel for failing to request a mistrial after the prosecutor improperly referenced a phone number as belonging to petitioner.

##### *Brady Violation – Failure to Produce Crimen Falsi Evidence*

Petitioner argues that the Commonwealth committed a *Brady* violation by failing to produce to petitioner’s trial attorney the record showing Whitstyné had a 2003 conviction for unsworn falsification to authorities. At the PCRA hearing, it was revealed that Whitstyné, in fact, had two prior convictions for crimes involving dishonesty or false statement (i.e. *crimen falsi* crimes) which would have been admissible to impeach his credibility at petitioner’s trial. *See* Pa. Rule of Evid. 609(a). The first was a 2002 retail theft conviction and the other the 2003 conviction for unsworn falsification to authorities. Petitioner’s trial attorney, George Gossett, Jr., specifically requested during discovery that the prosecutor turn over Whitstyné’s prior criminal history record. (N.T. PCRA 32; Exbts. C-2 and C-6 (page 4)) The criminal history record of the retail theft conviction was provided to Gossett who chose not to use it to impeach Whitstyné. The record of the latter conviction, however, was not supplied to Gossett, which petitioner argues was a *Brady* violation.

In *Brady v. Maryland*, the United States Supreme Court held that “the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.” *Commonwealth v. Feese*, 79 A.3d 1101, 1106 (Pa. Super. 2013) (citing *Brady v. Maryland*, 373 U.S. 83, 87 (1963)). To demonstrate a *Brady* violation, petitioner must show that: (1) the prosecution

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4. The other phone records were for phones registered to co-defendant Lopez-Malave, Ronald Whitstyné’s fiancé Jessica Cruz, Rivera-Figueroa, Johnson, Vega’s girlfriend Stacey Cortez and Manny Lopez.

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concealed evidence; (2) which was either exculpatory evidence or impeachment evidence favorable to him; and (3) he was prejudiced by the concealment. *Commonwealth v. Simpson*, 66 A.3d 253, 264 (Pa. 2013) (citations omitted).

The parties do not dispute that under the second element of the *Brady* test petitioner had a right to all relevant impeachment evidence possessed by the Commonwealth which could have been used to impeach Whitstynes credibility. “The *Brady* rule is not limited exclusively to directly exculpatory evidence. Because the reliability of a witness may ultimately affect a finding of guilt or innocence, the *Brady* mandate also encompasses impeachment evidence.” *Id.* (citing *U.S. v. Bagley*, 473 U.S. 667, 677 (1985)). As stated by our superior court, “[th]e law is clear that a criminal defendant is entitled to know about any information that may affect the reliability of the witnesses against him.” *Commonwealth v. Copeland*, 723 A.2d 1049, 1051 (Pa. Super. 1998) (citing *Commonwealth v. Moose*, 602 A.2d 1265, 1272 (Pa. 1992) (“nondisclosure of evidence affecting reliability falls within *Brady*’s general rule”)). A witness’s criminal record, including *crimen falsi* convictions, has long has been considered a necessary and valuable tool for the defense. *Id.* at 1051-52 (citations omitted).

Petitioner fails, however, to prove the existence of the other two elements necessary to show a *Brady* violation. Under the first element recited above, petitioner must show that the Commonwealth concealed or suppressed evidence from the defendant, irrespective of the good faith or bad faith of the prosecution.

The relevant evidence presented at the PCRA hearing on the issue was as follows: The prosecuting attorney, Stephen Zawisky of the Dauphin County District Attorney’s Office, testified that upon receiving petitioner’s discovery requests, he sent to petitioner’s attorney Whitstynes criminal history record obtained through the FBI’s National Crime Information Center (NCIC) database. (N.T. PCRA 10-11; Exbt. P-1) That record showed that Whitstynes had been convicted in 2002 of a summary retail theft charge but omitted any reference to Whitstynes 2003 unsworn falsification conviction.<sup>5</sup> (N.T. 12) Petitioner’s trial

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5. During petitioner’s trial, while at sidebar arguing on an unrelated issue, Zawisky represented to the court that Whitstynes had no *crimen falsi* crimes. (N.T. Trial 431-32) At the PCRA hearing, Zawisky explained this statement claiming that with regard to the retail theft conviction, he had assumed that crime was disposed of in 1995 and was thus not admissible *crimen falsi* because the conviction was over ten years old. Zawisky admitted he wrongly read the file which showed an arrest date in 1995 but a conviction date in 2002, which put it within the ten-year limit. (N.T. PCRA 8, 35) As noted, Zawisky was unaware of the unsworn falsification conviction because the NCIC records omitted it.

attorney Gossett testified that he had not independently discovered the existence of the 2003 crime prior to trial. (N.T. 57-58) There was no evidence presented to definitively establish why the unsworn falsification conviction was not included in the NCIC records. Zawisky surmised that it was possibly due to the fact Whitstynes might not have been fingerprinted in connection with that crime or that police failed to input the record into the system. (N.T. 12)

According to Zawisky, use of the NCIC records was the common method of obtaining criminal history information in the District Attorney's Office at the time this case was litigated (2007-2008) and continued to be through the date of the PCRA hearing (August 2012). (N.T. 14-15) Zawisky testified that just prior to the PCRA hearing, he was able to retrieve the criminal history docket information for the unsworn falsification conviction using the database created through the Pennsylvania Court's Unified Judicial System (UJS) Common Pleas Case Management System (CPCMS). (N.T. 10-11, 13) That docket sheet revealed Whitstynes had been charged in York County with that crime in 1996 and entered a guilty plea to it in January 2003. (Exbt. P-2) Zawisky disagreed that dual searches on NCIC and UJS/CPCMS were necessary at the time of petitioner's trial opining that an NCIC check includes all prior convictions "99.99 percent of the time," noting that it is a national check while the latter is limited to Pennsylvania criminal dockets which must be searched county-by-county. (N.T. 14-15)

Petitioner's trial attorney Gossett similarly testified that based upon his experience as a former prosecutor, the NCIC check was the one routinely used to obtain complete criminal history record information. (N.T. 44) He testified that at the time of petitioner's trial, it would have been his policy to accept an NCIC report given to him by the Commonwealth over one from the UJS/CPCMS "because more than likely the criminal records that they had were more inclusive than the UJS system ... even then." (N.T. 58) Gossett agreed that information available from the state database system would have required county-by-county searches. (N.T. 44) Gossett did not separately check UJS/CPCMS for Whitstynes's criminal docket sheets at the time of petitioner's trial noting he was not sure if UJS/CPCMS was publically accessible at that time, since it was in its early stages of existence, or even if so, he had not been trained on it.<sup>6</sup> (N.T. 47-48, 57-58)

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6. According to the Administrative Office of Pennsylvania Courts (AOPC), which deployed and manages the CPCMS, CPCMS became available to the general public through the UJS's internet portal around February 2007. Thus, it would have been accessible to both the prosecutor and petitioner's trial attorney. See, "Statewide Criminal Court Computer Systems Installed Throughout Pa." (AOPC News Release, Feb. 22, 2007 (p. 2); <http://www.pacourts.us/assets/files/newsrelease-1/file-1019.pdf?cb=0aa624> (visited 1/26/14)).

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The evidence presented to the court at the PCRA hearing shows the Commonwealth never had access to Whitstynes's 2003 *crimen falsi* conviction since the FBI's NCIC records it possessed omitted that crime. This court finds credible the evidence presented by both the prosecutor and petitioner's trial attorney that NCIC was the system commonly used to perform criminal history background checks and that such checks were considered superior to criminal history available on the state's UJS/CPCMS docket sheets.<sup>7</sup> As such, it was reasonable for the prosecutor in this case to rely solely upon NCIC results in obtaining criminal record history information. Since the NCIC check did not include Whitstynes's 2003 *crimen falsi* conviction, the Commonwealth was never in possession of it and thus could not have concealed or suppressed it. Accordingly, petitioner failed to prove the first element of a *Brady* violation.

Even were this court to find that the Commonwealth should have somehow discovered Whitstynes's unsworn falsification record in the Pennsylvania database and divulged it to petitioner, petitioner clearly fails to prove the third element of a *Brady* violation, which is that he was prejudiced by the concealment or suppression.

To show prejudice, petitioner must demonstrate a "reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *Commonwealth v. Simpson* at 264 (citation omitted). A reasonable probability for these purposes is one which "undermines confidence in the outcome of the trial." *Id.* (citations omitted). Stated another way, "the prejudice inquiry requires a showing that the evidence in question was material to guilt or punishment, and that there is a reasonable probability that the result of the proceeding would have been different but for the alleged suppression of the evidence." *Commonwealth v. Dennis*, 950 A.2d 945, 966 (Pa. 2008) (citations omitted).

Petitioner asserts that of the two chief witnesses produced by the Commonwealth who provided direct eyewitness testimony against petitioner - Whitstynes and Rivera-Figueroa - Whitstynes was the only one without "dirty hands," particularly where no *crimen falsi* evidence was produced to impeach him at trial. (See N.T. PCRA 48-49) According to

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7. This evidence is consistent with the admonition contained on the docket search page of the UJS/CPCMS website, which, when this court accessed it in July 2012, stated that "Docket sheet information should not be used in place of a criminal history background check, which can only be provided by the Pennsylvania State Police." This same admonition still exists on the docket sheet search homepage. <http://ujportal.pacourts.us/DocketSheets/CP.aspx>.

petitioner, Rivera-Figueroa's testimony was highly suspect because he admitted at trial that he had initially lied to police about how he got shot before changing his story and implicating petitioner. Petitioner thus asserts that in order to obtain a favorable verdict, he needed to attack

Whitstynes's credibility through his 2003 *crimen falsi* crime, especially since the underlying crime involved Whitstynes lying to authorities. Petitioner claims that had Whitstynes been impeached through his 2003 *crimen falsi* conviction, there is a reasonable probability that his truthfulness could have been successfully challenged through cross-examination and through a *crimen falsi* jury instruction. I disagree.

The jury in this case heard Ronald Whitstynes testify that as part of his plea agreement, he agreed to plead guilty to third degree murder, robbery, and criminal conspiracy to commit robbery and to testify against the co-defendants in exchange for a sentence of five to ten years. (N.T. Trial 348-49, 416-418) Furthermore, the jury was specifically warned during closing instructions that the testimony of the three accomplices - Whitstynes, Rivera-Figueroa and Luong - offered against their co-conspirators should be viewed with disfavor. The jury was instructed, among other things, that accomplices often testify falsely in the hopes of obtaining favorable treatment and that as such, their testimony can be considered to derive from a corrupt or polluted source.<sup>8</sup> The jury was thus apprised both of Whitstynes's dubious character including that he

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8. The corrupt source instruction I gave to the jury, based upon Pa.S.S.J.I. (Crim) 4.01 (Accomplice Testimony), was as follows:

Two points on some areas of law. You heard some testimony from Commonwealth witnesses who were accomplices of his crime. Their testimony has to be judged by special precautionary rules. Evidence and experience shows rather that an accomplice when caught may often try to place the blame falsely on someone else. They may testify falsely in the hope of obtaining favorable treatment or for some other motive. On the other hand, an accomplice may be a perfectly truthful witness. So in view of the evidence of the three accomplices that we heard today of criminal involvement in this case, you may regard them, you must regard them as an accomplice of the crime charged and apply these special rules to their testimony.

If after considering all the evidence you do find that they were an accomplice, then you have to apply these special rules to that testimony. So you would use this test to determine whether those three Commonwealth witnesses were accomplices and whether then, therefore, you should apply these rules.

So first, if you find they are accomplices you should view their testimony with disfavor because it may come from a corrupt or polluted source. You should examine the testimony of accomplices closely and accept it with care and caution and consider whether the testimony of the accomplice is supported in whole or in part by other evidence. Obviously accomplice testimony is more dependable if it is supported by independent evidence. Even if there is no other independent supporting evidence, you may still find the Defendant guilty solely on the basis of the accomplice's testimony if after using and applying these special rules you are satisfied beyond a reasonable doubt that the accomplices were or accomplice testified truthfully and you find Defendant guilty.

(N.T. 813-14)

had been convicted in this incident of third degree murder, robbery (a *crimen falsi* crime) and criminal conspiracy to commit robbery, and that Whitstynne had a strong motive to testify falsely. It is highly unlikely under these circumstances that evidence of an additional *crimen falsi* crime and corresponding *crimen falsi* instruction would have tipped the scales such that the jury would have discredited Whitstynne's testimony in its entirety.<sup>9</sup>

Furthermore, Whitstynne's testimony was not the only evidence produced against petitioner. Whitstynne's testimony was essentially cumulative to that of Rivera-Figueroa; each offered testimony concerning petitioner's participation in the home invasion, robbery and shooting that was identical to the other's in all substantive aspects. Quong Luong's testimony further supported each of their versions of events wherein he identified in detail petitioner's lengthy interest in robbing Cung Duong including casing the victim's property, obtaining specific information as to Duong's habits and purchasing walkie talkies, one of which was retrieved from the crime scene. Other evidence clearly implicated petitioner's involvement in the crimes, independent of Whitstynne's testimony, including that petitioner drove the wounded Rivera-Figueroa in the black SUV to the hospital within minutes of the shootings, as revealed on surveillance tapes, and that a phone number petitioner was known to use was in constant contact with numerous other telephone numbers used by the other perpetrators of the crimes. In light of this additional evidence, petitioner did not meet his burden of showing that he was prejudiced by the failure of the Commonwealth to provide the 2003 *crimen falsi* evidence.<sup>10</sup>

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9. The language in the instruction I provided to the jury on Accomplice Testimony (Corrupt Source)(see footnote 8) is considerably stronger regarding the potential of a witness-accomplice to be untruthful than the language in a *crimen falsi* instruction, if one had been provided. The suggested standard *crimen falsi* instruction provides as follows:

You have heard evidence that one of the witnesses, [name of witness], has been convicted of the crime of [crime]. The only purpose for which you may consider this evidence of prior conviction is in deciding whether or not to believe all or part of [name of witness]'s testimony. In doing so, you may consider the type of crime committed, how long ago it was committed, and how it may affect the likelihood that [name of witness] has testified truthfully in this case.

Pa.S.S.J.I. (Crim) 4.08D. Impeachment – Prior Conviction (Witness Only)

10. The superior court reached the same result in addressing co-defendant Lopez-Malave's appeal. Lopez-Malave had argued that the Commonwealth's representation to the court during trial that Whitstynne had no *crimen falsi* crimes, including the 2003 unsworn falsification conviction, amounted to a *Brady* violation. (See footnote 5) The superior court dismissed this claim finding a failure to prove prejudice and/or that the outcome of the trial would have been different had the missing evidence been used to impeach Whitstynne. *Commonwealth v. Lopez-Malave*, No. 1690 MDA 2009, pp. 6-11 (Pa. Super. 2010).

*Ineffective Assistance of Counsel – Failure to Present  
Crimen Falsi Evidence*

Petitioner next argues, in the alternative, that his trial attorney was ineffective for failing to obtain Whitstyne's *crimen falsi* information and presenting it at trial in order to impeach him. In order to succeed on a claim of ineffective assistance of counsel, the petitioner must prove: (1) that the claim is of arguable merit; (2) that counsel had no reasonable strategic basis for his or her action or inaction; and (3) that petitioner has been prejudiced; that is, but for the errors and omissions of counsel, there is a reasonable probability that the outcome of the proceedings would have been different. *Commonwealth v. Simpson*, 66 A.3d 253, 260 (Pa. 2013). The failure to satisfy any prong of this test will cause the entire claim to fail. *Id.* Finally, counsel is presumed to be effective and petitioner has the burden of proving otherwise. *Id.*

With regard to counsel's alleged ineffectiveness for failing to present the 2002 retail theft conviction, counsel agreed that he had been apprised prior to trial of that conviction in documents supplied to him by the Commonwealth. (N.T. 49, 55) He testified that this evidence was admissible as *crimen falsi* and could have been used to impeach Whitstyne but that he chose not to use it. (N.T. 55) Counsel's failure to so impeach Whitstyne is thus a claim of arguable merit under the PCRA.

This court finds, however, under the second prong of the ineffective assistance of counsel test, that trial counsel's decision not to impeach Whitstyne on the summary retail theft was based upon a reasonable trial strategy. Gossett explained that he chose not to offer it as impeachment because he did not think the retail theft conviction "would make that much of a difference" since it was a summary violation and because he believed he had more powerful impeachment evidence. (N.T. 55) Specifically, Gossett believed there was significant impeachment evidence based upon Whitstyne's role as a coconspirator who agreed to testify for the Commonwealth in return for a lenient sentence and that this impeachment evidence was in fact conveyed to the jury. (N.T. 56) Indeed, Whitstyne testified at trial that under his plea deal he would be getting a "large break" and avoiding a "murder rap." (N.T. Trial 416-418) As noted above, I instructed the jury it could disfavor Whitstyne's testimony as it came from a corrupt or polluted source.<sup>11</sup> Since these reasons reveal reasonable trial strategy, petitioner is not entitled to PCRA relief under this claim.

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11. See footnote 8 and accompanying text.

Furthermore, even assuming this was not a reasonable trial strategy, petitioner's claim fails because counsel's failure to present the 2002 retail theft conviction as impeachment evidence caused him no prejudice. In order to show prejudice on an ineffective assistance of counsel claim, petitioner must prove that but for counsel's omission there is a reasonable probability that the outcome of the proceedings would have been different. This is the same prejudice standard petitioner failed to meet in attempting to prove a Brady violation. As discussed above in detail, the omission of relatively minor impeachment evidence against Commonwealth witness Whitstyne could not have altered the verdict in this case whereby Whitstyne's testimony was cumulative and otherwise corroborated by other witnesses, where evidence independent of Whitstyne's testimony implicated petitioner's involvement in the crimes, and where powerful impeachment evidence was offered against Whitstyne at trial concerning his role as an accomplice-turned-state's-witness.

Petitioner also argues that trial counsel was ineffective for failing to obtain the 2003 unsworn falsification conviction information and present it to impeach Whitstyne. This claim lacks arguable merit since trial counsel made reasonable efforts to obtain all of Whitstyne's criminal history record. As outlined above, counsel specifically requested Whitstyne's prior criminal history record from the Commonwealth and duly received the NCIC report including that history. The credible evidence presented, which was offered both by the prosecutor and petitioner's trial attorney, was that the NCIC reports were routinely employed by attorneys within the criminal justice system as the best and most inclusive source of prior criminal records. (N.T. 14-15, 44, 58) Petitioner's attorney thus reasonably relied upon the criminal records provided him by the Commonwealth and was not further obligated to make any additional searches, including within the CPCMS.

Again, even assuming petitioner's attorney should have discovered the 2003 unsworn falsification conviction evidence and further assuming counsel could offer no reasonable basis for failing to impeach Whitstyne upon it, petitioner cannot satisfy the prejudice prong of his ineffectiveness claim. I addressed and dismissed this exact prejudice claim under the *Brady* analysis and adopt that reasoning here.

*Ineffective Assistance of Counsel –Preliminary Hearing Transcript*

Petitioner's third PCRA claim is that his trial attorney was ineffective for failing to obtain the transcript from Manny Lopez' preliminary hear-

ing. Lopez had provided the gun used to murder the victim but was not otherwise actively involved in the crimes and was not a witness at petitioner Vega's trial. Lopez was only identified as a suspect in this matter a few months prior to petitioner's trial. Petitioner claims that trial counsel should have obtained the transcript, which included testimony by Whitstyne, in order to use it to impeach him at petitioner's trial. This claim is without any arguable merit whatsoever inasmuch as petitioner has failed to identify any information contained within the preliminary hearing transcript that his trial attorney could have used to impeach Whitstyne at trial.

*Ineffective Assistance of Counsel – Photo Array*

Petitioner's fourth PCRA claim is that his trial attorney was ineffective for failing to object to a photo array shown to the jury with petitioner's picture in it, which included a label "Harrisburg Police Dept." On his appeal to the superior court, petitioner raised this specific issue, claiming that he had been prejudiced at trial by the photo array. The superior court dismissed this claim adopting the reasoning I set forth in my memorandum opinion. *Commonwealth v. Vega*, 934 MDA 2008 at 3 (Pa. Super. July 29, 2009). As this issue has been previously litigated petitioner is ineligible for relief under the PCRA on this claim. 42 Pa.C.S.A. § 9543(a)(3).

*Ineffective Assistance of Counsel - Mistrial – Telephone Number*

Petitioner claims a right to PCRA relief arguing that his trial attorney rendered ineffective assistance for failing to move for a mistrial after the Commonwealth violated my ruling in which I had precluded the prosecutor from bringing out in testimony that the phone number XXX-5425 was registered to a phone belonging to petitioner.

As a matter of background, Detective Sorensen testified at trial that he had obtained the phone calling records from seven numbers associated with the perpetrators in this case, which showed dozens of phone calls made between these numbers around the time of the murder. The phone records included calls made to and from a T-Mobile phone with the number XXX-5425. The record for XXX-5425 showed it was registered to a "Carlos Rivera," an apparent alias. During Detective Sorensen's testimony, I held a sidebar during which I told the prosecutor that while examining Detective Sorenson, he could not refer to the records associated with that number as belonging to Felipe Vega because it was not registered to him. I agreed with counsel, however, that he would be later permitted to argue to the jury that the number belonged to petitioner as connected to him by Quong Luong, who had previously testified that he

used that number to call Vega. Immediately after the sidebar, the following occurred:

By Mr. Zawisky:

Q Detective, did you conduct a search warrant looking for Felipe Vega's or at least what you suspected to be Felipe Vega's phone records?

A Yes.

Mr. Gossett: Objection, Your Honor. May I see you at side bar?

The Court: Yes.

Mr. Zawisky: I can rephrase, Your Honor.

The Court: Wait a minute. Just wait a minute.

(Whereupon, the following discussion occurred at sidebar:)

The Court: State the nature of your objection.

Mr. Gossett: Your Honor, I object. It was just said at side bar that these phone records would not be referred to as Felipe Vega's. The Assistant District Attorney agreed to it. Now he is going to put in evidence that they are Felipe Vega's but they are under the name of Carlos Rivera. That is exactly what we talked about and I ask that the whole record be stricken.

Mr. Zawisky: I won't refer to it as Felipe Vega.

The Court: You knew not to do it and you did it.

Mr. Zawisky: It is the search warrant. He actually did a search warrant --

The Court: Don't act stupid. You are not stupid. You are smart.

Mr. Zawisky: I will not --

The Court: We had a clean trial. Now is not the time to be cute.

Mr. Zawisky: I will not be cute, Your Honor. I apologize.

Mr. Gossett: I would ask that it be stricken. At this point he has already referred to it as Felipe Vega's phone records.

The Court: I will make a curative statement to the jury.

Mr. Gossett: I don't think a curative --

Mr. Zawisky: It is for them to decide like any other piece of evidence.

Commonwealth v. Vega

The Court: It is already in evidence from one of the witnesses that this is his number, who they called.

Mr. Gossett: It is not what he is going to do. He is going to say that these are phone records.

The Court: For this number. All he is allowed to say is it is with this number with this witness.

Mr. Gossett: He has already said it.

The Court: No, I am going to take it away.

Mr. Rentschler [Counsel for Rivera-Figueroa]: And he is seeking to correct it but I don't know that he can correct it now that they have already heard it specifically.

Mr. Zawisky: I don't think it's going to be prejudicial especially.

...

(N.T. Trial 717-19) I then immediately offered the following curative instruction to the jury.

The Court: When you are subpoenaing records you don't ask for certain names. All you do is subpoena records for a particular phone number. So this is only evidence as to calls made from this particular telephone, from or to this particular telephone. So the question is did you subpoena records with regard to a particular cell phone number?

The Witness: Just numbers, yes, ma'am.

(N.T. Trial 719) A short while later the following occurred:

Q Detective, I am going to show you what has been marked as Commonwealth Exhibit 155. It appears to be a certified, well, it is a certified business record of T-Mobile. It is Commonwealth Exhibit 155. What is the phone number which is indicated for this phone record?

A It's area code [XXX-XXX]-5425.

Q Now I am also going to present you with Commonwealth Exhibit 157. Okay. Let me ask you this. Were you present earlier when Quang Luong identified that phone number?

A I was in the courtroom.

Q Who did he believe that phone number applied to?

## Commonwealth v. Vega

Mr. Gossett: Objection, Your Honor. If he is going to authenticate the document -- the document is there. It speaks for itself.

The Court: It's hearsay and the jury will remember what he, what Mr. Quang testified this particular number --

Mr. Zawisky: I apologize.

(N.T. 720)

Petitioner claims his attorney should have sought a mistrial immediately after this exchange and was ineffective for failing to do so. I disagree as I would not have granted a mistrial. A mistrial is an extreme remedy required only where the nature of the event is such that its unavoidable effect is to deprive the defendant of a fair trial. *Commonwealth v. Chamberlain*, 30 A.3d 381, 420 (Pa. 2011) (citing *Commonwealth v. Montgomery*, 626 A.2d 109, 112-13 (Pa. 1993)). In assessing whether a mistrial should be granted, the court considers the nature of the reference and whether or not the Commonwealth intentionally elicited the testimony. *Commonwealth v. Pursell*, 495 A.2d 183, 192 (1985).

The reference at issue was not particularly prejudicial to petitioner. At most, the jury may have inferred from Zawisky's questioning that the phone number XXX-5425 belonged to petitioner. The jury had already heard, however, Luong's testimony that XXX-5425 was petitioner's number. The jury also heard other testimony by which that number was connected to the phones used by the other participants in the crimes. Thus, the jury had independent sources connecting the subject phone number to petitioner. As such, the prejudice was slight.

I additionally note that Zawisky testified at the PCRA hearing that he had not intentionally circumvented my initial ruling that he not directly connect petitioner to the XXX-5425 number through Detective Sorenson's testimony. (N.T. 38) I agree the reference was not intentionally made to circumvent my ruling. Furthermore, I instructed the jury immediately thereafter that the evidence presented by Detective Sorenson was limited to evidence as to calls made from a particular telephone to another telephone. It is well established that a curative instruction is presumed to be sufficient to cure any prejudice to a defendant and that a jury is presumed to follow the trial court's instructions. *Commonwealth v. Thornton*, 791 A.2d 1190, 1193 (Pa. Super. 2001). In light of these circumstances, a mistrial would have been clearly unwarranted as petitioner was not deprived of a fair trial.

Accordingly, I enter the following:

**ORDER**

AND NOW, this 27th day of January, 2014, the Petition filed by Felipe Vega, Jr. seeking relief under the Post Conviction Relief Act is hereby DENIED. Petitioner is notified of his right to appeal from this Order within thirty (30) days of its entry.

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**FIRST PUBLICAITON**

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**Estate Notices**

ESTATE OF HERBERT M. HAMBURGER, AKA HERB HAMBURGER, late of Susquehanna Township, Dauphin County, Pennsylvania (died December 19, 2013). Executor: Joseph B. Sobel, 212 North Third Street, Suite 202, Harrisburg, Pennsylvania 17101; Attorney: BECKLEY & MADDEN, Post Office Box 11998, Harrisburg, PA 17108.

BECKLEY & MADDEN  
Post Office Box 11998  
Harrisburg, Pennsylvania 17108-1998  
f14-28 (717) 233-7691

ESTATE OF KEVIN A. HOLMES, A/K/A KEVIN HOLMES, A/K/A KEVIN ANTHONY HOLMES, (died December 3, 2013), late of Lower Paxton Township, Dauphin County, Pennsylvania. Executor: Donald P. Holmes, c/o Hazen Elder Law, 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110 or Attorney: Estate of Kevin A. Holmes c/o Hazen Elder Law, 2000 Linglestown Road, Suite 202 Harrisburg, PA 17110. f14-28

ESTATE OF ALBERT I. BRYANT, late of Susquehanna Township, County Dauphin, Commonwealth of Pennsylvania. Executrix: Marcia P. Bryant c/o KLUXEN, NEWCOMER & DREISBACH, P. O. Box 539, 339 North Duke Street, Lancaster, Pennsylvania 17608-0539. f14-28  
Melvin E. Newcomer, Esquire

ESTATE OF RODERICK P. WILKINS, late of Susquehanna Township, Dauphin County, Pennsylvania (died January 24, 2014). Executrix: Haley M. Little, 2421 Garrison Avenue, Harrisburg, Pennsylvania 17110.

Jeffrey A. Ernico, Esquire  
Mette, Evans & Woodside  
3401 North Front Street  
Harrisburg, PA 17110  
f14-28 (717) 232-5000

ESTATE OF EDWARD G. WISE, late of Lower Swatara Township, Dauphin County, Pennsylvania (died on October 2, 2013). Administrator: Mark E. Wise, 275 S. River Road, Halifax, PA 17032 or Attorney: Peter R. Henninger, Jr., Esq., Jones & Henninger, P.C., 339 W. Governor Rd., Ste. 201, Hershey, PA 17033. f14-28

ESTATE OF MILDRED D. SMINK late of the Borough of Millersburg, County of Dauphin, Pennsylvania (died: January 23, 2014). Co-Executors: Kenneth C. Zimmerman and Beverly I. Zimmerman, 337 West Market Street, Williamstown, Pennsylvania 17098; Attorney: Joseph D. Kerwin, Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, Pennsylvania 17023.

f14-28

ESTATE OF ROMAINE F. WORHACZ, late of the Borough of Lykens, Dauphin County, Pennsylvania (died January 8, 2014). Executrix: Jane V. Schwak, 311 Stahls Drive, Tower City, Pennsylvania 17980; Attorney: Terrence J. Kerwin, Esquire, Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, PA 17023. f14-28

ESTATE OF JACOB D. KAHLER, late of the Borough of Millersburg, Dauphin County, Pennsylvania (died December 29, 2013). Administrator: Sharon M. Bixler, 515 Moore Street, Millersburg, Pennsylvania 17061; Attorney: Terrence J. Kerwin, Esquire, Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, PA 17023. f14-28

ESTATE OF JEAN S. ZEIGLER, late of Penbrook Borough, Dauphin County, Pennsylvania (died January 7, 2014). Administrator: Kimberly A. Mollah. Attorney: Nora F. Blair, Esquire, 5440 Jonestown Road, P.O. Box 6216, Harrisburg, PA 17112. f14-28

ESTATE OF KATHLEEN M. RHOADS late of the Borough of Millersburg, County of Dauphin, Pennsylvania (died: December 24, 2013). Executor: Brian D. Hirsch, 223 Market Street, Lykens, Pennsylvania 17048; Attorney: Joseph D. Kerwin, Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, Pennsylvania 17023. f14-28

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**SECOND PUBLICAITON**

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**Estate Notices**

ESTATE OF VIVIAN R. TRAGESER, late of South Hanover Township, Dauphin County, Pennsylvania (died December 31, 2013). Personal Representative: Catherine L. O'Neill, 167 Druid Drive, McMurray, PA 15317 or Attorney: Jean D. Seibert, Esquire, Caldwell & Kearns, 3631 North Front Street, Harrisburg, PA 17110. f7-21

ESTATE OF JESSICA L. SCHWEERS, late of the County of Dauphin and Commonwealth of Pennsylvania. Administrator: Timothy G. Schweers Cooper, 3262 Turnpike Road, Elizabethtown, PA 17022 or Attorney: Daryl J. Gerber, Esquire, The Law Office of Daryl J. Gerber, 46 E. Main Street, Palmyra, PA 17078. f7-21

ESTATE OF JAMES E. FURJANIC, late of Swatara Township, Dauphin County, Pennsylvania, (died January 6, 2014). Executor: Joseph J. Furjanic, 1451 Spring Hill Dr., Hummelstown, PA 17036 or Attorney: A. Mark Winter, Esq., 310 W. Chocolate Ave, Hershey, PA, 17033. Phone (717) 533-4868. f7-21

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## SECOND PUBLICAITON

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### Estate Notices

ESTATE OF JOSEPH E. WALSH, late of Hershey, Derry Township, Dauphin County, Pennsylvania, (died January 16, 2014). Executrix: Zorina Keiser 10706 Jamaica Dr., Silver Spring, MD 20902 or Attorney: A. Mark Winter, Esq., 310 W. Chocolate Ave, Hershey, PA, 17033. Phone (717) 533-4868. f7-21

ESTATE OF EDNA B. KISTLER, late of Lower Paxton Township, Dauphin County, Pennsylvania (died December 27, 2013). Administrator: Diane L. Wolfgang. Attorney: Nora F. Blair, Esquire, 5440 Jonestown Road, P.O. Box 6216, Harrisburg, PA 17112 . f7-21

ESTATE OF GENNARO L. PASTORE, late of Dauphin County, Pennsylvania, (died January 3, 2014). Executor: Sandra M. Pastore and Attorney: Michael Cherewka, Attorney: 624 North Front Street, Wormleysburg, PA 17043. f7-21

ESTATE OF LOUIS C. SMITH, A/K/A LOUIS C. SMITH, JR. (died January 20, 2014), late of Derry Township, Dauphin County, Pennsylvania. Executor: Richard W. Stevenson.

Attorney: David M. Watts, Jr., Esq.  
McNees Wallace & Nurick LLC  
100 Pine Street  
P. O. Box 1166  
Harrisburg, PA 17108-1166  
(717) 232-8000

f7-21

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## THIRD PUBLICAITON

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### Estate Notices

ESTATE OF PATRICIA A. KLINE, late of the Township of Williams, Dauphin County, Pennsylvania (died January 11, 2014). Executor: Scott W. Kline, Sr., 7789 State Route 209, Williamstown, Pennsylvania 17098; Attorney: Terrence J. Kerwin, Esquire, Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, PA 17023. j31-f14

ESTATE OF ESTHER M. BANKS, deceased, late of Middletown Borough, Dauphin County. Personal Representative: Judy A. Halterman, c/o Anthony J. Nestico, Esquire, Nestico Druby, P.C., 1135 East Chocolate Avenue, Suite 300, Hershey, PA 17033. j31-f14

ESTATE OF MARIE A. CASNER, late of Washington Township, Dauphin County, Pennsylvania. Executor: Gary N. Wise, 336 North Road, Elizabethtown, PA 17023 or Earl Richard Etzweiler, Esquire, 105 N. Front Street, Harrisburg, PA 17101, (717) 234-5600. j31-f14

ESTATE OF JANICE L. SIMS, late of Harrisburg, Dauphin County, Pennsylvania, (died November 18, 2013). Administrator: John S. Kundrat, 107 Boas Street, Harrisburg, PA, 17102.

Attorney: John S. Kundrat, Esquire  
KUNDRAT & ASSOCIATES  
107 Boas Street  
Harrisburg, Pennsylvania 17102

j31-f14

(717) 232-3755

ESTATE OF VIRGINIA M. FILBEY, (died: January 3, 2014, late of Londonderry Township, Dauphin County, Pennsylvania. Executor: Vincent D. Buser.

David C. Miller, Jr., Esquire  
1100 Spring Garden Drive, Suite A  
Middletown, PA 17057  
(717) 939-9806

j31-f14

email: davidcmillerjr@verizon.net

ESTATE OF JUDY A. LAHR, (died: January 3, 2014), late of the Borough of Middletown, Dauphin County, Pennsylvania. Executor: Rickey L. Lahr.

David C. Miller, Jr., Esquire  
1100 Spring Garden Drive, Suite A  
Middletown, P A 17057  
(717) 939-9806

j31-f14

email: davidcmillerjr@verizon.net

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## FIRST PUBLICAITON

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### Corporate Notices

NOTICE IS HEREBY GIVEN that **REAL RESOURCES, INC.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 3530 E. 28th St., Minneapolis, MN 55406, has applied for a Certificate of Authority in Pennsylvania under the PA Bus. Corp. Law of 1988. The commercial registered office provider in PA is Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. f14

NOTICE IS HEREBY GIVEN that **HealthTap Medical Group, P.C.**, a foreign business corporation incorporated under the laws of California, with its princ. office located at 101 University Ave., Ste. 100, Palo Alto, CA 94301, has applied for a Certificate of Authority in Pennsylvania under the PA Bus. Corp. Law of 1988. The commercial registered office provider in PA is Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. f14

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**FIRST PUBLICAITON**

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**Corporate Notices**

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of the Commonwealth of Pennsylvania on or before 1/28/2014, with respect to a proposed nonprofit corporation, **COMPASSIONATE-HEARTS INC.**, which has been incorporated under the Nonprofit Corporation Law of 1988. A brief summary of the purpose or purposes for which said corporation is organized is: non-profit personal care assistance and community based.

f14

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of the Commonwealth of Pennsylvania on 1/21/2014 under the Domestic Business Corporation Law, for **SUCK IT UP, INC.**, and the name and county of the commercial registered office provider is c/o: Corporation Service Co., Dauphin County.

f14

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of the Commonwealth of Pennsylvania on 1/16/2014 under the Domestic Business Corporation Law, for **Lucky Beverage, Inc.**, and the name and county of the commercial registered office provider is c/o: Corporation Service Co., Dauphin County.

f14

NOTICE IS HEREBY GIVEN that **She's Somebody's Daughter** is organized under the provisions of the Pennsylvania Nonprofit Corporation Law (15 Pa. C.S. §§ 5301 et seq.) as of February 10, 2014.

f14

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of the Commonwealth of Pennsylvania on 1/10/2014 under the Domestic Business Corporation Law, for **CONNOLLY CONTRACTORS INC.**, and the name and county of the commercial registered office provider is c/o: Corporation Service Co., Dauphin County.

f14

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of the Commonwealth of Pennsylvania on 1/2/2014 under the Domestic Business Corporation Law, for **WHO'S YOUR DADDY TRUCK-ING, INC.**, and the name and county of the commercial registered office provider is c/o: Corporation Service Co., Dauphin County.

f14

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of the Commonwealth of Pennsylvania on 2/4/2014 under the Domestic Business Corporation Law, for **TCB North Second Avenue, Inc.**, and the name and county of the commercial registered office provider is c/o: Corporation Service Co., Dauphin County.

f14

NOTICE IS HEREBY GIVEN that **UG Shared Services, Inc.**, a foreign business corporation incorporated under the laws of North Carolina, with its princ. office located at 230 North Elm St., Greensboro, NC 27401, has applied for a Certificate of Authority in Pennsylvania under the PA Bus. Corp. Law of 1988. The commercial registered office provider in PA is Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County.

f14

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129/6129 of the Pennsylvania (PA) Bus. Corp. Law of 1988, **Comdata Telecommunications Services, Inc.**, a corporation incorporated under the laws of the State of Delaware with its principal office located at 5301 Maryland Way, Brentwood, TN 37027 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 9/18/1995, was granted a Certificate of Authority to transact business in the Commonwealth of PA, intends to file an Application for Termination of Authority with the Dept. of State.

f14

NOTICE is hereby given of the filing of Articles of Incorporation as follows:

1. The name of the corporation is **MJR Equipment, Inc.**
2. The location of the registered office of the corporation is: 4210 Chambers Hill Road, Harrisburg, Dauphin County, Pennsylvania 17111.
3. The Articles of Incorporation were filed under the provisions of the Business Corporation Law of 1988.

f14

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129/6129 of the Pennsylvania (PA) Bus. Corp. Law of 1988, **Hodges-Mace Benefits Group, Inc.**, a corporation incorporated under the laws of the State of Georgia with its principal office located at Ste. 350, 5775-D, Glenridge Dr., Atlanta, GA 30328 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 2/15/2012, was granted a Certificate of Authority to transact business in the Commonwealth of PA, intends to file an Application for Termination of Authority with the Dept. of State.

f14

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FIRST PUBLICAITON

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Corporate Notices

NOTICE IS HEREBY GIVEN that **McKibbon Brothers, Inc.**, a foreign business corporation incorporated under the laws of Georgia, with its princ. office located at 402 Washington St., SE, Ste. 200, Gainesville, GA 30501, has applied for a Certificate of Authority in Pennsylvania under the PA Bus. Corp. Law of 1988. The commercial registered office provider in PA is Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. f14

NOTICE IS HEREBY GIVEN that **McKibbon Hotel Management, Inc.**, a foreign business corporation incorporated under the laws of Georgia, with its princ. office located at 402 Washington St., SE, Ste. 200, Gainesville, GA 30501, has applied for a Certificate of Authority in Pennsylvania under the PA Bus. Corp. Law of 1988. The commercial registered office provider in PA is Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. f14

NOTICE IS HEREBY GIVEN that an Application for Certificate of Authority was filed with the PA Dept. of State on 01/28/2014 by **General Dynamics Ordnance and Tactical Systems, Inc.**, a foreign corporation formed under the laws of the jurisdiction of VA with its principal office located at 2941 Fairview Park Dr., Suite 100, Falls Church, VA 22042-4513, to do business in PA under the provisions of the Business Corporation Law of 1988. The registered office in PA shall be deemed for venue and official publication purposes to be located in Dauphin County. f14

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of the Commonwealth of Pennsylvania on 1/24/2014 under the Domestic Business Corporation Law, for **IRAD PROFESSIONALS, INC.**, and the name and county of the commercial registered office provider is c/o: Corporation Service Co., Dauphin County. f14

NOTICE IS HEREBY GIVEN that, an Application for Certificate of Authority was filed with the PA Dept. of State on 02/04/2014 by **Carbon Black, Inc.**, a foreign corporation formed under the laws of the jurisdiction of DE with its principal office located at 1209 Orange St., Wilmington, DE 19801, to do business in PA under the provisions of the Business Corporation Law of 1988. The registered office in PA shall be deemed for venue and official publication purposes to be located in Dauphin County. f14

NOTICE IS HEREBY GIVEN that an Application for Certificate of Authority was filed with the PA Dept. of State on 01/27/2014 by **Exact Sciences Corporation**, a foreign corporation formed under the laws or the jurisdiction of DE with its principal office located at 441 Charmany Dr., Madison, WI 53719, to do business in PA under the provisions of the Business Corporation Law of 1988. The registered office in PA shall be deemed for venue and official publication purposes to be located in Dauphin County. f14

NOTICE IS HEREBY GIVEN that **FUJIFILM North America Corporation**, a foreign business corporation incorporated under the laws of New York, with its princ. office located at 200 Summit Lake Dr., Valhalla, NY 10595-1356, has applied for a Certificate of Authority in Pennsylvania under the PA Bus. Corp. Law of 1988. The commercial registered office provider in PA is Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. f14

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on January 16, 2014, by **The Tatitlek Corporation**, a foreign corporation formed under the laws of the State of Alaska, where its principal office is located at 561 E. 36<sup>th</sup> Ave., Anchorage, AK 99503, 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 shall be deemed for venue and official publication purposes to be located at c/o CT Corporation System, Dauphin County. f14

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on January 29, 2014, by **Envirosite Corporation**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 5209 Madison Ave., Trumbull, CT 06611, 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 shall be deemed for venue and official publication purposes to be located at c/o CT Corporation System, Dauphin County. f14

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FIRST PUBLICAITON

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Corporate Notices

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 4129 of the Business Corporation Law of 1988, **Milmer, Inc.**, a corporation of the State of South Carolina, with principal office located at 920 Milliken Rd., Spartanburg, SC 29303, and having a Commercial Registered office Provider and county of venue as follows: CT Corporation System, Dauphin County, which on July 16, 2012, 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. fl4

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 4129 of the Business Corporation Law of 1988, **Pizzeria Uno of Reston, Inc.**, a corporation of the Commonwealth of Virginia, with principal office located at 100 Charles Park Rd., Boston, MA 02132, and having a Commercial Registered office Provider and county of venue as follows: CT Corporation System, Dauphin County, which on July 8, 2010,, 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. fl4



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FIRST PUBLICAITON

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Miscellaneous Notices

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

**CASE NO: 2013CV07327EJ**

**FEDERAL NATIONAL MORTGAGE  
ASSOCIATION  
1900 MARKET STREET, SUITE 800  
PHILADELPHIA, PA 19103, PLAINTIFF  
VS.  
DOUGLAS C. MUSSER AND KIMBERLY R.  
MUSSER OR OCCUPANTS,  
DEFENDANT(S)**

Defendant(s): Douglas C. Musser and Kimberly R. Musser or Occupants

Type of Action: CIVIL ACTION - EJECTMENT

Premises Subject to Foreclosure: 1312 Stoneford Lane, Palmyra, PA 17078

Notice

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH 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 ELEGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

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HARRISBURG PA 17101  
717 -232-7536

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Martha E. Von Rosenstiel, Esquire  
649 South Avenue, Suite 6  
Secane, PA 19018  
(610) 328-2887

fl4

**FIRST PUBLICAITON**

**Miscellaneous Notices**

**STATE OF NORTH CAROLINA  
FILE NO. 03 JT 100  
COUNTY OF DURHAM  
IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION**

**IN THE MATTER OF: BENJAMIN  
MICHAEL HALL-BARNES**

**NOTICE OF SERVICE OF PROCESS RE:  
TERMINATION OF PARENTAL RIGHTS**

**TO: Frederick E. Barnes the Father of a male child born to Charlena Watson on or about September 24, 1993, in Durham County, North Carolina, and placed in the custody of the Durham County Department of Social Services on June 17, 2009.**

PLEASE TAKE NOTICE that a motion has been filed by the Durham County Department of Social Services for the purpose of terminating your parental rights to the above named minor child. You must prepare and file with the Clerk of Superior Court of Durham County a written answer to the petition/motion within thirty (30) days of the first date of publication (written below). You must also serve a copy of the answer on the petitioner's attorney (address below). If you fail to file an answer, your parental rights may be terminated. The petitioner will apply to the court for the relief demanded in the motion.

You are entitled to attend any hearing affecting your parental rights. You are entitled to have an attorney appointed by the court if you cannot afford one, provided that you request an attorney at or before the time of future hearings. You may contact the Clerk of Superior Court immediately to request counsel. Any attorney appointed previously will not represent you in this proceeding unless ordered by the court.

If your address is known, the date, time and place of hearing of the petition will be mailed to you upon filing of an answer or thirty (30) days after the first date of publication of this notice if no answer is filed.

You may call the Deputy Clerk of the Juvenile Court of Durham County at (919) 808-3125 for further information.

This the 31<sup>st</sup> day of January, 2014.

**CATHY L. MOORE  
DEPUTY COUNTY ATTORNEY  
P. O. BOX 3508  
DURHAM, NC 27702  
(919) 560-0716**

**PUBLISHED: February 14, 21 & 28, 2014  
f14-28**

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

**CIVIL ACTION – LAW**

**NO. 2013-CV-1247-MF**

**NOTICE OF ACTION  
IN MORTGAGE FORECLOSURE**

**GREEN TREE SERVICING, LLC,  
PLAINTIFF  
VS.  
TAMMY LOUISE MIGLIONICO,  
BRITTANY NICOLE PAPPAS AND JODY  
RENSHAW, DEFENDANTS**

Notice of Sale of Real Property

To: Tammy Louise Miglionico, Defendant, whose last known addresses are 1551 Mountain Road, Dauphin, PA 17018; 2627 Creekview Drive, Dauphin, PA 17018 and 26763 County Road 364, Mattawan, MI 49071.

Your house (real estate) at 1551 Mountain Road, Dauphin, PA 17018, is scheduled to be sold at the Sheriff's Sale on April 17, 2014 (Postponed from January 9, 2014) at 10:00 a.m. in the Dauphin County Admin. Bldg., 4th Fl., 2nd & Market Streets, Commissioners Hearing Room, Harrisburg, PA 17101, to enforce the court judgment of \$255,686.49, 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 TOWNSHIP OF MIDDLE PAXTON, COUNTY OF DAUPHIN, AND STATE OF PENNSYLVANIA, BOUNDED AND DESCRIBED AS FOLLOWS, TO WIT: BEGINNING AT A POINT ON THE NORTHERN LINE OF THE PUBLIC ROAD KNOWN AS MOUNTAIN ROAD AT THE SOUTHEAST CORNER OF LOT NO. 43 ON THE DIVIDING LINE BETWEEN LOTS NOS. 43 AND 44 ON SAID PLAN; THENCE NORTH 33 DEGREES 20 MINUTES WEST 384.6 FEET, MORE OR LESS, TO A POINT; THENCE BY LANDS NOW OR FORMERLY OF WARREN KROUTZ AND JAMES ADKINS, NORTH 65 DEGREES EAST, 447 FEET, MORE OR LESS, TO A POINT, THENCE BY THE DIVIDING LINK BETWEEN LOTS NO. 52 AND 53, SOUTH 33 DEGREES 20 MINUTES EAST, 403 FEET TO A POINT ON THE NORTHERN LINE OF MOUNTAINS ROAD; THENCE BY THE NORTHERN LINE OF MOUNTAIN ROAD, SOUTH 67 DEGREES 5 MINUTES WEST, 450

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**FIRST PUBLICAITON**

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**Miscellaneous Notices**

FEET TO A POINT, THE PLACE OF BEGINNING. FOR INFORMATIONAL PURPOSES ONLY: THE APN IS SHOWN BY THE COUNTY ASSESSOR AS 430060010000000; SOURCE OF TITLE: DOCUMENT 20070037982 (RECORDED 9/19/2007) BEING KNOWN AS: 1551 Mountain Road, Dauphin, PA 17018. PROPERTY ID NO.: 43-006-001. TITLE TO SAID PREMISES IS VESTED IN JODY RENSHAW BY DEED FROM TAMMY LOUISE MIGLIONICO, SINGLE WOMAN, BRITTANY NICOLE PAPPAS, SINGLE WOMAN, JODY RENSHAW, MARRIED WOMAN DATED 02/09/2010 RECORDED 02/17/2010 IN DEED BOOK Instrument # 20100004450.

Udren Law Offices, P.C.  
Attys. for Plaintiff,  
111 Woodcrest Rd., Ste. 00  
Cherry Hill, NJ 08003  
856.482.6900

f14

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**FIRST PUBLICAITON**

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**Name Change Notices**

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

**DOCKET NO. 2013 CV 10952 NC**

**PETITION F'OR CHANGE OF NAME  
NOTICE**

NOTICE IS HEREBY GIVEN that a Hearing on the Petition of **MICKAYLA CAPRI FRY** to change her name to **MICKAYLA CAPRI STAUFFER**, has been rescheduled and will now be held on April 1, 2014, at 1 :30 p.m., in Courtroom No. 11 at the Juvenile Justice Center, 25 South Front Street, 7th Floor, Harrisburg, Pennsylvania, when and where all persons interested may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

GREGORY M. KERWIN, ESQUIRE  
Kerwin & Kerwin, LLP  
4245 State Route 209  
Elizabethville, P A 17023  
(717) 362-3215

f14

Attorney for Petitioner

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**SECOND PUBLICAITON**

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**Miscellaneous Notices**

**PUBLIC NOTICE TO  
PARENT OR PUTATIVE PARENT OF  
EMBER LAURA-ANNAH DOUGHERTY**

**NO. 2013-0103**

**IN RE: ADOPTION OF:  
Ember Laura-Annah Dougherty**

TO THE PARENT OR PUTATIVE PARENT OF  
THE ABOVE CHILD:

**NOTICE**

A petition has been filed in the COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA, ORPHANS' COURT DIVISION asking the Court to put an end to all rights you have to your child, Ember Laura-Annah Dougherty. The child was born to the natural mother, Jessena Dougherty, in 2010. The Court has set a hearing to consider ending your rights to your child. That hearing will be held in Court Room No. 3, Sixth Floor of the York County Judicial Center, 45 N. George Street, York, Pennsylvania, on **March 10, 2014 at 1:30 P.M.** Your presence is required at the hearing. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without you being present. You have a right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Lawyer Referral Service of the  
York County Bar Association  
137 E. Market Street  
York, Pennsylvania 17401  
(717) 854-8755

If you are the putative father of the child, you are further warned your parental rights to the child may also be terminated pursuant to Section 2503 (d) of the Adoption Act if you fail to file either an acknowledgement or claim of paternity pursuant to 23 Pa.C.S.A. Section 5103 (relating to acknowledgment and claim of paternity), and fail to either appear at the hearing for the purpose of objecting to the termination of your rights or file a written objection to such termination with the court prior the hearing.

William F. Hoffmeyer, Esquire  
Attorney for Petitioners  
f7-21 Hoffmeyer & Semmelman, LLP



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The Board of Directors of the Bar Association meets on the third Thursday of the month at the Bar Association headquarters. Anyone wishing to attend or have matters brought before the Board should contact the Bar Association office in advance.

**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.

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**DAUPHIN COUNTY COURT SECTION**

*Opinions Not Yet Reported*

January 29, 2014 - Turgeon, J., Rippon v. Rippon, C.P., Dau. Co., No. 2012 CV 4412 DV



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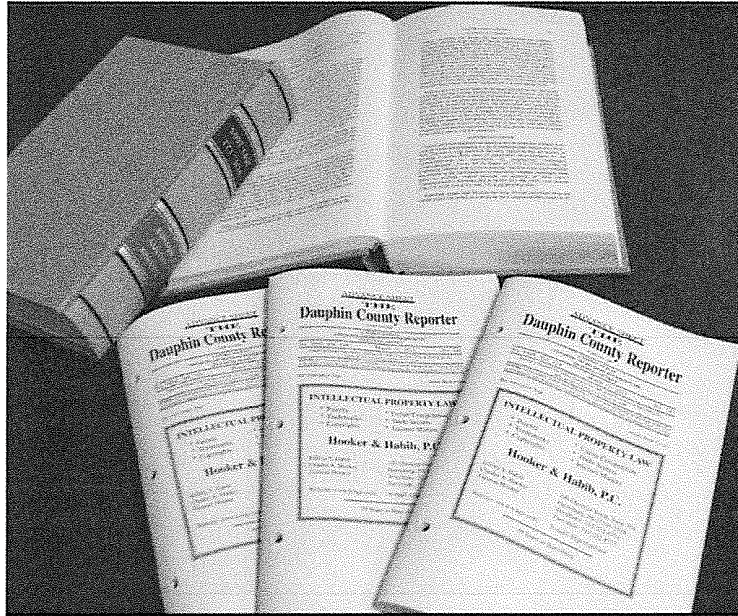
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