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Commonwealth v. Forde  
Bar Association Page

11  
Back Pages



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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 Notices

ESTATE OF MILDRED I. BRUNNER, (died: January 25, 2016), late of Londonderry Township. Executrix: Marjorie E. Forster, 934 W. Foxcroft Drive, Camp Hill, PA 17011. Attorney: Scott M. Dinner, Esquire, 3117 Chestnut Street, 2nd Floor, Camp Hill, PA 17011. f26-m11

ESTATE OF MARGARET L. ELMER, (died: September 1, 2015), late of Country Meadows of Hershey. Executrix: Janet L. Smith, 210 N. Spring Street, Middletown, PA 17057-1425. Attorney: John S. Davidson, 320 West Chocolate Ave., Hershey, PA 17033-0437. f26-m11

ESTATE OF PHYLLIS A. SHRAWDER, (died: January 30, 2016), late of Lower Paxton Township, Dauphin County, Pennsylvania. Executor: Melvin L. Shrawder, Jr., Executor, 155 Sunrise Drive, Middletown, PA 17057. Attorney: John S. Davidson, Esquire, Yost & Davidson, 320 West Chocolate Avenue, P.O. Box 437, Hershey, PA 17033-0437. f26-m11

ESTATE OF DAWN MARIE BORTNER, (died: November 20, 2016), late of Middletown Township. Executrix: Jodie Lynn Bortner, 514 N. Front Street, Steelton, PA 17113. Attorney: David M. Hollar, David M. Hollar, PLLC, 8 Tower Bridge, Suite 400, 161 Washington Street, Conshohocken, PA 19428. f26-m11

ESTATE OF MATYAS MICHICH, (died: December 18, 2015), late of Swatara Township, Dauphin County, Pennsylvania. Executor: John Michtich, 1000 Peiffers Lane, Harrisburg, PA 17109 or to Attorney: Christa M. Aplin, Esquire, Jan L. Brown & Associates, 845 Sir Thomas Court, Suite 12, Harrisburg, PA 17109, 717-541-5550. f26-m11

ESTATE OF RONALD VAN SCYOC, late of Deny Township. Executrix: Ursula K. McAndrew, 1098 Middletown Road, Hummelstown, PA 17036. Attorney: Ann H. Kline, Esquire, 547 South Tenth Street, Lebanon PA 17042, (717) 274-2184. f26-m11

Father's other claim is that I improperly ordered him to undergo a psychological evaluation during the contempt hearing without any prior notice to father. There is no requirement in Rule 1915.8 that a party be provided prior notice of the court's intent to order an examination. With regard to the reasoning behind my decision, although I stated that it was "based upon threats, reports to police and Children & Youth Services," it was additionally based upon the complete record before this court concerning father's behavior over the past number of years, outlined above.

Accordingly, I issued my order October 9, 2015, directing that father undergo a psychological evaluation pursuant to Pa.R.C.P. 1915.8.

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**Commonwealth v. Forde**

**Crimes and Criminal Procedure - Guilty Plea - Ineffective Assistance of Counsel**

Petitioner, who was born in Guyana, South America, sought to withdraw his guilty plea to one count of aggravated assault and one count of simple assault on the basis that his attorney failed to inform him that he would be facing mandatory deportation upon the expiration of his sentence.

1. As a matter of federal law, deportation is an integral part - indeed, sometimes the most important part - of the penalty that may be imposed on noncitizen defendants who plead guilty to specified crimes. *Padilla v. Kentucky*, 559 U.S. 356, 363 (2010).

2. Counsel is presumed to be effective, and petitioner has the burden of proving otherwise. *Commonwealth v. McDermitt*, 66 A.3d 810, 813 (Pa. Super. 2013).

3. Where a noncitizen pleads guilty to a potentially deportable crime - even to a crime for which deportation is nearly certain - the only duty owed by counsel is to inform the noncitizen of a risk of deportation, not as to its certainty. *Commonwealth v. Wah*, 42 A.3d 335 (Pa. Super. 2012); *Commonwealth v. Escobar*, 70 A.3d 838 (Pa. Super. 2013), *appeal denied*, 86 A.3d 232 (Pa. 2014).

PCRA Petition. C.P., Dau. Co., No. CP-22-CR-00057 - 2010; No. CP-22-CR-00526 -2010. Petition denied.

*PCRA Attorney - District Attorney's Office*, for the Commonwealth

*Elizabeth A. Hoffman*, for the Petitioner

Turgeon, J., February 17, 2016.

**OPINION**

Before the court is Kevin Forde's petition under the Post-Conviction Collateral Relief Act (PCRA).<sup>1</sup> Petitioner pled guilty in 2010 and received a negotiated sentence of five to ten years. Petitioner, who was born in Guyana, South America, and has spent most of his life in the United States, requests that his plea be withdrawn on the basis that his plea attorney was ineffective under the United States Supreme Court case *Padilla v. Kentucky* for failing to inform him that he would be deported upon the expiration of

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<sup>1</sup> 42 Pa.C.S.A. § 9541-9551.

his state sentence.<sup>2</sup> Following evidentiary hearings on petitioner's claims and upon consideration of the briefs filed, I am constrained to deny his request for post-conviction relief for the reasons set forth below.

#### Background

On October 25, 2010, petitioner agreed to plead guilty to one count of aggravated assault and one count of simple assault in exchange for an aggregate sentence of five to ten years. As part of the plea, the Commonwealth agreed to drop an attempted murder charge and to withdraw a parole detainer on a 2004 simple assault charge. (N.T. Guilty Plea at 3, 7) Petitioner was represented by an attorney from the Dauphin County Public Defender's Office.

The charges arose from two separate incidents. The simple assault occurred December 5, 2009, when petitioner entered the home of a woman with whom he had a child, and punched her several times while she slept. (N.T. Guilty Plea 7) The aggravated assault charge arose from an incident that occurred just two days later. While petitioner was picking up his wife from the Kaplan Institute in Harrisburg, got into a fist fight with another man during which petitioner drew a concealed knife with a four-inch blade and stabbed the man seven times, including four times in his back, causing him life-threatening injuries. (N.T. Guilty Plea 7-8)

During the course of the colloquy outlining the terms of the negotiated guilty plea agreement, the prosecutor questioned petitioner as follows:

Commonwealth: **Now there are potential collateral consequences to a guilty plea. It is my understanding that you are a foreign national.**

Defendant: **Yes.**

Commonwealth: **And do you understand that there may be consequences including the potential for removal from the United States as a result of a conviction for a felony?**

Defendant: **Yes.**

Commonwealth: Now knowing that, you still wish to enter the pleas of guilty, right?

Defendant: Yes.

(N.T. Guilty Plea at 6-7) (emphasis added)

Petitioner's plea counsel thereafter provided background information about petitioner since he had waived a presentence investigation, as follows:

Mr. Forde is 30 years of age. He does have his GED. Your Honor, he is married. He has three kids, 12, 9, and 1 year old. He does support those children and he does visit with them regularly. In addition he was working two jobs. He was working as a partner with Sad's Seafood in Harrisburg. In addition, he had his own cleaning business, Q and T Cleaning, which he was working as well.

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<sup>2</sup> 559 U.S. 356 (2010).

Since he has been incarcerated in Dauphin County Prison he has participated in violence intervention programs, victim awareness, and also addictive compulsive behavior classes. **We have discussed the immigration issue and he is aware of the consequences that he is facing regarding that issue.**

In addition, Mr. Forde would like the Court to be aware that it wasn't his intention to go there and kill Mr. Mitchell on that day. Kevin was attacked. He did what he did. Maybe it wasn't necessary for him to pull the knife out and use the force that he did and, therefore, we have the guilty plea here today.

(N.T. Guilty Plea at 8-9) (emphasis added)

Following the colloquy, I sentenced petitioner to the agreed prison term. He did not file an appeal or challenge his plea or sentence until he filed his *pro se* PCRA petition March 3, 2015. I thereafter appointed him a PCRA attorney who filed a supplemental petition.

In the supplemental petition, petitioner asserts that on January 21, 2015, he learned from an immigration judge that he was subject to "mandatory deportation" because of his aggravated assault conviction. (PCRA Petition ¶ 11) He filed his *pro se* PCRA petition within sixty days of learning of this deportation consequence. Petitioner claims that plea counsel was ineffective for failing to advise him that by pleading guilty to aggravated assault he would be facing mandatory deportation upon his release, in violation of the requirements announced in Padilla v. Kentucky, issued seven months prior to petitioner's guilty plea. (*Id.* ¶¶ 5, 16) He also claims that counsel actually told him that he "saw no reason why Petitioner would be deported if he pled to the charges because Petitioner had been [in the U.S.] most of his life and he had a wife and three children in this county." (*Id.* ¶ 9) Petitioner asserts that he relied upon counsel's advice thinking he had little chance of removal. (*Id.* ¶ 10) It is petitioner's belief that because immigration law clearly indicated that petitioner was facing "mandatory deportation," or that deportation was "virtually assured" or at least a "very real probability," counsel was required under Padilla to tell him more than just that deportation was a potential or possible consequence of pleading guilty to aggravated assault. (*Id.* ¶¶ 21-25)

After the Commonwealth filed a response to the supplemental PCRA petition, I held an evidentiary hearing. Petitioner testified that he was born in Guyana and came to the U.S. with his parents in 1985, when he was five years old. Petitioner holds a Green Card, signifying him as a permanent resident. (N.T. PCRA Hearing at 4) Petitioner stated that his plea counsel discussed his legal status in 2010, in preparation for trial. Petitioner recalled that he had concerns that a conviction could result in deportation and discussed this with counsel. (*Id.* at 6) Petitioner agreed counsel brought up the subject with him because he discovered the U.S. Immigration and Customs Enforcement (ICE) had filed a detainer against him. (*Id.* at 14) According to petitioner, counsel told him "there is not a chance" or that "it is not likely" or that "there is no risk" he would be deported because he had been in the U.S. for so long, had children and was married. (*Id.* at 6, 14)

Petitioner admitted, however, that he answered "yes" to the question asked of him by the prosecutor at his guilty plea hearing whether he "underst[ood] that there may be consequences including

the potential for removal from the United States as a result of a conviction for a felony.” (Id. at 11) Petitioner explained that he was aware of possible immigration issues but that he didn’t think it would involve “mandatory deportation” or be “as serious as it was.” (Id. at 12, 18) He understood the prosecutor’s mention of deportation to mean “there may be some collateral consequences to me taking the plea,” which he interpreted to mean “there was a chance I was going to be deported.” (Id. at 11)

Petitioner testified that when the prosecutor told him at his guilty plea hearing about the potential for deportation upon his conviction this was new information to him. (Id. at 15, 17) He further admitted that even though this was different than what his plea counsel allegedly told him earlier (that “there is not a chance” or “it is not likely” or “there is no risk” he would be deported), petitioner nevertheless agreed with the prosecutor that he understood there was a “potential for removal” upon conviction. (Id. at 15) Petitioner explained that he felt like he could not object or stop the proceedings because he had already signed his written plea colloquies. (Id. at 15, 17)

Petitioner’s plea counsel testified he met with petitioner approximately ten times. He considered the charges against petitioner to be very serious and meritorious, including the attempted murder charge for which petitioner could have been sentenced to at least ten to twenty years. (Id. at 22-23) Upon discovering the ICE detainer, he discussed it with petitioner, informing him “you have got to realize that there is a possibility that you could be deported if you are convicted of any or all of these offenses or if you plead guilty.” (Id. at 24) Petitioner’s counsel elaborated on his recollection of his discussion with petitioner:

I told him this is just something that you have to be aware of that there is a real possibility that you could be deported. He acknowledged that he understood. I explained I am not an immigration attorney. Obviously **I didn’t advise him that it was any type of automatic or mandatory deportation so that is true.**

(Id. at 25) (bolding added) He denied ever telling petitioner that deportation “couldn’t happen” or “was an impossibility.” (Id.) He further testified that generally his normal practice where he discovers an immigration detainer is to advise his client “in every case that there is a possibility of deportation.” (Id. at 24-25)

Petitioner’s counsel testified that he read Padilla v. Kentucky shortly after it was issued in March 2010 and that the case was also discussed at regular meetings on new law held in his office. (Id. at 28) He also explained that due to previously dealing with immigration issues, he had some familiarity with the deportable offense section of United States Code though he claimed no special knowledge or training beyond that. (Id. at 27) He testified that even before Padilla was issued, if he had a client with an immigration detainer he would tell them about the possibility of deportation “to cover my bases.” (Id. at 26)

Plea counsel admitted that at the time of petitioner’s guilty plea in 2010, he was familiar with the term “aggravated felony” used in immigration law and understood that such felonies were deportable. (Id. at 27) He did not understand that an aggravated felony was a “definite deportable” or “mandatory deportable” crime. (Id. at 27-28)

*I. Ineffectiveness Claims*

To establish ineffectiveness of counsel, a PCRA petitioner must show the underlying claim has arguable merit, counsel's actions lacked any reasonable basis, and counsel's actions prejudiced the petitioner. Commonwealth v. Escobar, 70 A.3d 838, 841 (Pa. Super. 2013), *appeal denied*, 86 A.3d 232 (Pa. 2014) (citation omitted). Prejudice means that, absent counsel's conduct, there is a reasonable probability the outcome of the proceedings would have been different. Id. The failure to satisfy any prong of this test will cause the entire claim to fail. Commonwealth v. McDermitt, 66 A.3d 810, 813 (Pa. Super. 2013) (citation omitted). Counsel is presumed to be effective, and petitioner has the burden of proving otherwise. Id. (citation omitted).

Allegations of ineffectiveness in connection with a guilty plea do not warrant relief unless counsel's ineffectiveness caused an involuntary, unknowing or unintelligent plea. Escobar at 841(citation omitted). Where the defendant enters a plea on counsel's advice, the voluntary and knowing nature of that plea turns on whether counsel's advice fell within the range of competence demanded of attorneys in criminal cases. Id.

Petitioner essentially makes alternative claims. The first is that counsel was ineffective for advising him that if he pled guilty there was no risk or it was unlikely he could be deported, in violation of the requirements of Padilla. Alternatively, to the extent it is believed that petitioner was advised and understood that by pleading guilty there was a risk of deportation, petitioner claims such advice or information was not sufficient under Padilla inasmuch as the advice failed to inform petitioner it was a near certainty he would be deported.

At the outset, I find that counsel did not tell petitioner "there [was] not a chance" or that "it [was] not likely" or that "there [was] no risk" he would be deported because he had been in the U.S. for a long time, had children and was married. This claim is not credible for a number of reasons. First, I do not believe counsel would have so advised petitioner because he was aware of the Padilla holding at the time of petitioner's plea, knew that aggravated felonies were deportable offenses under immigration law and whose routine practice, even before Padilla was issued, was to advise noncitizens of the potential risk of deportation. I found much more credible counsel's testimony that he informed petitioner that there was a "possibility" that he could be deported if convicted of any or all of the offenses charged.

Second, petitioner's responses at his guilty plea hearing contradict his claim that he initially understood there was no risk or it was unlikely his plea could result in deportation. As noted above, petitioner answered "yes" when the prosecutor questioned him if "underst[ood] that there may be consequences including the potential for removal from the United States as a result of a conviction for a felony." He admitted that he understood the prosecutor's mention of deportation meant "there may be some collateral consequences to me taking the plea" and "that there was a chance I was going to be deported."

I thus conclude that petitioner knew and understood when he pled guilty, that deportation was a possible consequence of his conviction. Accordingly, the issue presented is whether his guilty plea attorney

was ineffective under Padilla v. Kentucky for advising him of the mere possibility of deportation instead of that his deportation would be automatic or mandatory, or at least nearly certain.

## *II. Federal Immigration/Deportation Law*

Before addressing Padilla and its Commonwealth progeny, it is necessary to understand the relevant immigration law and petitioner's status. An extensive list of deportable offenses is set forth in Title 8 of the United States Code at Section 1227(a), including for aliens convicted of aggravated felonies, as follows:

### **§ 1227. Deportable aliens.**

#### (a) Classes of deportable aliens

Any alien (including an alien crewman) in and admitted to the United States shall, upon the order of the Attorney General, be removed if the alien is within one or more of the following classes of deportable aliens:

...

#### (2) Criminal offenses

##### (A) General crimes

...

##### (iii) Aggravated felony

Any alien who is convicted of an aggravated felony at any time after admission is deportable.

...

8 U.S.C.A. § 1227(a).

“Aggravated felony” is defined as “a crime of violence (as defined in section 16 of Title 18, but not including a purely political offense) for which the term of imprisonment [is] at least one year.” 8 U.S.C.A. § 1101(a)(43)(F). A “crime of violence” includes “an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another.” 18 U.S.C.A. §16(a). Section 1228 includes a number of provisions applicable to persons who have committed aggravated felonies, including that such persons are conclusively presumed deportable and further providing for their expedited removal, as follows:

### **§ 1228. Expedited removal of aliens convicted of committing aggravated felonies.**

#### (a) Removal of criminal aliens

##### (1) In general

The Attorney General shall provide for the availability of special removal proceedings at certain Federal, State, and local correctional facilities for aliens convicted of any criminal offense covered in section 1227(a)(2)(A)(iii) [aggravated felonies], ....

....



## (3) Expedited proceedings

(A) Notwithstanding any other provision of law, the Attorney General shall provide for the initiation and, to the extent possible, the completion of removal proceedings, and any administrative appeals thereof, in the case of any alien convicted of an aggravated felony before the alien's release from incarceration for the underlying aggravated felony.

...

## (c) Presumption of deportability

An alien convicted of an aggravated felony shall be **conclusively presumed to be deportable** from the United States.

8 U.S.C.A. § 1228 (emphasis added). Section 1229b(a)(3) removes any power from the Attorney General to cancel removal proceedings involving an alien convicted of an aggravated felony. 8 U.S.C.A. § 1229b(a)(3).

Thus, at the time he pled guilty, petitioner was pleading to at least one crime (aggravated assault) that clearly qualified as an aggravated felony under immigration law and as such petitioner was deportable. He was also subject to expedited removal proceedings to be initiated by the Attorney General, during which he would be “conclusively presumed” deportable. Finally, the Attorney General lacked any discretion to cancel his deportation proceeding.

### *III. Padilla v. Kentucky*

The defendant in Padilla, a lawful permanent resident of the U.S. for over forty years, faced deportation after pleading guilty to drug distribution charges. In state court proceedings, he claimed a violation of his Sixth Amendment right to effective assistance of counsel because counsel failed to advise him of the deportation consequence of pleading guilty. Counsel had advised him he did not need to worry about his immigration status because he had been in the U.S. for so long. 559 U.S. at 359. The Kentucky Supreme Court denied Padilla post-conviction relief, holding that the Sixth Amendment does not protect a defendant from counsel's erroneous deportation advice because deportation is merely a collateral consequence, as opposed to a direct consequence, of conviction. Id. at 359-60.

The Kentucky court's decision was ultimately reversed by the U.S. Supreme Court. In addressing the issue, the majority opinion, authored by Justice Stevens, initially surveyed immigration law and the significant 1996 amendments thereto, noting:

Under contemporary law, if a noncitizen has committed a removable offense after [the 1996 amendments], his removal is practically inevitable but for the possible exercise of limited remnants of equitable discretion vested in the Attorney General to cancel removal for noncitizens convicted of particular classes of offenses. ...

These changes to our immigration law have dramatically raised the stakes of a noncitizen's criminal conviction. The importance of accurate legal advice for noncitizens accused of crimes has never been more important. These changes confirm our view that, as a matter of federal law, deportation is an integral part—indeed, sometimes the most important part — of the penalty that may be imposed on noncitizen defendants who plead guilty to specified crimes.

Id. at 363-64 (footnotes omitted).

Given the stakes involved, the Court held that advice regarding the deportation consequence is not categorically removed from the ambit of the Sixth Amendment's right to competent counsel, refusing to classify the deportation consequence as either direct or collateral. Id. at 366. The court further held that counsel's representation fell below an objective standard of reasonableness which required counsel advise Padilla of the risk of deportation (Id. at 367), reasoning as follows:

In the instant case, the terms of the relevant immigration statute are succinct, clear, and explicit in defining the removal consequence for Padilla's conviction. See 8 U.S.C. § 1227(a)(2)(B)(i) ("Any alien who at any time after admission has been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States or a foreign country relating to a controlled substance ..., other than a single offense involving possession for one's own use of 30 grams or less of marijuana, is deportable"). Padilla's counsel could have easily determined that his plea would make him eligible for deportation simply from reading the text of the statute, which addresses not some broad classification of crimes but specifically commands removal for all controlled substances convictions except for the most trivial of marijuana possession offenses. Instead, Padilla's counsel provided him false assurance that his conviction would not result in his removal from this country. **This is not a hard case in which to find deficiency: The consequences of Padilla's plea could easily be determined from reading the removal statute, his deportation was presumptively mandatory, and his counsel's advice was incorrect.**

Immigration law can be complex, and it is a legal specialty of its own. Some members of the bar who represent clients facing criminal charges, in either state or federal court or both, may not be well versed in it. There will, therefore, undoubtedly be numerous situations in which the deportation consequences of a particular plea are unclear or uncertain. The duty of the private practitioner in such cases is more limited. When the law is not succinct and straightforward (as it is in many of the scenarios posited by Justice Alito [in his concurrence]), a criminal defense attorney need do no more than advise a noncitizen client that pending criminal charges may carry a risk of adverse immigration consequences. **But when the deportation consequence is truly clear, as it was in this case, the duty to give correct advice is equally clear.**

Id. at 368-69 (bolding added) (footnote omitted). The Padilla Court later summarized its holding as follows:

It is our responsibility under the Constitution to ensure that no criminal defendant—whether a citizen or not—is left to the “mercies of incompetent counsel.” *Richardson*, 397 U.S., at 771, 90 S. Ct. 1441. **To satisfy this responsibility, we now hold that counsel must inform her client whether his plea carries a risk of deportation.** Our longstanding Sixth Amendment precedents, the seriousness of deportation as a consequence of a criminal plea, and the concomitant impact of deportation on families living lawfully in this country demand no less.

Id. at 374 (bolding added). Having found that Padilla sufficiently alleged a constitutional deficiency in counsel's representation, the Court remanded the case back to the lower court to determine whether he had been prejudiced. Id.

*IV. Pennsylvania Cases*

Since its issuance, our Superior Court has addressed ineffective assistance of counsel claims based upon Padilla in a number of cases, most notably Commonwealth v. Wah, 42 A.3d 335 (Pa. Super. 2012); Commonwealth v. McDermitt, 66 A.3d 810 (Pa. Super. 2013) and Commonwealth v. Escobar, 70 A.3d 838 (Pa. Super. 2013), *appeal denied*, 86 A.3d 232 (Pa. 2014). See also, Commonwealth v. Ghisoju, 63 A.3d 1272 (Pa. Super. 2013), *appeal denied*, 74 A.3d 125 (Pa. 2013).

Just two months after Padilla was decided, defendant Wah, a resident alien, pled guilty to forgery and Medicaid fraud in an amount in excess of \$10,000. He acknowledged at his guilty plea that his conviction could affect his immigration status. 42 A.3d at 337. He also acknowledged that his attorney had told him “to consult with an immigration attorney if you want[ ] to know the specific consequences of your guilty plea.” Id. at 340. Wah filed a PCRA petition in which he alleged that his counsel was ineffective for failing to advise him of the immigration consequences of pleading guilty to the fraud charge. Under federal immigration law, fraud causing a loss in excess of \$10,000 is classified as an aggravated felony, and as in this case, subjected Wah to removal proceedings. Id. at 337 (citing 8 U.S.C. § 1227(a)(2)(A)(iii) and § 1101(a)(43)(M)(i)). Wah asserted that his guilty plea to fraud in excess of \$10,000 essentially resulted in “mandatory, automatic deportation” and that his attorney was required to so advise him under Padilla. Id. The trial court rejected his claims and dismissed his PCRA petition.

In advancing his argument on appeal, Wah relied upon the distinction drawn by Justice Stevens in Padilla that appeared to require two different levels of advice from counsel depending upon the certainty of deportation; i.e. when the deportation consequences are “unclear or uncertain” and “the law not succinct and straightforward,” then counsel need only advise the noncitizen client that pending criminal charges “may carry a risk of adverse immigration consequences.” However, “when the deportation consequence is truly clear,” counsel has a “duty to give correct advice.” See, Padilla at 368-69. Wah claimed that the most cursory review of immigration law showed Medicaid fraud in an amount greater than \$10,000 was an aggravated felony subjecting him to “automatic, mandatory deportation” and because this consequence was truly clear and not uncertain, his counsel owed him the higher duty to so advise him as opposed to just advising him of a general risk of deportation. Wah at 340. Furthermore, he argued it was ineffectiveness for his attorney to have advised him to consult with an immigration attorney. Wah asserted such advice is only proper when the immigration consequences of the plea are not certain. Since the consequences of his plea were certain, counsel’s responsibility was non-delegable. Id.

The Superior Court rejected Wah’s arguments, distinguishing his case from Padilla and citing Justice Alito’s concurring opinion therein, as follows:

The statute at issue in Padilla provides for the deportation of any alien convicted of any drug violation, other than a single offense involving possession for one’s own use of 30 grams or less of marijuana. Padilla, 130 S. Ct. at 1483, citing 8 U.S.C. § 1227(a)(2)(B)(i). As the Court in Padilla recognized, “The consequences of Padilla’s plea could easily be determined from reading the removal statute....” Id. However, in

acknowledging the complexity of federal immigration law, which is its own legal specialty, the Court stated:

There will, therefore, undoubtedly be numerous situations in which the deportation consequences of a particular plea are unclear or uncertain. The duty of the private practitioner in such cases is more limited. When the law is not succinct and straightforward ... a criminal defense attorney need do no more than advise a noncitizen client that pending criminal charges may carry a risk of adverse immigration consequences.

*Id.* (footnote omitted).

In fact, in Justice Alito's concurrence, he remarks that,

**Most crimes affecting immigration status are not specifically mentioned by the [Immigration and Nationality Act (INA)], but instead fall under a broad category of crimes, such as *crimes involving moral turpitude or aggravated felonies*. As has been widely acknowledged, determining whether a particular crime is an “aggravated felony” or a “crime involving moral turpitude [(CIMT)]” is not an easy task.**

*Id.* at 1488 (brackets in original) (emphasis in original) (additional quotation marks and citations omitted). In this case, appellant was removable as an “aggravated felon” based upon his conviction of a crime involving fraud or deceit in which the loss to the victim exceeded \$10,000. 8 U.S.C. § 1227(a)(2)(A)(iii); 8 U.S.C. § 1101(a)(43)(M)(i). **Certainly, this matter is more complex than the statute at issue in *Padilla*, which mandates removal for virtually all controlled substances convictions.** We find that counsel acted within the range of professionally competent assistance when he recommended that appellant seek the advice of an expert in immigration law if he desired to know the specific consequences of his guilty plea.

Wah at 340-41 (bolding added, italics in original).

The Superior Court next addressed an ineffective assistance of counsel claim under Padilla in Commonwealth v. McDermitt. There the defendant pled no contest to possession of a controlled substance with intent to deliver. During the plea, defendant was informed that his conviction rendered him deportable. In addition, the court was informed that defendant was already voluntarily going through the channels of deportation. McDermitt later filed a PCRA petition claiming ineffective assistance of counsel, which claim was dismissed by the trial court without a hearing. 66 A.3d at 812. On appeal, the Superior Court affirmed, rejecting McDermitt’s argument that his attorney had a duty under Padilla to inform him he actually would be deported for his controlled substance conviction and not just that he was deportable. Id. at 814. The court summarily rejected McDermitt’s claim, as follows:

... We will quote that case's [*Padilla*'s] actual holding to refute appellant:

It is our responsibility under the Constitution to ensure that no criminal defendant—whether a citizen or not—is left to the “mercies of incompetent counsel.” [*McMann v. Richardson*, 397 U.S. [759], at 771, 90 S. Ct. 1441 [25 L.Ed.2d 763 (1970) ]. To satisfy this responsibility, we now hold that *counsel must inform her client whether his plea carries a risk of deportation*. Our longstanding Sixth Amendment precedents, the seriousness of deportation as a consequence of a criminal plea, and

the concomitant impact of deportation on families living lawfully in this country demand no less.

*Padilla*, 559 U.S. at —, 130 S. Ct. at 1486 (emphasis added).

Clearly, *Padilla* requires counsel to inform a defendant as to a risk of deportation, not as to its certainty. Moreover, even if *Padilla* required such information, it was not necessary in this case. At the time of his plea, appellant was already undergoing deportation and was well aware that he would be deported. ...

*Id.* (italics in original).

Notable by its absence in *McDermitt* was any discussion by the Superior Court panel of Justice Stevens' language in *Padilla*, acknowledged in *Wah*, regarding counsel's duty to give "correct advice" in cases involving controlled substance crimes, since what qualified as a controlled substance crime was recognized as easily determined under immigration law and that the consequence of conviction for such a crime was clear (mandatory deportation), further suggesting that the advice counsel was required to give in such cases requires more than just that there is "a risk of deportation." See *Padilla* at 368-69.

Shortly after *McDermitt* was issued, the Superior Court in *Commonwealth v. Escobar* more fully addressed the issue of what circumstances require "correct advice" under *Padilla*. There, Escobar pled guilty to possession with intent to deliver a controlled substance. Prior to his plea, he was informed on the record that it was "likely and possible" deportation proceedings would be initiated against him. He also signed a written colloquy twice acknowledging deportation was possible. Finally, his plea counsel testified that he advised Escobar "he faced a substantial deportation risk" if he pled guilty. 70 A.3d at 840. After deportation proceedings were initiated, Escobar filed a PCRA petition seeking to withdraw his plea on the basis of ineffective assistance of counsel. The trial court granted him relief finding ineffective assistance under *Padilla*. In so deciding, the trial court seized upon Justice Stevens' language, "essentially interpret[ing] the words 'the duty to give correct advice is equally clear' to mean that, because the instant statute clearly made Escobar deportable by virtue of his drug conviction, counsel was required to tell Escobar that he would, in fact, be deported." *Id.* at 841.

On appeal, the Superior Court reversed, holding that Escobar's plea counsel was not ineffective for advising him that his guilty plea would "likely" result in deportation. *Id.* at 841-42. The court reasoned as follows:

We disagree with the court's application of the law. **We do not agree that giving "correct" advice necessarily means counsel, when advising Escobar about his deportation risk, needed to tell Escobar he definitely would be deported.** It is true that 8 U.S.C. § 1227(a)(2)(B)(i) does lead to the conclusion that Escobar's PWID conviction certainly made him *deportable*. However, **whether the U.S. Attorney General and/or other personnel would necessarily take all the steps needed to institute and carry out Escobar's actual deportation was not an absolute certainty when he pled.** Given that Escobar did know deportation was possible, given that counsel advised him there was a substantial risk of deportation, and given that counsel told Escobar it was likely there would be deportation proceedings instituted against him, we find counsel's advice was, in fact, correct.

*Id.* at 841 (bolding added, italics in original). The court then addressed the tension between its holding and language in *Padilla* suggesting that “correct advice” requires plea counsel in some cases advise a noncitizen that deportation may be certain, explaining as follows:

In reaching our result, we are mindful that the *Padilla* court specifically considered 8 U.S.C. § 1227(a)(2)(B) [concerning the deportability of aliens convicted of controlled substance crimes], the same immigration/deportation statute at issue in the present case. When it did so, the court concluded that the statute clearly made *Padilla* “eligible for deportation” and that “his deportation was *presumptively* mandatory.” *Padilla*, 130 S. Ct. at 1483 (emphasis added). These remarks by the court were consonant with the terms of the statute indicating most drug convictions render a defendant *deportable*. **We do not read the statute or the court’s words as announcing a guarantee that actual deportation proceedings are a certainty such that counsel must advise a defendant to that effect.**

...

**We do acknowledge that parts of the *Padilla* opinion contain language arguably supporting the notion that plea counsel in some cases may have a duty to provide a rather certain indication of deportation.** For example, at one point, the *Padilla* court agreed competent counsel would have told *Padilla* he was “subject to automatic deportation.” *Id.* at 1478. At another point, the court indicated the instant deportation statute “commands” deportation for virtually all drug convictions. *Id.* at 1483. The opinion likewise observes that deportation for certain convictions is “practically inevitable.” *Id.* at 1480.

**Even still, we think the court’s overall emphasis was that the deportation statute in question makes most drug convicts subject to deportation in the sense that they certainly become deportable, not in the sense that plea counsel should know and state with certainty that the federal government will, in fact, initiate deportation proceedings.**

**Ultimately, when announcing its holding, the *Padilla* court opined, “[W]e now hold that counsel must inform [the] client whether [the] plea carries a risk of deportation.” *Id.* at 1486.** Here, counsel did advise Escobar his plea carried a risk of deportation. In fact, counsel told Escobar deportation proceedings were likely. Present counsel’s advice was within the range of competence demanded of attorneys in criminal cases.

*Id.* at 842 (bolding added, italics in original).

#### *V. Application of Padilla and the Superior Court Cases*

The Superior Court in *Wah* rejected the same claim advanced by petitioner here, which was that under *Padilla*, his deportation situation was truly clear and required that counsel provide him correct advice; i.e. that because he pled guilty to fraud involving more than \$10,000 - a crime readily classified as an aggravated felony under immigration law - he would be subject to “mandatory, automatic deportation” and should have been so advised. *Wah* at 340. As noted, the *Wah* court, relying on *Padilla*, reasoned that the determination of what crimes qualify as an aggravated felony under immigration law is “not an easy task” and “more complex” (than determination of a controlled substance crime). *Id.* at 340-41. Our Superior Court in *Wah* thus classified deportation situations involving aggravated felonies as “unclear and

uncertain” within the Padilla framework.<sup>3</sup> Under Padilla, deportation situations falling into this category only require that counsel advise the noncitizen client that the conviction “may carry a risk of adverse immigration consequences.” Padilla at 374. Based upon this decision, petitioner’s counsel was not ineffective here when he advised petitioner there was only a possibility he could be deported if he pled guilty to the crimes charged, including to aggravated assault, a crime clearly qualifying as an aggravated felony under immigration law.

To the extent there still remained a question after Wah as to whether plea counsel owed some greater duty under Padilla beyond merely advising a noncitizen client about a general risk or possibility of deportation, the Superior Court’s decisions in McDermitt and Escobar answered that question in the negative. The court in McDermitt basically reiterated the Wah holding that where a noncitizen pleads guilty to a potentially deportable crime – even to a controlled substance crime which Padilla and Wah acknowledged was a conviction for which deportation was nearly certain and the relevant statute succinct and clear - the only duty owed by counsel is to inform the noncitizen of “a risk of deportation, not as to its certainty.” McDermitt at 814.

The court in Escobar announced the same result addressing the issue in greater depth and retreating from language in Padilla suggesting that there were convictions that would ostensibly involve “automatic deportation” or situations where deportation was “command[ed]” or “practically inevitable.” Id. at 842 (citing Padilla). Escobar essentially rejected the notion that mandatory deportation or nearly certain deportation can be a consequence of a guilty plea, finding only that a conviction for a qualifying crime renders the noncitizen “eligible” for removal proceedings and thus merely “deportable,” reasoning that whether all the necessary steps required to institute and carry out deportation is “not an absolute certainty” when the plea is rendered. Id. at 841, 842.

Under Escobar, petitioner was merely eligible for removal proceedings when he entered his guilty plea to a deportable offense and as such, he was not subject to mandatory or automatic deportation given that it was not an “absolute certainty” the necessary steps to deport him would be undertaken; whether ICE would initiate and pursue petitioner’s actual deportation could not be determined at the time of his plea. Id. at 841. Since plea counsel here could not have stated with certainty that the federal government would in fact initiate removal proceedings against petitioner, counsel could not have been ineffective for failing to provide such advice.

#### *VI. Padilla and Other Jurisdictions*

I would be remiss to note that our Superior Court’s decisions interpreting Padilla are seemingly at odds with those of many other jurisdictions. For example, most jurisdictions appear to reject the finding in Escobar that there is essentially no such thing as mandatory or nearly mandatory deportation since it can

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<sup>3</sup> Discovering the deportation consequence of the aggravated felony arising from Medicaid fraud in Wah required about the same level of expertise as did discovery of the aggravated felony in this case. As I note below in Part VI, I disagree that this discovery required any specialized level of legal expertise.

never be certain at the time of conviction whether the federal government will later initiate removal proceedings. Instead, foreign courts appear to recognize the non-fiction that removal proceedings are a mere formality and that a person convicted of a deportable offense, including for an aggravated felony, will almost certainly be deported. See e.g., Mendoza v. United States, 690 F.3d 157, 158 (3d Cir. 2012) (indicating that a guilty plea to an aggravated felony leads to “mandatory deportation”); United States v. Mancebo, 2014 WL 3385071, at \*4 (M.D. Pa. July 9, 2014) (“deportation is an almost-certain consequence of certain criminal convictions” including aggravated felonies); Encarnacion v. State, 763 S.E.2d 463, 465 (Ga. 2014) (“the applicable federal statutes make it clear that a conviction for an aggravated felony automatically triggers the removal consequence and almost always leads to deportation”); Keserovic v. State, 345 P.3d 1024, 1027 (Id. App. 2015) (misdemeanor theft conviction which was an aggravated felony under immigration law subjected the defendant to mandatory or virtually certain deportation); and People v. Corporan, 22 N.Y.S.3d 441, 442 (N.Y. App. 2016) (a guilty plea to an aggravated felony “triggered mandatory deportation under federal law”).

Furthermore, the Superior Court’s holding in Wah - that plea counsel need only advise a noncitizen pleading guilty to an aggravated felony that there is a risk of deportation – is also at odds with decisions issued by many other jurisdictions, which hold that since an aggravated felony results in mandatory or near mandatory deportation, counsel is under a duty to provide clear advice as to that consequence and that it is ineffective assistance to advise the noncitizen that there is merely a risk or possibility of deportation. See e.g. United States v. Bonilla, 637 F.3d 980, 984 (9th Cir. 2011) (“[a] criminal defendant who faces almost certain deportation [for committing an aggravated felony] is entitled to know more than that it is *possible* that a guilty plea could lead to removal; he is entitled to know that it is a virtual certainty”); Encarnacion v. State, 763 S.E.2d 463, 466 (Ga. 2014) (“where, as here, the law is clear that deportation is mandatory [for the aggravated felony of burglary] ... an attorney has a duty to accurately advise his client of that fact” and it is not sufficient that the client is merely advised deportation might occur or was a risk of conviction); Ortega-Araiza v. State, 2014 WY 99, 331 P.3d 1189 (Wyo. 2014) (a plea agreement executed by the alien defendant, which advised the plea “may” result in negative immigration consequences including potential deportation, was insufficient to cure the prejudice arising from defendant counsel’s deficient performance in failing to specifically advise defendant of his almost certain deportation if he entered guilty plea to aggravated felony for committing a crime of violence); State v. Nkiam, *supra* at 872 (N.C. Ct. App. 2015) (deportation consequences of guilty plea to robbery crimes, which were plainly indicated as aggravated felonies under federal law and presumptively mandatory, were truly clear and thus trial counsel had a duty to give correct advice and not just advise defendant that charges may carry a risk of adverse immigration consequences); State v. Kostyuchenko, 8 N.E.3d 353, 356-57 (Ohio App. 2014) (counsel breached duty by advising his client only that there may be a consequence of deportation where defendant pled guilty to an aggravated felony (crime of violence), instead, counsel was obligated to advise defendant that his deportation would be mandatory) and Cano v. State, 112 So. 3d 646, 648 (Fla. App. 2013) (noncitizens who, pursuant to a state rule had been advised by their sentencing judges that they “may” or “could” be deported if they pled guilty, could state a claim for relief under Padilla if they could establish, among other things, that the law subjected them to “virtually automatic” deportation



and that the “presumptively mandatory” consequence of deportation was clear from the face of the immigration statute). See also, Mendoza v. United States at 158 (3d Cir. 2012) (suggesting that the failure by counsel to apprise defendant that his guilty plea to an aggravated felony would lead to mandatory deportation was deficient representation).

Were it this court’s job to dispose of petitioner’s ineffective assistance of counsel claim based solely upon the U.S. Supreme Court’s decision in Padilla - prior to our Superior Court’s narrow interpretation in Wah, McDermitt and Escobar - I would have found counsel to have been ineffective under Padilla, as have the courts of so many other jurisdictions (cited above).

The determination of the deportation consequence for an aggravated assault conviction in this case was, in this court’s estimation, succinct, clear, explicit and easily discernable from reading the plain text of the United States Code. The list of deportable offenses, although extensive, is clearly set out at 8 U.S.C. § 1227(a) and includes aggravated felonies. The list of twenty-one types of aggravated felonies triggering automatic removal is also clearly set out at 8 U.S.C. 1101(a)(43)(A-U) and includes “crimes of violence,” for which aggravated assault clearly qualified. Title 8, Section 1228(c) provides for a conclusive presumption of deportation for all aliens who commit aggravated felonies. Finally, Title 8, Section 1229b(a)(3) removes any power from the Attorney General to cancel deportation proceedings for persons convicted of aggravated felonies.

Thus, discovering that a noncitizen’s aggravated assault conviction is an aggravated felony for which deportation is virtually mandatory does not require any kind of special legal expertise on the part of counsel. See, State v. Nkiam, 778 S.E.2d 863, 870 (N.C. App. 2015) (noting that courts have generally held that if counsel can discern the deportation consequences from the plain language of the U.S. Code, than the consequences are clear; if counsel must go beyond the statute or if there are inconsistent rulings or law, however, the consequences are unclear (citing cases from foreign jurisdictions)).

Because I believe the deportation consequence in this case was truly clear, and the immigration law succinct and straightforward, counsel’s duty was to provide him correct advice, which this court would interpret to require he advise petitioner that at the least, his deportation upon conviction was a near certainty or that he would be conclusively presumed deportable. I would thus have held that counsel’s advising of the mere possibility of deportation to have been ineffective.

#### *VI. Conclusion*

This court is bound, however, by the Superior Court holdings set forth above. As such, I am constrained to hold that because counsel’s advice was not deficient under Wah, McDermitt and Escobar, petitioner has not established counsel was ineffective and as such, his plea was voluntary, knowing and intelligent. Accordingly, I enter the following:

**ORDER**

AND NOW, this 17<sup>th</sup> day of February, 2016, the Petition filed by Kevin Forde 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.

## FIRST PUBLICATION

### Estate Notices

ESTATE OF VERNA E. BRUNER, (died: October 14, 2015), late of the Township of Washington, County of Dauphin, Pennsylvania. Co-Administratrixes: Virginia L. Teter, 1311 North Second Street, Lykens, Pennsylvania 17048; and Peggy Ann Gearhart, 5634 State Route 209, Lykens, Pennsylvania 17048. Attorney: Joseph D. Kerwin, Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, Pennsylvania 17023. f26-m11

ESTATE OF PAUL E. MARTZ A/K/A PAUL ELWOOD MARTZ, (died: January 4, 2016), late of Lower Paxton Township, Dauphin County, Pennsylvania. Executor: Manufacturers and Traders Trust Company, Attn: Shelly Kunkel, Esq. Trust and Investment Services, 3607 Derry Street, Mail Code: PA 1-DS23, Harrisburg, PA 17111 or to Attorney: Jill M. Wineka, Esquire, Purcell, Krug & Haller, 1719 North Front Street, Harrisburg, PA 1710. f26-m11

ESTATE OF LAURA SINOWAY A/K/A LAURA JEANETTE Y. SINOWAY, (died: December 26, 2014), late of Lower Paxton Township. Executrix: Lawrence Sinoway, 1960 Christopher Place, Harrisburg, PA 17110. Attorney: Herschel Lock, Esq., 3107 North Front St., Harrisburg, PA 17110. f26-m11

ESTATE OF DOROTHY A. RUBINIC, late of Swatara Township, Dauphin County, Pennsylvania. Executor: Joseph A. Rubinic, Jr., 902 Penn Street, Oberlin, PA 17113 or to Attorney: Kathleen B. Murren, Esquire, SkarlatosZonarich, LLC, 17 S. 2nd St., Floor 6, Harrisburg, PA 17101. f26-m11

ESTATE OF CATHERINE M. RUPP, (died: February 4, 2016), late of Lower Paxton Township, Dauphin County, Pennsylvania. Co-Executors: Carol A. Watkins, 11 Harrogate Drive, Hummelstown, PA 17036; Ronald L. Rupp, 227 D Pleasant View Road, Halifax, PA 17032 or Attorney: Jean D. Seibert, Esquire, CALDWELL & KEARNS, PC, 3631 North Front Street, Harrisburg, PA 17110. f26-m11

ESTATE OF KIMBERLY A. MORRISON, late of Hummelstown Borough, Dauphin County. Executrix: Donna Katzmire c/o Estate of Kimberly A. Morrison, Reilly Wolfson, 1601 Cornwall Road, Lebanon, PA 17042. f26-m11

ESTATE OF VIRGINIA A. LANDIS A/K/A VIRGINIA ANN LANDIS, late of Lower Paxton Township, Dauphin County, Pennsylvania. Executrix: Mable Ruth Wray, 4305 Winthrop Drive, Harrisburg, PA 17112. Attorney: Butler Law Firm, 1007 Mumma Road, Suite 101, Lemoyne, PA 17043. f26-m11

ESTATE OF LOUISE M. PEASE, (died: January 17, 2016), late of Swatara Township. Executor: Christopher J. Pease, 719 Paxton Street, Steelton, PA 17113. Attorney: Scott M. Dinner, Esquire, 3117 Chestnut Street - 2nd Floor, Camp Hill, PA 17011. f26-m11

## SECOND PUBLICATION

### Estate Notices

ESTATE OF ANNIE WILLIAMS, (died: December 25, 2015), late of Middletown, Dauphin County, Pennsylvania. Executrix: Mary Edith Miller, 426 Russell Avenue, Middletown, PA 17057 or Attorney: Floyd M. Baturin, Esquire, BATURIN & BATURIN, 2604 North Second Street, Harrisburg, PA 17110, (Attorneys for the Estate). f19-m4

ESTATE OF NEVIN E. HENNINGER, (died: December 11, 2015), late of Upper Paxton Township. Executrix: Melinda Henninger, 733 Tarry Hall Road, Millersburg, PA 17061. Attorney: Robert G. Radebach, Esquire, 912 North River Road, Halifax, PA 17032. f19-m4

ESTATE OF EARL L. CRUM, SR, (died: January 15, 2016), late of Dauphin County, Pennsylvania. Executor: Earl Crum, 98 South Houcks Road, Harrisburg PA 17104. Attorney: Gregory J Katshir, Esquire, 900 Market Street, Lemoyne PA 17043. f19-m4

ESTATE OF RICHARD J. ROUSSEL, AKA RICHARD JOSEPH ROUSSEL, (died: December 2, 2015), late of Dauphin County, PA. Executrix: Patricia Roussel; Attorney: Vicky Ann Trimmer, Esquire, Daley Zucker Meilton & Miner, LLC, 635 N. 11h Street, Suite 101, Lemoyne, PA 17043. f19-m4

ESTATE OF HELEN M. ALLMAN, late of Millersburg Borough, Dauphin County, Pennsylvania. Co-Executors: Russell G. Snoke, 276 Moore Street, Millersburg, PA 17061; Steve E. Allman, 365 Grange Hall Road, Millersburg, PA 17061. Attorney: Earl Richard Etzweiler, Esquire 105 N. Front Street, Harrisburg, PA 17101, (717) 234-5600. f19-m4

ESTATE OF DIANE L. HUTCHINSON, (died: January 25, 2016), late of Lower Paxton, Dauphin County, PA. Executor: David A. Hutchinson, 42 Bartlett Street, Chelmsford, MA 01824. f19-m4

ESTATE OF EVELYN M. DRESSLER, (died: December 18, 2015), late of Millersburg Borough, Dauphin County, Pennsylvania. Co-Executor: Steven T. Weller, 555 Race Street, Millersburg, PA 17061; Co-Executor: Harold E. Dressler, Jr., 555 Race Street, Millersburg, PA 1706. Attorney: Joseph D. Kerwin, Kerwin & Kerwin, LLP, 4245 Route 209, Elizabethtown, Pennsylvania 17023. f19-m4

**SECOND PUBLICATION****Estate Notices**

ESTATE OF LOUISE A. BREIT, (died: January 8, 2016), late of Harrisburg, Pennsylvania. Executor: Thomas E. Breit, 517 Madison Drive, Sarasota, FL 34236. Attorney: Susan E. Lederer, Esquire, 5011 Locust Lane, Harrisburg, PA 17109. f19-m4

ESTATE OF EDWARD SCOTT WALBORN, A/K/A SCOTT WALBORN, late of Thompson-town Borough, Juniata County, Pennsylvania. Administratrix, Donna F. Showers. Attorney: Melanie Walz Scaringi, Esquire, Scaringi & Scaringi, P.C., 2000 Linglestown Road, Suite 106, Harrisburg, PA 17110. f19-m4

ESTATE OF SANDRA L. DOLAN, (died: June 26, 2015), late of Lower Paxton Township. Executor: Kevin J. Smith, 1038 Scenic Drive, Coal Center, PA 15423. Attorney: Chad J. Julius, Esq., 8150 Derry Street, Suite A, Harrisburg, PA 17111. f19-m4

ESTATE OF MIRIAM C. HEPLER, (died: January 17, 2013), late of Elizabethtown Borough. Administrator: George W. Hepler, III, 912 Red Hill Road, Dauphin, PA 17018. Attorney: Robert G. Radebach, Esquire, 912 North River Road, Halifax, PA 17032. f19-m4

ESTATE OF JOAN L. MOSS, (died: January 19, 2016), late of City of Harrisburg, Dauphin County, Pennsylvania. Executrix: Cynthia M. Louey, 6238 N. Highlands Circle, Harrisburg, PA 17111. f19-m4

ESTATE OF STEVEN ALAN LAMONOFF, (died: December 4, 2015), late of Susquehanna Township, Dauphin County, Pennsylvania. Administratrix: Debra Chemicoff. Attorney: Bruce J. Warshawsky, Esquire, Cunningham, Chemicoff & Warshawsky, P.C., 2320 North Second Street, Harrisburg, PA 17110. f19-m4

ESTATE OF ANTO DUJAK, (died: January 16, 2016), late of Lower Paxton Township, Dauphin County, Pennsylvania. Executor: Boris Duja. Attorney: Bruce J. Warshawsky, Esquire, CUNNINGHAM, CHERNICOFF & WARSHAWSKY, P.C., 2320 North Second Street, Harrisburg, PA 17110. f12-26

ESTATE OF ROBERT L. MESSNER, (died: January 29, 2016), late of Lykens Borough, Dauphin County, Pennsylvania. Executrix: Terry A. Bakowicz, 160 Romberger Lane, Elizabethville, PA 17023; Attorney: Terrence J. Kerwin, Kerwin & Kerwin, LLP, 4245 Route 209, Elizabethville, Pennsylvania 17023. f12-26

**THIRD PUBLICATION****Estate Notices**

ESTATE OF JACQUELYN F. DOUGLASS, (died: January 1, 2016), late of Lower Swatara Township, Dauphin County, Pennsylvania. Personal Representative: Marcy Jo Douglass, 710 Appalachian Avenue Carlisle, PA 17013 or Attorney: Jean D. Seibert, Esquire, CALDWELL & KEARNS, PC, 3631 North Front Street, Harrisburg, PA 17110. f12-26

ESTATE OF LUCY C. VIA A/K/A LUCY VIA A/K/A LUCY G. VIA, late of Derry Township, Dauphin County, Pennsylvania. Executor: Ronald J. Via, 700 County Line Road, Grantville, PA 17028 or Joseph M. Farrell, Esquire, 201/203 South Railroad Street, P.O. Box 113, Palmyra, PA 17078. f12-26

ESTATE OF MARLENE E. PIKE-SHERMAN, A/K/A MARLENE E. PIKE SHERMAN, A/K/A MARLENE E. SHERMAN, A/K/A MARLENE SHERMAN, (died: January 9, 2016), late of Derry Township, Dauphin County, PA. Executor: Robert G. Hummel c/o George W. Porter, Esquire, 909 E. Chocolate Ave., Hershey, PA 17033. f12-26

ESTATE OF ANNA MAE DENNIS, of Middletown Borough, Dauphin County, Pennsylvania. Personal Representative/Executrix: PAULA K. HOSTETTER, 343 Aspen Street, Middletown, PA 17057 or to Attorney: KATHLEEN B. MURREN, ESQ., SkarlatosZonarich, LLC, 17 S. 2nd St., Floor 6, Harrisburg, PA 17101. f12-26

ESTATE OF ROBERT E. HARRIS, (died: December 20, 2015), late of Upper Paxton Township, Dauphin County, Pennsylvania. Executor: Robert J. Harris, 5027 Amelia's Path West, Mechanicsburg, PA 17050; Attorney: Gregory M. Kerwin, Esquire, Kerwin & Kerwin, LLP, Attorneys at Law, 4245 State Route 209, Elizabethville, PA 17023. f12-26

ESTATE OF GEORGE HOUSTON GARMAN, (died: July 28, 2015), late of Harrisburg, Dauphin County, Pennsylvania. Executor: Christopher Garman, 10 Caravan Court, Middletown, PA 17057. f12-26

ESTATE OF MILDRED N. SNYDER, (died: January 18, 2016), late of the Township of Halifax, Dauphin County, Pennsylvania. Co-Executor: Donald E. Snyder, 2386 Armstrong Valley Road, Halifax, Harrisburg, Pennsylvania 17032; Co-Executor: James R. Snyder, 175 McClellan Road, Halifax, Pennsylvania 17032; Co-Executor: Billie L. Snyder, 183 McClellan Road, Halifax, Pennsylvania 17032; Attorney: Holly M. Kerwin, Esquire, Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethville, PA 17023. f12-26

**THIRD PUBLICATION**

**Estate Notices**

ESTATE OF JOHN A. STANCIK, (died: December 5, 2015), of Lower Paxton Township, Dauphin County, Pennsylvania. Executrix: Janice M. Davis, c/o David W. DeLuca, Attorney, Johnson, Duffie, Stewart & Weidner, 301 Market Street P.O. Box 109, Lemoyne, PA 17043. f12-26

ESTATE OF FRANCIS J. BOBITZ, A/K/A, FRANCIS JOSEPH BOBITZ, late of Susquehanna Township, Dauphin County, Pennsylvania. Co-Executrices: Eloise M. Miller, 682 Mahanoy Valley Road, Duncannon, PA 17020; Gloria J. Leeper, 9448 Mountain Road, Grantville, PA 17025. Attorney: R. Benjamin Cramer, Esquire, P. O. Box 159, Duncannon, PA 17020. f12-26

ESTATE OF ARLENE A. KINGSTON (A/K/A A. ARLENE KINGSTON AND AGNES ARLENE KINGSTON, (died: May 2, 2015), late of Harrisburg City, Dauphin County, Pennsylvania. Executrix: Gayle K. Morse, 1011 Hecks Drive, Dauphin PA 17018. Attorney: Michael J. Wilson, 113 Iron Furnace Court, Lewisberry PA 17339-9339, 717-795-6217, PA Bar ID: 52680. f12-26

ESTATE OF DARVIN E. WEIKEL, late of Susquehanna Township, Dauphin County, Pennsylvania. Executor: Gregory S. Weikel, Sr., c/o Estate of Darvin E. Weikel, 611 N. Pine Street, Middletown, PA 17057 or Wix, Wenger & Weidner, c/o Peter G. Howland, Esquire, 508 North Second Street, P.O. Box 845, Harrisburg, PA 17108-0845, (717) 234-4182. f12-26

ESTATE OF SPIGNER, A/K/A DONALD WAYNE SPIGNER A/K/A DONALD W. SPIGNER, (died: October 31, 2015), late of the City of Harrisburg, Dauphin County, PA. Executrix: Carol W. Spigner, c/o Marianne P. Flood, Esq., 703 Lakeside Park, Southampton, PA 18966. Or to her Atty.: Marianne P. Flood, Flood & Masiuk, LLC, 703 Lakeside Park, Southampton, PA 18966. f12-26



**FIRST PUBLICATION**

**Corporate Notices**

NOTICE IS HEREBY GIVEN that **Tech Data Delaware, Inc.** filed a Foreign Registration for a business corporation with the Commonwealth of Pennsylvania. The address of its principal office under the laws of its jurisdiction is 5350 Tech Data Drive Clearwater FL 33760. The name of this corporation's 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. 412. f26

NOTICE IS HEREBY GIVEN that a Registration Statement for a Foreign Business Corporation was filed in the Department of State of the Commonwealth of Pennsylvania for **Authentify, Inc.** The address of the association's principal office under the law of the association's jurisdiction is 850 New Burton Road Suite 201 Dover DE 19904. The name of the association's 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. 412. f26

NOTICE IS HEREBY GIVEN THAT Articles of incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA on January 11, 2016, for the purpose of obtaining a Certificate of Incorporation of a Professional Business Corporation to be organized under the Business Corporation Law of 1988.

The name of the proposed corporation is **KNG COMMERCIAL PROPERTIES, LLC.**

Buzgon Davis Law Offices  
525 South Eighth Street  
Lebanon P A 17042-0049  
717 - 274-1421

f26

NOTICE IS HEREBY GIVEN THAT Articles of incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA on December 2, 2014, for the purpose of obtaining a Certificate of Incorporation of a Professional Business Corporation to be organized under the Business Corporation Law of 1988.

The name of the proposed corporation is **KNG HOLDINGS, LLC.**

Buzgon Davis Law Offices  
525 South Eighth Street  
Lebanon P A 17042-0049  
717 - 274-1421

f26

## FIRST PUBLICATION

### Corporate Notices

NOTICE IS HEREBY GIVEN that **SENIORS UNITED INSURANCE AGENCY, INC.** filed a Foreign Registration statement for a business corporation with the Commonwealth of Pennsylvania. The address of the principal office is 12777 Jefferson Blvd., Los Angeles, CA 90066. The Commercial Registered office provider is in care of CT Corporation System in Dauphin County. The Corporation is filed in compliance with the requirements of the applicable provisions of 15 Pa. C.S. 412. f26

NOTICE IS HEREBY GIVEN that **PMD Healthcare, Inc.** filed a Foreign Registration statement for a business corporation with the Commonwealth of Pennsylvania. The address of the principal office is 6620 Grant Way, Allentown PA 18106. The Commercial Registered office provider is in care of National Registered Agents, Inc. in Dauphin County. The Corporation is filed in compliance with the requirements of the applicable provisions of 15 Pa. C.S.412. f26

NOTICE IS HEREBY GIVEN that **Talix, Inc.** filed a Foreign Registration statement for a business corporation with the Commonwealth of Pennsylvania. The address of the principal office is 660 Third Street, San Francisco, CA 94107. The Commercial Registered office provider is in care of National Registered Agents, Inc. in Dauphin County. The Corporation is filed in compliance with the requirements of the applicable provisions of 15 Pa. C.S. 412. f26

NOTICE IS HEREBY GIVEN that **Spiral Solutions & Technologies, Inc.**, a foreign business corporation under the laws of the State of Nebraska where its principal office is located at 2203 Harvell Plaza Dr., Bellevue, NE 68005 has applied for a Certificate of Authority in Pennsylvania, where its registered office is located at c/o InCorp Services, Inc. Dauphin County. The registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania f26

NOTICE IS HEREBY GIVEN that **Heron Therapeutics, Inc.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 123 Saginaw Dr., Redwood City, CA 94063, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The commercial registered office provider in PA is c/o: Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. f26

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on August 10th, 2015, with respect to a proposed non-profit corporation. **Poni Corp.**, which has been incorporated under the nonprofit Corporation Law of 1988.

A brief summary of the purposes for which said corporation is organized is: Hosting social events. PONI CORP is doing business as FillyCon. f26

NOTICE IS HEREBY GIVEN that **CARS MTISPE-6, Inc.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 8270 Greensboro Dr., Ste. 950, McLean, VA 22102, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The commercial registered office provider in PA is c/o: Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. f26

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of the Commonwealth of Pennsylvania on 2/17/2016 under the Domestic Business Corporation Law, for **PELGAR USA CORP.**, and the name and county of the commercial registered office provider is c/o: Corporation Service Co., Dauphin County. f26

NOTICE IS HEREBY GIVEN that **CONSOLIDATED ANALYTICS, INC.**, a foreign business corporation under the laws of the State of California where its principal office is located at 19712 Macarthur Blvd, Suite 120, Irvine, CA 92612 has applied for a Certificate of Authority in Pennsylvania, where its registered office is located at c/o InCorp Services, Inc. Dauphin County. The registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania. f26

NOTICE IS HEREBY GIVEN that **Watson Land Company**, a foreign business corporation, has applied for a Statement of Registration to do business in the Commonwealth of Pennsylvania under the provisions of Chapter 4 of the Pennsylvania Association Transactions Act (15 Pa. C.S. § 6124). The corporation is incorporated under the laws of the State of California. The address of its principal office under the laws of said jurisdiction is 22010 Wilmington Ave., Carson, CA 90745, and the name of its commercial registered officer provider in Pennsylvania is CT Corporation System, Dauphin County. f26

**FIRST PUBLICATION**

**Corporate Notices**

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the purpose of obtaining a Certificate of Incorporation for a business corporation organized under the Business Corporation Law of 1988, Act of December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is: **Catherine Martin Galleries, Inc.**

This notice is given pursuant to Section 1307 of the Business Corporation Law of 1988.

Vicky Ann Trimmer, Esquire  
Daley Zucker Meilton & Miner, LLC  
635 N. 12th Street, Suite 101  
Lemoyne, PA 17043

f26

NOTICE IS HEREBY GIVEN that the shareholders and directors of **Lehman Fitness Group, Inc.**, a Pennsylvania corporation with an address at 2740 Penbrook Avenue, Harrisburg, PA 17103, have approved a proposal that the corporation voluntarily dissolve, and that the Board of Directors is now engaged in winding up and settling the affairs of the corporation under the provisions of Section 19750 of the Pennsylvania Corporation Law of 1988, as amended.

BUTLER LAW FIRM  
1007 Mumma Road, Suite 101  
Lemoyne, PA 17043

f26

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the purpose of obtaining a Certificate of Incorporation for a business corporation organized under the Business Corporation Law of 1988, Act of December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is: **Forrest Road Archives, Inc.**

This notice is given pursuant to Section 1307 of the Business Corporation Law of 1988.

Vicky Ann Trimmer, Esquire  
Daley Zucker Meilton & Miner, LLC  
635 N. 12th Street, Suite 101  
Lemoyne, PA 17043

f26

NOTICE IS HEREBY GIVEN that Articles of Incorporation - For Profit were filed under the provisions of the Pennsylvania Corporation law of 1988, as amended for **Protech Business Solutions Inc.**

f26

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on February 5, 2016 with respect to a proposed non-profit corporation. **JRI-Sub-Carpathia, Inc.** which has been incorporated under the nonprofit Corporation Law of 1988. A brief summary of the purposes for which said corporation is organized is: exclusively for cultural and ethnic awareness, and other charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. f26

NOTICE IS HEREBY GIVEN that an Application for Registration was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, P A, pursuant to 15 Pa. C.S. § 8981, on September 9, 2014, for the purpose of registering to do business in the State of Pennsylvania. The limited liability company is organized under the laws of the State of Ohio. The address of its principal office under the laws of said jurisdiction is 4571 Stephen Circle, N.W., Canton, OH 44718, and the name of its commercial registered office provider in Pennsylvania is CT Corporation System, Dauphin County.

The name of the limited liability company is **Valley Energy Services, LLC.** f26

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 4129 of the PA Business Corporation Law of 1988, **Hyundai BC Funding Corporation**, a corporation of the State of Delaware with principal office at 3161 Michelson Dr., Suite 1900, Irvine, CA 92612 and having a Commercial Registered Office Provider and County of Venue as follows: National Registered Agents, Inc., Dauphin County, which on 05/24/2002 was registered to transact business in the Commonwealth, intends to file a Statement of Withdrawal with the Department of State. f26

NOTICE IS HEREBY GIVEN that a Foreign Registration Statement was filed with the PA Dept. of State on 02/12/2016 by **Spectrum Playground Equipment, Inc.**, a business corporation formed under the laws of the jurisdiction of SD with its principal office located at 500 Rainbow Pkwy., Brookings, SD 57006, 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. f26

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State for **Falcon Acquisition Group, Inc.**, a corporation organized under the Pennsylvania Business Corporation Law of 1988. f26

**FIRST PUBLICATION**

**Corporate Notices**

NOTICE IS HEREBY GIVEN that a Foreign Registration Statement was filed with the PA Dept. of State on 02/09/2016 by **Terma North America Inc.**, a business corporation formed under the laws of the jurisdiction of DE with its principal office located at 2461 S. Clark St., Ste. 810, Arlington, VA 22202, 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. f26

NOTICE IS HEREBY GIVEN that **ACTION INSTALLATIONS & MAINTENANCE INC** hereby gives notice that articles of incorporation were filed on 2/10/2016 with the Department of State of the Commonwealth of Pennsylvania, 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. f26

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of the Commonwealth of Pennsylvania on 2/4/2016 under the Domestic Business Corporation Law, for **CYRTEN, INC.** and the name and county of the commercial registered office provider is c/o: Corporation Service Co., Dauphin County. f26

NOTICE IS HEREBY GIVEN that **Innovation Group of South Florida, Inc.**, a foreign business corporation incorporated under the laws of Florida, with its princ. office located at 1002 E. Newport Center Dr., Ste. 100, Deerfield Beach, FL 33442, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The commercial registered office provider in PA is c/o: Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. f26

NOTICE IS HEREBY GIVEN that **Rakuten Card USA, Inc.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 800 Concar Dr., Ste. 300, San Mateo, CA 94402, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The commercial registered office provider in PA is c/o: Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. f26

NOTICE IS HEREBY GIVEN that **Symphony Health Solutions Corporation**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 1001 E. Hector St., Conshohocken, PA 19428, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The street address in the association's jurisdiction of formation is c/o Corporation Service Co., 2711 Centerville Rd., Wilmington, PA 19808. The commercial registered office provider in PA is c/o: Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. f26

NOTICE IS HEREBY GIVEN that **Sprint Wavpath Holdings, Inc.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 6200 Sprint Pkwy., MS: KSOPHF0302, Overland Park, KS 66251, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The street address in the association's jurisdiction of formation is 6500 Sprint Pkwy., MS: KSPOHL0512-5A803, Overland Park, KS 66251. The commercial registered office provider in PA is c/o: Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. f26

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 4129 of the PA Business Corporation Law of 1988, **Lifestyle Settlements, Inc.**, a corporation with its jurisdiction of formation in CA and its principal office located at c/o NFP Corp., 340 Madison Ave., 20th Fl., New York, NY 10173, and having a Commercial Registered Office Provider and County of Venue as follows: c/o CT Corporation System, Dauphin County, will file a Statement of Withdrawal of Foreign Registration with the Department of State. f26

NOTICE IS HEREBY GIVEN that **ASHLEY HOLDINGS, INC.** a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at One Ashley Way, Arcadia, WI 54612, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The street address in the association's jurisdiction of formation is One Ashley Way, Arcadia, WI 54612. The commercial registered office provider in PA is c/o: Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. f26



**FIRST PUBLICATION**

**Corporate Notices**

NOTICE IS HEREBY GIVEN that **KENNEDY INTERNATIONAL SOFTWARE, INC.**, a foreign corporation formed under the laws of the State of Jersey where its principal office is located at 2550 Gray Falls Dr., Ste. 333, Houston, TX 77077, has or will register to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on January 21, 2016, 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 Business Filings Incorporated, Dauphin County. f26

NOTICE IS HEREBY GIVEN that **NATIONAL WELDING CORPORATION**, a foreign corporation formed under the laws of the State of Utah where its principal office is located at 7025 S. Commerce Park Dr., Midvale, UT 84047-1090, has or will register to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on February 5, 2016, 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. f26

**FIRST PUBLICATION**

**Fictitious Name Notices**

NOTICE IS HEREBY GIVEN that an application for registration of a fictitious name, **NWT Settlement Services**, for the conduct of business in Dauphin County, Pennsylvania, with the principal place of business being 1407 York Road, Suite 304, Lutherville, MD 21093 was made to the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on the 1st day of February, 2016 pursuant to the Act of Assembly of December 16, 1982, Act 295.

The name and address of the only person or persons owning or interested in the said business are: Bryan R. Wachs, Esquire, 1407 York Road, Suite 304, Lutherville, MD 21093. f26

NOTICE IS HEREBY GIVEN that an application for registration of a fictitious name, **Valley Trucking Services**, for the conduct of business in the State of Pennsylvania, with the principal place of business being 4571 Stephen Circle, N. W., Canton, Ohio 44718, was made to the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on the 12th day of February, 2016 pursuant to the Act of Assembly of December 16, 1982, Act 295.

The name and address of the only entity owning or interested in the said business is: Pleasant Valley Operating, LLC, 4571 Stephen Circle, N. W., Canton, Ohio 44718. f26

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on December 1, 2015 for **Mike Arndt Construction** located at 456 Crooked Hill Rd Hummelstown PA 17036. The name and address of each individual interested in the business is Michael Arndt 456 Crooked Hill Rd Hummelstown P A 17036. This was filed in accordance with 54 Pa.C.S. 311. f26

**FIRST PUBLICATION**

**Miscellaneous Notices**

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

**NO. 2013 CV 4311 DC**

**CIVIL ACTION - AT LAW  
INDIVORCE**

**DEREK C. SMITH, PLAINTIFF  
VS.  
CHANDRA D. MARSHALL-SMITH,  
DEFENDANT**

**NOTICE**

To Chandra D. Marshall-Smith. You have been sued for divorce by the Plaintiff, Derek C. Smith, on the grounds of irretrievable breakdown of the marriage. 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.

**FIRST PUBLICATION**

**Miscellaneous Notices**

IF YOU DO NOT FILE A CLAIM FOR ALIMONY, DIVISION OF PROPERTY, LAWYER'S FEES, OR EXPENSES BEFORE A DIVORCE IS GRANTED, YOU MAY LOSE THE RIGHT TO CLAIM ANY OF THEM.

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 MAYBE 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

f26

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

**NO.2015-CV-3498**

**CIVIL DIVISION - LAW**

**ACTION TO QUIET TITLE AND/OR FOR  
DECLARATORY JUDGMENT**

**SOVEREIGN BANK, N.A., PLAINTIFF  
VS.  
MARATHON CAPITAL, L.P., DEFENDANT**

**NOTICE**

TO: Marathon Capital, L.P., and Any and All unknown predecessors, subsidiaries, successors, present or former officers, directors, partners, administrators, attorneys, accountants, insurers, employees, and/or agents Claiming Right, Title or Interest from or Under Marathon Capital, L.P.

NOTICE IS HEREBY GIVEN that the above was named as Defendant in a civil action instituted by Plaintiff. This is a Complaint to Quiet Title and for Declaratory Judgment relating to Marathon Capital, L.P.'s purported interest in the property located at 4812 Londonderry Road, Harrisburg, PA.

**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU, WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

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  
PHONE: (717) 232-7536

Samuel E. Cohen, Esquire  
Attorney for Plaintiff  
ID No: 204617  
33 S. 7th Street, PO Box 4060  
Allentown, PA 18105-4060  
(610) 820-5450

f26

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

**NO. 2015-CV-8757-MF**

**CIVIL ACTION - LAW**

**NOTICE OF ACTION  
IN MORTGAGE FORECLOSURE**

**ACNB BANK, FORMERLY KNOWN AS  
ADAMS COUNTY NATIONAL BANK,  
PLAINTIFF**

**VS.  
BARRY S. BLANK AND TONYA L. BLANK,  
TERRE TENANT, AND THE UNITED  
STATES OF AMERICA, DEFENDANT**

**NOTICE**

**TO BARRY S. BLANK and TONYA L. BLANK:**

**FIRST PUBLICATION**

**Miscellaneous Notices**

You are hereby notified that on October 30, 2015, Plaintiff, ACNB Bank, formerly known as Adams County National Bank, 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. 2015-CV-8757-MF. Plaintiff, ACNB Bank, formerly known as Adams County National Bank, reinstated the Mortgage Foreclosure Complaint endorsed with Notice to Defend, on February 3, 2016. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 520 Colony Drive, Middletown, PA 17057 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 20 days from the date of this publication or a Judgment will be entered against you.

**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 ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.**

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

**NOTICE  
CONCERNING MEDIATION OF ACTIONS  
PENDING BEFORE THE COURT OF  
COMMON PLEAS OF DAUPHIN COUNTY**

The Judges of the Court of Common Pleas of Dauphin County believe that mediation of lawsuits is a very important component of dispute resolution. Virtually all lawsuits can benefit in some manner from mediation. The Court has adopted Dauphin County Local Rule 1001 to encourage the use of mediation. This early alert enables litigants to determine the best time during the life of their lawsuit for a mediation session. The intent of this early alert is to help the parties act upon the requirement to consider good faith mediation at the optimal time.

The Dauphin County Bar Association provides mediation services and can be reached at 717-232-7536. Free mediation sessions for pro bono cases referred by MidPenn Legal Services are available through the DCBA. f26

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

**NUMBER 2015-CV-7133-MF**

**CIVIL ACTION LAW**

**LSF9 MASTER PARTICIPATION TRUST,  
PLANTIFF  
VS.  
BRENT J. FRANK AND DANELL FRANK,  
DEFENDANT(S)**

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

To: Brent J. Frank and Danell Frank

Your house (real estate) at 103 Wayne Drive, Harrisburg, Pennsylvania 17112 is scheduled to be sold at Sheriff's Sale on April 21, 2016 at 10:00 a.m. at the Sheriff's Office, Civil Division, Dauphin County Courthouse, 1st Floor, Room 104, 101 Market Street, Harrisburg, Pennsylvania 17101 to enforce the court judgment of \$202,255.46 obtained by LSF9 Master Participation Trust against you.

**NOTICE OF OWNER'S RIGHTS  
YOU MAY BE ABLE TO PREVENT THIS  
SHERIFF'S SALE**

To prevent this Sheriff's Sale you must take immediate action:

1. The sale will be canceled if you pay to LSF9 Master Participation Trust the back payments, late charges, costs, and reasonable attorney's fees due.

**FIRST PUBLICATION**

**Miscellaneous Notices**

To find out how much you must pay, you may call McCabe, Weisberg and Conway, P.C., Esquire at (215) 790-1010.

2. You may be able to stop the sale by filing a petition asking the Court to strike or open the judgment, if the judgment was improperly entered. You may also ask the Court to postpone the sale for good cause.

3. You may also be able to stop the sale through other legal proceedings.

You may need an attorney to assert your rights. The sooner you contact one, the more chance you will have of stopping the sale. (See the following notice on how to obtain an attorney.)

**YOU MAY STILL BE ABLE TO SAVE YOUR PROPERTY AND YOU HAVE OTHER RIGHTS EVEN IF THE SHERIFF'S SALE DOES TAKE PLACE**

1. If the Sheriff's Sale is not stopped, your property will be sold to the highest bidder. You may find out the price bid by calling McCabe, Weisberg and Conway, P.C., Esquire at (215) 790-1010.

2. You may be able to petition the Court to set aside the sale if the bid price was grossly inadequate compared to the value of your property.

3. The sale will go through only if the buyer pays the Sheriff the full amount due on the sale. To find out if this has happened, you may call McCabe, Weisberg and Conway, P.C. at (215) 790-1010.

4. If the amount due from the buyer is not paid to the Sheriff, you will remain the owner of the property as if the sale never happened.

5. You have a right to remain in the property until the full amount due is paid to the Sheriff and the Sheriff gives a deed to the buyer. At that time, the buyer may bring legal proceedings to evict you.

6. You may be entitled to a share of the money which was paid for your real estate. A schedule of distribution of the money bid for your real estate will be filed by the Sheriff within thirty (30) days of the sale. This schedule will state who will be receiving that money. The money will be paid out in accordance with this schedule unless exceptions (reasons why the proposed schedule of distribution is wrong) are filed with the Sheriff within ten (10) days after the posting of the schedule of distribution.

7. You may also have other rights and defenses, or ways of getting your real estate back, if you act immediately after the sale.

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

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE  
ASSOCIATION DE LICENCIADOS  
Dauphin County Lawyer Referral Service  
213 North Front Street  
Harrisburg, Pennsylvania 17101  
(717) 232-7536

McCABE, WEISBERG & CONWAY, P.C.  
Attorneys for Plaintiff  
123 S. Broad Street  
Suite 1400  
Philadelphia, PA 19109  
215-790-1010

f26

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

**NO. 2010 CV 05168-MF**

**CIVIL ACTION-LAW**

**NOTICE OF ACTION  
IN MORTGAGE FORECLOSURE**

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION, NOT IN ITS INDIVIDUAL  
OR BANKING CAPACITY, BUT SOLELY AS  
TRUSTEE FOR SRMOF 2009-1, C/O SELENE  
FINANCE LP, PLAINTIFF  
VS.**

**ASHLEY MERCADO, KNOWN HEIR OF  
ARIC MERCADO, LAST RECORD OWNER  
AND UNKNOWN HEIRS, SUCCESSORS,  
ASSIGNS AND ALL PERSONS, FIRMS OR  
ASSOCIATIONS CLAIMING RIGHT, TITLE  
OR INTEREST FROM OR UNDER ARIC  
MERCADO, LAST RECORD OWNER,  
DEFENDANT(S)**

TO: Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations claiming right, Title or Interest from or under Aric Mercado, Last Record Owner, Defendant(s), whose last known addresses are 2124 Derry Street, Harrisburg, PA 17104 and 77 Saratoga Avenue, Apartment 2A, Yonkers, NY 10105.

**AMENDED COMPLAINT  
IN MORTGAGE FORECLOSURE**

You are hereby notified that Plaintiff, Wells Fargo Bank, National Association, Not in its Individual or Banking Capacity, But Solely As Trustee for SRMOF 2009-1, c/o Selene Finance LP, has

**FIRST PUBLICATION**

**Miscellaneous Notices**

filed an Amended 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 05168-MF, wherein Plaintiff seeks to foreclose on the mortgage secured on your property located, 2124 Derry Street, Harrisburg, PA 17104, whereupon your property would be sold by the Sheriff of Dauphin County.

**NOTICE**

**YOU HAVE BEEN SUED IN COURT.** If you wish to defend against the claims set forth in the notice above, 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 THE 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.**

**LAWYERS REFERRAL SERVICE**  
Dauphin County Lawyer Referral Service  
213 N. Front St.  
Harrisburg, PA 17101  
717-232-7536

Udren Law Offices, P.C.  
Attys. for Plaintiff  
111 Woodcrest Rd., Ste. 200  
Cherry Hill, NJ 08003  
856-669-5400

f26



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**BAR ASSOCIATION PAGE**  
**Dauphin County Bar Association**  
**213 North Front Street, Harrisburg, PA 17101-1493**  
**Phone: (717) 232-7536 Fax: (717) 234-4582**

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Board of Directors

**Edward F. Spreha, Jr.**  
*President*

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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*

**BAR ASSOCIATION PAGE**  
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**SUPREME COURT OF PENNSYLVANIA**  
**CIVIL PROCEDURAL RULES COMMITTEE**

**NOTICE OF PROPOSED RULEMAKING**

**PROPOSED AMENDMENT OF PA.R.C.P. NO. 237.3**

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

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

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

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

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

All communications in reference to the proposal should be received by April 22, 2016. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

You may view the rule at: <http://www.pacode.com/secure/data/231/chapter200/s237.3.html>

By the Civil Procedural Rules Committee,  
Peter J. Hoffman  
Chair

f26

**LAW LIBRARY BOOKS** in reasonable good condition, to wit: 397 pa. to 463 pa.; 368 A2d to 993 A2d; 1 A3d to 83 A3d; 1 D&C 2d to 47; 1 D&C 3d to 50; 1 D&C 4th to 46; 93 Dauphin County Reporter to 125; Purden Statutes Vol. 1 to 75; Dunlap Hanna, Vol. 1 to 14. Any reasonable offers will be accepted. Call 717-237-2109 between 11:00 a.m. and 4:00 p.m. weekly or 717-737-0696 between 7:00 p.m. and 9:00 p.m. f26-m11

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**RECEPTIONIST/LEGAL SECRETARY:** Cognetti & Associates, a prestigious Central PA family law firm, is looking for a full time Receptionist/Legal Secretary to join their growing team. This position requires a very organized individual with exceptional professional appearance to greet clients, answer phones, schedule meetings and appointments, and perform other clerical duties as needed in a fast-paced environment. Please visit [www.cognettilaw.com](http://www.cognettilaw.com) to learn more about our team. Candidate must possess: 1. Prior legal receptionist or legal secretary experience, a plus; 2. Minimum typing speed of 60 wpm; 3. Excellent grammar and attention to details; 4. Ability to handle issues in a proactive and professional manner; 5. Prior experience greeting clients and answering phones and 6. Extensive experience with Microsoft Word, Excel, and Outlook Firm offers an attractive compensation and excellent benefits package including retirement plan, and contributions to health insurance premiums. Qualified candidates should submit resume & cover letter with salary requirements to [mcognetti@cognettilaw.com](mailto:mcognetti@cognettilaw.com). EOE f19-m4

**COUNTY SOLICITOR POSITION - COUNTY OF LANCASTER:** The Solicitor will work closely with the Board of Commissioners, department heads and other County officials, and will be responsible for and/or supervise a full range of legal services relating to County Operations. For a full job description please visit the County's website at [www.co.lancaster.pa.us/jobs.aspx](http://www.co.lancaster.pa.us/jobs.aspx). f26-m11

**ASSISTANT COUNSEL I:** The Pennsylvania Public Utility Commission has a full-time attorney position available in its Law Bureau in Harrisburg. . This attorney position is responsible for advising and representing the Commission before trial courts, appellate courts, and state/federal agencies; preparation of legal advice for the Commissioners and staff; and preparation of orders and rulemakings. In addition to public utility law, we are seeking candidates with some experience with Pennsylvania administrative law, regulated industries, energy issues, municipal zoning issues, and/or telecommunications. The Assistant Counsel I is an entry-level position. Requirements include graduation from an approved school of law and a certificate of admission to the Pennsylvania Bar (or eligibility for such certification). Based on experience, the salary range is \$52,186 - \$79, 257. Interested candidates should submit a letter of interest with a detailed resume to: Shannon Marciano, Human Resources Office, Pa. Public Utility Commission, PO Box 3265, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17105-3265, (717) 787-8714, FAX (717) 772-3177, SCAN: [smarciano@pa.gov](mailto:smarciano@pa.gov). Applications for this position must be received no later than March 7, 2016.The list of essential functions for this position is available from the Human Resources Office upon request. The Pennsylvania PUC is an equal opportunity employer. f26



DAUPHIN COUNTY REPORTS  
**TABLE OF CASES**

Commonwealth v. Forde ..... 11  
C.O., N.G. v. .... 1  
Forde., Commonwealth v. .... 11  
N.G. v. C.O. .... 1

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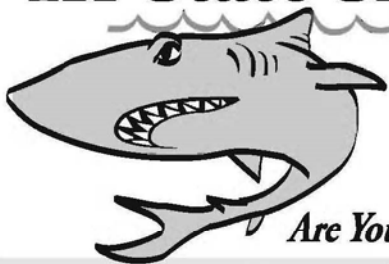
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