



Dauphin County Reporter ADVANCE SHEET

(USPS 810-200)

A weekly Journal containing the decisions rendered in the 12th
Judicial District

No. 6164 Vol. 126

September 7, 2018

No: 167

Entered as Second Class Matter, February 16, 1898, at the Post Office at Harrisburg, PA., under the Act of Congress of March 31, 1879.

TERMS: Advertisements must be received before 12 o'clock noon on Tuesday of each week at the office of the Dauphin County Reporter, 213 North Front Street, Harrisburg, PA 17101: Telephone: (717) 232-7536, option #4.

Diaz v. Dept. of Transp., Bureau of Driver Licensing
Bar Association Page

254
Back Pages



The
Dauphin County Reporter
Edited and published
by the
Dauphin County Bar Association
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

ELIZABETH G. SIMCOX
Executive Director
KENDRA HEINBAUGH
Office Manager
BRIDGETTE L. HILBISH
CLE Coordinator/Reporter Designer

Printed by:
K-PRESS
P.O. Box 1626, York, PA 17405

THE DAUPHIN COUNTY REPORTER (USPS 810-200) is published weekly by the Dauphin County Bar Association, 213 North Front Street, Harrisburg, PA 17101. Periodical postage paid at Harrisburg, PA. POSTMASTER: Send address changes to THE DAUPHIN COUNTY REPORTER, 213 North Front Street, Harrisburg, PA 17101.

TERMS: Advertisements must be received before 12 o'clock noon on Tuesday of each week at the office of the Dauphin County Reporter, 213 North Front Street, Harrisburg, PA 17101; Telephone: (717) 232-7536, opt #4; Email: Bridgette@dcbapa.org



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 GEORGE W. KUNKEL, M.D. a/k/a GEORGE WOODRUFF KUNKEL, late of Lower Paxton Township, Dauphin County, Pennsylvania (died: July 31, 2018). Executor: Shelly J. Kunkel, c/o P.O. Box 60974, Harrisburg, Pennsylvania 17106-0974; Attorney, Shelly J. Kunkel, Esq., P.O. Box 60974, Harrisburg, PA 17106-0974. (717) 574-1283. s7-21

ESTATE OF SHELVEY L. SCHAUER, late of Lower Swatara Township, Dauphin County, Pennsylvania, (died: June 28, 2018). Executor: Russell J. Schauer, Jr., 4219 Beagle Road, Elizabethtown, PA 17022. Attorney: John S. Davidson, Esquire, Yost & Davidson, 320 West Chocolate Avenue, P.O. Box 437, Hershey, PA 17033-0437. s7-21

ESTATE OF WILLIAM EDWARD RUDY JR., a/k/a/ WILLIAM E. RUDY, JR., late of East Hanover Township, Dauphin County, Pennsylvania. Executor: John D'Allura, 419 South Franklin Street, Palmyra, PA 17078 or to Attorney: Joseph M. Farrell, 201/203 South Railroad Street, P.O. Box 113, Palmyra, PA 17078. s7-21

ESTATE OF JUDITH STEIN, late of Harrisburg, Dauphin County, Pennsylvania (died: July 26, 2018). Executor: Kenneth A. Rapp. Attorney: Bruce J. Warshawsky, Esquire, Cunningham, Chernicoff & Warshawsky, P.C., 2320 North Second Street, Harrisburg, PA 17110. s7-21

ESTATE OF EDWIN H. MEASE, late of Derry Township, Dauphin County, PA, (died: July 24, 2018). Executor: Scott N. Mease, c/o George W. Porter, Esquire, 909 East Chocolate Avenue, Hershey, Pennsylvania 17033. s7-21

ESTATE OF BRYAN WAGNER, a/k/a GILBERT BRYAN WAGNER, late of Middle Paxton Township, Dauphin County, Pennsylvania.. Executrix: Betty A. Wagner, c/o Gerald J. Brinser, P. O. Box 323, Palmyra, PA 17078 - Attorney. s7-21

III. Conclusion.

Accordingly, we respectfully suggest that the Commonwealth Court of Pennsylvania affirm the proceedings before this Court of January 10, 2018 and the rescinding of Mr. Hoffman's license suspension, and dismiss the appeal in this matter.

Diaz v. Dept. of Transp., Bureau of Driver Licensing**Motor Vehicles - Driver License Suspension - Driving Under the Influence of a Controlled Substance - Reasonable Grounds Standard - Refusal to Submit to Chemical Testing**

Petitioner was the sole occupant of a vehicle involved in a two-car collision. The police officer at the scene detected the odor of burnt marijuana in petitioner's vehicle, and seized two marijuana "roaches" from the car, one of which was freshly burnt. Petitioner refused to submit to chemical testing of his blood, and was subsequently notified by PennDOT that his license was being suspended pursuant to the Implied Consent Law. He appealed the suspension.

1. Section 1547 of the Pennsylvania Vehicle Code, commonly referred to as the "Implied Consent Law," authorizes suspension of the driving privileges of a licensee for a period of time when the licensee is arrested for driving under the influence of alcohol or a controlled substance and the licensee refuses a police officer's request to submit to chemical testing. *75 Pa.C.S. §1547*. To sustain a license suspension under the Implied Consent Law, PennDOT has the initial burden of proving that the driver: (1) was arrested for driving under the influence by a police officer who had reasonable grounds to believe that the licensee was operating a vehicle while under the influence of alcohol or a controlled substance, (2) was asked to submit to a chemical test, (3) refused to do so, and (4) was warned that a refusal would result in a license suspension. *Zwibel v. Com., Dep't. of Transp. Bureau of Driver Licensing*, 832 A.2d 599, 604 (Pa. Commw. Ct. 2003).

2. For purposes of a license suspension, an officer has reasonable grounds to believe a motorist was operating a vehicle under the influence "if a reasonable person in the position of a police officer, viewing the facts and circumstances as they appeared to the officer at the time, could conclude that the driver drove his car while under the influence of alcohol or a controlled substance. *McCallum v. Commonwealth*, 592 A.2d 820, 822 (Pa. Commw. Ct. 1991).

3. Unlike cases where police suspect alcohol-based DUI, evidence of operator consumption of any marijuana is enough to allow police to request a section 1547 blood test for suspected controlled substance-based DUI. Such evidence includes the distinct odor of burnt marijuana emanating from a vehicle in which the operator is the sole occupant. *Commonwealth v. Jones*, 121 A.3d 524 (Pa. Super. Ct. 2015), *rehearing denied* at No. 1286 WDA 2014, *appeal denied* at 135 A.3d 584 (Pa. 2016).

Driver License Suspension Appeal. C.P., Dau. Co., No. 2018-CV-01027-LS. Dismissed.

Mark R. Calore, for the Commonwealth

Lawrence J. Rosen, for the Petitioner

Clark, S.J., August 23, 2018.

TRIAL COURT MEMORANDUM OPINION & ORDER

Currently before this Court is Petitioner Jean Alexis Diaz's ("Petitioner") challenge to the decision of the Pennsylvania Department of Transportation, Bureau of Driver Licensing ("PennDOT") to suspend his driver's license for twelve (12) months pursuant to Section 1547(b)(1)(i) of the Pennsylvania Vehicle Code, 75 Pa.C.S. § 1547(b)(1)(i). For the reasons set forth below, we **REINSTATE** the suspension of Petitioner's license and **DISMISS** his appeal.

I. Background.

Petitioner's license suspension arises out of a traffic incident which occurred in the city of Harrisburg during the early morning hours of December 20, 2017. Following a two-car collision between Petitioner and another motorist, Petitioner was arrested for Driving Under the Influence, and he subsequently refused to submit to chemical testing of his blood. On or about January 15, 2018, PennDOT mailed a letter to Petitioner, notifying him that because his refusal to submit to blood testing violated provisions of the Implied Consent Law as contained in the Pennsylvania Motor Vehicle Code, 75 Pa.C.S. § 1547, he would be subjected to a twelve (12)-month driver's license suspension effective February 19, 2018. On February 9, 2018, Petitioner, through counsel, filed in this Court an appeal of his license suspension. On February 13, 2018, we issued an Order scheduling an Appeal Hearing in this matter, and ordering that the impending suspension of Petitioner's driver's license be stayed pending this Court's final decision in this matter. The parties, each represented by counsel, appeared before the undersigned for a License Suspension Hearing ("the Hearing") on May 9, 2018.

Two witnesses testified at the hearing. First, Harrisburg City Police Officer Angel Diaz (hereinafter "Officer Diaz" or "the Officer"), who responded to the December 20, 2017 collision between Petitioner and the other motorist, testified on behalf of the Commonwealth. Then, Petitioner's father, Julio Diaz (hereinafter "Julio Diaz" or "Julio"), who also was present at the scene of the collision, testified on behalf of Petitioner. Officer Diaz and Julio Diaz provided somewhat differing accounts of the events pertinent to this action, and, therefore, each witness's testimony will be summarized below.

A. *Officer Diaz's Testimony*

Officer Diaz testified that at around 4:48 a.m. on December 20, 2017, he responded to a two-car collision between a tan Toyota Camry (hereinafter "the Camry") and a black Mercedes-Benz (hereinafter "the Mercedes") at the intersection of Seventeenth and Berryhill Streets in the City of Harrisburg. (Notes of Testimony, 5/9/18 License Suspension Appeal Hearing, hereinafter "N.T.," at 5-6).

The Camry's owner and operator, identified as Evasio Volera ("Volera"), suffered various facial injuries which were treated by emergency medical services. (N.T. at 5-6). The operator of the Mercedes was identified as Petitioner.¹ (N.T. at 6). After the drivers were identified, Officer Diaz began speaking with each of them to "get their side of the story as to what happened to cause the vehicle collision." (N.T. at 6). When speaking with Petitioner, the Officer noticed that Petitioner's pupils were constricted, and that Petitioner's tongue exhibited a greenish hue. (N.T. at 6). Petitioner told the Officer that the greenish hue was caused by a recently consumed mint, but the Officer recalled that he "didn't smell any freshness on [Petitioner's] breath." (N.T. at 6-7). The Officer also testified that he smelled an odor of burnt marijuana coming from the Mercedes, which was "slightly masked with some type of perfume spray or something like that." (N.T. at 6, 8, 15). However, the Officer did not smell any odor of marijuana on Petitioner's person, nor did he observe staggering, swaying, speech slurring, or any other physical signs to indicate that Petitioner was impaired in any way. (N.T. at 17-18).

Officer Diaz did not administer field sobriety tests to Petitioner because he (the Officer) was not certified to do so, and according to the Officer, there were no other law-enforcement officers on the scene that were qualified to do so.² (N.T. at 16, 18, 33). Nonetheless, the odor of marijuana in the Mercedes prompted Officer Diaz to conduct a search of the Mercedes, and upon doing so, the Officer found two marijuana "roaches"³ in the vehicle's center ashtray. (N.T. at 8). One of the roaches appeared to be "a little older," and the other one appeared to be "a little more fresh." (N.T. at 8). Officer Diaz testified that after he found the marijuana roaches, he placed Petitioner under arrest for suspicion of Driving Under the Influence ("DUI"), and then seized both marijuana roaches from the Mercedes. (N.T. at 8, 32).

After being placed under arrest, Petitioner was transported to the Dauphin County Booking Center and seated in an interview room. (N.T. at 8). There, Officer Diaz requested that Petitioner submit to chemical testing of his blood, and read to Petitioner PennDOT's "DL-26B form," which warned Petitioner that his refusal to submit to chemical testing would result in a suspension of his driving privileges. (See N.T. at 8-11). Petitioner nonetheless refused to submit to a blood test. (N.T. at 9, 11).

B. Julio Diaz's Testimony

¹ Petitioner's father, Julio Diaz, was the owner of the Mercedes. (N.T. at 6).

² Although none may have been present on the scene, this Court is aware that the City of Harrisburg has a cadre of Drug Recognition Experts (DREs) who, if called to the scene, could have administered specialized field sobriety tests to determine whether Petitioner was under the influence of drugs. It does not appear that Officer Diaz attempted to summon those resources.

³ Officer Diaz described a marijuana "roach" as follows: "It's the small end of a marijuana cigarette, pretty much leftover what somebody doesn't – it usually ends up being a real small piece, pretty much what ends up in someone's mouth." (N.T. at 8).

The second witness to testify at the hearing was Julio Diaz, Petitioner's father. Julio testified that he and his wife were in bed at the time the car accident occurred, but after they received a call from Petitioner, they traveled to the scene of the accident about ten (10) minutes away. (N.T. at 22-23). Upon first arriving at the scene, Julio observed Petitioner and the Mercedes, which had all of its doors and windows wide open. (N.T. at 23, 27). Julio recalled that there were various police officers on the scene when he first arrived, but he did not believe that Officer Diaz was one of them. (N.T. at 23). One of the officers directed Julio to obtain his belongings from the Mercedes because it was going to be towed away from the scene. (N.T. at 24, 26). According to Julio, there was no marijuana in the Mercedes, nor were there any marijuana roaches. (N.T. at 26). Julio testified that after he and his wife were on the scene of the accident for about ten (10) minutes, he was preparing to take Petitioner to the hospital when Officer Diaz "showed up out of nowhere." (N.T. at 24-25). Officer Diaz expressed that he was tired of stopping Petitioner for traffic violations, and he suddenly asked Petitioner to stick his tongue out. (N.T. at 25). Julio testified that at this point, Officer Diaz placed Petitioner under arrest, and thereafter, proceeded to search Petitioner's Mercedes. (N.T. at 25).

At the close of the Hearing, we afforded each party ten (10) days to file a post-Hearing Brief or Memorandum of Law in support of their respective positions. PennDOT filed a post-Hearing Brief on May 16, 2018. The undersigned was subsequently served in chambers with a copy of Petitioner's post-Hearing Brief drafted by Petitioner's Counsel and dated May 24, 2018.⁴ The matter is now ripe for this Court's disposition. Having reviewed the law applicable to this case, we find that stare decisis demands we rule in favor of the Commonwealth and reinstate the suspension of Petitioner's license.

II. Discussion.

Section 1547 of the Pennsylvania Vehicle Code, commonly referred to as the "Implied Consent Law," authorizes suspension of the driving privileges of a licensee for a period of time when the licensee is arrested for driving under the influence of alcohol or a controlled substance and the licensee refuses a police officer's request to submit to chemical testing. 75 Pa.C.S. § 1547. To sustain a license suspension under the Implied Consent Law, PennDOT has the initial burden of proving that the driver: (1) was arrested for driving while under the influence by a police officer who had reasonable grounds to believe that the licensee was operating a vehicle while under the influence of alcohol or a controlled substance, (2) was

⁴ Although Petitioner's post-Hearing Brief was dated May 24, 2018, it was not filed in the Prothonotary's Office until June 22, 2018.

asked to submit to a chemical test, (3) refused to do so, and (4) was warned that a refusal would result in a license suspension. Zwibel v. Com., Dep't of Transp. Bureau of Driver Licensing, 832 A.2d 599, 604 (Pa. Commw. Ct. 2003) (citing Banner v. Department of Transportation, Bureau of Driver Licensing, 737 A.2d 1203 (Pa. 1999)). Once PennDOT meets that initial burden, "the licensee must then establish that his refusal was not knowing or conscious or that he was physically unable to take the chemical test." Id. at 658.

In the instant matter, it is undisputed that Petitioner was asked to submit to a chemical test, that he refused to do so, and that he was warned that such refusal would result in a license suspension. The Petitioner, however, disputes whether Officer Diaz had "reasonable grounds" to believe that he (Petitioner) was operating a vehicle under the influence on the morning in question. Thus, further discussion of the "reasonable grounds" standard is warranted.

Our courts have consistently recognized that "the sanctions imposed by the Implied Consent Law, i.e., a license suspension, are civil in nature and are wholly unrelated to a criminal prosecution for DUI, which is governed by Section 3802 of the Vehicle Code." Sitoski v. Com., Dep't of Transp., Bureau of Driver Licensing, 11 A.3d 12, 21 (Pa. Commw. Ct. 2010) (citing Witmer v. Com., Dep't of Transp., Bureau of Driver Licensing, 880 A.2d 716, 719 (Pa. Commw. Ct. 2005)); see also Dep't of Transp., Bureau of Driver Licensing v. Scott, 684 A.2d 539, 544 (Pa. 1996). To this end, "the standard of reasonable grounds to support a license suspension is akin to the reasonable suspicion standard of the Fourth Amendment and 'does not rise to the level of probable cause required for a criminal prosecution.'" Regula v. Com., Dep't of Transp., Bureau of Driver Licensing, 146 A.3d 836, 843 (Pa. Commw. Ct. 2016) (quoting Banner, 737 A.2d at 1207). For purposes of a license suspension, an officer has reasonable grounds to believe a motorist was operating a vehicle under the influence "if a reasonable person in the position of a police officer, viewing the facts and circumstances as they appeared to the officer at the time, could conclude that the driver drove his car while under the influence of alcohol [or a controlled substance]." McCallum v. Commonwealth, 592 A.2d 820, 822 (Pa. Commw. Ct. 1991)). "Nothing in [75 Pa.C.S. § 1547] requires an officer to be absolutely certain of intoxication prior to requesting a chemical test." Sisinni v. Dep't of Transp., Bureau of Driver Licensing, 31 A.3d 1254, 1259 (Pa. Commw. Ct. 2011). "The issue of reasonable grounds is decided on a case-by-case basis, and an officer's reasonable grounds are not rendered void if it is later discovered that the officer's belief was erroneous. The officer's belief must only be objective in light of the surrounding circumstances." Zwibel, 832 A.2d at 604 (internal citation omitted); see also Sissini, 31 A.3d at 1259 ("It is well settled that the standard for reasonable

grounds is not very demanding and the police officer need not be correct in his belief that the motorist had been driving while intoxicated.”).

Regarding the instant matter, we note from the outset that the evidence presented by the Commonwealth in favor of its “reasonable grounds” assertion is far from bountiful, and that Officer Diaz could have, with minimal effort, summoned further resources to more accurately determine Petitioner’s sobriety at the scene of the accident. However, considering the laxity of the “reasonable grounds” standard applied to civil license suspension cases, and upon review of specific case precedent cited by the Commonwealth, we conclude that, although this case presents a close call, we must find in the Commonwealth’s favor and uphold Petitioner’s license suspension.

In arguing that Officer Diaz had reasonable grounds to believe that Petitioner was driving under the influence of marijuana, PennDOT points to the following facts: (1) Officer Diaz determined that Petitioner had caused a motor vehicle accident by running a red light; (2) Petitioner’s pupils were constricted; (3) Petitioner’s tongue had a greenish hue; (4) Officer Diaz detected an odor of marijuana in Petitioner’s vehicle; (5) Petitioner was the only occupant of his vehicle; (6) Officer Diaz testified that he found two marijuana roaches in Petitioner’s vehicle, one of which was freshly burnt. PennDOT argues that these facts taken as a whole establish that Officer Diaz had reasonable grounds to request that Petitioner submit to a blood test. PennDOT also argues that even if much of this evidence had not been presented, the odor of burnt marijuana alone would have been sufficient in light of the Superior Court of Pennsylvania’s recent decision in Commonwealth v. Jones, 121 A.3d 524 (Pa. Super. Ct. 2015), rehearing denied at No. 1286 WDA 2014, appeal denied at 135 A.3d 584 (Pa. 2016).

Petitioner avers that much of the evidence presented by the Commonwealth was insufficient to permit an inference that he was driving under the influence of marijuana. Specifically, Petitioner avers that even though Officer Diaz testified that Petitioner was the cause of the car accident, Officer Diaz’s conclusion was based upon hearsay evidence obtained at the scene. Moreover, regarding the evidence of Petitioner’s greenish tongue and constricted pupils, Petitioner notes that Officer Diaz failed to provide expert testimony to establish scientifically that constricted pupils and/or a green tongue are signs of marijuana intoxication. Finally, as to Officer Diaz’s testimony regarding the marijuana roaches allegedly found in the Mercedes, Petitioner avers that Officer Diaz did not present the roaches—or pictures thereof—as evidence, nor did Officer Diaz present evidence to suggest that the roaches had been chemically analyzed and deemed to contain marijuana. Also, Petitioner points to the testimony of Julio Diaz, who, in

contradiction to Officer Diaz, stated that he observed no marijuana or roaches when he was cleaning out the Mercedes at the scene of the accident.

We agree with Petitioner that much of the evidence presented by the Commonwealth is problematic, and we realize that the Commonwealth's presentation of its case in this matter was far from ideal. First, as Petitioner points out, regarding the evidence of the green-hued tongue and constricted pupils, Officer Diaz failed to provide expert testimony to establish scientifically that constricted pupils and/or a green tongue are signs of marijuana intoxication. In fact, Officer Diaz himself acknowledged during cross-examination that there is a difference of opinion in the scientific community as to whether marijuana use causes dilated or constricted pupils. (N.T. at 13-14). Furthermore, as for the evidence of the roaches allegedly found in the Mercedes, there appears to be a dispute (based upon Julio Diaz's testimony) as to whether the roaches were found before or after Petitioner's arrest, or if there were even any roaches at all present in the Mercedes. And even if we accept Officer Diaz's testimony that roaches indeed were present in the console of the Mercedes, we note that the Commonwealth exhibited a woeful lack of judgment and arguably undermined its case by failing to present the roaches or any evidence that the roaches had been chemically analyzed to determine the presence of marijuana thereon.

Disregarding much of the tenuous evidence assailed by Petitioner, however, PennDOT argues that Officer Diaz's testimony regarding an odor of burnt marijuana emanating from the Mercedes, by itself, would have been sufficient to establish reasonable grounds for suspecting a DUI. In doing so, PennDOT relies primarily on the Superior Court of Pennsylvania's recent decision in Commonwealth v. Jones, 121 A.3d 524 (Pa. Super. Ct. 2015), rehearing denied at No. 1286 WDA 2014, appeal denied at 135 A.3d 584 (Pa. 2016). Upon through review of the Jones case, we are constrained to agree with PennDOT.

In Jones, a man named Patrick Scott Jones was stopped by a police officer due to a suspended registration. Id. at 526. Upon approaching Jones, the officer immediately smelled a strong odor of burnt marijuana emanating from Jones's vehicle, of which he (Jones) was the sole occupant. Id. After discussing the suspended registration, the officer ordered Jones from the vehicle, and placed him in handcuffs. Id. The officer then requested that Jones submit to a blood test, and Jones complied. Id. The test confirmed the presence of marijuana in Jones's blood. Id. Jones was subsequently charged with DUI, and he moved to suppress the results of the blood test, a motion which the trial court denied. The blood test results were introduced as evidence in a bench trial against Jones, and he was ultimately convicted of DUI. Id.

Jones appealed his conviction and sentence to the Superior Court. In doing so, Jones argued that the trial court had erred in denying his motion to suppress the blood test results. Specifically, Jones

argued that since caselaw has consistently held that an odor of alcohol does not permit an officer to request section 1547 chemical testing,⁵ the officer should not have been permitted to request that he submit to chemical blood testing based solely on the smell of marijuana in his vehicle. *Id.* at 527. Moreover, Jones argued that officers must have corroborating evidence other than the mere odor of marijuana to be allowed to request that a driver submit to a section 1547 blood test for controlled substances. *Id.*

The Superior Court affirmed Jones's conviction, and in doing so, rejected Jones's argument that the odor of burnt marijuana alone was insufficient to permit the officer to request Section 1547 chemical testing of his blood. The court acknowledged that while an odor of *alcohol* alone is generally insufficient to permit an officer to request section 1547 chemical testing, the same cannot be said when an officer is presented with the odor of *marijuana* alone because there are critical distinctions between alcohol-related DUIs and controlled-substance-related DUIs. Specifically, the court stated:

[T]he Vehicle Code treats consumption of alcohol differently from consumption of marijuana. The Vehicle Code does not preclude an adult from consuming *any* amount of alcohol and then operating a motor vehicle in Pennsylvania. *See* 75 Pa.C.S. § 3802(a). Instead, the Vehicle Code precludes the operation of a motor vehicle only "after imbibing a sufficient amount of alcohol such that the individual is rendered incapable of safely driving, operating or being in actual physical control of the movement of the vehicle." 75 Pa.C.S. § 3802(a)(1). On the other hand, the Vehicle Code precludes an individual from operating a motor vehicle with *any* amount of scheduled controlled substance, or a metabolite thereof, in the driver's blood. 75 Pa.C.S. § 3802(d). Because marijuana is a Schedule I controlled substance, the Vehicle Code prohibits an individual from operating a vehicle after consuming *any* amount of marijuana.

Id. at 529 (emphasis in original). Bearing these distinctions in mind, the court noted that since a motorist only can only commit an alcohol-based DUI offense if he or she imbibes an amount of alcohol that renders the individual incapable of safe driving, an officer may not request section 1547 chemical testing on the smell of alcohol alone and, instead must observe "further indicia of intoxication, such as erratic driving, slurred speech, bloodshot eyes, balance issues, etc." *Id.* at 528-29. However, since the Vehicle Code prohibits a motorist from operating a motor vehicle with *any* amount of a scheduled controlled substance (e.g. marijuana) in his or her bloodstream, the court noted that "unlike cases where police suspect alcohol-based DUI, evidence of operator consumption of *any* marijuana is enough to allow police to request a section 1547 blood test for suspected controlled substance-based DUI." *Id.* at 529 (emphasis added). The

⁵ *See Jones*, 121 A.3d at 528 n.7 (collecting cases).

court then specifically stated that “[s]uch evidence includes the distinct odor of burnt marijuana emanating from a vehicle in which the operator is the sole occupant.” Id. As such, the court held that, contrary to Jones’s assertions, the officer’s testimony—albeit uncorroborated—regarding the smell of burnt marijuana in Jones’s vehicle was a sufficient foundation for requesting section 1547 testing. See id. at 527.

Thus, according to the dictate of Jones, if an officer testifies that he detected an odor of burnt marijuana emanating from a vehicle in which a motorist was the sole occupant, this testimony alone is sufficient evidence to establish that the officer had reasonable grounds to request section 1547 chemical testing. This is precisely what happened in the instant matter. Petitioner has not attempted to dispute Officer Diaz’s testimony that he detected an odor of marijuana emanating from the Mercedes at the scene of the accident, nor has Petitioner provided evidence to dispute that Petitioner was the sole occupant of the vehicle at the time of the accident. Rather, Petitioner attempts to distinguish the instant matter from Jones by emphasizing the alleged weakness of the marijuana odor detected by Officer Diaz. Specifically, Petitioner argues that the instant matter is distinguishable from Jones because the Officer in Jones detected a “strong” smell of burnt marijuana emanating from Jones’s vehicle, whereas, according to Petitioner, Officer Diaz only detected a “faint” odor of marijuana emanating from the Mercedes involved in the instant matter and that.⁶ Additionally, Petitioner argues that Officer Diaz’s testimony regarding the odor of marijuana is flawed because it was uncorroborated. As explained below, we find that Petitioner’s argument is unsound for various reasons.

First, in his Brief in Support of his License Suspension Appeal, Petitioner claims that Officer Diaz testified to merely smelling a “faint” or “slight” odor of marijuana in the Mercedes at the scene of the accident. (See Petitioner’s Brief, dated 5/24/18, at 4, 6). Petitioner’s claim, however, appears to be inaccurate. We have thoroughly reviewed the transcript from the May 9, 2018 Hearing in this matter, and not once does Officer Diaz utilize the word “faint” or “slight” when describing the odor of marijuana emanating from Petitioner’s Mercedes. During direct examination, Officer Diaz stated that when he first began speaking with Defendant at the scene of the accident, “there was a burnt odor of marijuana that was coming from the vehicle that [Petitioner] had occupied.” (N.T. at 6). Later during direct examination, when discussing his search of the Mercedes, he testified that the odor of marijuana he detected “was slightly masked with some type of perfume spray or something like that.” (N.T. at 8). However, when

⁶ Petitioner additionally argues that Officer Diaz’s testimony regarding the marijuana odor was unsound because it was “uncorroborated.” However, as alluded to above, the Superior Court in Jones rejected a virtually identical argument in that case. Jones, 121 A.3d at 527 (“[Jones] argues that uncorroborated police testimony regarding the odor of marijuana is an insufficient foundation to request section 1547 testing. We do not agree.”).

utilizing the term “masked,” it does not appear that Officer Diaz was attempting to describe the strength or weakness of the marijuana odor; rather, Officer Diaz was attempting to convey that regardless of the strength of the marijuana odor itself, that odor had been diluted with some sort of perfume or masking agent.

The only time the word “faint” was utilized during the Hearing was when Petitioner’s counsel was cross examining Officer Diaz and the following exchange took place:

Petitioner’s Counsel: You testified – I believe, and I could be wrong – that you smelled a faint odor of marijuana on [Petitioner’s] person as well.

Officer Diaz: I don’t believe I said that.

Petitioner’s Counsel: So you didn’t?

Officer Diaz: Not from his person. I said from the vehicle.

(N.T. at 15). In such exchange, it was Petitioner’s counsel that introduced the term “faint” into the conversation, and that term was utilized by counsel in connection with a possible smell of marijuana on Petitioner’s *person* rather than in the Mercedes. Moreover, Officer Diaz’s response to counsel’s inquiry does not confirm that any odor of marijuana he detected was “faint.” In responding to counsel’s inquiry, as shown above, Officer Diaz merely intended to clarify the *location* of the odor that he smelled, rather than the strength of the odor he smelled.

Second, aside from the inaccuracy of Petitioner’s assertion regarding the strength of the marijuana odor detected by Officer Diaz, we find that by emphasizing the strength of the marijuana odor and attempting to distinguish the instant matter from Jones, Petitioner reads and interprets the Jones opinion too narrowly. The officer in Jones indeed detected a “strong” odor of marijuana emanating from Jones’s vehicle, and this was discussed in the Superior Court’s recitation of the facts in that case. However, nowhere did the Superior Court state that its holding hinged upon the strength of the odor or that its holding only applies to cases where an odor of marijuana is markedly strong. In delivering its holding, the Superior Court explicitly stated as follows:

Unlike cases where police suspect alcohol-based DUI, evidence of operator consumption of any marijuana is enough to allow police to request a section 1547 blood test for suspected controlled substance-based DUI. Such evidence includes the *distinct odor of burnt marijuana emanating from a vehicle in which the operator is the sole occupant*.

Jones, 121 A.3d at 529 (emphasis added). In this statement, the court merely declares that if an officer detects an odor of burnt marijuana emanating from a vehicle and the operator is the sole occupant, the officer has reasonable grounds to request section 1547 chemical testing of the operator. Nowhere in this statement does the Superior Court utilize the word “strong” or make any reference to the strength of a marijuana odor which must be detected by an officer before he is permitted to request chemical testing.

Moreover, were we to interpret the Jones opinion to require a “strong” smell of marijuana before an officer could request section 1547 chemical testing, this would create a standard that would be incredibly difficult to objectify or quantify. If we were to interpret Jones in the manner suggested by Petitioner, officers, upon detecting an odor of burnt marijuana emanating from a motorist’s vehicle, would hypothetically find themselves asking the subjective question: “Is this odor of marijuana sufficiently strong for me to request chemical testing of this motorist?” And even if the officer were to determine subjectively that the odor of marijuana was “strong” enough to justify a test for chemical testing, the subjective nature of such an inquiry would lend itself to a plethora of court challenges by motorists and require the courts to make their own decisions that would be just as subjective and unpredictable. We cannot imagine that the Superior Court, in delivering its holding in Jones, envisioned or intended such a consequence.

Finally, it must not be lost upon us that the Jones court, in delivering its decision, heavily emphasized the specific distinction between alcohol-related DUIs and controlled-substance-based DUIs. As Jones clearly explained, as it pertains to suspected controlled-substance-based DUIs, an officer may request a motorist submit to chemical testing if the officer reasonably believes that the motorist has *any* amount of a controlled substance (e.g. marijuana) in his or her bloodstream. Therefore, the court held, evidence of *any* marijuana consumption constitutes reasonable grounds for requesting chemical testing. If Jones were interpreted such that an officer may request chemical testing only if he detects a “strong” odor of marijuana, such an interpretation would largely undermine the court’s holding that evidence of *any* marijuana consumption constitutes reasonable grounds to request section 1547 testing.⁷

All of this considered, while we acknowledge that this is a close case and the Commonwealth’s evidence against Petitioner is not abounding, we find that based upon the Superior Court’s holding in Jones, Officer Diaz’s testimony regarding the marijuana odor emanating from the Mercedes is sufficient

⁷ It is also worth reiterating that the Jones case involved a criminal defendant’s attempt to suppress blood test results in connection with criminal DUI charges. The instant matter, on the other hand, merely involves an appeal of a license suspension, which is a civil matter. As explained above, the standard of reasonable grounds to support a civil license suspension is less stringent than that required for a criminal conviction. Since Jones held that the odor of burnt marijuana emanating from a vehicle is sufficient to support the standard associated with a criminal prosecution, it seems beyond cavil that such an odor would be sufficient to establish the much lower standard associated with a civil license suspension.

evidence to establish that the Officer had reasonable grounds to request chemical testing from Petitioner at the scene of the accident. Since Petitioner failed to submit to such chemical testing, suspension of his driving privileges was warranted. However, we respectfully suggest that this case, if appealed, may be a proper vehicle to revisit the evidentiary issues associated with this case. Specifically, we encourage the Commonwealth Court, may it be so inclined, to further examine the holding of Jones, and ascertain whether such holding is still viable in light of recent developments in Pennsylvania law, namely, the recent legalization of medical marijuana and the possible legalization of recreational marijuana in the future.

III. Conclusion.

In light of the foregoing, Petitioner has not shown that he is entitled to enjoinder of his license suspension. Accordingly, we enter the following:

ORDER

AND NOW, to wit, this 23rd day of August, 2018, upon consideration of the evidence admitted at the hearing in this matter as well as the parties' memoranda of law, the appeal filed in the above referenced matter is hereby **DISMISSED** and the suspension shall be **REINSTATED**.

ISSUED AT HARRISBURG, the date first above written.

FIRST PUBLICATION**Estate Notices**

ESTATE OF EILEEN R. SEAKER, late of Lower Paxton Township, Dauphin County, Pennsylvania, (died: July 9, 2018). Executor: Barbara Seaker Yurovich, c/o Hazen Law Group, 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110 or to Estate of Eileen R. Seaker, c/o Hazen Law Group, 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110. s7-21

ESTATE OF ANN L. STAUFFER, a/k/a ANN LOUISE STAUFFER, late of Derry Township, Dauphin County, Pennsylvania. Administrator: Michael L. Stauffer c/o Gerald J. Brinser, P. O. Box 323, Palmyra, PA 17078 - Attorney. s7-21

ESTATE OF SUSAN L. ETZWEILER, late of the Township of Washington, County of Dauphin, Pennsylvania (died: July 19, 2018). Executrix: Yvonne E. Etzweiler Breinich, 353 Roller Road, Elizabethville, Pennsylvania 17023; Attorney: Joseph D. Kerwin, Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethville, Pennsylvania 17023. s7-21

ESTATE OF ANTHONY A. FERRAR, late of Middletown Borough, Dauphin County, Pennsylvania, (died: June 11, 2018). Executrix: Kelly Ferrar Palumbo, 93 Tennyson Drive, Plainsboro, NJ 08536. Attorney: Elizabeth H. Feather, Esquire, CALDWELL & KEARNS, PC, 3631 North Front Street, Harrisburg, PA 17110. s7-21

ESTATE OF DOTI LYNN YINGLING, late of Susquehanna Township, Dauphin County, Pennsylvania (died: July 4, 2018). Administrator: Stephen S. Yingling, 175 Hiddenwood Drive, Harrisburg, PA 17110. Attorney: Robert G. Radebach, Esquire, 912 North River Road, Halifax, PA 17032. s7-21

ESTATE OF SANDRA M. LEITNER a/k/a SANDRA MAE LEITNER, late of Susquehanna Township, Dauphin County, Pennsylvania (died: July 13, 2018). Executor: Keith Leitner, 746 North Bucknell Street, Philadelphia, PA 19130. Attorney: Stephen M. Greecher, Jr., Attorney's Address Tucker Arensberg, P.C., 2 Lemoyne Drive, Suite 200, Lemoyne, PA 17043. s7-21

SECOND PUBLICATION**Estate Notices**

ESTATE OF MARGARET A. MURRAY, late of Steelton Borough, Dauphin County, Pennsylvania. Personal Representative/Executrix: REGINA M. MOWERY, 1034 Highland Drive, Mechanicsburg, PA 17055 or to: Attorney: JENNIFER M. MERX, ESQUIRE, SkarlatosZonarich LLC, 17 South 2nd Street, Floor 6, Harrisburg, PA 17101. a31-s14

ESTATE OF J. KEITH RIDER, late of Londonderry Township, Dauphin County, Pennsylvania (died: August 5, 2018). Executrix: Edna L. Rider, 2053 Felker Road, Middletown, PA 17057. Attorney: John S. Davidson, Esquire, Yost & Davidson, 320 West Chocolate Avenue, P.O. Box 437, Hershey, PA 17033-0437. a31-s14

ESTATE OF ROGER HOPE URBAN, a/k/a ROGER H. URBAN, late of Lower Paxton Township, Dauphin County, Pennsylvania. Administrator: Thomas C. Klunk, 20 Sandy Court, Hanover, PA 17331. Attorneys for the Estate: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331, (717) 637-9799. a31-s14

ESTATE OF TRUMAN N. TROUTMAN, late of Upper Paxton Township, Dauphin County, Pennsylvania. Executrix: Trudy Jo Troutman Giddings, 554 Center Street, Millersburg, PA 17061. Attorney: Earl Richard Etzweiler, Esquire, 105 N. Front Street, Harrisburg, PA 17101, (717) 234-5600. a31-s14

ESTATE OF ROSEMARY K. FRIED, late of Susquehanna Township, Dauphin County, Pennsylvania. Executrix: Ms. Margaret E. McCormick, 157 A. Chevy Chase Street, Gaithersburg, MD 20878 or her attorney: William R. Bunt, Esquire, 109 South Carlisle Street, P.O. Box 336, New Bloomfield, PA 17068. a31-s14

ESTATE OF MARIAN D. SUTTER, late of Hummelstown, PA, No. 22-18-0722, (died: July 25, 2018). Executor: Paul E. Sutter, 118 Hive Lane, Pittsburg, PA 15237. Attorney: Orlando R. Sodini, Esquire, SutterWilliams, LLC, 850 Ridge Avenue, Suite 300, Pittsburgh, PA 15212. a31-s14

ESTATE OF MARGERY D. ROMBERGER, late of Ross Township, Kalamazoo County, Michigan, owning real estate situate in Washington Township, Dauphin County, Pennsylvania. Executor: John Finlay Meyer, 6142 North 37th Street, Richland, MI 49083. Attorney: Earl Richard Etzweiler, Esquire, 105 N. Front Street, Harrisburg, PA 17101, (717) 234-5600. a31-s14

SECOND PUBLICATION**Estate Notices**

ESTATE OF ELLWOOD R. BAKER, JR., late of Susquehanna Township, Dauphin County, Pennsylvania, (died: July 27, 2018). Executor: Pamela Sue Swope, c/o Hazen Law Group, 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110 or to Estate of Ellwood R. Baker Jr., c/o Hazen Law Group, 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110. a31-s14

ESTATE OF GERTRUDE D. DANKO, late of Lower Paxton Township, Dauphin County, Pennsylvania, (died: July 14, 2018). Executor: Linda L. Duckett, c/o Hazen Law Group, 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110 or to Estate of Gertrude D. Danko, c/o Hazen Law Group, 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110. a31-s14

ESTATE OF ALETHA ANN KNUPP a/k/a ALETHA A. KNUPP a/k/a ALTHEA ANN KNUPP, late of Swatara Township, Dauphin County, Pennsylvania, (died: July 11, 2018). Executor: Randy L. Knupp, 5481 Newside Road, Harrisburg, PA 17111 or to Attorney: Jean D. Seibert, Esquire, CALDWELL & KEARNS, PC, 3631 North Front Street, Harrisburg, PA 17110. a31-s14

ESTATE OF COLLEEN F. ROHRER, late of Township of Lower Paxton, Dauphin County, Pennsylvania. Executor: Stephen C. Nudel, Law Offices Stephen C. Nudel, PC, 219 Pine Street, Harrisburg, PA 17101. Attorney: Stephen C. Nudel, Esquire, Law Offices Stephen C. Nudel, PC, 219 Pine Street, Harrisburg, PA 17101. a31-s14

ESTATE OF BONNIE MAE MESSICK, late of 1219 Hudson St, Harrisburg, Dauphin County, Pennsylvania, (died: July 28, 2018). Executrix: Carol L. Messick, 32319 CR 112, Robertsedale, AL 36567. Attorney: Jennifer M. Merx, Esquire, SkarlatosZonarich LLC, 17 S. Second Street Harrisburg, PA 17101. a31-s14

ESTATE OF FJOLA SALERNO, late of Steelton Borough, Dauphin County, Pennsylvania, (died: July 24, 2018). Executrix: Rose Ann Carr, c/o Lisa Marie Coyne, Esquire, COYNE & COYNE, P.C., 3901 Market Street, Camp Hill, PA 17011-4227. a31-s14

THIRD PUBLICATION**Estate Notices**

ESTATE OF CHARLES H. MUTH, late of Lykens Township, Dauphin County, Pennsylvania (died: July 23, 2018). Co-Executors: Ronald Eugene Muth and Kimberly Coren Silks (Boyer). Attorney: Veronica N. Range, Esquire, Cunningham, Chernicoff & Warshawsky, P.C., 2320 North Second Street, Harrisburg, PA 17110. a24-s7

ESTATE OF ELLIOT S. VESELL, late of Hershey, Dauphin County, Pennsylvania, (died: July 23, 2018). Executrix: Hilary Vesell, Esq., Vesell Law, LLC, 310 W. Chocolate Ave., Hershey, PA 17033, (717) 533-4868. a24-s7

ESTATE OF S. SAVA MACUT, late of Lower Paxton Township, Dauphin County, Pennsylvania. Executor: Jan M. Petredis, 109 Breckenridge Drive, Wexford, PA 15090. Attorney: Shannon L. Crew, Esquire, Houston Harbaugh, Three Gateway Center, 401 Liberty Avenue, 22nd Floor, Pittsburgh, PA 15222-1005. a24-s7

ESTATE OF CATHARINE N. KEHLER, late of Lower Paxton Township, Harrisburg, Dauphin County, Pennsylvania, (died: 7/6/2018). Executor: David H. Kehler. Attorney: Andrew S. Rusniak, Esquire McNeese Wallace & Nurick LLC, 570 Lausch Lane, Suite 200, Lancaster, PA 17601, Telephone: 717-581-3704. a24-s7

ESTATE OF EARL W. STIMELING, JR., late of Lower Swatara Township, Dauphin County, Pennsylvania. Executrix: Christine M. Stimeling c/o Michael L. Bangs, Esquire, Bangs Law Office, LLC, 429 South 18th Street, Camp Hill, PA 17011. a24-s7

ESTATE OF ALFRED A. REDMOND, JR. a/k/a ALFRED ALLEN REDMOND, JR., late of Swatara Township, Dauphin County, Pennsylvania (died: July 4, 2018). Co-Executors: Alfred Allen Redmond, III, 6241 Huntingdon Street, Harrisburg, PA 17111; Aleshia Alexandra Ann Redmond 3655 Chambers Hill Road, Apt. 512, Harrisburg, PA 17111. Attorney: Robert G. Radebach, Esquire, 912 North River Road, Halifax, PA 17032. a24-s7

ESTATE OF IRENE M. GREEN, late of the Township of Lower Paxton, Dauphin County, Pennsylvania. Executrix: Janet K. Romberger, 4301 Valleyview Road, Harrisburg, PA 17112. Attorney: Theresa L Shade Wix, Esq., Wix, Wenger & Weidner, 4705 Duke Street, Harrisburg, PA 17109-3041. a24-s7

THIRD PUBLICATION

Estate Notices

ESTATE OF KATHERINE J. WOLFE, late of Millersburg Borough, Dauphin County, Pennsylvania (died: July 3, 2018). Executor: Kenneth P. Beach, 176 Center Street, Millersburg, PA 17061. Attorney: Dale K. Ketner, Ketner Law Office, LLC, 129 Market Street, Millersburg, PA 17061.

a24-s7

ESTATE OF JEANNE L. ALBRIGHT, late of Middletown Borough, Dauphin County, Pennsylvania (died: June 7, 2018). Executor: Diane B. Tillotson, c/o Pannebaker & Mohr, P.C., 4000 Vine St, Suite 101, Middletown, PA 17057 or to Attorney: Kendra A. Mohr, Esq., Pannebaker & Mohr, P.C., 4000 Vine St, Suite 101, Middletown, PA 17057.

a24-s7

ESTATE OF LINDA C. FOWLER, a/k/a LINDA FOWLER, a/k/a LINDA C. HORTON, a/k/a LINDA C. JARRELL, late of Dauphin County, Pennsylvania, (died: June 21, 2018). Executor: Keith P. Fowler, 60 Southcrest Road, York Haven, PA 17370. Attorney: John A. Feichtel, Esquire, Sullivan Rogers & Feichtel, 100 Sterling Parkway, Suite 100, Mechanicsburg, PA 17055.

a24-s7

ESTATE OF ZELDA D. EVANOFF, late of Middle Paxton Township, Dauphin County, Pennsylvania (died: July 14, 2018). Executor: Christ Evanoff, III, 730 Fishing Creek Valley Road, Harrisburg, PA 17112. Attorney: John S. Davidson, Esquire, Yost & Davidson, 320 West Chocolate Avenue, P.O. Box 437, Hershey, PA 17033-0437.

a24-s7

ESTATE OF NANCY L. BRANDT, late of Middletown Borough, Dauphin County, Pennsylvania, (died: July 24, 2018). Executor: Timothy D. Brandt c/o Hazen Low Group, 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110 or to Estate of Nancy L. Brandt, c/o Hazen Low Group, 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110.

a24-s7

FIRST PUBLICATION

Corporate Notices

NOTICE IS HEREBY GIVEN **HIGHLAND INDUSTRIES, INC.** doing business under the alternate name of HIGHLAND INDUSTRIES OF PA, INC. filed a foreign registration statement with the Commonwealth of Pennsylvania. The address of its principal office under the laws of its jurisdiction is 1350 Bridgport Dr., Suite 1, Kernersville NC 27284. 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. s7

NOTICE IS HEREBY GIVEN that a Foreign Registration Statement has been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA on or about July 31, 2018, for a foreign corporation with a registered address in the state of Pennsylvania as follows: **ICBC Standard Bank Pic** d/b/a in PA as: ICBC Standard Corp. c/o Capitol Corporate Services, Inc.

This corporation is incorporated under the laws of England and Wales.

The address of its principal office is 20 Gresham Street, London, EC2V 7JE, United Kingdom.

The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988, as amended. s7

NOTICE IS HEREBY GIVEN **Concise Media Design, Inc.**, a foreign corporation formed under the laws of the State of New York where its principal office is located at 137 Varick St, Ste 602, NY, NY 10013 has or registered to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on 8/24/18, 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 in Dauphin County. s7

NOTICE IS HEREBY GIVEN **PFT Employee Benefit Solutions, Inc.**, a foreign corporation formed under the laws of the state of Delaware where its principal office is located at 400 N. Field Drive, Lake Forest, IL 60045, has registered to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on July 24, 2018 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 in Dauphin County. s7

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, PA, on August 14, 2018 for **Geriatric Care Management, Inc.** to be effective August 15, 2018. The said corporation has been incorporated under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania, as amended.

CUNNINGHAM, CHERNICOFF &
WARSHAWSKY, P.C.
Bruce J. Warshawsky, Esquire

s7

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, for a business corporation which has been incorporated under the provisions of the Business Corporation Law of 1988. The name of the corporation is **Podimetrics PA, Inc.**

s7

NOTICE IS HEREBY GIVEN **Oath (Americas) Inc.**, a foreign corporation formed under the laws of the State of Maryland where its principal office is located at 22000 AOL Way, Dulles, VA 20166, has registered to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on 7/25/18, 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 in Dauphin County.

s7

NOTICE IS HEREBY GIVEN **Rimrock Corporation**, a foreign corporation formed under the laws of the State of Ohio where its principal office is located at 1700 Jetway Blvd, Suite 1800, Columbus, OH 43219, has registered to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on 8/23/18, 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 in Dauphin County.

s7

NOTICE IS HEREBY GIVEN by **Gamma Theta Facility Corporation of Kappa Alpha Theta Fraternity**, a Pennsylvania nonprofit corporation, that said corporation is winding up its affairs in the manner prescribed by section 5975 of the Nonprofit Corporation Law of 1988, so that its corporate existence shall cease upon the filing of Articles of Dissolution in the Department of State of the Commonwealth of Pennsylvania.

s7

NOTICE IS HEREBY GIVEN **Warkentine, Inc.**, a foreign corporation formed under the laws of the State of Oklahoma where its principal office is located at 750 SW 24th St, Moore, OK 73160, will register to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, 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 in Dauphin County.

s7

NOTICE IS HEREBY GIVEN by **Beta Phi Chapter of the Fraternity of Kappa Alpha Theta**, a Pennsylvania nonprofit corporation, that said corporation is winding up its affairs in the manner prescribed by section 5975 of the Nonprofit Corporation Law of 1988, so that its corporate existence shall cease upon the filing of Articles of Dissolution in the Department of State of the Commonwealth of Pennsylvania.

s7

NOTICE IS HEREBY GIVEN by **Epsilon Rho House Corporation of Kappa Alpha Theta Fraternity**, a Pennsylvania nonprofit corporation, that said corporation is winding up its affairs in the manner prescribed by section 5975 of the Nonprofit Corporation Law of 1988, so that its corporate existence shall cease upon the filing of Articles of Dissolution in the Department of State of the Commonwealth of Pennsylvania.

s7

NOTICE IS HEREBY GIVEN **Schenker Americas, Inc.**, a foreign corporation formed under the laws of the State of Delaware where its principal office is located at 800 NW 62nd Ave, Ste 600, Miami, FL 33126, has registered to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania on 8/9/2018, at Harrisburg, PA, 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 in Dauphin County.

s7

NOTICE IS HEREBY GIVEN **Executive Women International Business/Career/Development Program**, a foreign corporation formed under the laws of the State of Utah where its principal office is located at 1288 Summit Ave, Ste 107, PMB124, Oconomowoc, WI 53066, has registered to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on 8/15/18, 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 in Dauphin County.

s7

FIRST PUBLICATION

Corporate Notices

NOTICE IS HEREBY GIVEN that on August 22, 2018, Articles of Incorporation - Non-Profit were filed with the Commonwealth of Pennsylvania, Department of State, in Harrisburg, Pennsylvania.

The name of the corporation is **Central Dauphin Youth Wrestling Association**.

The corporation is organized as a non-profit entity under the provisions of the Pennsylvania Non-Profit Corporation Law of 1988, and as amended.

The purpose for which it is to be organized is social welfare group, youth sports, wrestling, fitness activities, and any other lawful activity.

Law Offices of Kevin Tanribilir, P.C.
701 East Front Street
Berwick, P A 18603
570-752-6200

s7

tanribilirlaw@verizon.net

FIRST PUBLICATION

Fictitious Name Notices

NOTICE IS HEREBY GIVEN that an application for registration of a fictitious name, **R&D Partners**, for the conduct of business in Dauphin County, Pennsylvania, with the principal place of business being at 505 Sansome Street, Suite 1020, San Francisco, CA 94111, was approved by the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on August 17, 2018, pursuant to the Act of Assembly of December 16, 1982, Act 295.

The name and address of the entity owning or interested in the said business is: R&D Consulting Group, Inc., 505 Sansome Street, Suite 1020, San Francisco, CA 94111. s7

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Act of Assembly No. 295, effective March 16, 1983, of intention to file in the office of the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, an application for the conduct of a business in Dauphin County, Pennsylvania under the assumed or fictitious name, style or designation of Name: **AdvanceIQ Network**, with its principal place of business at: 3101 Gaylord Parkway, Frisco, TX 75034. The names and addresses of all persons or entities owning or interested in said business are: Intrinsic Specialty Solutions, Inc., 3101 Gaylord Parkway, Frisco, TX 75034. The application has been filed on 8/30/2018. s7

FIRST PUBLICATION

Miscellaneous Notices

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

NO.: 2009-CV-15658-MF

CIVIL DIVISION

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

**US BANK, NATIONAL ASSOCIATION,
NOT IN ITS INDIVIDUAL CAPACITY,
BUT SOLELY AS TRUSTEE FOR THE
RMAC TRUST, SERIES 2012-5T,
PLAINTIFF**

VS.

**CLAIR R. NOEL AND KAREN L.
HOFFMAN AND SHEENA N. HOFFMAN,
DEFENDANTS**

Notice of Sheriff's Sale of Real Estate on December 6, 2018, at 10:00 a.m. in Dauphin County Administration Building, 2nd and Market Streets, Commissioners Hearing Room, 4th Floor, Harrisburg, PA 17101.

ALL THE RIGHT, TITLE, INTEREST AND CLAIM OF CLAIR R. NOEL and KAREN L. HOFFMAN and SHEENA N. HOFFMAN OF, IN AND TO:

ALL THE FOLLOWING DESCRIBED REAL ESTATE SITUATE IN LYKENS BOROUGH, COUNTY OF DAUPHIN, COMMONWEALTH OF PENNSYLVANIA:

HAVING THEREON ERECTED A DWELLING KNOWN AND NUMBERED AS 616 LAUREL LANE, LYKENS, PA 17048. DEED BOOK 5821, PAGE 156, PARCEL NUMBER 37-013-019-000-0000.

US Bank, National Association, Not In Its Individual Capacity, but Solely As Trustee for the RMAC Trust, Series 2012-5T v. Clair R. Noel and Karen L. Hoffman and Sheena N. Hoffman, at Execution Number 2009-CV-15658-MF in the amount \$315,791.42.

Schedule of Distribution will be filed by the Sheriff on the date specified by the Sheriff no later than thirty (30) days from sale date. Distributions will be made in accordance with the schedule unless exceptions are filed within ten (10) days of the filing of the schedule.

WELTMAN, WEINBERG & REIS CO., L.P.A.
Benjamin N. Hoen, Esq
436 7th Ave, Ste. 2500
Pittsburgh, PA 15219
412-434-7955

s7

FIRST PUBLICATION

Miscellaneous Notices

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

DOCKET NO.: 2017 CV 4987 MF

CIVIL DIVISION

**AMENDED NOTICE OF SHERIFF'S SALE
OF REAL PROPERTY PURSUANT TO
PENNSYLVANIA RULE OF CIVIL
PROCEDURE 3129**

**PNC BANK, NATIONAL ASSOCIATION
PLAINTIFF
VS.**

**DENISE VIOLA, SOLELY IN HER
CAPACITY AS HEIR OF THE ESTATE OF
ELANOR S. POLI, AKA ELANOR POLI;
DEBORAH PASTELLA, SOLELY IN HER
CAPACITY AS HEIR OF THE ESTATE OF
ELANOR S. POLI, AKA ELANOR POLI;
DAWN POLI, SOLELY IN HER CAPACITY
AS HEIR OF THE ESTATE OF ELANOR S.
POLI, AKA ELANOR POLI; RAYMOND
POLI, JR., SOLELY IN HER CAPACITY AS
HEIR OF THE ESTATE OF ELANOR S.
POLI, AKA ELANOR POLI; ALL
UNKNOWN HEIRS OF ELANOR S. POLI A/
K.A ELANOR POLI
DEFENDANTS**

TO: All Unknown Heirs of Elanor S. Poli a/k/a
Elanor Poli, 614 Union Street, Millersburg, PA
17061

TAKE NOTICE:

That the Sheriff's Sale of Real Property (Real Estate) will be held at the Dauphin County Sheriff's Office, in the Commissioner's Hearing Room, 4th Floor, Dauphin County Administration Building, 2 South 2nd Street, Harrisburg, PA 17101 on October 11, 2018 at 10:00AM prevailing local time.

THE PROPERTY TO BE SOLD is delineated in detail in a legal description consisting of a statement of the measured boundaries of the property, together with a brief mention of the buildings and any other major improvements erected on the land.

The LOCATION of your property to be sold is: 614 Union Street, Millersburg, PA 17061

The JUDGMENT under or pursuant to which your property is being sold is docketed to: No. 2017 CV 4987 MF

THE NAME(S) OF THE OWNER(S) OR REPUTED OWNER(S) OF THIS PROPERTY ARE: Denise Viola, solely in her capacity as Heir of the Estate of Elanor S. Poli, AKA Elanor Poli; Deborah Pastella, solely in her capacity as Heir of the Estate of Elanor S. Poli, AKA Elanor Poli; Dawn Poli, solely in her capacity as Heir of the Estate of Elanor S. Poli, AKA Elanor Poli; Raymond Poli, Jr., solely in her capacity as Heir of the Estate of Elanor S. Poli, AKA Elanor Poli; All Unknown Heirs of Elanor S. Poli a/k.a Elanor Poli

A SCHEDULE OF DISTRIBUTION, being a list of the persons and/or governmental or corporate entities or agencies being entitled to receive part of the proceeds of the sale received and to be disbursed by the Sheriff (for example to banks that hold mortgages and municipalities that are owed taxes), will be filed by the Sheriff thirty (30) days after the sale, and distribution of the proceeds of sale in accordance with this schedule will, in fact, be made unless someone objects by filing exceptions to it, within ten (10) days of the date it is filed. Information about the Schedule of Distribution may be obtained from the Sheriff of the Court of Common Pleas of Dauphin County, in the Commissioner's Hearing Room, 4th Floor, Dauphin County Administration Building, 2 South 2nd Street, Harrisburg, PA 17101.

THIS PAPER IS A NOTICE OF THE TIME AND PLACE OF THE SALE OF YOUR PROPERTY.

It has been issued because there is a Judgment against you. It may cause your property to be held, to be sold or taken to pay the Judgment. You may have legal rights to prevent your property from being taken. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, you must act promptly.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET FREE LEGAL ADVICE.

Dauphin County Lawyer Referral Service
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

THE LEGAL RIGHTS YOU MAY HAVE ARE:

1. You may file a petition with the Court of Common Pleas of Dauphin County to open the Judgment if you have a meritorious defense against the person or company that has entered judgment against you. You may also file a petition with the same Court if you are aware of a legal defect in the obligation or the procedure used against you.

FIRST PUBLICATION

Miscellaneous Notices

2. After the Sheriff's Sale, you may file a petition with the Court of Common Pleas of Dauphin County to set aside the sale for a grossly inadequate price or for other proper cause. This petition must be filed before the Sheriff's Deed is delivered.

3. A petition or petitions raising the legal issues or rights mentioned in the preceding paragraphs must be presented to the Court of Common Pleas of Dauphin County. The petition must be served on the attorney for the creditor or on the creditor before presentation to the Court and a proposed order or rule must be attached to the petition. If a specific return date is desired, such date must be obtained from the Court Administrator's Office, Dauphin County Courthouse, 101 Market Street, Suite 101, Harrisburg, PA 17101, before presentation of the petition to the Court.

Dated: 8/14/18

Kimberly A. Bonner, Esquire (89705)
Manley Deas Kochalski LLC
P. O. Box 165028
Columbus, OH 43216-5028
Telephone: 614-222-4921
Fax: 614-220-5613

Email: kabonner@manleydeas.com

s7

Attorney for Plaintiff

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

DOCKET NO.: 2015-CV-4657-MF

CIVIL DIVISION

**AMENDED NOTICE OF SHERIFF'S SALE
OF REAL PROPERTY PURSUANT TO
PENNSYLVANIA RULE OF CIVIL
PROCEDURE 3129**

**WELLS FARGO BANK, N.A., PLAINTIFF
VS.
UNKNOWN ADMINISTRATORS, AND/OR
HEIRS OF THE ESTATE OF SUPREME A.
SHABAZZ; THOMAS L. STRAWBRIDGE,
SR., BELIEVED ADMINISTRATOR AND/OR
HEIR OF THE ESTATE OF SUPREME
SHABAZZ; MICHELLE SETTLE,
BELIEVED ADMINISTRATOR AND/OR
HEIR OF THE ESTATE OF SUPREME
SHABAZZ; BETTY STRAWBRIDGE,
BELIEVED ADMINISTRATOR AND/OR
HEIR OF THE ESTATE OF SUPREME
SHABAZZ; THERESA STRAWBRIDGE,
BELIEVED ADMINISTRATOR AND/OR
HEIR OF THE ESTATE OF SUPREME**

**SHABAZZ; SABRINA STRAWBRIDGE,
BELIEVED ADMINISTRATOR AND/OR
HEIR OF THE ESTATE OF SUPREME
SHABAZZ; THOMAS L. STRAWBRIDGE,
JR., BELIEVED ADMINISTRATOR AND/OR
HEIR OF THE ESTATE OF SUPREME
SHABAZZ; JEFFREY ROBINSON,
BELIEVED ADMINISTRATOR AND/OR
HEIR OF THE ESTATE OF SUPREME
SHABAZZ, DEFENDANTS**

TO: Betty Strawbridge, Believed Administrator
and/or heir of the Estate of Supreme Shabazz,
303 Stuart Place
Harrisburg, PA 17109
AND
107 Old York Road
Apartment 39
New Cumberland, PA 17070
AND
4263 Williamsburg Drive
Apartment C
Harrisburg, PA 17109
AND
124andra Avenue,
Warner Robins, GA 31098

TAKE NOTICE:

That the Sheriff's Sale of Real Property (Real Estate) will be held at the Dauphin County Sheriff's Office, in the Commissioner's Hearing Room, 4th Floor, Dauphin County Administration Building, 2 South 2nd Street, Harrisburg, PA 17101 on October 11, 2018 at 10:00AM prevailing local time.

THE PROPERTY TO BE SOLD is delineated in detail in a legal description consisting of a statement of the measured boundaries of the property, together with a brief mention of the buildings and any other major improvements erected on the land.

The LOCATION of your property to be sold is:
303 Stuart Place, Harrisburg, PA 17109

The JUDGMENT under or pursuant to which your property is being sold is docketed to:
No. 2015-CV-4657-MF

THE NAME(S) OF THE OWNER(S) OR REPUTED OWNER(S) OF THIS PROPERTY ARE: Unknown Administrators, and/or heirs of the Estate of Supreme A. Shabazz; Thomas L. Strawbridge, Sr., Believed Administrator and/or heir of the Estate of Supreme Shabazz; Michelle Settle, Believed Administrator and/or heir of the Estate of Supreme Shabazz; Betty Strawbridge, Believed Administrator and/or heir of the Estate of Supreme Shabazz; Theresa Strawbridge, Believed Administrator and/or heir of the Estate of Supreme Shabazz; Sabrina Strawbridge, Believed Administrator and/or heir of the Estate of Supreme Shabazz; Thomas L. Strawbridge, Jr., Believed Administrator and/or heir of the Estate of Supreme Shabazz; Jeffrey Robinson, Believed Administrator and/or heir of the Estate of Supreme Shabazz

FIRST PUBLICATION

Miscellaneous Notices

A SCHEDULE OF DISTRIBUTION, being a list of the persons and/or governmental or corporate entities or agencies being entitled to receive part of the proceeds of the sale received and to be disbursed by the Sheriff (for example to banks that hold mortgages and municipalities that are owed taxes), will be filed by the Sheriff thirty (30) days after the sale, and distribution of the proceeds of sale in accordance with this schedule will, in fact, be made unless someone objects by filing exceptions to it, within ten (10) days of the date it is filed. Information about the Schedule of Distribution may be obtained from the Sheriff of the Court of Common Pleas of Dauphin County, in the Commissioner's Hearing Room, 4th Floor, Dauphin County Administration Building, 2 South 2nd Street, Harrisburg, PA 17101.

THIS PAPER IS A NOTICE OF THE TIME AND PLACE OF THE SALE OF YOUR PROPERTY.

It has been issued because there is a Judgment against you. It may cause your property to be held, to be sold or taken to pay the Judgment. You may have legal rights to prevent your property from being taken. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, you must act promptly.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET FREE LEGAL ADVICE.

Dauphin County Lawyer Referral Service
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

THE LEGAL RIGHTS YOU MAY HAVE ARE:

1. You may file a petition with the Court of Common Pleas of Dauphin County to open the Judgment if you have a meritorious defense against the person or company that has entered judgment against you. You may also file a petition with the same Court if you are aware of a legal defect in the obligation or the procedure used against you.

2. After the Sheriff's Sale, you may file a petition with the Court of Common Pleas of Dauphin County to set aside the sale for a grossly inadequate price or for other proper cause. This petition must be filed before the Sheriff's Deed is delivered.

3. A petition or petitions raising the legal issues or rights mentioned in the preceding paragraphs must be presented to the Court of Common Pleas of Dauphin County. The petition must be served on the attorney for the creditor or on the creditor

before presentation to the Court and a proposed order or rule must be attached to the petition. If a specific return date is desired, such date must be obtained from the Court Administrator's Office, Dauphin County Courthouse, 101 Market Street, Suite 101, Harrisburg, PA 17101, before presentation of the petition to the Court.

Dated: 8/17/18
Kimberly A. Bonner, Esquire (89705)
Manley Deas Kochalski LLC
P. O. Box 165028
Columbus, OH 43216-5028
Telephone: 614-222-4921
Fax: 614-220-5613
Email: kabonner@manleydeas.com
Attorney for Plaintiff

s7

NOTICE OF SUSPENSION

NOTICE IS HEREBY GIVEN that by Order of the Supreme Court of Pennsylvania issued August 30, 2018, BRET KEISLING (#201352) of Harrisburg, PA, is suspended from the practice of law for a period of one year and one day, effective September 29, 2018.

Marcee D. Sloan
Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

s7

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

NO. 2016-CV-9227-MF

CIVIL ACTION-LAW

**NOTICE OF ACTION
IN MORTGAGE FORECLOSURE**

**NATIONSTAR MORTGAGE LLC,
PLAINTIFF**

VS.

ISELA G. TOLBERT, DEFENDANT

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

To: Isela G. Tolbert, Defendant, whose last known address is 823 South 5th Street, Steelton, PA 17113.

Your house (real estate) at: 823 South 5th Street, Steelton, PA 17113, 57-012-004-000-0000, is scheduled to be sold at Sheriff's Sale on 1/10/19, at 10:00AM, at Dauphin County Domestic Relations, Human Services Bldg., 25 S. Front St., Harrisburg, PA 17101, to enforce the court judgment of \$89,303.62, obtained by Nationstar Mortgage LLC (the mortgagee) against you.

FIRST PUBLICATION

Miscellaneous Notices

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 cancelled if you pay back to Nationstar Mortgage LLC, the amount of the judgment plus costs or the back payments, late charges, costs, and reasonable attorneys fees due. To find out how much you must pay, you may call 610-278-6800.

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 be able to stop the sale through other legal proceedings.

4. 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 notice below 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

5. 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 610-278-6800.

6. 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.

7. The sale will go through only if the buyer pays the Sheriff the full amount due in the sale. To find out if this has happened you may call 717-255-2660.

8. 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.

9. 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.

10. You may be entitled to a share of the money, which was paid for your house. A schedule of distribution of the money bid for your house will be filed by the Sheriff no later than thirty days after the Sheriff Sale. This schedule will state who will be receiving the money. The money will be paid out in accordance with this schedule unless exceptions (reasons why the proposed distribution is wrong) are filed with the Sheriff within ten (10) days after the date of filing of said schedule.

11. You may also have other rights and defenses or ways of getting your house 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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE LISTED BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT YOU ARE ADVISED THAT THIS LAW FIRM IS DEEMED TO BE A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

Christopher A. DeNardo, Kristen D. Little
Kevin S. Frankel, Samantha Gable, Daniel T. Lutz,
Leslie J. Rase, Alison H. Tulio,
Stephanie A. Walczak & Katherine M. Wolf,
Attys. for Plaintiff
SHAPIRO & DeNARDO, LLC
3600 Horizon Dr., Ste. 150
King of Prussia, PA 19406
s7 610-278-6800

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

NO. 2018-CV-4142-MF

CIVIL ACTION-LAW

**NOTICE OF ACTION IN
MORTGAGE FORECLOSURE**

**BANK OF AMERICA, N.A., PLAINTIFF
VS.
JENNIFER K. DIRR AND KELLY J. SMITH,
DEFENDANTS**

Notice

To: Jennifer K. Dirr, Defendant

You are hereby notified that on June 21, 2018, Bank of America, N.A., Plaintiff, filed a Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Dauphin County, Pennsylvania docketed to No. 2018-CV-4142-MF. Wherein Plaintiff seeks foreclosure at the property located at 8140 Park Drive, Harrisburg, PA 17111. 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.

FIRST PUBLICATION

Miscellaneous Notices

**Complaint – Civil Action
Notice to Defend
Notice**

Notice to Defend: 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 of relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

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

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

s7

FIRST PUBLICATION

Name Change Notices

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

DOCKET NO: 2018 CV 5411 NC

PETITION FOR CHANGE OF NAME

NOTICE

NOTICE IS HEREBY GIVEN that on this 31st day of August, 2018, the Petition of Megan Marie Kaylor was filed in the above named court, requesting a decree to change her name from **Megan Marie Kaylor** to **Morgan Maxwell Kaylor**.

The Court has fixed Monday, October 22, 2018 at 9:30 a.m. in Courtroom No. 9, 2nd Floor, at the Dauphin County Courthouse, 101 Market Street, Harrisburg, Pennsylvania 17101 as the time and place for the hearing on said Petition, when and where all persons interested may appear and show cause if any they have, why the prayer of the said Petition should not be granted. s7

A.H. and B.P.M., S.W. v.190
Adoption of Baby Boy Lundon (Father’s Appeal) 70
Adoption of Baby Boy Lundon (Mother’s Appeal) 76
Adoption of M.D.L.178
Adoption of M.E.L.178
Adoption of M.L.M. 60
Amos v. Amos 62
Amos, Amos v. 62
A.T, S.T.E. v..194

B.L., J.B. v. G.L., T.W.,187
B.P.M., S.W. v. A.H. and190
Baby Boy Lundon, Adoption of (Father’s Appeal) 70
Baby Boy Lundon, Adoption of (Mother’s Appeal) 76

C.O., N.G. v. 1
C.S., V.H., and R.D., T.S. v. 81
City of Harrisburg, McFarland LP v.121
Commonwealth v. Forde 11
Commonwealth, Kline v.131
Commonwealth v. Lee..... 48
Commonwealth v. McLeod202
Commonwealth v. New Vision Management, LLC121
Commonwealth, Haymaker v. 26

Dept. of Transp., Bureau of Driver Licensing, Diaz v.....254
Dept. of Transp., Bureau of Driver Licensing, Hoffman v..250
Diaz v. Dept. of Transp., Bureau of Driver Licensing254

Edwards v. PennDOT.232
Eisenhour v. Eisenhour. 38
Eisenhour, Eisenhour v. 38

F.B., M.R. v.239
Forde., Commonwealth v. 11

Garland v. PennDOT161
GAT Distribution Corp., et al., Mumma, et al. v.112
G.L., T.W., B.L., J.B. v.187

H.E. Rohrer, Inc. et.al, Kuhns v. 55
Harrisburg Housing Authority v. Lane210
Haymaker v. Commonwealth 26
Hoffman v. Dept. of Transp., Bureau of Driver Licensing.250
Hoffman Ford Sales, Inc., Shoemaker v. Lower Paxton Township Board of Supervisors and.222

J.B. v. G.L., T.W., B.L.187
J.D., M.S. v. 99

K.P., T.J. v. W.H., Jr. and106
Kapp v. Kapp v. Updegraff..... 64
Kapp, Kapp v. Updegraff..... 64
Kline v. Commonwealth131

Table of Cases

Kuhns v H.E. Rohrer, Inc. et.al..... 55

Lane, Harrisburg Housing Authority v.210

Lee, Commonwealth v..... 48

Lower Paxton Township Board of Supervisors and Hoffman Ford Sales, Inc., Shoemaker v.222

M.D.L., Adoption of178

M.E.L., Adoption of178

M.L.M., Adoption of 60

M.R. v. F.B.239

M.S. v. J.D. 99

McFarland LP v. City of Harrisburg121

McLeod, Commonwealth v.202

Mumma, et al. v. GAT Distribution Corp., et al.112

N.G. v. C.O. 1

New Vision Management, LLC v. Commonwealth121

PennDOT, Edwards v..232

PennDOT, Garland v.161

R.D., T.S. v. C.S., V.H., and 81

R.S. v. S.Z and M.Z.168

Shoemaker v. Lower Paxton Township Board of Supervisors and Hoffman Ford Sales, Inc.222

S.T.E. v. A.T.194

S.W. v. A.H. and B.P.M.190

S.Z and M.Z., R.S. v.168

T.J. v. W.H., Jr. and K.P.106

T.L. f/k/a T.D., W.T.D. v.150

T.S. v. C.S., V.H., and R.D. 81

T.W., B.L., J.B. v. G.L.,187

Updegraff, Kapp v. Kapp v. 64

V.H., and R.D., T.S. v. C.S., 81

W.H., Jr. and K.P., T.J. v.106

W.T.D. v. T.L. f/k/a T.D.150



Local Expertise,
Global Reach

Commercial Real Estate Services, Worldwide.

EXPERT SOLUTIONS FOR REAL ESTATE CHALLENGES

- Industrial
- Land
- Retail
- Mangement
- Office
- Hospitality
- Consulting
- Testimony

Central Pennsylvania's No. 1 Ranked
Commercial Real Estate Firm

*Ranked by transaction volume CPBJ through 2015

1015 Mumma Drive
Lemoyne, PA 17043
+1 717 761 5070
naicir.com

ATTORNEY DISCIPLINARY / ETHICS MATTERS

Representation, consultation and expert testimony in disciplinary matters and matters involving ethical issues, bar admissions and the Rules of Professional Conduct

James C. Schwartzman, Esq.

Judge, Court of Judicial Discipline • Former Chairman, Judicial Conduct Board of Pennsylvania • Former Chairman, Disciplinary Board of the Supreme Court of PA • Former Chairman, Continuing Legal Education Board of the Supreme Court of PA • Former Chairman, Supreme Court of PA Interest on Lawyers Trust Account Board • Former Federal Prosecutor • Named by his peers as Best Lawyers in America 2015 Philadelphia Ethics and Professional Responsibility Law "Lawyer of the Year"

17 North Second Street, 16th Fl., Harrisburg, PA 17101 • (717) 255-7388

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

Board of Directors

Peter M. Good
President

Brooks R. Foland
President-Elect

Liza M. Benzie
Vice-President

Thomas P. Gacki
Treasurer

Paula J. McDermott
Secretary

Matthew M. Haar
Past President

Anthony M. Hoover
Young Lawyers' Chair

Jessica E. Smith
Young Lawyers' Vice Chair

Directors:

Directors

William L. Adler
Amanda L. Batz
Robert E. Chernicoff
Scott B. Cooper
Robert H. Davis, Jr.
Cory A. Iannacone
Scott E. Maier

Renee C. Mattei Myers
Judson B. Perry
Courtney Kishel Powell
Laurie A. Saltzgeber
James G. Strupe, Jr.
Rhodia D. Thomas
Leonard Tintner

Arlene A. Marshall-Hockensmith

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.

DAUPHIN COUNTY COURT SECTION
Opinions Not Yet Reported

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

The Judges have completed the **AUGUST 2018** civil jury term. Two civil cases reached verdict and the summaries are as follows:

JAMES WOODARD and LESLIE WOODARD v. HERSHEY ENTERTAINMENT AND RESORTS COMPANY (2015-CV-05462-CV)

Trial dates: August 14, 2018 – August 15, 2018

Introduction:

A trip and fall case that occurred on a sidewalk/walkway near a tram stop adjacent to the parking lot at Hershey Park

Factual Summary:

On July 14, 2014, the Plaintiffs and their son were visiting Hershey Park from New York. At approximately 9:30 PM, Plaintiff James Woodward was attempting to catch the tram so they could go to Chocolate World before it closed. Plaintiff admitted walking at a fast pace and Defendant's employees suggested Plaintiff was racing his son to catch the train. Plaintiff tripped over a "sandbag," fell on his face and suffered abrasions to his face and a concussion. Sandbags are placed to anchor temporary fencing used to direct pedestrians and traffic. As alleged, the sandbag was partially on the walkway when the Plaintiff fell. When used properly, sandbags are not on the walkway.

Plaintiffs damages include \$4,000 in medical bills and personal injuries referenced above. By Plaintiff's own admission, all injuries resolved within a few months.

Legal Issues:

The negligence of the Defendant and the comparative negligence point.

Experts:

Neither party called liability experts. By agreement, the Plaintiff submitted a medical report from a neurologist concerning Plaintiff's concussion. The parties stipulated to the amount of medical bills.

Verdict:

The jury answered: NO to the question whether the Defendant was negligent.

<u>Judge:</u>	Judge Andrew H. Dowling
<u>Counsel for Plaintiff:</u>	John E. Lavelle, Esquire
<u>Counsel for Defendants:</u>	Candace N. Edgar, Esquire

MARY ELLEN WEBB, INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF RUSSELL D. WEBB, DECEASED v. PINNACLE HEALTH HOSPITALS d(b)a PINNACLE HEALTH AT HARRISBURG HOSPITAL, PINNACLE HEALTH CARDIOVASCULAR INSTITUTE, INC., PINNACLE HEALTH SYSTEM, AND ROBERT E. MARTIN, M.D., c/o PINNACLE HEALTH CARDIOVASCULAR INSTITUTE, INC.
(2016-CV-07032-MM)

Trial dates: August 13, 2018 – August 21, 2018

This was a wrongful death and survival medical negligence action against Robert E. Martin, M.D. and Pinnacle Health Hospitals.¹ Plaintiff is the surviving spouse of the Decedent, Russell Webb, and the mother of their two daughters. On the morning of January 15, 2016, the Decedent collapsed at his place of work. CPR was started immediately by a co-worker and 911 was called.

¹Prior to trial, Jennifer E. Orgel-Campbell, PA-C and Yogesh Jadhao, M.D. were dismissed. It was stipulated that Dr. Martin was the agent of Pinnacle Health at Harrisburg Hospital. Accordingly, Dr. Martin was the sole defendant appearing on the jury verdict slip.

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

While en route to the hospital, the EMT informed the ED doctor that the Decedent was suffering an ST elevation myocardial infarction (STEMI), the most severe type of heart attack. The ED initiated a STEMI alert hospital-wide which prompted the appropriate staff to begin preparation for the treatment of the critically ill patient.

Upon arrival in the ED, an EKG confirmed that the Decedent was having an acute anteroseptal wall MI. As the interventional cardiologist in-house, Dr. Martin was called to perform a left heart catheterization. During this procedure, Dr. Martin found that the Decedent's proximal left anterior descending coronary artery was 99.99 percent blocked, such that only a "trickle" of blood was getting to the anterior and a portion of the posterior wall of his heart. Dr. Martin successfully opened the LAD and stented it thus restoring blood flow to that portion of the heart. However, by this time, a large part of the heart had been deprived of blood flow for approximately 97 minutes.²

Post cardiac catheterization, the Decedent continued to be hypotensive and required multiple vasopressors. His heart stopped several times in the ICU and he required massive amounts of fluids to resuscitate him. It was apparent to Dr. Martin at this time that the Decedent was in profound cardiogenic shock due to significant muscle damage to the left side of his heart which required the insertion of an Impella Ventricular Assist Device.

Significant to Plaintiff's case, the Decedent's hemoglobin steadily and dramatically decreased post catheterization. Repeat bloodwork showed a critically low hemoglobin. It was at this time that the doctors first began to consider the possibility of internal bleeding. Dr. Martin emergently took the Decedent back to the cardiac cath lab for an angiogram to assess for possible bleeding sites along the catheterization site. The angiogram did not show any source of bleeding. Therefore, a CAT scan was indicated in order to rule out other sources of bleeding; however, Dr. Martin felt that the Decedent was too hemodynamically unstable to be transported to radiology. Thus, a CT scan was not obtained.

The Decedent never regained consciousness and despite many efforts to save his life, he died in the early morning hours of January 16, 2016. Plaintiff declined an autopsy and therefore it was never determined with certainty whether, and to what extent, the Decedent may have bled internally. However, the Funeral Director testified that he discovered a cup of blood in the Decedent's retroperitoneal space. The Decedent's immediate cause of death was ruled cardiogenic shock with hypovolemic shock listed as a possible secondary factor. Several weeks post-mortem, Plaintiff asked Dr. Martin to pen a letter changing the Decedent's death certificate to list hemorrhagic shock as the primary cause of death. Dr. Martin did so, as it was thought to be indicated, and in an effort to give the family closure.

The timeline of events prior to the Decedent's arrival at the Harrisburg Hospital Emergency Department proved to be significant to the Defendant's case. The defense emphasized that the Decedent was without a pulse for approximately 14 minutes prior to receiving treatment in the ED during which time the brain was starved of oxygen; and although CPR was initiated immediately after his collapse, it was essentially ineffective. The defense played the 911 call during which the AED is heard directing the person performing CPR to "press harder," thus calling into question the effectiveness of the CPR. It was the defense's theory that the Decedent died from cardiogenic shock as a result of his massive heart attack. The defense argued that even had the Decedent survived this massive heart attack, he would not have had a meaningful neurologic recovery.

Pretrial Motions

The Court granted Plaintiff's Motion in Limine to preclude the defense from referring to the Decedent's type of coronary artery occlusion as the "widow-maker" finding that the probative value of such terminology was outweighed by the potential for prejudice. The Court's ruling on Defendant's Motion in Limine to preclude duplicative expert testimony of Plaintiff's cardiology experts was deferred until the time of trial, if and/or when it became an issue.

²The goal is to restore blood flow to the heart within 90 minutes of a witnessed heart attack.

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

Plaintiff's Experts

Thomas Piemonte, M.D. was accepted as an expert in the field of interventional cardiology and Jeffrey Glenn Schwartz, M.D. as an expert in the field of cardiology. Dr. Piemonte testified that Dr. Martin deviated from the standard of care by failing to recognize that Mr. Webb's hypotension was secondary to his blood loss that went unrecognized for several hours after his arrival in the cath lab. Plaintiff's expert opined that Mr. Webb's hypotension was incorrectly attributed to cardiogenic shock. The delay in the recognition of Mr. Webb's bleeding was the cause of his death and that he would have survived his myocardial infarction but for the failure to recognize and treat his bleeding in a timely manner.

Ian H. Newmark, M.D. was accepted as an expert in the field of critical care. Dr. Newmark testified that there was a significant delay in reversing anticoagulation when it was clear that Mr. Webb was bleeding. Had Mr. Webb been treated in a timely fashion for his bleeding, he would have survived this episode and gone on to live a normal life span.

Guy Rordorf, M.D. was accepted as an expert in the field of neurology and testified that Mr. Webb's neurological prognosis was good because he received CPR immediately after his cardiac arrest. Dr. Rordorf testified that it was more likely than not that he would have been able to regain independence and resume his pre-incident activities had he not suffered from massive blood loss and hypotensive shock.

Andrew Verzilli, M.B.A. testified as Plaintiff's economic expert. He testified that Mr. Webb's loss in earning capacity was calculated to be \$1,091,984. Loss in household services totaled \$203,840.

Defense retained experts:

Manoj Khandelwal, M.D. was accepted as an expert in the field of interventional cardiology. He testified that Mr. Webb suffered a massive acute anterior myocardial infarction with an LAD occlusion prior to the first major septal branch which carries an extremely high mortality rate, even though his recanalization was successful. He opined that Dr. Martin's treatment not only was in accord with the appropriate standard of care, it was "perfect."

Brian Holmes, M.D. was permitted to testify as an expert in neurology and neurosurgery. He testified that the treatment afforded by the Defendant was consistent with the standard of care under the circumstances. Dr. Holmes opined that it was more likely than not that Mr. Webb would have suffered from permanent neurocognitive deficits related to hypoxic/ischemic brain injury, had he survived.

Exhibits

A joint trial exhibit list was expertly displayed by Brian White, Pa.C.P. of Capital Support Services.

Verdict

After one hour of deliberations, the jury returned a unanimous defense verdict, that Dr. Martin was not negligent.

Judge:

Counsel for Plaintiff:

Counsel for Defendants:

Judge John J. McNally, III

Stephen J. Pokiniewski, Jr., Esquire

Michael M. Badowski, Esquire

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

ATTORNEY - Thomas, Thomas & Hafer LLP is seeking a hard-working, ambitious general liability attorney with 2 - 5 years' experience for its Harrisburg, PA office. Candidate must be dedicated, responsible and detail oriented. Admission to PA Bar required. Candidates should also have strong interpersonal, organizational, and litigation skills. Competitive salary and benefits and great opportunity for income growth. A tremendous opportunity to join a strong firm, grow a client base, and engage in challenging work. Send resume and cover letter to: resume@thlaw.com. a31-s14

PARALEGAL: Recent paralegal graduate from an ABA approved school, who is working towards a B.A. @ Widener University, is seeking an entry-level paralegal position. I understand the litigation process. I am well organized, self-motivated, enthusiastic and aggressive. My salary is negotiable. I am available immediately. Please call Sheena Lofton @ 717-348-5285 or send an email to elofton@widener.edu to schedule an interview. s7-21

Tri-State Shredding



**“Your
Document
Shredding
Specialist”**

Are You HIPAA Compliant??

**On-Site and Off-Site
Document Shredding**

Bonded Personnel with 10 years experience
***“DON'T THROW YOUR BUSINESS OUT
WITH YOUR TRASH”***

CALL 717-233-5606 TODAY
www.tristateshredding.com

LOOKING FOR ESTATE NOTICES

OR OTHER LEGAL NOTICES
REQUIRING PUBLICATION
IN A PA LEGAL JOURNAL?

Go to www.palegalads.org

This FREE site allows you to
search statewide to determine
whether a specific legal notice
has been published.



Visit the LCL WEBSITE

Lawyers Confidential Helpline: 1-888-999-1941

Lawyers Concerned for Lawyers



Our assistance is:

- Confidential
- Non-judgmental
- Safe
- Effective

To talk to a lawyer
today, call:
1-888-999-1941
(717) 541-4360

Suffering is not necessary. Help is available.

Since 1988, we have been discreetly helping lawyers struggling with:

Anxiety
Depression

Bipolar
Alcohol

Drugs
Gambling

Grief
Eating Disorders

Other Serious
emotional
problems

TRIAL AHEAD? Consider the DCBA MEDIATION PROGRAM

- **Trained, Experienced Mediators**
 - **Local and Accessible**
 - **Cost effective vs. non-local mediators**
 - **Proven Results**
-

Call 717-232-7536 or visit

**<https://www.dcba-pa.org/Community%20Service%20Programs/MediationProgram.aspx>
for details.**





**WE CARE
ABOUT CHILDREN**

DONATE NOW

See what inspires
US...

to fund a Family Law Attorney who can provide legal support to local Dauphin County families living under the poverty level. Visit us [here](#) for more information.

INTELLECTUAL PROPERTY LAW

- * Patents
- * Trademarks
- * Copyrights
- * Unfair Competition
- * Trade Secrets
- * Internet Matters

Hooker & Habib, P.C.

150 Corporate Center Drive, Suite 203
Camp Hill, PA 17011
Telephone: 717-232-8771
Facsimile: 717-232-8773
E-mail: hhpc@ptd.net
Website: www.h-hpc.com

Serving Central Pennsylvania for over 47 years