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Kane v. Commonwealth (PennDOT)**Motor Vehicles - Driver's License Suspension - Driving Under the Influence of Alcohol - Refusal to Submit to Chemical Testing - Medical Incapacity**

Petitioner was involved in a single-vehicle (motorcycle) accident, from which he sustained multiple traumatic injuries, including a severe traumatic brain injury; a fracture of the left ankle bone; and two brain hemorrhages, one in the front of his head and a second in the back of his head, necessitating a four (4) day stay in a hospital trauma unit. He appealed the one-year suspension of his driver's license for his refusal to submit to blood testing.

1. Section 1547 of the Pennsylvania Motor Vehicle Code, commonly referred to as the "Implied Consent Law," authorizes suspension of the driving privileges of a licensee for a specified duration of time if 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 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. The question of whether a driver has been placed under arrest is a factual, rather than a legal, determination. No formal declaration of arrest or act of physical force is required. Rather, in determining whether a driver has been placed under arrest, the inquiry focuses on whether the driver should infer from the totality of circumstances that he is under the custody and control of the police officer. *Pappas v. Com., Dep't of Transp., Bureau of Driver Licensing*, 669 A.2d 504, 507 (Pa. Commw. Ct. 1996).

3. It is "well-established law" that once PennDOT meets its initial burden under the Implied Consent Law, the burden then shifts to the licensee to establish that either: (1) his refusal was not knowing or conscious; or (2) he was physically unable to take the chemical test. *Zwibel*, at 606.

4. The determination of whether a licensee was able to make a knowing and conscious refusal is a factual one that is to be made by the trial court. *Kellar v. Com., Dep't of Transp., Bureau of Driver Licensing*, 7 A.3d 336, 340 (Pa. Commw. Ct. 2010). Moreover, a driver's self-serving testimony that he was incapable of providing a knowing and conscious consent to or refusal of a chemical is not sufficient to meet his burden of proof, and expert medical testimony, although not a *per se* requirement, is generally required in order to validate his testimony. *Ostermeyer v. Dep't of Transp., Bureau of Driver Licensing*, 703 A.2d 1075, 1077 (Pa. Commw. Ct. 1997). However, an expert medical opinion to validate a driver's alleged inability to make a knowing or conscious refusal (or agreement) to submit to a chemical test will not be required when severe, incapacitating injuries are obvious. *Id.* If the motorist's inability to make a knowing and conscious refusal of testing is caused in whole or in part by consumption of alcohol, the licensee is precluded from meeting his burden as a matter of law.

Appeal of Driver's License Suspension. C.P., Dau. Co., No. 2018-CV-08356-LS. Appeal sustained and suspension rescinded.

J. Michael Sheldon, for the Petitioner

Kelly E. Solomon, for the Commonwealth

Clark, S.J., December 5, 2019.

TRIAL COURT MEMORANDUM OPINION AND ORDER

Currently before this Court is Petitioner Shawn C. Kane's ("Petitioner") challenge to the decision of the Pennsylvania Department of Transportation, Bureau of Driver Licensing ("PennDOT") to suspend his driver's license for one (1) year 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 **RESCIND** the suspension of Petitioner's license and **SUSTAIN** his appeal.

I. Factual Background and Procedural History.

On or about November 16, 2018, PennDOT mailed a letter to Petitioner, notifying him that because his previous 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(b)(1)(i), he would be subjected to a one (1)-year driver's license suspension effective December 21, 2018. On December 13, 2018, Petitioner, through counsel, filed in this Court an appeal of his license suspension. On December 14, 2018, we issued an Order scheduling a License Suspension 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. On February 28, 2019, the parties, each represented by counsel, appeared before the undersigned for a License Suspension Hearing ("the Hearing"), at which three witnesses offered testimony as to the events surrounding Petitioner's instant license suspension. Each witness's testimony will be recounted, in turn, below.

A. *Testimony of Police Officer Matthew Bartow.*

The first witness to testify at the Hearing was Lower Paxton Township Police Officer Matthew Bartow (hereinafter "Officer Bartow" or "the Officer"). Officer Bartow testified that on November 3, 2018, he received a call from a concerned citizen who relayed that there had been a single-vehicle accident on Dowhower Road in Lower Paxton Township, Dauphin County, Pennsylvania. (Notes of Testimony, 2/28/19 License Suspension Appeal Hearing, hereinafter "N.T.," at 6). In response to the call, the Officer traveled to the alleged scene of the accident but discovered that there was no vehicle present. (N.T. at 7). Officer Bartow again spoke with the concerned citizen, who provided a description of the motorist and his motorcycle and relayed to the Officer that the motorist had been lying on the ground along with some blood, a glove, and various motorcycle parts. (N.T. at 7-8). The concerned citizen indicated, however, that the motorcyclist then drove southbound from the initial accident scene on his motorcycle when the concerned citizen went to call an ambulance. (N.T. at 7-8).

After less than ten (10) minutes of searching the area, Officer Bartow received a call indicating that a motorcycle matching the concerned citizen's description had been located at an area of Gallon Street, approximately two (2) blocks away from the initial accident site. The Officer proceeded to said Gallon Street location where he observed a motorist, who was ultimately identified as Petitioner, lying on the ground next to a motorcycle that matched the physical description and license plate number previously relayed to officers.

(N.T. at 8). Officer Bartow observed that Petitioner was bleeding from the back of the head, and the Officer applied some gauze to the back of Petitioner's head to help control the bleeding. (N.T. at 8). As he was applying the gauze, Officer Bartow noticed an "extreme" odor of alcohol emanating from Petitioner's breath. (N.T. at 8). The Officer asked Petitioner what had happened to him, and Petitioner relayed to the Officer that he "fell." (N.T. at 21). When asked about his alcohol consumption, Petitioner initially claimed that he had not consumed any alcohol, but upon further inquiry by the Officer, Petitioner admitted that he drank two beers at a friend's house. (N.T. at 8-9). Although Petitioner's speech was slurred and he had "uncommon watery" eyes, he was able to provide sensible responses to the Officer's various inquiries, and he allegedly requested a lawyer several times. (N.T. at 9-10).

Petitioner, who struggled to stand up, was subsequently placed onto a stretcher to be transported to Penn State Hershey Medical Center (hereinafter "HMC" or "the Hospital"). (N.T. at 9-10). Officer Bartow did not interact with Petitioner again until twenty (20) to thirty (30) minutes after Petitioner arrived at the Hospital. (N.T. at 11). By this time, Petitioner had undergone an initial evaluation, had blood drawn for medical treatment purposes,¹ and had x-rays taken. (N.T. at 10-11). The Officer approached Petitioner, who was lying on a stretcher, and explained to Petitioner that he (the Officer) was going to read PennDOT's DL-26B Form² (hereinafter "the Form"). (N.T. at 17, 24). Officer Bartow first read the Form to Petitioner verbatim, and Petitioner indicated that he had heard the Officer's reading of the Form. (N.T. at 17). Immediately thereafter, the Officer explained the Form's contents in "generic terms," and Petitioner indicated that he understood that explanation as well. (N.T. at 17). Officer Bartow then requested that Petitioner

¹ The Officer was apparently well-aware that blood had been drawn from the Petitioner before interacting with him at HMC.

² The warnings in PennDOT's DL-26B Form provide, in pertinent part, as follows:

1. You are under arrest for driving under the influence of alcohol or a controlled substance in violation of Section 3802 of the Vehicle Code.
2. I am requesting that you submit to a chemical test of the blood.
3. If you refuse to submit to the blood test, your operating privilege will be suspended for at least 12 months. If you previously refused a chemical test or were previously convicted of driving under the influence, your operating privilege will be suspended for up to 18 months. . . .

Garlick v. Commonwealth, Dep't of Transp., Bureau of Driver Licensing, 176 A.3d 1030, 1034 (Pa. Commw. Ct. 2018).

submit to chemical testing of his blood, but Petitioner refused.³ (N.T. at 17-19). According to the Officer, Petitioner signed the Form,⁴ demonstrating that he was apprised of the warnings contained thereon, and the Officer left the Hospital. (N.T. at 17-19).

B. Testimony of Kathryn Kane.

The second witness to testify at the Hearing was Petitioner's wife, Kathryn Kane (hereinafter "Ms. Kane"). Ms. Kane testified that on November 3, 2018, she received a call from a pastor who informed her that Petitioner was in HMC's trauma unit (N.T. at 28). Ms. Kane arrived at the Hospital where Petitioner was laying on a stretcher in an emergency "hall" area. (N.T. at 28). Ms. Kane recalled that Petitioner was wearing a neck brace and had multiple cuts and lacerations about his hands, legs, and face. (N.T. at 29). Additionally, Petitioner's body and pillow were covered in blood. (N.T. at 29). Ms. Kane attempted to converse with Petitioner and ask him questions, but Petitioner merely rambled in response. (N.T. at 30).

Ms. Kane testified that Petitioner was ultimately admitted to a hospital room for observation due to brain trauma. (N.T. at 30). Ms. Kane spoke with Petitioner in his hospital room, and Petitioner said some things that were alarming to Ms. Kane. (N.T. at 31). Particularly, Petitioner repeatedly asked Ms. Kane whether she had informed Petitioner's father about what had happened. (N.T. at 32). Ms. Kane found such inquiry concerning because Petitioner's father had been deceased for eight (8) years. (N.T. at 32).

C. Testimony of Petitioner.

The third and final witness to testify at the Hearing was Petitioner, who testified on his own behalf. Petitioner testified that on the night in question, he was traveling on Dowhower Road when a vehicle traveling in the opposite direction crossed over the center line and entered Petitioner's lane of travel. (N.T. at 34). To avoid the other vehicle, Petitioner recalled swerving into some wet leaves and losing control of his motorcycle. (N.T. at 34). The last thing that Petitioner recalled about the accident was the sound of his head hitting the pavement on Dowhower Road. (N.T. at 34). Petitioner did not recall getting back on to his motorcycle and driving from Dowhower Road to Gallon Street. (N.T. at 35). Petitioner did not recall being in the emergency room at HMC, and he did not recall speaking to Officer Bartow at the Hospital or at any other time on the night in question. (N.T. at 35-36). Therefore, Petitioner did not recall Officer Bartow telling him that he would lose his license if he refused to consent to a blood test, and he did not recall being

³ Officer Bartow recalled that Petitioner explicitly stated, "No", when refusing the chemical test. (N.T. at 19).

⁴ Petitioner's wife, Kathryn Kane, was shown a copy of the Form during the Hearing. Ms. Kane testified that she observed nothing on the Form that resembled Petitioner's signature. (N.T. at 31).

read the DL-26B Form. (N.T. at 36-37). When shown the Form at the Hearing, Petitioner did not recall seeing such a Form on the night in question, and when shown what was purported to be his signature on the Form, Petitioner stated that the signature did not at all resemble his normal signature. (N.T. at 36-37). Petitioner also did not recall asking for his father at the Hospital, as Ms. Kane had recalled. (N.T. at 40).

Medical records admitted into evidence at the Hearing confirmed that Petitioner sustained multiple traumatic injuries including a severe traumatic brain injury; a fracture of the left ankle bone; and two brain hemorrhages, one in the front of his head and a second in the back of his head. (N.T. at 38-39). Petitioner spent four (4) days in HMC's trauma unit. (N.T. at 43). These injuries (individually and collectively) and the treatment modalities associated thereto are more fully discussed, *infra*, inasmuch as they form a significant basis for our decision in this case.

At the conclusion of the Hearing, this Court permitted counsel for the parties to each submit a post-Hearing Memorandum of Law. The parties' Memoranda of Law have been submitted, and Petitioner's License Suspension Appeal is ripe for disposition.

II. Discussion.

Petitioner raises two main arguments in support of his appeal in the instant matter. First, despite Petitioner's concession that Officer Bartow had probable cause to suspect that Petitioner was driving under the influence of alcohol, Petitioner contends that he was not actually under arrest at the time the Officer requested the blood test. Second, Petitioner contends that to the extent he ultimately refused the Officer's request for a blood test, such refusal was not knowing and voluntary given the severe head and brain trauma that he had recently sustained in the motorcycle accident. We will address each of Petitioner's arguments in due course below.

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 specified duration of time if 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 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)).

A. Whether Petitioner was Under Arrest When Officer Bartow Requested the Blood Test

Of the four elements that PennDOT must establish to sustain a license suspension, the second, third, and four elements are not in dispute in this portion of the instant matter. Specifically, it is not disputed that Officer Bartow asked Petitioner to submit to a blood test, that Officer Bartow warned Petitioner of the consequences of refusing to submit to a blood test (by reading the DL-26B form), and that Petitioner ultimately refused to submit to a blood test. The only element in this matter partially called into question by Petitioner is the first element—i.e., that which requires PennDOT to establish that Petitioner *was arrested for driving under the influence* by a police officer who had reasonable grounds to believe that Petitioner was driving under the influence. Regarding this first element, Petitioner concedes that under the facts and circumstances of this case, Officer Bartow had reasonable grounds to believe that he (Petitioner) was driving his motorcycle while under the influence of alcohol. However, Petitioner contends that even though Officer Bartow had reasonable grounds to suspect a DUI, he (Petitioner) had not actually been placed under arrest at the time the officer requested the blood test. Therefore, according to Petitioner, PennDOT cannot satisfy its initial burden to sustain Petitioner's license suspension. For the reasons set forth below, we find that Petitioner was under arrest at the time Officer Bartow requested the blood test.

With respect to license suspensions under Section 1547 of the Vehicle Code and determining whether a driver has been placed under arrest, our Commonwealth Court has stated as follows:

The question of whether a driver has been placed under arrest is a factual, rather than a legal, determination. No formal declaration of arrest or act of physical force is required. Rather, in determining whether a driver has been placed under arrest, the inquiry focuses on whether the driver should infer from the totality of the circumstances that she is under the custody and control of the police officer.

Pappas v. Com., Dep't of Transp., Bureau of Driver Licensing, 669 A.2d 504, 507 (Pa. Commw. Ct. 1996) (internal citations omitted). While it appears that Petitioner was never placed under physical or verbal arrest prior to being transported to the Hospital, it is evident from the pertinent law and Officer Bartow's testimony that Petitioner *was* placed under arrest while he was in the Hospital.

While an emergency room hospital bed may be an unconventional setting in which to find oneself under arrest, the Commonwealth Court, when faced with factual circumstances similar to those presented in the instant matter, has found a licensee to be under arrest for purposes of Section 1547. In Com., Dep't of Transp., Bureau of Traffic Safety v. Uebelacker, 511 A.2d 929 (Pa. Commw. Ct. 1986), a police officer

responding to the scene of a car accident dispatched an ambulance for an injured motorist (James G. Uebelacker), followed the ambulance to a hospital, and waited for Uebelacker to be examined. Id. at 930. The officer then approached Uebelacker's hospital bed and told him that he was "going to be placed under arrest" for driving under the influence of alcohol. Id. The officer furthermore requested that Uebelacker submit to a blood test and warned him that his refusal to do so would result in a suspension of his driver's license. Id. Uebelacker, who refused to submit to a blood test, subsequently appealed his Section 1547 license suspension. A court of common pleas ruled in favor of Uebelacker, finding that he had not been placed under arrest at the time the officer requested a blood test; specifically, the court of common pleas reasoned that the officer, prior to requesting the blood test, had only stated that Uebelacker was "going to be" arrested, and, therefore, had not yet actually placed Uebelacker under arrest. Id. On appeal, however, the Commonwealth Court reversed the trial court, holding that based on the totality of all the facts presented (i.e., that the officer radioed for an ambulance, followed the ambulance to the hospital, waited until Uebelacker was confined to bed, and then told Uebelacker he was going to be placed under arrest for driving under the influence of alcohol), "the reasonable impression of [Uebelacker] should have been that he was subject to the officer's custody and control at that point in time." Id. at 931.

The instant matter presents facts and circumstances similar to those presented in Uebelacker, and indeed, the facts presented in this matter are more favorable to the Commonwealth than those presented in Uebelacker because, as explained below, Officer Bartow explicitly stated to Petitioner that he was *presently* under arrest prior to requesting a blood test. Much like Uebelacker, Officer Bartow dispatched an ambulance for Petitioner, followed Petitioner to the Hospital, and approached Petitioner in a hospital bed to request a blood sample and apprise him of the consequences for failing to consent. Moreover, prior to requesting the blood sample, Officer Bartow read the DL-26B Form verbatim, thereby explicitly apprising Petitioner that he was *presently* under arrest. As discussed above, the Form states, in pertinent part, "You *are* under arrest for driving under the influence of alcohol or a controlled substance in violation of Section 3802 of the Vehicle Code." Garlick, *supra*, at 1034 (emphasis added). And, of importance, this portion of the Form is read prior to any requests for an individual to submit to a blood test. Consequently, on account of the Officer's verbatim reading of the Form, Petitioner had clearly been placed under arrest prior to being asked to submit to a blood test. To this end, this Court finds that Petitioner was under arrest at the time Officer Bartow requested the blood test, and, therefore, we soundly reject Petitioner's argument to the contrary. Moreover, since Petitioner did not dispute that PennDOT has met all other requisite elements under the Implied Consent Law, we find that PennDOT has met its initial burden required to sustain Petitioner's license suspension.

B. Whether Petitioner Knowingly Refused Officer Bartow's Request.

This is the gravamen of the instant matter. It is “well-established law” that once PennDOT meets its initial burden under the Implied Consent Law, the burden then shifts to the licensee to establish that either: (1) his refusal was not knowing or conscious; or (2) he was physically unable to take the chemical test. Zwibel, 832 A.2d at 606 (citing Dep't of Transp., Bureau of Driver Licensing v. Boucher, 691 A.2d 450 (Pa. 1997)). In the instant matter, Petitioner does not aver that he was physically unable to take a chemical test of his blood. Petitioner, however, does contend that due to the head injury that he sustained in the motorcycle accident shortly prior to Officer Bartow's request for a blood test, he was not physically aware of the DL-26B warnings that the Officer provided and, therefore, did not knowingly refuse the Officer's request. We address this argument below.

Our courts have repeatedly recognized that “the determination of whether a licensee was able to make a knowing and conscious refusal is a factual one that is to be made by the trial court.” Kollar v. Com., Dep't of Transp., Bureau of Driver Licensing, 7 A.3d 336, 340 (Pa. Commw. Ct. 2010) (citing Barbour v. Dep't of Transp., Bureau of Driver Licensing, 732 A.2d 1157 (Pa. 1999)); see also Patane v. Com., Dep't of Transp., Bureau of Driver Licensing, 192 A.3d 335, 343 (Pa. Commw. Ct. 2018) (noting that the determination as to whether a refusal was knowing or conscious is a “fact-intensive inquiry” and must be judged based on the circumstances present “at the time of the warning and refusal”). “Moreover, a driver's self-serving testimony that he was incapable of providing a knowing and conscious consent to or refusal of a chemical test is not sufficient to meet his burden of proof, and expert medical testimony, although not a *per se* requirement, is generally required in order to validate his testimony.” Ostermeyer v. Dep't of Transp., Bureau of Driver Licensing, 703 A.2d 1075, 1077 (Pa. Commw. Ct. 1997) (citations omitted). “However, an expert medical opinion to validate a driver's alleged inability to make a knowing or conscious refusal (or agreement) to submit to a chemical test will *not* be required when *severe, incapacitating injuries are obvious*.” Id. (emphasis in original) (citing Dep't of Transp., Bureau of Driver Licensing v. Holsten, 615 A.2d 113 (Pa. Commw. Ct. 1992); Dep't of Transp., Bureau of Driver Licensing v. Garlan, 550 A.2d 873 (Pa. Commw. Ct. 1988), *appeal denied*, 563 A.2d 499 (Pa. 1989)). When expert medical testimony is required to validate a driver's testimony, “[t]he medical expert must rule out alcohol as a contributing factor to the licensee's inability to offer a knowing and conscious refusal in order to satisfy the licensee's burden.” Kollar, 7 A.3d at 340 (citations omitted). “[I]f the motorist's inability to make a knowing and conscious refusal of testing is caused in whole or in part by consumption of alcohol, the licensee is precluded from meeting her burden as a matter of law.” Id. (citation omitted).

At the Hearing held in the instant case, Petitioner did not provide expert medical testimony to rule out alcohol as a contributing factor to his alleged inability to offer a knowing and conscious refusal to submit to Officer Bartow's request for a blood test. Therefore, Petitioner can only prevail if it can be established that he sustained severe, incapacitating injuries so obvious as to eliminate the requirement of an expert medical opinion to validate his inability to make a knowing or conscious refusal. For the reasons set forth, we find that Petitioner has met this burden based on the facts and circumstances presented in the instant matter.

Our courts have historically undertaken a fact-intensive inquiry when determining whether a motorist has sustained severe, incapacitating injuries so obvious as to eliminate the requirement of an expert medical opinion to validate a driver's inability to make a knowing or conscious refusal. Such fact-intensive determination has typically been contingent upon the nature, extent, and apparentness of the observed injuries sustained by a licensee prior to his or her chemical test refusal. For instance, in Dep't of Transp., Bureau of Traffic Safety v. Day, 500 A.2d 214 (Pa. Commw. Ct. 1985), a driver was involved in a motor vehicle accident, and medical evidence (albeit not expert testimony) established that he sustained a broken jaw, severe facial lacerations, a broken arm, an injured leg, and multiple blows to the back of the head. Id. at 215. The driver's injuries caused rambling speech, confusion, and at times, a total loss of memory. Id. Based on the extent and nature of the driver's injuries, the Commonwealth Court in Day expressed "grave reservations concerning the driver's ability to make a knowing and conscious refusal" and, therefore, found that expert medical testimony was not necessary to support the trial court's finding that the driver was unable to make a knowing conscious refusal to submit to chemical testing. Id. Likewise, in Com., Dep't of Transp. Bureau of Driver Licensing v. Groscost, 596 A.2d 1217 (Pa. Commw. Ct. 1991), the Commonwealth Court affirmed a trial court's holding that a driver's injuries were obvious, severe, and incapacitating such that expert medical testimony was not necessary. In Groscost, the evidence and testimony established that the driver hit a telephone pole with his car, that such accident caused driver's head to collide with the steering wheel and steering column, and that such impact caused the steering column to be pushed forward, bent, and covered with blood. Id. at 1220. The driver sustained a deep facial laceration 2 ½ to three (3) inches long, and as a result of his injuries sustained, the driver spent five (5) days in the hospital. Id. Moreover, the responding officer testified that when he asked the driver to submit to a blood test, the driver merely moaned and did not answer the officer. Id. at 1218.

By contrast, in cases involving fewer injuries, injuries that are less severe, or injuries that are less obviously traced to mental incapacity, the courts have typically required medical testimony to establish a

nexus between a driver's injuries and their inability to knowingly and consciously refuse chemical testing. See, e.g., Garlan, 550 A.2d 873 (driver testified that his injuries included a concussion, a corneal abrasion, bruises, and loss of memory, but presented no medical evidence to establish the nature and extent of these injuries); Ostermeyer, 703 A.2d 1075 (driver testified that he hit his head on the windshield, causing him to fade in and out of consciousness, but responding officers testified that they did not observe any injury or other disorientation due to driver's accident); Maletic v. Com., Dep't of Transp., Bureau of Driver Licensing, 819 A.2d 640 (Pa. Commw. Ct. 2003) (evidence established that driver bumped her head, had a lump on her forehead that was black and blue and swelling, and had two black eyes); Com., Dep't of Transp., Bureau of Driver Licensing v. Derhammer, 544 A.2d 1132 (Pa. Commw. Ct. 1988) (driver suffered no head injury, and his own testimony merely established that he experienced pain from a broken arm, bruises, and sore legs); Com., Dep't of Transp., Bureau of Driver Licensing v. Griffith, 541 A.2d 66 (Pa. Commw. Ct. 1988) (driver sustained three broken ribs); Com., Dep't of Transp., Bureau of Driver Licensing v. Cochrane, 538 A.2d 614 (Pa. Commw. Ct. 1988) (evidence merely established that driver sustained a minor cut on his forehead).

This Court finds that the injuries sustained by Petitioner in the instant matter are more similar, in severity and nature, to those sustained by the motorists in the Day and Grosco, in which the Commonwealth Court found expert medical testimony to be unnecessary to establish a nexus between injury and inability to knowingly and consciously refuse chemical testing. Although there was no expert medical testimony, the uncontroverted evidence presented at the Hearing, including Petitioner's medical records from HMC, established that the injuries sustained by Petitioner consisted of multiple severe head injuries which were far from trivial or unspecified. Petitioner sustained a severe traumatic brain injury and two hemorrhages of the brain as a result of his motorcycle accident. Petitioner's injuries were so severe that they necessitated a four (4)-day in-patient stay in the trauma unit of HMC,⁵ similar to the driver in Grosco, whose injuries required a five (5)-day stay in a hospital. Moreover, Petitioner's mental state following the accident was so disrupted that he did not recall any of the events that occurred in the hours after his head hit the pavement, and, moreover, he was under the illusion that his father, who had been dead for eight (8) years, was still alive.

⁵ It is no trite or insignificant fact that the Petitioner was admitted as an in-patient for four (4) days to a tertiary-care, Regional Trauma Center (HMC) for his injuries. In the reality of modern-day managed health care services across our nation, it is widely known that ongoing patient assessment, and trauma center facilities resource review and management, will cause the discharge of a patient at the earliest time that the patient's need for in-patient care ceases to be absolutely necessary. This is an economic fact of life in today's health care services, and is primarily driven by the enormous costs for such intensive trauma care.

Additionally, and not insignificantly, we are compelled to discuss the entire episode between the arresting Officer and the Petitioner, in the HMC. As mentioned earlier in the text and footnote No. 1, the Officer knew that blood had been already drawn from the Petitioner, and would presumably be promptly analyzed by the HMC technical personnel (usually via blood-gas analysis and other very speedy, high-tech scientific protocols). Considering the fact that the Petitioner had, *inter alia*, two (2) inter-cranial bleeds, and other significant injuries, the treating physicians and other medical professionals had to know, then, there and to a certainty, what substances were present in the Petitioner's body, including his blood stream, so that any medications or other treatments would not cause a negative interaction that could further jeopardize his health, and even his life. That blood analysis conducted for medical treatment purposes would, by virtue of such medical information necessity, include a determination of blood-alcohol content (BAC). Thus, the very evidence that was being sought by the Officer, a BAC reading obtained from a blood sample, was already obtained and available to the Officer, without subjecting the Petitioner to another invasive procedure to obtain another sample (and that earlier drawn blood sample would have been closer in time to the Petitioner's operation of his motorcycle).⁶

Therefore, we are constrained to posit a fundamental question: for what other legitimate law enforcement purpose was the Officer's request to the Petitioner for another blood draw designed to accomplish? We find none. It should be specifically noted that the Petitioner was subsequently prosecuted and pled guilty to a DUI charge on June 13, 2019, and was sentenced for that crime, so this instant matter is of no moment to the Petitioner's criminal conduct on the night in question – he has been appropriately punished for his criminal conduct. However, and very interestingly, the Criminal Complaint filed by law enforcement against the Petitioner (as contained in the official records of the Dauphin County Clerk of Court), has, as part of its articulated basis for the DUI charge, a specific averment that the Petitioner's BAC reading on that evening was: **.26%**. That stated BAC amount could only have been legally obtained by law

⁶ Our courts have recognized as follows:

[P]ursuant to Sections 1547(a) and 3755 of the [Vehicle] Code, 75 Pa.C.S. § 3755, where a driver involved in a motor vehicle accident requires medical treatment in an emergency room, a police officer with probable cause to believe that the driver was under the influence of alcohol may request emergency room personnel to take blood samples from the driver for the purpose of testing the driver's BAC (blood alcohol content).

Lanthier v. Com., Dep't of Transp., Bureau of Driver Licensing, 22 A.3d 346, 351 n.6 (Pa. Commw. Ct. 2011) (citing Commonwealth v. Shaw, 770 A.2d 295, 297-99 (Pa. 2001)).

enforcement by obtaining a search warrant for that BAC reading of the Petitioner's blood on the night of the accident, which BAC reading had to come from the Petitioner's blood sample analysis performed at HMC for medical treatment purposes.

It might be a different outcome on this particular issue for PennDOT if the Officer did not know that a blood sample had already been obtained by HMC personnel, before he (Officer) began to read the DL-26B to the Petitioner – but that is not this case.

III. Conclusion.

In conclusion, this Court finds that the facts and circumstances presented in the instant matter establish that Petitioner's injuries were severe, incapacitating, and obvious such that expert medical testimony was unnecessary to validate his inability to make a knowing and conscious refusal, and we find that his (Petitioner's) articulated refusal was **NOT** knowing and conscious. We further find that the blood sample sought by law enforcement had already been obtained and the BAC results of same were readily obtainable for subsequent prosecution purposes, through the acquisition and service of a valid search warrant (as was obviously subsequently done in this case) upon the medical records official at the HMC. There was absolutely no exigent circumstance in this case which would justify law enforcement insisting on a second invasive procedure to obtain another blood sample at the HMC. Therefore, this Court **SUSTAINS** Petitioner's appeal of PennDOT's suspension of his operating privileges.

ISSUED AT HARRISBURG, the date first above written.

ORDER

AND NOW, to wit, this 5th day of December, 2019, upon consideration of the evidence admitted at the Hearing in this matter as well as the parties' Memoranda of Law, together with the Court's Memorandum Opinion of even date herewith, the appeal filed in the above-captioned matter is hereby **SUSTAINED** and the suspension of Petitioner Shawn C. Kane's driving privileges shall be **RESCINDED**.⁷

ISSUED AT HARRISBURG, the date first above written.

BY THE COURT: /s/ Lawrence F. Clark, Jr., S.J.

Lawrence F. Clark, Jr., S.J.

⁷ In issuing this Order, we merely rescind the license suspension that was imposed upon Petitioner pursuant to 75 Pa.C.S. § 1547(b)(1)(i) for his failure to consent to chemical testing. Ancillary license suspensions (if any) that were imposed upon Petitioner in connection with his recent criminal conviction for DUI shall remain in effect and shall not be impacted by this Order.

ESTATE NOTICES

FIRST PUBLICATION

ESTATE OF RICHARD O. HUGENDUBLER, late of Derry Township, Dauphin County, PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Kenneth N. Hugendubler, 1518 Inverness Drive, Mechanicsburg, PA 17050

Attorney: Butler Law Firm, 1007 Mumma Road, Suite 101, Lemoyne, PA 17043 j3-17

ESTATE OF MIRIAM F. GLOSSER, late of Dauphin County, PA, (died November 5, 2019)

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executrix: MacKenzie Compton, 6338 Bayberry Avenue, Manheim, PA 17545.

Attorney: John A. Feichtel, Esquire, Sullivan Rogers & Feichtel 100 Sterling Parkway, Suite 100, Mechanicsburg, PA 17055 j3-17

ESTATE OF NOBLE R. FLOHR, late of Jackson Township, Dauphin County, PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executrix: Angela K. Bednar, 42 Lauren Lane Halifax, PA 17032

Attorney: Earl Richard Etzweiler, Esquire, 105 N. Front Street, Harrisburg, PA 17101 (717) 234-5600 j3-17

ESTATE OF WILLIAM C. MARTZ, late of Upper Paxton Township, Dauphin County, PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Dennis G. Martz, 362 State Route 147 Dalmatia, PA 17017

Attorney: Earl Richard Etzweiler, Esquire, 105 N. Front Street, Harrisburg, PA 17101, (717) 234-5600 j3-17

ESTATE OF BARBARA ELAINE LABONE a/k/a BARBARA E. LABONE, late of Millersburg Borough, Dauphin County, PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Co-Executors: Scott Alan Labone, 40 Fisher Road, York Haven, PA 17370; Brian Edward Labone 920 Manor Drive, Millersburg, PA 17061

Attorney: Earl Richard Etzweiler, Esquire, Etzweiler and Withers LLC, 105 N. Front Street Suite 100, Harrisburg, PA 17101, (717) 234-5600 j3-17

SECOND PUBLICATION

ESTATE OF WILMER G. BARLIEB, late of Lower Paxton Township, Dauphin County, PA (died: October 26, 2019)

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executrix: Linda A. Barlieb, of Harrisburg, Pennsylvania

Attorney: Jacqueline A. Kelly, Esquire, JSDC Law Offices, 555 Gettysburg Pike, Suite C400, Mechanicsburg, PA 17055, 717-533-3280

d27-j10

ESTATE OF DEVANEY, JOHN J., JR., late of the Township of Londonderry, County of Dauphin and Commonwealth of PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executrix: Victoria Devaney, c/o Nikolaus & Hohenadel, LLP, 222 S. Market Street, Suite 201, Elizabethtown, PA 17022

Attorney: Kevin D. Dolan, Esq. d27-j10

ESTATE OF MARY ANN WALKER, late of Lower Paxton Township, Dauphin County, PA

The Register of Wills has granted Letters on

the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Richard C. Austin, 236 S. Enola Drive, Enola, PA 17025

Attorney: Adam P. Britcher, Allen E. Hench Law Office P. C., 232 Market Street, Newport, PA 17074, (717) 567-3139 d27-j10

ESTATE OF HELENE K. QUIER, late of Millersburg, Dauphin County, PA.

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Administrators: Lorraine A. Q. Novosat; Charmaine M. Hoffman and Gregory C. Quier, c/o The Roth Law Firm, 123 North Fifth Street, Allentown, PA 18102

Attorney: Robert B. Roth, Esquire, The Roth Law Firm, 123 North Fifth Street, Allentown, PA 18102 d27-j10

ESTATE OF STEPHEN W. JONES, late of Lower Paxton Township, Dauphin County, PA (died: November 19, 2019)

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executrix: Kimberly A. Raezer

Attorney: David W. Reager, Esquire, Reager & Adler, PC, 2331 Market Street, Camp Hill, PA 17011, (717) 763-1383 d27-j10

ESTATE OF MIELE, DOROTHY, late of Township of Derry, County of Dauphin and Commonwealth of PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executrix: Patricia N. Miele, c/o Nikolaus & Hohenadel, LLP, 222 S. Market Street, Suite 201, Elizabethtown, PA 17022

Attorney: Kevin D. Dolan, Esquire d27-j10

ESTATE OF BETTY A. KELLER, late of Conewago Township, Dauphin County, PA (died: November 23, 2019)

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Larry J. Keller, Dennis L. Keller, Susan D. Keller, 330 Long Lane Lititz, PA 17543

Attorney: J. David Young, Jr., Esquire, Young and Young Attorneys at Law, 44 South Main Street, Manheim, PA 17545 d27-j10

ESTATE OF A. JOANNE SHARROW a/k/a AUGUSTA JOANNE SHARROW, late of Middle Paxton Township, Dauphin County, PA (died: November 14, 2019)

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executors: Jeffrey C. Sharrow aka Jeffery C. Sharrow, 1040 Stoney Creek Road, Dauphin, PA 17018

Attorney: Howard B. Krug, Esquire, Purcell, Krug & Haller, 1719 N. Front St., Harrisburg, PA 17102 d27-j10

THIRD PUBLICATION

ESTATE OF ARNOLD J. LODES, late of Derry Township, Dauphin County, PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Personal Representative: Dani L. Lodes and Arnold J. Lodes II, c/o Megan C. Huff, Esquire Nestico Druby, P.C., 1135 East Chocolate Avenue, Suite 300, Hershey, PA 17033

d20-j3

ESTATE OF MIRIAM COOK, a/k/a MIRIAM E. COOK, late of Harrisburg City, Dauphin County, PA (died: November 20, 2019)

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons

indebted to the decedent to make payment to the Executor without delay.

Executrix: Miriam Swayze, 1021 South Progress Avenue P-10, Harrisburg, PA 17111

Attorney: Ann E. Rhoads, Esquire, 244 West Main Street, Hummelstown PA 17036

d20-j3

ESTATE OF REGINA FIELDS, late of 4000 Linglestown Road, Harrisburg, PA 17112 (died: October 7, 2019)

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executors: Deborah Fields Kravitz; 4313 Hillsdale Road, Harrisburg, PA 17112; Estella Fields Graeffe, 3605 Orchid Place, Emmaus, PA 18049

d20-j3

ESTATE OF MARY C. ESPENSHADE late of Royaltown Borough, Dauphin County, PA (died: October 21, 2019),

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Ronald L. Espenshade of Etters, Pennsylvania

Attorney: Jacqueline A. Kelly, Esquire, JSDC Law Offices, 555 Gettysburg Pike, Suite C400, Mechanicsburg, PA 17055, 717-533-3280

d20-j3

ESTATE OF JOEL R. STROHECKER, a/k/a JOEL R. STROHECKER, JR., late of the Township of Williams, County of Dauphin, PA (died: November 17, 2019).

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executrix: Jody A. Ney; 317 East Washington Street, Muir, Pennsylvania 17957;

Attorney: Joseph D. Kerwin, Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethville, Pennsylvania 17023.

d20-j3

ESTATE OF JOHN A. SHEAFFER, late of Middletown Borough, Dauphin County, PA (died: October 31, 2019)

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby

given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Albert M. Sheaffer, Jr., c/o VanOrmer & Stephenson, P.C., 344 S. Market St., Suite 101, Elizabethtown, PA 17022

Attorney: Daniel A. Stephenson, Esq., VanOrmer & Stephenson, P.C., 344 S. Market St., Suite 101, Elizabethtown, PA 17022

d20-j3

ESTATE OF LOIS L. PERKINS, late of Upper Paxton Township, Dauphin County, PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executrix: D. Jean Billman, 1001 E. Union Street, Millersburg, PA 17061

Attorney: Earl Richard Etzweiler, Esquire, 105 N. Front Street, Harrisburg, PA 17101, (717) 234-5600

d20-j3

ESTATE OF LOUISE L. DIETRICH, a/k/a LOUISE LAURA DIETRICH, late of Millersburg Borough, Dauphin County, PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executrix: Debra L. Strawser, 316 S. Market Street, Millersburg, PA 17061

Attorney: Earl Richard Etzweiler, Esquire, 105 N. Front Street, Harrisburg, PA 17101, (717) 234-5600

d20-j3

ESTATE OF JUNE R. MESSNER, late of Millersburg Borough, Dauphin County, PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Co-Executors: Jamie S. Armor, 272 River Street, Millersburg, PA 17061; Jeffrey L. Messner, 119 Middle Road, Millersburg, PA 17061

Attorney: Earl Richard Etzweiler, Esquire, 105 N. Front Street, Harrisburg, PA 17101, (717) 234-5600

d20-j3

ESTATE OF BETTY J. KISSINGER a/k/a BETTY JANE KISSINGER, late of Lykens Borough, Dauphin County, PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executors: Dean C. Deitrich, Cindy Deitrich, 113 Small Valley Road, Halifax, PA 17032

Attorney: Earl Richard Etzweiler, Esquire, 105 N. Front Street, Harrisburg, PA 17101, (717) 234-5600 d20-j3

ESTATE OF ELIZABETH DUNKLEBERGER, a/k/a ELIZABETH G. DUNKLEBERGER, late of Derry Township, Dauphin County, PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executrix: Gayle A. Wells, c/o Gerald J. Brinser, P. O. Box 323, Palmyra, PA 17078

Attorney: Gerald J. Brinser, P. O. Box 323, Palmyra, PA 17078 d20-j3

ESTATE OF FRANK P. SIMIONE, late of Lower Swatara Township, Dauphin County, PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Co-Executors: Frank P. Simione, Jr. and David A. Simione, c/o Keith D. Wagner, P. O. Box 323, Palmyra, PA 17078

Attorney: Keith D. Wagner, P. O. Box 323, Palmyra, PA 17078 d20-j3

ESTATE OF CHARLES E. CHAMBERS, late of South Hanover Township, Dauphin County, PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executrix: Linda L. Chambers, 9 Ramsgate Drive, Hummelstown, PA 17036

Attorney: Joseph M. Farrell, 201/203 South Railroad Street, P.O. Box 113, Palmyra, PA 17078 d20-j3

ESTATE OF ESTHER C. RHINE, late of South Hanover Township, Dauphin County, PA,

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Co-Executors: Patricia Benny and Jeffrey Rhine, c/o Gerald J. Brinser, P. O. Box 323, Palmyra, PA 17078

Attorney: Gerald J. Brinser, P. O. Box 323, Palmyra, PA 17078 d20-j3

ESTATE OF LINDA M. SMITH, late of West Hanover Township, Dauphin County, PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executrix: Robinson W. Smith, 6974 Brei Circle, Harrisburg, PA 17112

Attorney: Joseph M. Farrell, 201/203 South Railroad Street, P.O. Box 113, Palmyra, PA 17078 d20-j3

CORPORATE NOTICES

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 December 11, 2019, for a foreign corporation with a registered address in the state of Pennsylvania as follows: **Virtamed Inc.** c/o United Corporate Services, Inc.

This corporation is incorporated under the laws of Delaware.

The address of its principal office is 16144 Churchview Drive, Lithia, FL 33547. The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988, as amended. j3

NOTICE IS HEREBY GIVEN **IndependenceIT, Inc.** with a commercial registered office provider in care of Paracorp Incorporated in Dauphin County does hereby give notice of its intention to withdraw from doing business in this Commonwealth. The address to which any proceeding may be sent is 5401 Maggiore St., Coral Gables, FL 33146. This shall serve as official notice to creditors and **taxing authorities.** j3

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129/6129 of the Pennsylvania (PA) Bus. Corp. Law of 1988, **Novelis UK Limited**, a corporation incorporated under the laws of England with its registered office in PA at Corporation Service Co., Dauphin County, intends to file an Application for Termination of Authority with the Dept. of State. j3

NOTICE IS HEREBY GIVEN **A.M. West Inc.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 20 W. 64th St., Apt. 35EF, New York, NY 10023, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The commercial registered office provider in PA is Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. j3

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of the Commonwealth of Pennsylvania on 12/18/2019 under the Domestic Business Corporation Law, for **Nittany Merger Sub, Inc.**, and the name and county of the commercial registered office provider is c/o: Corporation Service Co., Dauphin County. j3

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of the Commonwealth of Pennsylvania on 12/18/2019 under the Domestic Business Corporation Law, for **New Nittany, Inc.**, and the name and county of the commercial registered office provider is c/o: Corporation Service Co., Dauphin County. j3

NOTICE IS HEREBY GIVEN **CANYONS INC.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 2093 Philadelphia Pike #1180, Claymont, DE 19703, intends to apply for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The street address in the association's jurisdiction of formation is 2093 Philadelphia Pike #1180, Claymont, DE 19703. The commercial registered office provider in PA is c/o: Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. j3

NOTICE IS HEREBY GIVEN that pursuant to the applicable provisions of 15 Pa.C.S Section 415 or 417, **OMNI GLOBAL SOURCING SOLUTIONS INC.**, a corporation incorporated

under the laws of the State of Delaware with its registered office in PA at c/o: Corporation Service Co., Dauphin County, intends to file a Statement of Withdrawal of Foreign Registration with the Dept. of State. j3

NOTICE IS HEREBY GIVEN that **Inside Track Impact, Inc.**, a foreign nonprofit corporation formed under the laws of the State of Delaware and with its principal office located 121 SW Salmon St, Ste 800, Portland, OR 97204 has registered to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on 12/24/19, effective 1/1/2020, 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. j3

NOTICE IS HEREBY GIVEN that, pursuant to the Business Corporation Law of 1988, **Coram Specialty Infusion Services, Inc.**, a corporation incorporated under the laws of the State of Delaware will withdraw from doing business in Pennsylvania. The address of its principal office in its jurisdiction of incorporation is One CVS Drive, Woonsocket, RI 02898, and the name of its commercial registered office provider in Pennsylvania is C T Corporation System. j3

NOTICE IS HEREBY GIVEN that **NARBUTAS USA INC.**, a foreign business corporation, has applied for a Statement of Registration to do business in the Commonwealth of Pennsylvania under the provisions of Chapter 4 of the Pennsylvania Association Transactions Act (15 Pa. C.S. § 6124). The corporation is incorporated under the laws of the State of New York. The address of its principal office under the laws of said jurisdiction is 19 W 34th St Ste 1018, New York, NY 10001, and the name of its commercial registered office provider in Pennsylvania is Penncorp Servicegroup, Inc. j3

NOTICE IS HEREBY GIVEN **LodgeWorks Corporation** with a commercial registered office provider in care of National Registered Agents, Inc. in Dauphin County does hereby give notice of its intention to withdraw from doing business in this Commonwealth. The address to which any proceeding may be sent is 8100 E. 22nd St., North, Bldg. 500, Wichita, KS 67226. This shall serve as official notice to creditors and taxing authorities. j3

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed for **CORAL & SILVER INC** with the Commonwealth of

Pennsylvania on December 20, 2019. The commercial registered office provider is in care of United Corporate Services, Inc. in Dauphin County. This corporation is incorporated under the provisions of the Business Corporation Law of 1988, as amended. j3

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 December 23, 2019, for a foreign corporation with a registered address in the state of Pennsylvania as follows: **CIRCULATION, INC.** c/o Registered Agent Solutions, Inc.

This corporation is incorporated under the laws of Delaware.

The address of its principal office is 53 State Street, 23rd Floor, Boston, MA 02109. The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988, as amended. j3

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA on or about December 12, 2019, for: **CareVet Pennsylvania PC** c/o Corporation Service Company

The corporation has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended. j3

NOTICE IS HEREBY GIVEN **ProteinQure (U.S.) Inc.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 119 Spadina, Ste. 304, Toronto, ON M5V 2L1, intends to apply for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The street address in the association's jurisdiction of formation is 251 Little Falls Dr., Wilmington, DE 19808. The commercial registered office provider in PA is c/o: Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. j3

NOTICE IS HEREBY GIVEN **Syntrio, Inc.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 500 Lake Cook Rd., Ste. 350, Deerfield, IL 60015, has applied for a Statement of Registration to do business in Pennsylvania under the provisions of Chapter 4 of the Association Transactions Act. The commercial registered office provider in PA is c/o: Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. j3

NOTICE IS HEREBY GIVEN in compliance with the requirements of the applicable provisions of 15 PA. C.S/415 or /417, the undersigned registered foreign association hereby states that **Lincoln Financial Investment Services Corporation** is not doing business in the Commonwealth and withdraws its registration to do business in this Commonwealth. The jurisdiction of formation is North Carolina, with the PA registered agent being c/o: Corporation Service Co. This statement of withdrawal will take place effective 12/17/2019. j3

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg PA on December 20, 2019, by **CYAN BLUE ODDS USA LIMITED** a foreign corporation formed under the laws of the Country of the United Kingdom, where its principal office is located at The Aircraft Company, 100 Cambridge Grove, London, W6 0LE, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located at CT Corporation System, Dauphin County. j3

NOTICE IS HEREBY GIVEN that **ImPACT Applications, Inc.**, a foreign corporation formed under the laws of the State of Delaware and with its principal office located 9655 Granite Ridge Dr., Ste 550, San Diego, CA 92123, has registered to do business in Pennsylvania with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on 12/12/19, 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. j3

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on June 5, 2019, with respect to a non-profit corporation - **Women of Purpose** - which has been incorporated under the nonprofit Corporation Law of 1988. A brief summary of the purposes for which said corporation is organized is: to provide human and social services to individuals in the community, with a special emphasis on women. j3

**FICTITIOUS NAME
NOTICES**

NOTICE IS HEREBY GIVEN that under Act 12/16/1982, Notice 295, 54 Pa. C.S., application for Registration of Fictitious Name for **CALDER DOOR AND SPECIALTY CO.** has been filed with the Department of State of the Commonwealth of Pennsylvania. The party to the registration is Vigor Group, LLC, with principal office address of 1421 Stoneridge Drive, Middletown, PA 17057.

CALDWELL & KEARNS, P.C.
3631 North Front Street
j3 _____
Harrisburg, PA 17110

NOTICE IS HEREBY GIVEN, pursuant to the provisions of 54 Pa.C.S. 311 and 54 Pa.C.S. Ch.3, that an Application for Registration of Fictitious Name for the conduct of a business in Dauphin County, PA, under the assumed or fictitious name, style or designation of **Sedgwick** was filed in the office of the Secy. of the Commonwealth of Pennsylvania (PA), Dept. of State, on 12/17/2019. Purpose: insurance claims administration and adjusting. Principal place of business: 8125 Sedgwick Way, Memphis, TN 38125. The name and address of the person/entity owning or interested in said business is Sedgwick Claims Management Services, Inc., (a Incorporation organized in Tennessee), with an address of 8125 Sedgwick Way, Memphis, TN 38125. The PA reg'd office is Corporation Service Co. j3

**MISCELLANEOUS
NOTICES**

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

NO. 2018 CV 7361 MF

CIVIL ACTION – LAW

**NOTICE OF ACTION
IN MORTGAGE FORECLOSURE**

**THE BANK OF NEW YORK MELLON,
THE SUCCESSOR TO JPMORGAN
CHASE BANK, AS TRUSTEE FOR CIT
HOME EQUITY LOAN TRUST 2002-1,
PLAINTIFF**

**VS.
NATERRA D. FOSTER, IN HER
CAPACITY AS HEIR OF LARRY D.
FOSTER, DECEASED**

**THE UNITED STATES OF AMERICA C/O
THE UNITED STATES ATTORNEY FOR
THE MIDDLE DISTRICT OF PA,
DEFENDANTS**

NOTICE

To NATERRA D. FOSTER, in her capacity as Heir of LARRY D. FOSTER, Deceased

You are hereby notified that on November 6, 2018, Plaintiff, THE BANK OF NEW YORK MELLON, THE SUCCESSOR TO JPMORGAN CHASE BANK, AS TRUSTEE FOR CIT HOME EQUITY LOAN TRUST 2002-1, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of DAUPHIN County Pennsylvania, docketed to No. 2018 CV 7361 MF. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 1727 DERRY STREET, HARRISBURG, PA 17104-1232 whereupon your property would be sold by the Sheriff of DAUPHIN County.

You are hereby notified to plead to the above referenced Complaint on or before 20 days from the date of this publication or a Judgment will be entered against you.

NOTICE

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
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Telephone (717) 232-7536

IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY,
PENNSYLVANIA

NO. 2019-CV-1706 EJ

CIVIL ACTION – LAW

NOTICE OF ACTION
IN MORTGAGE FORECLOSURE

**PENNYMAC LOAN SERVICES, LLC,
PLAINTIFF
VS.
JOHN DOE AND/OR
TENANTS/OCCUPANTS, DEFENDANTS**

NOTICE

TO: John Doe and/or Tenants/Occupants

You are hereby notified that on March 11, 2019, Plaintiff, PENNYMAC LOAN SERVICES, LLC, filed a Complaint in Ejectment endorsed with a Notice to Defend, against you in the Court of Common Pleas of Dauphin County Pennsylvania, docket 2019-CV-1706. Wherein Plaintiff seeks to Evict on the property located at 325 Emerald Street, Harrisburg, PA 17110.

You are hereby notified to plead to the above referenced Complaint on or before 20 day from the date of this publication or a Judgment will be entered against you.

NOTICE

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

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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j3

IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY,
PENNSYLVANIA

NO. 2019-CV-07957-MF

CIVIL ACTION – LAW

NOTICE OF ACTION
IN MORTGAGE FORECLOSURE

**NATIONSTAR MORTGAGE LLC D/B/A
CHAMPION MORTGAGE COMPANY,
PLAINTIFF
VS.**

**KEITH GONDER, IN HIS CAPACITY AS
HEIR OF LINDA S. GONDER A/K/A
LINDA SUE GONDER, DECEASED
UNKNOWN HEIRS, SUCCESSORS,
ASSIGNS, AND ALL PERSONS, FIRMS,
OR ASSOCIATIONS CLAIMING RIGHT,
TITLE OR INTEREST FROM OR UNDER
LINDA S. GONDER A/K/A LINDA SUE
GONDER, DECEASED, DEFENDANTS**

NOTICE

To UNKNOWN HEIRS, SUCCESSORS, ASSIGNS, AND ALL PERSONS, FIRMS, OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER LINDA S. GONDER A/K/A LINDA SUE GONDER, DECEASED

You are hereby notified that on October 30, 2019, Plaintiff, NATIONSTAR MORTGAGE LLC D/B/A CHAMPION MORTGAGE COMPANY, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of DAUPHIN County Pennsylvania, docketed to No. 2019-CV-07957-MF. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 1228 MATAMORAS ROAD, HALIFAX, PA 17032-9614 whereupon your property would be sold by the Sheriff of DAUPHIN County.

You are hereby notified to plead to the above referenced Complaint on or before 20 days from the date of this publication or a Judgment will be entered against you.

NOTICE

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.

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

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

REPORTING OF ERRORS IN ADVANCE SHEET

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

DAUPHIN COUNTY COURT SECTION

Opinions Not Yet Reported

BAR ASSOCIATION PAGE
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213 North Front Street, Harrisburg, PA 17101-1493
www.dcba-pa.org
Phone: (717) 232-7536 Fax: (717) 234-4582

Dauphin County Bar Association
Annual Membership Meeting

The Annual Dinner Meeting of the Dauphin County Bar Association will be held **Wednesday, January 22, 2020**, at 6:30 p.m. at the Hilton Harrisburg. The meeting will be preceded by a Social Hour beginning at 5:30 p.m. The cost of the dinner is \$35.00 per person.

The Nominating Committee of the Dauphin County Bar Association, in accordance with Article V, Section 2 of the By-Laws, submits the following nominations for officers and directors of the Board for the term of one year or as otherwise indicated, beginning February 1, 2018:

President Elect: Paul J. McDermott

Vice President: Scott B. Cooper

Secretary: Kimberly A. Selemba

Treasurer: Thomas P. Gacki

Directors (2-year term): Carolyn M. Anner; Michael R. Dimino; Jonathan D.

Koltash; Teresa C. Marino; Mark J. Powell will fill the vacancy created by Kimberly Selemba's nomination for Secretary

By virtue of Article V, Section 1 of the By-Laws, Lisa M. Benzie, will automatically succeed to the office of President. j3-17

ATTORNEY/FAMILY LAW: A Central Pennsylvania family law firm looking to expand our team, is seeking an experienced family law trial attorney, admitted in Pennsylvania. We are seeking a professional and personable candidate who desires to problem-solve client issues, lead our clients in the courtroom and provide quality legal services. Candidate must adhere to the highest ethical standards. The successful candidate should have 5 years of trial experience dealing with family law litigation including divorce, custody and support. You will be working in a positive employment atmosphere with a team of top-notch support professionals to assist you. This is a great opportunity for a motivated attorney. We have interesting and challenging cases, and we offer competitive compensation that is commensurate with experience and/or book of business. Experienced matrimonial solo practitioners are welcome to apply. If you share the firm's commitment to providing quality legal services and would like to be part of a successful team, apply with a cover letter and resume via email to our Office Manager, at FLAtty.OfficeManager@gmail.com. d20-j3

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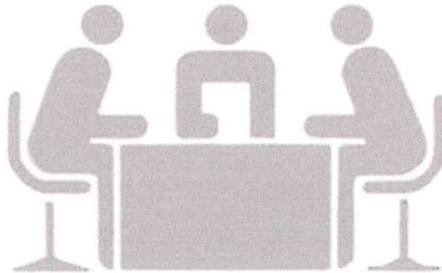
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