

# Lawrence Law Journal

USPS 306-600

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VOL. 31

July 12, 2021

No. 237

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Vassilaros  
v.  
Department of Transportation

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Owned and Published By  
**THE LAWRENCE COUNTY BAR ASSOCIATION**

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The Lawrence Law Journal is published every Monday. Legal notices, court opinions and advertising copy must be received at the Lawrence County Court House by noon of the preceding Wednesday. Postmaster, please send change of address to Lawrence Law Journal, 430 Court Street, New Castle, PA 16101.

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Subscription Price \$30.00. Single copies 50¢

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Periodical postage paid at New Castle, Pennsylvania 16101

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## ESTATE NOTICES

Notice is hereby given that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims against the estate of the decedent shall make known the same to the person(s) named or to his/her/their attorney and all persons indebted to the decedent shall make payment to the person(s) named without delay.

### FIRST PUBLICATION

#### **Angelucci, Paul M.**

Late of Shenango Township, Lawrence County, Pennsylvania

Executor: Daniel Angelucci

Attorney: John J. DeCaro, Jr., Cusick DeCaro & Langer, P.C., 100 Decker Dr., P.O. Box 5137, New Castle, PA 16105, 724-658-2525

#### **Crowley, Dorothy F.**

Late of Ellwood City, Lawrence County, Pennsylvania

Executrix: Claire E. Celli Fauzey, Ellwood City, Pennsylvania

Attorney: Edward Leymarie, Jr., Leymarie Clark Long, P.C., 423 Sixth St., Ellwood City, PA 16117

#### **Esposito, Ralph**

#### **a/k/a Esposito, Ralph J.**

Late of New Castle, Lawrence County, Pennsylvania

Executor: Michelle Perretti, 325 Douglas Dr., New Castle, PA 16101

Attorney: Louis M. Perrotta, Louis M. Perrotta, P.C., 229 S. Jefferson St., New Castle, PA 16101, (724) 658-9980

#### **Francese, Sophie**

Late of New Castle, Lawrence County, Pennsylvania

Executor: Pamela S. Crews, 1948 Hanna St., New Castle, PA 16101

Attorney: Louis M. Perrotta, Louis M. Perrotta, P.C., 229 S. Jefferson St., New Castle, PA 16101, (724) 658-9980

#### **Jermakowicz, Alice M.**

Late of New Castle, Lawrence County, Pennsylvania

Executor: Dorothy A. Kline, 2308 Morris St., New Castle, PA 16102

Attorney: Louis M. Perrotta, Louis M. Perrotta, P.C., 229 S. Jefferson St., New Castle, PA 16101, (724) 658-9980

#### **Link, Thelma M.**

Late of New Castle, Lawrence County,

Pennsylvania

Executor: Barbara Walters, 516 Countyline St., New Castle, PA 16101

Attorney: Louis M. Perrotta, Louis M. Perrotta, P.C., 229 S. Jefferson St., New Castle, PA 16101, (724) 658-9980

#### **McConnell, Patricia J.**

Late of the City of New Castle, Lawrence County, Pennsylvania

Administrator: Shane McConnell, 1049 Adams St., New Castle, PA 16101

Attorney: Jason A. Medure, 713 Wilmington Ave., New Castle, PA 16101

#### **Michaels, Richard Dale**

Late of New Castle, Lawrence County, Pennsylvania

Executor: Douglas Earl Michaels, 110 Alan Way, New Castle, PA 16101

Attorney: Louis M. Perrotta, Louis M. Perrotta, P.C., 229 S. Jefferson St., New Castle, PA 16101, (724) 658-9980

#### **Randall, Frederica**

Late of Neshannock Township, Lawrence County, Pennsylvania

Administrator C.T.A.: Paul L. Feldman, 820 Homestead Rd., Jenkintown, PA 19046

Attorney: Bess M. Collier, Feldman & Feldman, LLP, 820 Homestead Rd., Jenkintown, PA 19046

#### **Wimer, Ford Everett**

Late of Township of Wayne, Lawrence County, Pennsylvania

Administrator: Michael W. Nalli, Michael W. Nalli, P.C., 150 Pleasant Dr., Suite 101, Aliquippa, PA 15001

Attorney: Michael W. Nalli, Michael W. Nalli, P.C., 150 Pleasant Dr., Suite 101, Aliquippa, PA 15001

## SECOND PUBLICATION

#### **Ketzel, Cori Lyn**

Late of New Castle, Lawrence County, Pennsylvania

Administrator: Philip J. Ketzel, New Castle, Pennsylvania

Attorney: Edward Leymarie, Jr., Leymarie Clark Long, P.C., 423 Sixth St., Ellwood City, PA 16117

#### **Kline, Laverne A.**

#### **a/k/a Kline, Laverne**

Late of Neshannock Township, Lawrence County, Pennsylvania

Co-Executors: Laverne A. Kline, Jr., 225 Shaner Rd., Volant, PA 16156 and Melanie Cialella, 3218 Concord Dr., New Castle,

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PA 16105  
Attorney: Anthony Piatek, 414 N. Jefferson  
St., New Castle, PA 16101

## **Price, Thelma**

Late of New Castle, Lawrence County,  
Pennsylvania  
Executor: Cynthia Vincent, 912 Beckford St.,  
New Castle, PA 16101  
Attorney: Charles P. Sapienza, 713  
Wilmington Ave., New Castle, PA 16101

## **Reigh, Robert**

Late of the City of New Castle, Lawrence  
County, Pennsylvania  
Administrator: Shawn Reigh, 318 Byron  
Circle, Cranberry Township, PA 16066  
Attorney: Michael C. Bonner, 713 Wilmington  
Ave., New Castle, PA 16101

## **Simpson, Beverly**

Late of New Castle, Lawrence County,  
Pennsylvania  
Administrator: Christine Duke, 2100  
McClellan St., Aliquippa, PA 15001  
Attorney: Brooke B. McMorrow, McMorrow  
Law, LLC, 10475 Perry Highway, Suite 204,  
Wexford, PA 15090

## **Smith, Kathy Ann**

Late of Pulaski Township, Lawrence County,  
Pennsylvania  
Executor: Richard Hamm, c/o Jonathan R.  
Miller, Esq., 229 S. Jefferson St., Suite 104,  
New Castle, PA 16101  
Attorney: Jonathan R. Miller, 229 S.  
Jefferson St., Suite 104, New Castle, PA  
16101

## **Taylor, Harry Ernest**

Late of New Castle, Lawrence County,  
Pennsylvania  
Executrix: Laura Gillest, 807 East Pollack  
Ave., New Castle, PA 16101  
Attorney: Charles P. Sapienza, 713  
Wilmington Ave., New Castle, PA 16101

## **Zurasky, Russell**

Late of Pulaski Township, Lawrence County,  
Pennsylvania  
Executrix: Megan L. Wilson  
Attorney: John J. DeCaro, Jr., Cusick  
DeCaro & Langer, P.C., 100 Decker Dr.,  
P.O. Box 5137, New Castle, PA 16105, 724-  
658-2525

## **THIRD PUBLICATION**

### **Campbell, Betty A.**

Late of Union Township, Lawrence County,  
Pennsylvania

Executrix: Amy L. DiMuccio  
Attorney: John J. DeCaro, Jr., Cusick  
DeCaro & Langer, P.C., 100 Decker Dr.,  
P.O. Box 5137, New Castle, PA 16105, 724-  
658-2525

### **Nocera, Joseph A.**

Late of Ellwood City Borough, Lawrence  
County, Pennsylvania  
Executors: Kathy MacDonald, 748 First Ave.,  
Ellwood City, PA 16117; Michael Nocera, 385  
Franklin St., Ellwood City, PA 16117  
Attorney: Gregory S. Fox, Fox & Fox, P.C.,  
323 Sixth St., Ellwood City, PA 16117

### **Sedwick, Josephine**

Late of Union Township, Lawrence County,  
Pennsylvania  
Executor: Michael J. Sedwick, 12 Homestead  
St., New Castle, PA 16101  
Attorney: Anthony Piatek, 414 N. Jefferson  
St., New Castle, PA 16101

### **Woloszyn, Carter Jon**

Late of Wampum, Lawrence County,  
Pennsylvania  
Administratrix: Kathleen S. Woloszyn,  
Wampum, PA  
Attorney: Edward Leymarie, Jr., Leymarie  
Clark Long, P.C., 423 Sixth St., Ellwood  
City, PA 16117

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## **NOTICE**

In the Court of Common Pleas of Lawrence,  
Orphans' Court Division, Estate of Helen L.  
Salamon, deceased, Case No. 76 of 2021:  
Notice is hereby given that on June 16, 2021,  
a Petition was filed by George Salamon  
to terminate the interests of the heirs and  
devises of Helen L. Salamon, deceased,  
in the real estate located at 1571 Savannah  
Road, New Castle, PA 16101 and determine  
that fee simple title is in George Salamon. If  
no exceptions to the Petition are filed within  
30 days, George Salamon will seek an Order  
adjudging that Helen L. Salamon's title is  
vested in George Salamon.

L.C.L.J. - July 5, 12, and 19, 2021

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## **NOTICE OF REVOCABLE TRUST**

Notice is hereby given of the administration  
of the John W. and Anna Marie King Living  
Trust. The Settlor of the Trust, Anna  
Marie King, a resident of the Borough  
of New Wilmington, Lawrence County,  
Pennsylvania, passed away on April 1, 2021.  
All persons having claims against Anna  
Marie King are requested to make the same

known to the Trustee or his attorney named below and all persons indebted to Anna Marie King are requested to make payment to the undersigned without delay.

Roy L. Milliren, Trustee  
4 Holiday Lane  
Greenville, PA 16125

Jason R. Dibble, Esquire  
Wallace & Dibble, LLC  
47 Clinton St.  
Greenville, PA 16125

L.C.L.J. - June 28, July 5 and 12, 2021

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**Vassilaros v. Department of Transportation****Suspension/Recall of Driving Privileges – 75 Pa.C.S. § 1519(c) – Restricted Driver’s License – 67 Pa.Code § 83.3 – Vision Condition – Driving While Drunk – Due Process – Lack of Proper Notice**

The due process clause of the Fourteenth Amendment requires that a driver be provided with proper notice of the reasons for the recall of his or her driver’s license.

The license of a driver may not be recalled where a notice indicates the recall is the result of a vision condition preventing safe driving and the driver is advised just prior to the hearing that the basis of the recall is driving at night.

Appeal from Suspension/Recall of Driving Privileges – In the Court of Common Pleas of Lawrence County, Pennsylvania, No. 70002 of 2020, M.D.

*Justin J. Ketchel*, attorney for Petitioner, Nick Vassilaros

*William A. Kuhar, Jr.*, attorney for Commonwealth of Pennsylvania Department of Transportation, Bureau of Driver Licensing

**OPINION**

MOTTO, P.J.

March 25, 2018

This case is before the Court for disposition of the Petition for Appeal from the Suspension/Recall of Driving Privileges filed on behalf of the petitioner, Nick Vassilaros, on January 6, 2020.

Petitioner was granted a restricted driver’s license due to having impaired vision as his corrected vision is 20/100 and the vision required for a regular driver’s license is 20/70. Pursuant to the restricted driver’s license, Petitioner was required to comply with 67 Pa.Code § 83.3, which includes requiring him to only operate a vehicle during the daylight hours. On September 12, 2016, at approximately 3:58 a.m., Petitioner was involved in a motor vehicle accident as the vehicle he was operating struck a tractor trailer, which was blocking both lanes of traffic on Route 19 in Cranberry Township, Pennsylvania. At the time of the accident, it was completely dark outside.

The respondent, Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing, sent a correspondence to Petitioner dated October 31, 2019, which stated, “In order to determine if you continue to meet the Department’s vision standards for driving, it is necessary that you undergo an annual visual examination.” Failure to comply with that request within 30 days would result in a suspension of his driving privileges. On November 13, 2019, Paul B. Freeman, O.D., completed an Application for Restricted License/Lerner’s Permit on behalf of Petitioner, which indicated his corrected vision remained at 20/100.

Subsequently, Petitioner received a Notice from Respondent dated December 24, 2019, which declared Petitioner's driver's license was being recalled pursuant to Section 1519(c) of the Pennsylvania Vehicle Code. The Notice further stated Respondent received information indicating Petitioner has a vision condition, which prevents him from safely operating a motor vehicle. Moreover, the Notice explained, "As of 12/31/2019, you may no longer drive. Your driving privilege is hereby recalled until you have demonstrated your condition meets PennDOT's minimum medical standards." The recall was to remain effective until Respondent received medical information indicating Petitioner's condition has improved, and he is able to safely operate a motor vehicle. The Notice also advised, "If you feel our records are incorrect, you may have your health care provider submit updated information detailing your medical condition."

A hearing on Petitioner's Petition for Appeal from the Suspension/Recall of Driving Privilege was scheduled for February 7, 2020, but was continued to March 6, 2020. On that date, Respondent provided the Court with A copy of the Notice dated December 24, 2019, the Police Crash Report providing information on the September 12, 2016, accident involving Petitioner, the Application for Restricted License/Lerner's Permit completed by Dr. Freeman and the correspondence issued by Respondent on October 31, 2019.

Moreover, on the date of the hearing, Respondent argued Petitioner's restricted driver's license was not being recalled as a result of a change in his vision, but was attributable to Petitioner driving while it was completely dark outside in violation of 67 Pa.Code § 83.3. Petitioner contended it was improper for Respondent to recall his restricted driver's license based upon the foregoing reason as the Notice indicated it was a result of a change in his vision condition.

First, the Court must determine whether Respondent is precluded from recalling Petitioner's restricted driver's license because he was driving at night when the Notice dated December 24, 2019, states the recall was the result of a vision condition preventing him from safely operating a vehicle.

A person has a property interest in a driver's license and it cannot be revoked without satisfying the due process guarantees of the Fourteenth Amendment. Com., Dept. of Transp. v. McCaffery, 758 A.2d 1155, 1163 (Pa. 2000). This includes the right to receive notice and the right to be heard before the revocation. Phillips v. Com., Dept. of Transp., Bureau of Driver Licensing, 80 A.3d 561, 568 (Pa. Cmwlth. 2013). "In license suspension cases, due process requires sufficient notice of the conduct that forms the basis for the revocation or suspension of a license to allow the licensee to adequately prepare a defense." Id. However, a notice in this context is not a pleading and does not provide the licensee with the right to be deliberately obtuse as to the nature of the proceedings when the li-

censee knows exactly what was happening and why it was happening. *Id.*

In Dunn v. Com., Dept. of Transp., Bureau of Driver Licensing, 819 A.2d 189 (Pa. Cmwlth. 2003), the Commonwealth Court addressed the sufficiency of notice concerning a suspension of a driver's license provided by the Department to the appellee. In that case, the appellee convicted of twelve violations of the Drug Act, but the court did not forward the reports to the Department until more than six years later and the reports contained incorrect dates for the violations. The appellee was then provided with notice from the Department that it was suspending his license for consecutive one year periods; however, each notice repeated the erroneous information received from the court. The appellee filed an appeal of the license suspension and a *de novo* hearing was held. At that time, the Department submitted into evidence the notices and the conviction reports. In addition, the Department consented to the granting of the appellee's appeal for eight of the eleven suspension notices while recognizing the notices contained the wrong dates of violation and conviction. The trial court sustained the appellee's appeal and the Department appealed to the Commonwealth Court.

The Dunn Court explained that an immaterial or technical defect in the notice of license suspension is not grounds for reversing a suspension. Id., 819 A.2d at 192. But, the Court explained the notices presented "rare and egregious combination of incorrect dates of both violations and convictions" along with a seven year delay, even though some of that is not attributable to the Department. Id. Hence, the Dunn Court surmised the appellee was not provided with reasonable notice explaining the charges against him due to the multiple, repetitive errors contained therein, which rendered them inadequate for providing the notice required by the due process clause of the Fourteenth Amendment. Id., 819 A.2d at 193. "The Court cannot allow the abrogation of [the appellee's] due process rights to adequate notice merely because misinformation and delay originated in one source and the defective suspension notices originated in another source, the Department." Id.

In the case *sub judice*, Respondent issued a Notice to Petitioner on December 24, 2019, which clearly stated his license was being recalled due to a vision condition. In fact, the Notice stated the decision was reached by comparing his medical information with the standards recommended by the Medical Advisory Board. It also explained to Petitioner the recall would remain effective until Respondent receives medical information indicating his condition has improved and he is able to safely operate a vehicle. There is no mention in the December 24, 2019, Notice to the accident Petitioner was involved in nor is there reference to him operating a vehicle when it was dark.

In relying upon the Notice, Petitioner prepared a defense to prove his



vision was sufficient to operate a vehicle pursuant to a restrict driver's license as set forth in 67 Pa.Code § 83.3. It was not until just prior to the hearing did Respondent inform Defendant and his counsel the recall was based upon Petitioner driving at night. This placed Petitioner in the unenviable position of conducting a hearing in which he was not provided with proper notice of the charges against him as it relates to recalling his restricted driver's license. This situation is more egregious than the one addressed by the Court in Dunn as the Department received incorrect information from the court in drafting its notices and, in this matter, Respondent was in possession of all relevant information, yet sent a misleading Notice to Petitioner. The Notice dated December 24, 2019, is deficient for notifying Petitioner his license was being suspended for operating a vehicle while it was dark and asserting that as a basis for recalling his restricted driver's license is clearly prohibited by the due process clause contained within the Fourteenth Amendment.

Based upon the foregoing, the Court sustains Petitioner's appeal and the recall of his driver's license is stricken.

### **ORDER OF COURT**

AND NOW, this 25th day of March, 2020, following a hearing on the Appeal from the Suspension/Recall of Driving Privileges filed on behalf of the petitioner, Nick Vassilaros, it is hereby ORDERED and DECREED that the Appeal is GRANTED and the suspension set forth in the official Notice of Recall of Driving Privileges dated December 24, 2019 relative to Driver's License No. 29082179 for recall authorized by § 1519(c) of the Pennsylvania Vehicle Code is STRICKEN in accordance with the attached Opinion of even date herewith. Petitioner shall continue to maintain the privilege to operate a motor vehicle in accordance with a restricted Driver's License pursuant to 67 Pa.Code § 83.3.

BY THE COURT:  
Dominick Motto  
President Judge

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