

**KML Law Group, P.C**

**Attorneys at Law**

Suite 5000 The Lits Building

701 Market Street

Philadelphia, Pennsylvania 19106-1532

[WWW.KMLLAWGROUP.COM](http://WWW.KMLLAWGROUP.COM)

**FACSIMILE TRANSMISSION**

**DATE: 3/5/2020**

**PAGES (including cover sheet): 2**

**TO: Sheriff of Columbia County  
Real Estate Division**

**FROM: Post Sale Department**

**FAX: (570-389-5625)**

**FAX: (267) 515-5806**

**RE: Statement of Claim**

**02/26/2020 Sheriff's sale**

**Docket: 2019-CV-1069**

**Property: 1654 Brittain Street, Berwick, PA. 18603**

---

Good afternoon, please see the attached statement of claim for the 2/26/2020 Sheriff's sale.

If you have any questions, please feel free to contact me.

Thank you,

Amy Gough, Supervisor  
Post Sale Department  
Phone: 215-825-6414  
Fax: 267-515-5608  
[postsale@kmlawgroup.com](mailto:postsale@kmlawgroup.com)

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M&T BANK S/B/M FRANKLIN FIRST SAVINGS BANK  
One Fountain Plaza  
Buffalo, NY 14203

*Plaintiff*

In the Court of  
Common Pleas  
of Columbia County

CIVIL ACTION - LAW

vs.

DOROTHY J. KOSCELNICK  
1654 Brittain Street  
Berwick, PA 18603

No. 2019-CV-1069

*Defendant(s)*

**STATEMENT OF AMOUNTS OWED BY MORTGAGE HOLDER  
FOLLOWING THE SHERIFF SALE OF THE PROPERTY TO A THIRD  
PARTY**

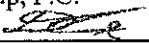
To the Sheriff of Columbia County, Pa.:

M&T BANK S/B/M FRANKLIN FIRST SAVINGS BANK, ("Plaintiff") does hereby file a Claim against the Proceeds of a Sheriff's Sale entered to the above number held on February 26, 2020 of property located at 1654 Brittain Street Berwick PA 18603. Plaintiff is the holder of a mortgage dated February 18, 1994, which is recorded in Mortgage Book 562 Page 35, Columbia County Records. Plaintiff claims as follows:

Principal Balance	\$1,673.45
Interest to 02/26/2020	\$151.73
Attorney's Fees and Costs	\$3,113.04
Late Charges	\$219.44
Escrow Advances	\$2,595.46
Property Inspections	\$135.00
Property Valuations	\$275.00
Property Preservation	\$1,395.00
<u>See Extraco Mortgage v. Williams 2002 WL 1737474 (Pa. Super. 2002)</u>	\$9,558.12

Judgment Amount: \$4,197.62\*  
Date: March 4, 2020

KML Law Group, P.C.

By: 

Michael McKeever Pa. ID 56129

Lisa Lee Pa. ID 78020

— David Fein Pa. ID 82628

Kevin G. McDonald Pa. ID 203783

Suite 5000 – BNY Independence Center

701 Market Street

Philadelphia, PA 19106-1532

Sale Results: The property was sold to a Third Party for the amount of \$17,096.58.

\*For purposes of distribution process only as the total debt may be in excess of this amount.

TIMOTHY T. CHAMBERLAIN



701 Market Street  
Philadelphia, Pennsylvania 19106-1332  
[www.kmlllawgroup.com](http://www.kmlllawgroup.com)  
**SHERIFF OF COLUMBIA COUNTY**  
COURT HOUSE - PO BOX 380  
BLOOMSBURG, PA 17815  
FAX (570) 389-5625

PHONE  
(570) 389-5622

24 HOUR PHONE  
(570) 784-6300

**FACSIMILE TRANSMISSION**

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**TO: Sheriff of Columbia County  
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If you have any questions, please feel free to contact me.

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**COLUMBIA COUNTY REGISTER AND RECORDER  
RECEIPT**

Inv Number: 241250  
Customer:  
SHERIFF  
ATTN: OFFICE

Invoice Date: 10/21/2020 11:32:48 AM  
Last Change:

RECEIPT  
Receipt By: WALK-IN

Reg/Drw ID: 0101  
By: BSL

Chg #	Charge / Payment / Fee Description	Amount	Inst # / Inst Date	Municipality
1	DEED	\$72.75	202008181	BERWICK BORO
	Grantor - KOSCELNICK, DOROTHY J		10/21/20 11:32:50 AM	
	Grantee - PNC BANK			
	Consideration - \$17,438.51			
	Tax Basis - \$0.00			
	Return Via - MAIL			
	Fees Summary:			
	STATE WRIT TAX	\$0.50		
	JCS/ACCESS TO JUSTICE	\$40.25		
	AFFORDABLE HOUSING	\$13.50		
	RECORDING FEES - RECORDER	\$13.50		
	RECORDER IMPROVEMENT FUND	\$3.00		
	COUNTY IMPROVEMENT FUND	\$2.00		
	Inst Info: SHERIFF'S DEED			
	<b>TOTAL CHARGES</b>	<u>\$72.75</u>		
	<b>PAYMENTS</b>			
	CHECK: 8879 - SHERIFF	<u>\$72.75</u>		
	<b>TOTAL PAYMENTS</b>	<u>\$72.75</u>		
	<b>AMOUNT DUE</b>	\$72.75		
	<b>PAYMENT ON INVOICE</b>	(\$72.75)		
	<b>BALANCE DUE ON INVOICE</b>	\$0.00		



## Timothy Chamberlain

---

**From:** Caitlin S. Murphey <csm@manleydeas.com>  
**Sent:** Wednesday, October 14, 2020 12:53 PM  
**To:** Timothy Chamberlain  
**Subject:** RE: Deeding instructions - 1654 Brittain Street, Berwick, AKA Berwick Boro, PA 18603

Yes, please that would be great. Can you please send both to the below address?

Manley Deas Kochalski, LLC  
Attn: Post Sale Department  
1555 Lake Shore Drive  
Columbus, OH 43204

Thank you!

Caitlin Murphey | Assistant Manager – Post Sale / Asset Recovery | Manley Deas Kochalski LLC  
614.917.1729 | [csm@manleydeas.com](mailto:csm@manleydeas.com) | [manleydeas.com](http://manleydeas.com)

**From:** Timothy Chamberlain [mailto:tchamberlain@columbiapa.org]  
**Sent:** Wednesday, October 14, 2020 12:51 PM  
**To:** Caitlin S. Murphey <csm@manleydeas.com>  
**Subject:** RE: Deeding instructions - 1654 Brittain Street, Berwick, AKA Berwick Boro, PA 18603

There are proceeds beyond what the 1<sup>st</sup> mortgage holder is due. PNC being the 2<sup>nd</sup> mortgage holder, should I send those proceeds along with the deed when it is recorded?

Timothy T. Chamberlain  
Sheriff of Columbia County  
PO Box 380  
Bloomsburg, PA 17815  
Ph: 570-389-5622  
Fax: 570-389-5625



**From:** Caitlin S. Murphey <csm@manleydeas.com>  
**Sent:** Wednesday, October 14, 2020 12:31 PM  
**To:** Timothy Chamberlain <tchamberlain@columbiapa.org>  
**Subject:** Deeding instructions - 1654 Brittain Street, Berwick, AKA Berwick Boro, PA 18603



MANLEYDEAS.COM

P.O. BOX 165028  
COLUMBUS, OH 43216  
P 614-220-5611 | F 614-220-5613

October 14, 2020

Columbia County Sheriff  
Timothy Chamberlain  
35 West Main Street  
P.O. Box 380  
Bloomsburg, Pennsylvania 17815

Re: M&T Bank S/B/M Franklin First Savings Bank v.  
Dorothy J. Koscelnick  
Property Address: 1654 Brittain Street, Berwick, AKA Berwick Boro, PA 18603  
Docket No. 2019-CV-1069; 444 of 2020  
Our File Number: 20-005777

Dear Sir or Madam:

Our office is the attorney on the Writ for the above-referenced sale. Please be advised that we are assigning the bid to **PNC Bank National Association, 3232 Newmark Dr., Miamisburg, Ohio 45342**. Please issue the Deed to the specified assignee.

Should you have any questions, please feel free to contact me at 614-220-5611 or email [Post-Sale-PA@manleydeas.com](mailto:Post-Sale-PA@manleydeas.com).

Very truly yours,

MANLEY DEAS KOCHALSKI LLC

Enclosures





# SHERIFF'S OFFICE OF COLUMBIA COUNTY

136

Timothy T. Chamberlain  
Sheriff

Earl D. Mordan, Jr.  
Chief Deputy



Plaintiff  
M & T BANK

vs.

Defendant  
DOROTHY J KOSCELNICK

Attorney for the Plaintiff:  
KML LAW GROUP, P.C.  
701 MARKET STREET  
PHILADELPHIA, PA 19106

Sheriff's Sale Date: Wednesday, February 26, 2020  
Writ of Execution No. : 2019CV1069  
Advance Sheriff Costs: \$1,350.00

Location of the real estate: 1654 BRITAIN STREET, BERWICK, PA 18603

## Sheriff Costs

Advertising Sale (Newspaper)	\$15.00
Advertising Sale Bills & Copies	\$17.50
Crying Sale	\$10.00
Docketing	\$15.00
Levy	\$15.00
Posting Handbill	\$15.00
Press Enterprise Inc.	\$1,581.35
Prothonotary, Acknowledge Deed	\$10.00
Sheriff Automation Fund	\$50.00
Sheriff's Deed	\$35.00
Solicitor Services	\$100.00
Transfer Tax Form	\$25.00
Web Posting	\$100.00
Distribution Form	\$25.00
Copies	\$6.50
Notary Fee	\$10.00
Surcharge	\$140.00
Mailing Costs	\$42.00
Service	\$210.00
Service Mileage	\$24.00
<b>Total Sheriff Costs</b>	<b>\$2,446.35</b>

## Municipal Costs

Delinquent Taxes	\$977.28
<b>Total Municipal Costs</b>	<b>\$977.28</b>

## Distribution Costs

Recording Fees	\$72.75
<b>Total Distribution Costs</b>	<b>\$72.75</b>

**Grand Total: \$3,496.38**

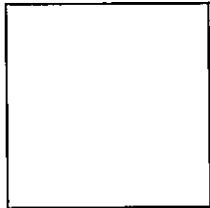
Sheriff's poundage cost will be calculated according to the current law and added to the Sheriffs' costs after the sale.

Good Afternoon,

Attached are the deeding instructions for 1654 Brittain Street, Berwick, AKA Berwick Boro, PA 18603. Please let me know if you need anything else.

Thank you,

Caitlin Murphey | Assistant Manager – Post Sale / Asset Recovery | Manley Deas Kochalski LLC  
614.917.1729 | [csn@manleydeas.com](mailto:csn@manleydeas.com) | [manleydeas.com](http://manleydeas.com)



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**Copyright**

2019

**Copyright**

2019

## Timothy Chamberlain

---

**From:** Casey L. Dameron <CLDameron@manleydeas.com>  
**Sent:** Wednesday, May 6, 2020 1:47 PM  
**To:** Timothy Chamberlain  
**Subject:** Distribution Koscelnick, Dorothy J. MDK 20-005777

Hello,

Can you please send the schedule of distribution for the following?

Koscelnick, Dorothy J. 1654 Brittain Street, Berwick, AKA Berwick Boro, Pennsylvania, 18603

Thank you,

Casey Dameron | Legal Assistant | Manley Deas Kochalski LLC  
614.947.5679 | [cldameron@manleydeas.com](mailto:cldameron@manleydeas.com) | [manleydeas.com](http://manleydeas.com)



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### Copyright

2019

M&T BANK s/b/m FRANKLIN  
FIRST SAVINGS BANK,

PLAINTIFF,

VS.

DOROTHY J. KOSCELNICK,

DEFENDANT,

VS.

PNC BANK, NATIONAL  
ASSOCIATION,

PETITIONER.

\* IN THE COURT OF COMMON PLEAS  
\*  
\*  
\* OF THE 26TH JUDICIAL DISTRICT  
\*  
\* OF PENNSYLVANIA  
\*  
\* COLUMBIA COUNTY BRANCH  
\*  
\* CIVIL ACTION -  
\*  
\* NO. 2019-ED-136  
\* NO. 2019-CV-1069  
\*  
\*  
\*

FILED  
PROTHONOTARY  
2020 AUG 10 P 1:28  
CLERK OF COURTS  
COUNTY OF COLUMBIA

APPEARANCES:

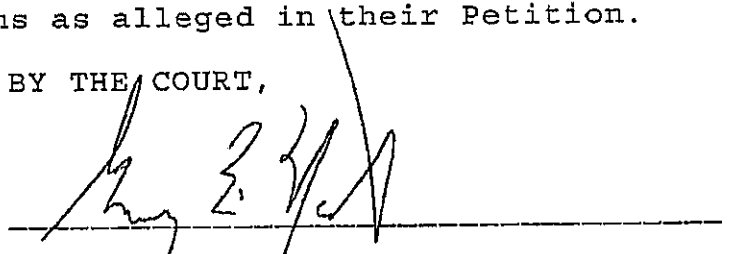
JACQUELINE F. MCNALLY, ESQUIRE, Attorney for Plaintiff.

KIMBERLY BONNER, ESQUIRE, Attorney for PNC Bank, Petitioner.

ORDER OF COURT

AND NOW, to wit, on this 5th day of August,  
2020, after an opportunity for a hearing on the Emergency  
Petition to Set Aside Sale of 1654 Brittain Street, Berwick,  
Pa., 18603, filed on June 1, 2020, by PNC Bank, said Emergency  
Petition is hereby DENIED in that PNC Bank presented no proof  
to support their contentions as alleged in their Petition.

BY THE COURT,



HONORABLE GARY E. NORTON, JUDGE

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

M&T Bank s/b/m Franklin First Savings Bank

Plaintiff

vs.

Dorothy J. Koscelnick

Defendant

vs.

PNC Bank, National Association

Petitioner

CIVIL DIVISION

Docket No.: 2019-CV-1069  
2019-ED-136

**PETITIONER'S RESPONSE TO PLAINTIFF'S ANSWER IN  
OPPOSITION TO EMERGENCY PETITION TO SET ASIDE SALE  
OF 1654 BRITAIN STREET, BERWICK, PA18603**

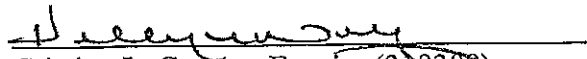
Petitioner, PNC BANK, NATIONAL ASSOCIATION ("Petitioner"), hereby submits its Response to Plaintiff's Answer in Opposition to Emergency Petition to Set Aside Sale of 1654 Brittain Street, Berwick, PA 18603 ("Premises"), as follows:

8-9. Contrary to the assertions, Petitioner did not receive notification of the demolition. As indicated in the Borough's Answer to the Emergency Motion to Stay Demolition ("Borough Answer"), the Premises were posted only and there was no additional notice provided by the Borough (*see* Paragraph Eighteen of Borough Answer). Further, Plaintiff was aware of the anticipated demolition and had "numerous discussions" with the Borough (*see* Paragraph Twelve of Borough Answer). A true and correct copy of Borough Answer is attached hereto and made a part hereof.



**CERTIFICATION**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.



Cristina L. Connor, Esquire (318389)

Scott A. Dieterick, Esquire (55650)

Kimberly J. Hong, Esquire (74950)

Michael E. Carleton, Esquire (203009)

Meredith H. Wooters, Esquire (307207)

Matthew P. Curry, Esquire (322229)

Holly N. Wolf, Esquire (322153) ✓

Karina Velter, Esquire (94781)

Manley Deas Kochalski LLC

P. O. Box 165028

Columbus, OH 43216-5028

Telephone: 614-222-4921

Fax: 614-220-5613

Email: [kjhong@manleydeas.com](mailto:kjhong@manleydeas.com)

Attorney for Petitioner



4. Denied. The Defendant denies all averments in this paragraph on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

5. Denied. The Defendant denies all averments in this paragraph on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

6. Denied. The Defendant denies all averments in this paragraph on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

7. Denied. The Defendant denies all averments in this paragraph on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

8. Admitted in part and denied in part. It is admitted that condemnation proceedings were initiated by the Borough. The Defendant denies all other averments on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

9. Admitted in part and denied in part. It is admitted that Plaintiff's counsel contacted the Borough's Solicitor to obtain information about the notice. The Defendant denies all other averments on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

10. Denied. The Defendant denies all averments set forth in paragraph 10 except that it is admitted that the Solicitor advised that Borough Code Officer, Greg Harkins, could provide



information on remediation of the premises. It is further admitted Plaintiff's counsel was advised that it was too late to remediate the premises.

19. Denied. The Defendant denies all averments in this paragraph on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

20. Admitted.

21. Denied. The Defendant denies all averments set forth in paragraph 21 on the ground that the said averments constitute conclusions of law rather than statements of fact so that no response is due of the Defendant. Proof is hereby demanded. In further answer thereto the fair market value of the property is Fifty-Three Thousand Four Hundred Twenty Dollars (\$53,420.00). Moreover, the Borough engaged Larry Frace, a qualified building inspector, to determine what it would cost to bring the structure up to code and was advised that it would cost Two Hundred Seventeen Thousand Six Hundred Dollars (\$217,600.00) to meet current code requirements. Moreover, Plaintiff's Counsel was further advised that demolition was scheduled to begin as early as Tuesday, May 5, 2020. If this matter is delayed and the Borough is somehow prejudiced, then in that event, the Plaintiff should be required to pay the cost of demolition. A true and correct copy of the fair market value and estimate to repair the property is attached as Exhibit "A."

22. Admitted in part and denied in part. It is admitted that the Plaintiff requested that the demolition be stayed. It is denied that the demolition should be stayed because this property, which is a blight on the neighborhood, was found to be unfit for human habitation over 3 years ago and was condemned as of June 9, 2017.





33. Further, the Plaintiff must show that the activity that it seeks to restrain is actionable, that its right to relief is clear, and that the wrong is manifest, or in other words, must show likely to prevail on the merits.

34. Additionally, the Plaintiff must show that the issuance of a preliminary injunction will not be adverse to the public interest. *Summit Towne Centre v. Shoe Show of Rocky Mount*, 828 A.2d 995 (Pa. 2003)

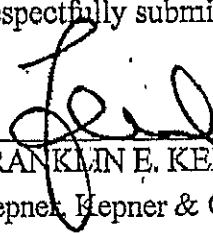
35. This request must be dismissed because no complaint has been filed.

36. Further, the Plaintiff's right to relief is not clear.

37. Additionally, this will adversely affect the public interest because the property at issue is in deplorable condition and must be demolished.

WHEREFORE, the Defendant respectfully requests this Honorable Court deny Plaintiff's Emergency Motion to Stay Demolition of 1654 Brittan Street, Berwick, PA 18603.

Respectfully submitted,

  
FRANKLIN E. KEPNER, Jr., Esquire  
Kepner, Kepner & Corba, P.C.  
123 West Front Street  
Berwick, PA 18603  
(570) 752-2766  
I.D. No. 26156



# Exhibit "A"





IN THE COURT OF COMMON PLEAS  
COLUMBIA COUNTY, PENNSYLVANIA

M&T Bank s/b/m Franklin First Savings Bank  
Plaintiff

vs.

Dorothy J. Koscelnick  
Defendant

vs.

PNC Bank, National Association  
Petitioner

CIVIL DIVISION

Docket No.: 2019-CV-1069  
2019-ED-136

CERTIFICATE OF SERVICE

The undersigned hereby certify that a copy of the foregoing Response to Plaintiff's Answer in Opposition to Emergency Petition to Set Aside Sale of 1654 Brittain Street, Berwick, PA 18603 was sent upon the following parties by ordinary first class U.S. Mail, postage prepaid, or electronic mail (e-mail) on the date indicated below:

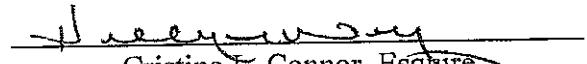
**First Class U.S. Mail:**

M&T Bank, Schiller, Knapp, Lefkowitz & Hertzal, LLP, 950 New Loudon Road, Suite 109, Latham, NY 12110-2100

Dorothy J. Koscelnick, c/o Marianne E. Kreisher, Esquire, Kreisher Marshall & Associates, LLC, 401 South Market Street, Bloomsburg, PA 17815

Columbia County Sheriff's Office, 35 W. Main Street, Bloomsburg, PA 17815

Franklin E. Kepner III, Esquire, Kepner, Kepner & Corba, P.C., 123 West Front Street, Berwick, PA 18603

  
Cristina E. Connor, Esquire  
Scott A. Dieterick, Esquire  
Kimberly J. Hong, Esquire  
Michael E. Carleton, Esquire  
Meredith H. Wooters, Esquire  
Matthew P. Curry, Esquire  
Holly N. Wolf, Esquire ✓  
Karina Velter, Esquire

7/31/2020  
Date



**MANLEY DEAS KOCHALSKI LLC**  
P.O. Box 165028  
Columbus OH 43216-5028

Franklin E. Kepner III, Esquire,  
Kepner, Kepner & Corba, P.C.  
123 West Front Street, Berwick, PA 18603

Franklin E. Kepner III, Esquire,  
Kepner, Kepner & Corba, P.C.  
123 West Front Street, Berwick, PA 18603

1912360



IN THE COURT OF COMMON PLEAS  
COLUMBIA COUNTY, PENNSYLVANIA

M&T Bank s/b/m Franklin First Savings Bank

Plaintiff

vs.

Dorothy J. Koscelnick

Defendant

vs.

PNC Bank, National Association

Petitioner

CIVIL DIVISION

Docket No.: 2019-CV-1069  
2019-ED-136

**PETITIONER'S RESPONSE TO PLAINTIFF'S ANSWER IN  
OPPOSITION TO EMERGENCY PETITION TO SET ASIDE SALE  
OF 1654 BRITTAIN STREET, BERWICK, PA18603**

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Karina Velter, Esquire (94781)

Manley Deas Kochalski LLC

P. O. Box 165028

Columbus, OH 43216-5028

Telephone: 614-222-4921

Fax: 614-220-5613

Email: [kjhong@manleydeas.com](mailto:kjhong@manleydeas.com)

Attorney for Petitioner



4. Denied. The Defendant denies all averments in this paragraph on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

5. Denied. The Defendant denies all averments in this paragraph on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

6. Denied. The Defendant denies all averments in this paragraph on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

7. Denied. The Defendant denies all averments in this paragraph on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

8. Admitted in part and denied in part. It is admitted that condemnation proceedings were initiated by the Borough. The Defendant denies all other averments on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

9. Admitted in part and denied in part. It is admitted that Plaintiff's counsel contacted the Borough's Solicitor to obtain information about the notice. The Defendant denies all other averments on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

10. Denied. The Defendant denies all averments set forth in paragraph 10 except that it is admitted that the Solicitor advised that Borough Code Officer, Greg Harkins, could provide





information on remediation of the premises. It is further admitted Plaintiff's counsel was advised that it was too late to remediate the premises.

19. Denied. The Defendant denies all averments in this paragraph on the ground that after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the said averment. Proof is hereby demanded.

20. Admitted.

21. Denied. The Defendant denies all averments set forth in paragraph 21 on the ground that the said averments constitute conclusions of law rather than statements of fact so that no response is due of the Defendant. Proof is hereby demanded. In further answer thereto the fair market value of the property is Fifty-Three Thousand Four Hundred Twenty Dollars (\$53,420.00). Moreover, the Borough engaged Larry Frace, a qualified building inspector, to determine what it would cost to bring the structure up to code and was advised that it would cost Two Hundred Seventeen Thousand Six Hundred Dollars (\$217,600.00) to meet current code requirements. Moreover, Plaintiff's Counsel was further advised that demolition was scheduled to begin as early as Tuesday, May 5, 2020. If this matter is delayed and the Borough is somehow prejudiced, then in that event, the Plaintiff should be required to pay the cost of demolition. A true and correct copy of the fair market value and estimate to repair the property is attached as Exhibit "A."

22. Admitted in part and denied in part. It is admitted that the Plaintiff requested that the demolition be stayed. It is denied that the demolition should be stayed because this property, which is a blight on the neighborhood, was found to be unfit for human habitation over 3 years ago and was condemned as of June 9, 2017.



33. Further, the Plaintiff must show that the activity that it seeks to restrain is actionable, that its right to relief is clear, and that the wrong is manifest, or in other words, must show likely to prevail on the merits.

34. Additionally, the Plaintiff must show that the issuance of a preliminary injunction will not be adverse to the public interest. *Summit Towne Centre v. Shoe Show of Rocky Mount*, 828 A.2d 995 (Pa. 2003)

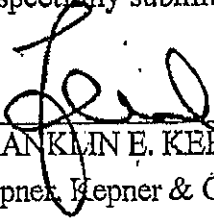
35. This request must be dismissed because no complaint has been filed.

36. Further, the Plaintiff's right to relief is not clear.

37. Additionally, this will adversely affect the public interest because the property at issue is in deplorable condition and must be demolished.

WHEREFORE, the Defendant respectfully requests this Honorable Court deny Plaintiff's Emergency Motion to Stay Demolition of 1654 Brittan Street, Berwick, PA 18603.

Respectfully submitted,

  
FRANKLIN E. KEPNER, Jr., Esquire  
Kepner, Kepner & Corba, P.C.  
123 West Front Street  
Berwick, PA 18603  
(570) 752-2766  
I.D. No. 26156



# Exhibit "A"



IN THE COURT OF COMMON PLEAS  
COLUMBIA COUNTY, PENNSYLVANIA

CLERK OF COURTS  
COUNTY OF COLUMBIA

2020 MAY -5 A 11:48

FILED  
PROTHONOTARY

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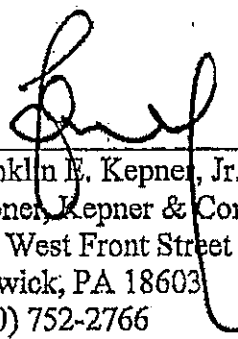
PNC BANK, NATIONAL ASSOCIATION, : Civil Action - Law  
Plaintiff, :  
vs. : Docket No.  
BOROUGH OF BERWICK, :  
Defendant. :

---

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on this day a true and correct copy of the foregoing document was served by First Class Mail, postage prepaid, and addressed to the following:

Kimberly J. Hong, Esquire  
Manley Deas Kochalski LLC  
P.O. Box 165208  
Columbus, OH 43216-5028

  
Franklin E. Kepner, Jr., Esquire  
Kepner, Kepner & Corba, P.C.  
123 West Front Street  
Berwick, PA 18603  
(570) 752-2766  
I.D. No. 26156  
Attorney for Defendant



IN THE COURT OF COMMON PLEAS  
COLUMBIA COUNTY, PENNSYLVANIA

M&T Bank s/b/m Franklin First Savings Bank  
Plaintiff

vs.

Dorothy J. Koscelnick  
Defendant

vs.

PNC Bank, National Association  
Petitioner

CIVIL DIVISION

Docket No.: 2019-CV-1069  
2019-ED-136

CERTIFICATE OF SERVICE

The undersigned hereby certify that a copy of the foregoing Response to Plaintiff's Answer in Opposition to Emergency Petition to Set Aside Sale of 1654 Brittain Street, Berwick, PA 18603 was sent upon the following parties by ordinary first class U.S. Mail, postage prepaid, or electronic mail (e-mail) on the date indicated below:


**First Class U.S. Mail:**

M&T Bank, Schiller, Knapp, Lefkowitz & Hertzell, LLP, 950 New Loudon Road, Suite 109, Latham, NY 12110-2100

Dorothy J. Koscelnick, c/o Marianne E. Kreisher, Esquire, Kreisher Marshall & Associates, LLC, 401 South Market Street, Bloomsburg, PA 17815

Columbia County Sheriff's Office, 35 W. Main Street, Bloomsburg, PA 17815

Franklin E. Kepner III, Esquire, Kepner, Kepner & Corba, P.C., 123 West Front Street, Berwick, PA 18603

  
Cristina L. Connor, Esquire  
Scott A. Dietterick, Esquire  
Kimberly J. Hong, Esquire  
Michael E. Carleton, Esquire  
Meredith H. Wooters, Esquire  
Matthew P. Curry, Esquire  
Holly N. Wolf, Esquire ✓  
Karina Velter, Esquire

7/31/2020  
Date



MANLEY DEAS KOCHALSKI LLC  
P.O. Box 165028  
Columbus OH 43216-5028

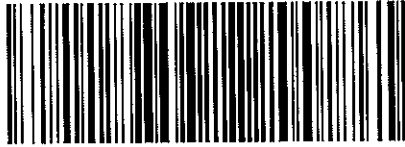
Columbia County Sheriff's Office  
35 W. Main Street  
Bloomsburg, PA 17815

Columbia County Sheriff's Office  
35 W. Main Street  
Bloomsburg, PA 17815

1912360



P.O. Box 23159  
San Diego, CA 92193-3159



IMPORTANT INFORMATION  
ENCLOSED

(11) 969 0024 8008 7870 9

**Mailed On:** 7/10/2020      **Order Number:** 0002540-01  
**ClientID:** SKLH000609 FC    **Reference Number:** 100169

Columbia County Sheriff's Office  
35 W. Main Street  
Bloomsburg, PA 17815



**SCHILLER, KNAPP,  
LEFKOWITZ & HERTZEL, LLP**  
*Attorneys and Counselors at Law*

---

950 New Loudon Road, Suite 109, Latham, NY 12110-2100  
(518) 786-9069 Fax: (518) 786-1246\*  
\*Not For Service of Any Litigation Papers  
(ALL REPLIES TO LATHAM OFFICE)

July 10, 2020

Columbia County Prothonotary  
35 W. Main Street  
Bloomsburg, PA 17815

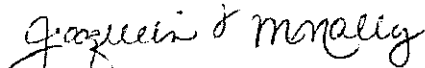
Re: M&T Bank s/b/m Franklin First Savings Bank v. Dorothy J. Koscelnick  
Docket Number 2019-CV-1069

Dear Sir/Madam,

Please find enclosed the original Plaintiff's Answer in Opposition to Defendant's Petition to Set Aside Sheriff's Sale together with a Brief in Support and Certificate of Service. Kindly file same and return a time-stamped copy in the self-addressed stamped envelope provided.

Please do not hesitate to contact me with any questions.

Very Truly Yours,

  
Jacqueline F. McNally

Cc: Kimberly J. Hong, Esquire  
Marianne E. Kreisher, Esquire  
Columbia County Sheriff's Office

JFM/cs

---

Vermont Office: PO Box 872, 5527 Main Street, Waitsfield, VT 05673 (802) 225-8351  
Pennsylvania Office: 525 West Chester Pike, Suite 200, Havertown, PA 19083  
New Jersey Office: 555 U.S. Highway 1 South, Suite 420, Iselin, New Jersey 08830  
*Jacqueline F. McNally, Esq. is the responsible attorney for the law firm's NJ office.*

Schiller, Knapp, Lefkowitz & Hertzelt, LLP, is an LLP formed in the State of New York





Plaintiff is without sufficient information to formulate a belief as to the remaining allegations of Paragraph 6.

7. Admitted.
8. Denied. Defendant's averment is a conclusion of law to which no response is required. By way of further response, as a lienholder, Petitioner should have received notification of the demolition.
9. Denied. Defendant's averment is a conclusion of law to which no response is required. By way of further response, as a lienholder, Petitioner should have received notification of the demolition.
10. Denied. Defendant's averment is a conclusion of law to which no response is required. By way of further response, Plaintiff specifically denies that it had an obligation to announce the condition of the property at Sheriff's Sale.
11. Denied. Defendant's averment is a conclusion of law to which no response is required.
12. Admitted.
13. Denied. Defendant's averment is a conclusion of law to which no response is required.
14. Denied. Defendant's averment is a conclusion of law to which no response is required.
15. Denied. Defendant's averment is a conclusion of law to which no response is required.



SCHILLER, KNAPP, LEFKOWITZ & HERTZEL, LLP  
JACQUELINE F. McNALLY, ESQUIRE / I.D. 201332  
525 WEST CHESTER PIKE, SUITE 200  
HAVERTOWN, PA 19083  
TELEPHONE: (518) 786-7069  
FACSIMILE: (518) 786-1246  
(COUNSEL FOR PLAINTIFF)

IN THE COURT OF COMMON PLEAS OF COLUMBIA COUNTY  
CIVIL ACTION-LAW

M&T BANK s/b/m FRANKLIN FIRST SAVINGS  
BANK,

(Plaintiff)

v.

DOROTHY J. KOSCELNICK,  
(Defendant)

CIVIL DIVISION

Docket Number: 2019-CV-1069  
2019-ED-136

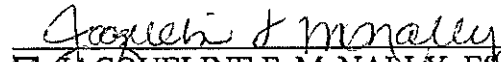
**VERIFICATION**

The undersigned, Jacqueline F. McNally, Esquire, is one of the attorneys for Plaintiff; is authorized to make this Verification on behalf of the Plaintiff; and hereby verifies that the facts set forth in the foregoing PLAINTIFF'S ANSWER IN OPPOSITION TO DEFENDANTS' PETITION TO SET ASIDE SHERIFF SALE are true and correct to the best of the knowledge, information and belief of the undersigned. The undersigned understands that this statement is made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

SCHILLER, KNAPP, LEFKOWITZ & HERTZEL

BY:

  
 JACQUELINE F. McNALLY, ESQUIRE  
Attorneys for Plaintiff

Date: July 10, 2020



## **II. LEGAL ARGUMENT**

### **A. A SHERIFF'S SALE IS "BUYER BEWARE"**

A petition to set aside a sheriff's sale is an appeal to the equitable powers of the court. *Provident Nat'l Bank, N.A. v. Song*, 2003 PA Super 333, 832 A.2d 1077 (Pa. Super. Ct. 2003). Pursuant to Pa.R.C.P. 3132, a sale may be set aside upon petition of an interested party where "upon proper cause shown" the court deems it "just and proper under the circumstances." The burden of proving such circumstances is on the Petitioner seeking the Court's relief. *Bornman v. Gordon*, 363 Pa. Super. 607, 527 A.2d 109, 111 (Pa. Super. Ct 1987).

A sheriff's sale is made without warranty; the purchaser takes all the risk, and the rule of *caveat emptor* applies in all its force. See *Irwin Union National Bank v. ATL Ventures, et al.*, 2010 PA Super 145, 4 A.3d 1099, 1104-1105 (2010) ("ATL regularly buys properties at sheriff's sale and, thus, is acquainted with the risks associate with such a purchase"); *CSS Corporation v. Sheriff of Chester County, et al.*, 352 Pa. Super. 256, 259; 507 A.2d 870, 872 (1986); see also, *Taylor v. Bailey*, 323 Pa. 278, 284, 185 A. 699, 702 (1936); *Smith v. Painter*, 5 Serg. & Rawle 223, 224 (1819).

Third party purchasers have previously attempted to raise similar challenges to Sheriff's Sales to those presented by Petitioner, which have all been rejected by the Pennsylvania Superior Court. In *Irwin Union National Bank v. ATL Ventures, et al.*, the Court stated that because Petitioner regularly buys properties at sheriff's sale it is



SCHILLER, KNAPP, LEFKOWITZ & HERTZEL, LLP  
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525 WEST CHESTER PIKE, SUITE 200  
HAVERTOWN, PA 19083  
TELEPHONE: (518) 786-7069  
FACSIMILE: (518) 786-1246  
(COUNSEL FOR PLAINTIFF)

IN THE COURT OF COMMON PLEAS OF COLUMBIA COUNTY  
CIVIL ACTION-LAW

M&T BANK s/b/m FRANKLIN FIRST SAVINGS  
BANK,

(Plaintiff)

v.

DOROTHY J. KOSCELNICK,  
(Defendant)

CIVIL DIVISION

Docket Number: 2019-CV-1069  
2019-ED-136

**CERTIFICATE OF SERVICE**

I, Jacqueline F. McNally, Esquire, hereby certify that, on this date, I served or caused to be served a true and correct copy of the foregoing PLAINTIFF'S ANSWER IN OPPOSITION TO DEFENDANTS' PETITION TO SET ASIDE SHERIFF SALE, Brief in support thereof, Verification, and proposed Order upon the following person via regular mail, postage prepaid:

Kimberly J. Hong, Esquire  
Manley Deas Kochalski LLC  
P.O. Box 165028  
Columbus, OH 43216-5028  
*Attorney for Petitioner*

Dorothy J. Koscelnick  
c/o Marianne E. Kreisher, Esquire  
Kreisher, Marshall & Associates, LLC  
401 South Market Street  
Bloomsburg, PA 17815



IN THE COURT OF COMMON PLEAS OF COLUMBIA COUNTY  
CIVIL ACTION-LAW

M&T BANK s/b/m FRANKLIN FIRST SAVINGS  
BANK,

(Plaintiff)

v.

DOROTHY J. KOSCELNICK,

(Defendant)

CIVIL DIVISION

Docket Number: 2019-CV-1069  
2019-ED-136

**ORDER DENYING DEFENDANT'S  
PETITION TO SET ASIDE SHERIFF SALE**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2020, upon  
consideration of the Defendants' Petition to Set Aside Sheriff Sale, and upon  
consideration of the Plaintiff's response in opposition thereto; it is hereby

ORDERED and DECREED that said Petition is denied. The Petitioner is directed  
to tender the remainder of the balance due to the Columbia County Sheriff's Department  
within thirty (30) days of the date of this Order.

BY THE COURT:

\_\_\_\_\_  
, J.



**MANLEY DEAS KOCHALSKI LLC**  
**P.O. Box 165028**  
**Columbus OH 43216-5028**

Columbia County Sheriff's Office  
35 W. Main Street  
Bloomsburg, PA 17815

Columbia County Sheriff's Office  
35 W. Main Street  
Bloomsburg, PA 17815

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

M&T Bank s/b/m Franklin First Savings Bank

Plaintiff

vs.

Dorothy J. Koscelnick

Defendant

vs.

PNC Bank, National Association

Petitioner

CIVIL DIVISION

Docket No.: 2019-CV-1069  
2019-ED-136

**CERTIFICATE OF SERVICE**

The undersigned hereby certify that a copy of the foregoing Order of court dated June 2, 2020 was sent upon the following parties by ordinary first class U.S. Mail, postage prepaid, or electronic mail (e-mail) on the date indicated below:

**First Class U.S. Mail:**

M&T Bank, One Fountain Plaza, Buffalo, NY 14203

M&T Bank, c/o KML Law Group, P.C., 701 Market Street, Suite 5000, Philadelphia, PA 19106

Dorothy J. Koscelnick, c/o Marianne E. Kreisher, Esquire, Kreisher Marshall & Associates, LLC, 401 South Market Street, Bloomsburg, PA 17815

**MANLEY DEAS KOCHALSKI LLC**  
**P.O. Box 165028**  
**Columbus OH 43216-5028**

Columbia County Sheriff's Office  
35 W. Main Street  
Bloomsburg, PA 17815

Columbia County Sheriff's Office  
35 W. Main Street  
Bloomsburg, PA 17815



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

M&T Bank s/b/m Franklin First Savings Bank

Plaintiff

vs.

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Defendant

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Dorothy J. Koscelnick, c/o Marianne E. Kreisher, Esquire, Kreisher Marshall & Associates, LLC, 401 South Market Street, Bloomsburg, PA 17815

Columbia County Sheriff's Office, 35 W. Main Street, Bloomsburg, PA 17815

Franklin E. Kepner III, Esquire, Kepner, Kepner & Corba, P.C., 123 West Front Street,  
Berwick, PA 18603

Borough of Berwick, 1800 North Market Street, Berwick, PA 18603



---

Cristina L. Connor, Esquire  
Scott A. Dieterick, Esquire  
Kimberly J. Hong, Esquire  
Michael E. Carleton, Esquire  
Meredith H. Wooters, Esquire  
Matthew P. Curry, Esquire  
Holly N. Wolf, Esquire  
Karina Velter, Esquire

6/5/20

---

Date