

5. ____ See order attached. ____ See separate order issued this date.

6. ____ Other: _____

Date: _____

Judge

cc: All Parties

(f). The following additional other relief in favor of the County is hereby granted:

BY THE COURT:

J.

cc: Court Administrator
J. David Smith
J. Michael Wiley
Krista B. Rogers

BOARD OF COMMISSIONERS OF
LYCOMING COUNTY,

Plaintiff

v.

KRISTA B. ROGERS,

Defendant

: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA

:
: Docket No. 21-0365

:
: Case Assigned to Senior Judge Leete

2021 APR 26 PM 3:30
RECEIVED
CLERK OF COURT
LYCOMING COUNTY

MOTION FOR CONTEMPT OF APRIL 20, 2021 ORDER

AND NOW comes the Board of Commissioners of the County of Lycoming, by
and through McCormick Law Firm, its solicitors, and sets forth as follows:

1. On or about April 20, 2021, this Court entered an Order (“April 20, 2021 Order”) in the above-captioned matter granting the County’s Petition for Special Injunction (TRO) and Preliminary Injunction Pursuant to Pa.R.C.P. 1531 (“Petition”). A true and correct copy of the Court’s April 20, 2021 Order is attached hereto as Exhibit “A.”

2. Pursuant to the April 20, 2021 Order, the Controller was enjoined from “...refusing to permit her signature to appear on any duly authorized and processed payroll checks and accounts payable checks issued in the usual course of business from the date of the Order until such time as a hearing on the Petition can be scheduled.” See Exhibit “A.” The hearing on the Petition has been scheduled for Wednesday, April 28, 2021 at 1:00 p.m., before Senior Judge Leete in Courtroom No. 1 of the Lycoming County Courthouse.

3. Pursuant to the April 20, 2021 Order, “[t]he Controller is further enjoined from interfering with the processing of payroll, accounts payable, and the general ledger functions of the County or the transition of the reassigned employees at issue.” See Exhibit “A,” at 2.

4. On Monday, April 19, 2021 at 6:17 p.m., the Controller sent electronic mail to the County Commissioners and County Department Heads asserting that the actions taken by the Commissioners to reassign the payroll, accounts payable, and general ledger functions back to the Office of Budget and Finance along with reassigning four County employees who perform those functions back to that office as well were contrary to law and invalid. See April 19, 2021 email attached as Exhibit "B" to the Petition.

5. In asserting this claim of illegality and invalidity, the Controller simply asserts that "[s]tate law mandates the Controller approves the invoices and payroll, and generates the audited financial statements." See April 19, 2021 email attached as Exhibit "B" to Petition.

6. The Controller has failed to cite any authority for her proposition that the County Code actually mandates that the ministerial function of running payroll and accounts payable checks and performing general ledger functions must occur within the Controller's Office.

7. The County details in its Complaint why it acted to return the payroll, accounts payable, and general ledger functions to the Office of Budget and Finance and why it reassigned the four employees to said office grounded in the Controller's failure to properly perform said ministerial duties.

8. The April 20, 2021 Order enjoins the Controller from interfering with the processing of payroll, accounts payable, and the general ledger functions of the County or the transition of the reassigned employees at issue. See Exhibit "A," at 2.

9. The Controller was served a copy of the April 20, 2021 Order on April 20, 2021.

10. On April 22, 2021, the County sent the Controller correspondence identifying how the Controller was in violation of the April 20, 2021 Order and requesting that the

Controller comply with the requirements of the order. A true and correct copy of the County's April 22, 2021 letter to the Controller is attached hereto as Exhibit "C."

11. As set forth in the April 22, 2021 letter, the Controller was interfering with two of the reassigned employees reporting to work at the Office of Budget and Finance as directed and reassigned, claiming these employees were "voluntarily" staying in her office. See Exhibit "C."

12. As set forth in the April 22, 2021 letter, the Controller was interfering with the processing of payroll, accounts payable, and the general ledger functions of the County by continuing to perform those functions within her office with the assistance of the two reassigned employees who were "voluntarily" staying in her office. See Exhibit "C."

13. As set forth in the April 22, 2021 letter, the Controller with withholding items Heather Lehman, one of the reassigned employees who did report to work at the Office of Budget and Finance, needed to perform her job. See Exhibit "C."

14. While the Controller has since produced some of the requested items, she is still withholding files and documents necessary to the performance of Ms. Lehman's job, claiming she is still trying to locate said files and documents (which were as Ms. Lehman's desk with the other items which were produced).

15. The April 22, 2021 letter also detailed the procedures the County was using to perform the payroll, accounts payable, and general ledger functions to provide the Controller with assurances that she would retain the access to records necessary to perform her duties.

16. Despite the County's efforts to work through these issues with the Controller as detailed by the April 22, 2021 letter, the Controller has failed to direct the two reassigned employees at issue to report to the Office of Budget and Finance as assigned.

17. Despite the County's efforts to work with the Controller to facilitate the transfer of the reassigned employees and the processing of payroll, accounts payable, and the general ledger functions, the Controller continues to refuse to cease performing these functions through her office with two of the reassigned employees who remain in her office "voluntarily."

18. As detailed herein, the Controller has failed to comply with the April 20, 2021 Order and she continues to violate the April 20, 2021 Order by interfering with the processing of payroll, accounts payable, and the general ledger functions of the County and the transition of the reassigned employees at issue.

19. The Controller, through her actions and/or failures to act set forth herein, is in contempt of the April 20, 2021 Order and her violations of the order have interfered with the transition of the reassigned employees by failing to: (i) direct the two reassigned employees at issue to report to work at the Office of Budget and Finance; and, (ii) release the files and documents necessary to the performance of Ms. Lehman's job.

20. The Controller, through her actions and/or failures to act set forth herein, is in contempt of the April 20, 2021 Order and her violations of the order have interfered with the processing of payroll, accounts payable, and general ledger functions by continuing to perform those functions within her office with the assistance of the two reassigned employees who were "voluntarily" staying in her office as opposed to allowing these ministerial functions to be performed by the Office of Budget and Finance as reassigned by the Commissioners.

WHEREFORE, the County requests that this Honorable Court grant the following relief:

- (a). Holding the Controller in contempt of the April 20, 2021 Order;
- (b). Imposing an appropriate fine and sentence upon the Controller given the nature of the Controller's violations of the April 20, 2021 Order and how her violations are interfering


with the proper performance of the payroll, accounts payable, and general ledger functions of the County;

(c). Awarding the County its reasonable attorneys' fees and costs incurred in connection with the filing and prosecution of this Motion; and,

(d). Awarding such other relief in favor of the County as is deemed necessary and appropriate under the circumstances.

Respectfully submitted,

MCCORMICK LAW FIRM



J. David Smith
Pa. I.D. No. 27813
J. Michael Wiley
Pa. I.D. No. 69657
Attorneys for Lycoming County
835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131
(570) 326-5529 (Fax)
dsmith@mcclaw.com
mwiley@mcclaw.com

COURT OF COMMON PLEAS, LYCOMING COUNTY, PA
MOTION COVER SHEET

27-0365

Board of Commissioners of
County of Lycoming,
Plaintiff

Docket No. _____

v.

Case assigned to Judge _____

Krista B. Rodgers,
Defendant

none
 Family Court Hearing Officer

1. Name of filing party: Plaintiff Board of County Commissioners of the County of Lycoming
2. Filing party's attorney: J. David Smith and J. Michael Wiley
3. Type of filing: Petition of Special Injunction (TRO) and Preliminary Injunction, Pa.R.C.P. 1531

<p>The following is/are requested:</p> <p><input type="checkbox"/> Argument</p> <p><input type="checkbox"/> Evidentiary Hearing</p> <p><input type="checkbox"/> Court conference</p> <p><input type="checkbox"/> Rule to show cause</p> <p><input type="checkbox"/> Entry of uncontested order (attach supporting documentation)</p> <p><input checked="" type="checkbox"/> Expedited consideration. State the basis: <u>Need for a Temporary Restraining Order</u></p> <p><input type="checkbox"/> Video conferencing requested. Request form has been submitted. See Lyc. Co. R.G.C.B. L8.</p> <p><input type="checkbox"/> Attach this cover sheet to original motion previously filed on:</p> <p>5. Time required: <u>30 minutes</u></p>	<p>6. Name and addresses of all counsel of record and unrepresented parties:</p> <p><u>Attorneys for Plaintiff</u> J. David Smith, Esquire J. Michael Wiley, Esquire McCormick Law Firm 835 West Fourth Street Williamsport, PA 17701</p> <p><u>Defendant</u> Krista B. Rodgers Lycoming County Controllers' Office 330 Pine Street, Suite 204 Williamsport, PA 17701</p> <p>-and-</p> <p>Krista B. Rodgers 234 Gordon Street Duboisstown, PA 17702</p>
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THOMAS D. HEAP
PROTHONOTARY &
CLERK OF COURTS
2021 APR 20 PM 3:11

FILED
LYCOMING COUNTY

ORDER

1. An argument factual hearing ___ court conference is scheduled for 4/25/21 at 10:00 AM in courtroom no. 1, Lycoming County Courthouse, Williamsport, PA.
2. Briefs are to be filed by the following dates:
Filing party _____
Responding party(ies) _____
3. A rule is issued upon respondent to show cause why the petitioner is not entitled to the relief requested.
4. A response to the motion/petition shall be filed within _____ days.

EXHIBIT A

5. See order attached. See separate order issued this date.

6. Other: _____

Date: 4/20/21

S. A. Korte
S. A. Judge

cc: All Parties

BOARD OF COMMISSIONERS OF
LYCOMING COUNTY,
Plaintiff

v.

KRISTA B. RODGERS,
Defendant

: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA

: CIVIL ACTION-LAW

: NO.: 21-0365

: JUDGE: _____

THOMAS F. NEAP
PROTHONOTARY &
CLERK OF COURTS

2021 APR 20 PM 3:11

FILED
LYCOMING COUNTY

ORDER

AND NOW this 20 day of April, 2021, upon consideration of the Petition for Special Injunction (TRO) and Preliminary Injunction Pursuant to Pa.R.C.P. 1531 ("Petition") filed on behalf of the County of Lycoming, based upon its review of the Petition, the Court is satisfied that immediate and irreparable injury will be sustained by the employees, vendors, suppliers, and outside agencies arising from the Controller's threat to and/or refusal to allow her signature to appear on duly authorized and processed payroll checks and account payable checks of the County of Lycoming before a hearing can be held on the Petition particularly since the next payroll and accounts payable check run is Thursday, April 22, 2021. By extension, the residents and taxpayers of Lycoming County who rely upon a properly functioning County government are likewise immediately and irreparably injured by the Controller's actions in that employees, vendors, suppliers and outside agencies will not be properly paid and may opt to discontinue employment or not otherwise perform required and necessary services on behalf of Lycoming County.

Accordingly, the Court hereby grants the County of Lycoming's request for a special injunction (TRO) to enjoin the Controller from refusing to permit her signature to appear on any duly authorized and processed payroll checks and accounts payable checks issued in the usual

course of business from the date of this Order until such time as a hearing on the Petition can be scheduled.

The Controller is further enjoined from interfering with the processing of payroll, accounts payable, and the general ledger functions of the County or the transition of the reassigned employees at issue.

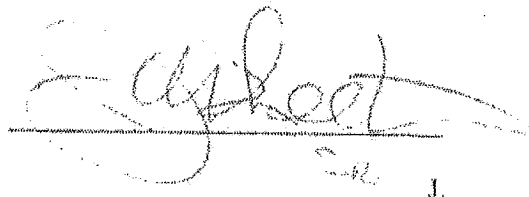
Finally, the Controller is directed to properly preserve all documents necessary to the performance of the payroll, accounts payable, and general ledger functions and to transfer same to the County Office of Budget and Finance to enable payroll, accounts payable, and general ledger functions to be properly performed.

The Court notes that the County of Lycoming had a copy of the Petition (along with the Complaint) provided to the Controller upon its filing in addition to any original service requirements.

The Court further notes that pursuant to Pa.R.C.P. 1531(b), no bonding is required in this matter as the County of Lycoming, as a Fifth Class County, is exempt from any bonding requirement for the injunction issued hereunder.

A hearing on the Petition is hereby scheduled for the 30 day of April, 2021, at 1:00 p.m., in Courtroom No. 1, in the Lycoming County Courthouse. Counsel for the County of Lycoming is hereby directed to serve a copy of this Order upon the Controller and her counsel. This Order shall remain in full force and effect until said hearing.

BY THE COURT:


J.

cc: Court Administrator
J. David Smith, Esquire
J. Michael Wiley, Esquire
Krista B. Rodgers

From: Krista Rogers <KRogers@lyco.org>
Sent: Monday, April 19, 2021 6:17 PM
To: Matthew A. McDermott; Department Head Email
Cc: Scott Metzger; Tony Mussare; Rick Mirabito; J. Michael Wiley; J. David Smith
Subject: RE: Transfer of Fiscal Operations

All,

I just wanted to clarify the 4pm Friday email issued by the Commissioners through the Director of Administration. Fiscal Operations (accounts payable, payroll, and financial statements) of the County have and will continue to be processed by the County Controllers office according to state law. The actions taken by the Commissioners on April 11-13th, were contrary to law and invalid. The staff members you coordinated with for these activities will remain the same and these staff members remain in the Controller's office.

State law mandates the Controller approves the invoices and payroll, and generates the annual financial statements. State law also prohibits the Controller from any type of discretionary financial authority over contracts, collective bargaining, departmental management, and borrowing. I don't get involved in the Commissioners departmental business and they should not get involved in mine. This is the separation of powers outlined in state law.

The bottom line is, normal fiscal operations will continue as they have in the Office of the Controller.

Our office will continue to serve your financial needs as long as we all follow the proper procedure according to state law. Please contact me with any questions.

Updated Contact Information is below –

570-567-8210 – open General Accountant position
570-567- 8211 – Matt Tierney, General Accountant
570-567- 8212 – Cindy Gira, Fiscal Technician
570-567- 8213 – open Fiscal Technician position

Krista B. Rogers
Lycoming County Controller
Phone – 570-327-2300
Fax – 570-327-2446

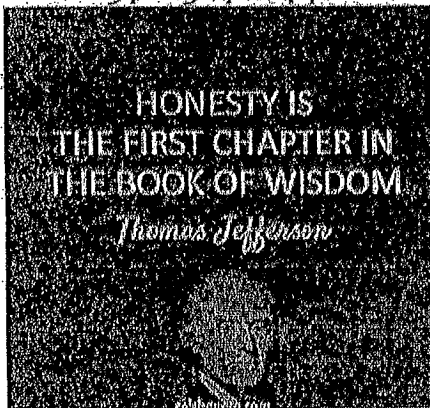


EXHIBIT B

From: Matthew A. McDermott <mamcdermott@lyco.org>
Sent: Friday, April 16, 2021 4:01 PM
To: Department Head Email <DepartmentHeadEmail@lyco.org>
Cc: Scott Metzger <smetzger@lyco.org>; Tony Mussare <TMussare@lyco.org>; Rick Mirabito <RMirabito@lyco.org>; Michael Wiley <mwiley@mcclaw.com>; David Smith <dsmith@mcclaw.com>
Subject: Transfer of Fiscal Operations
Importance: High

Lycoming Leaders,

Beginning Monday April 19, 2021 all Payroll, Accounts Receivable, and General Ledger actions will move to the Office of Budget and Finance. The staff members that you coordinated with for these activities will be the very same people you will coordinate with in the Office of Budget and Finance. All phone numbers and email address for these staff members remain the same. Brandy Clemens is now the new Director of the Office of Budget and Finance. These personnel assignment changes went into effect on April 11, 2021, which were approved by the Commissioners at the Tuesday April, 13 2021 Public Meeting. The bottom line is normal fiscal operations will continue as they always have, but now they will continue from the Office of Budget and Finance.

Feel free to contact me with any questions.

Thanks

Matt

Matthew A. McDermott
Director of Administration
and Chief Clerk
Lycoming County
Office: 570-320-2124
Mobile: 703-969-5320

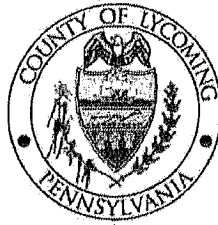
Commissioners:

SCOTT L. METZGER
Chairman

TONY R. MUSSARE
Vice Chairman

RICHARD MIRABITO
Secretary

Telephone (570) 320-2124
Fax (570) 320-2127



COUNTY of LYCOMING
48 WEST THIRD STREET
WILLIAMSPORT, PA 17701

MATTHEW A. McDERMOTT
*Director of Administration
and Chief Clerk*

J. DAVID SMITH
Solicitor

www.lyco.org
county.commissioners@lyco.org

April 22, 2021

VIA HAND-DELIVERY AND FIRST CLASS MAIL

Krista B. Rogers
Lycoming County Controller
Executive Plaza
330 Pine Street, Suite 204
Williamsport, PA 17701

Re: Board of Commissioners of County of Lycoming v. Krista B. Rodgers
Lycoming County Docket No. 21-0365

Dear Controller Rogers:

The purpose of this correspondence is to follow up on two issues pertaining to your compliance with the April 21, 2021 Order.

First, yesterday (April 21, 2021), you informed me that two of the County employees who were reassigned to the Office of Budget and Finance, Matt Tierney and Cindy Gira, were "voluntarily" remaining in your office. The Court's April 21, 2021 Order provides, "[t]he Controller is further enjoined from interfering with the processing of payroll, accounts payable, and the general ledger functions of the County or the transition of the reassigned employees at issue." See April 21, 2021 Order, at 2. Allowing the reassigned employees to remain "voluntarily" in your office interferes with the transition of the reassigned employees. Accordingly, we are requesting that you direct the two employees in question to report, as assigned, to the Office of Budget and Finance. From the County's perspective, we have been advised that your failure to direct the two employees in question to report to the Office of Budget and Finance represents a violation of the Court's April 21, 2021 Order and will warrant the filing of contempt proceedings.

Second, the following is the procedure the County will be following for the processing of the payroll, accounts payable, and general ledger functions. This procedure was previously
Krista B. Rogers
April 22, 2021

EXHIBIT C

shared with you as part of the County's proposed MOU and is basically consistent with how these functions were handled previously when these functions were performed by the Office of Fiscal Services.

I. ACCOUNTS PAYABLE:

- a. Departments shall collect all necessary paperwork (the use of paperwork is intended to include any electronic data processing) including invoice to be paid.
- b. Invoice and all necessary paperwork with approval from Department head or designated representative to be forwarded to the Office of Budget and Finance.
- c. Budget & Finance will review for all necessary paperwork and approvals.
- d. Budget & Finance will enter the invoice into the financial system.
- e. Before posting the invoice, it is to be forwarded to the Controller's office along with a printout from the financial system so the Controller may review and verify the invoices for accuracy and compliance. At this point, the Controller may approve or deny any invoice for payment. If an invoice is to be denied or is found to need correction notice will be sent to the Office of Budget and Finance so it may be corrected in or removed from the financial system.
- f. All approved invoices are to be sent back to Budget & Finance for posting in the financial system.
- g. Prior to the cutting of a check, all invoices that have been approved by the Controller's office will go before the Commissioner's for their final approval of payment.
- h. Budget & Finance will then print the checks with at least two Commissioners' signatures and the Controller's signature (approved facsimile ok).
- i. Budget & Finance will pair the printed checks with their corresponding invoice(s) and forward to the Commissioners' office for review and mailing.

Krista B. Rogers
April 22, 2021

j. The Commissioners' office will return the paid invoices with check stubs attached to the Controller's office for record keeping purposes.

k. Budget and Finance will process all TIN matching and year-end 1099s.

l. Budget & Finance will maintain all W-9s and vendor files.

II. PAYROLL:

a. The Commissioner's designee shall process payroll in its entirety to include but not limited to time entry, check printing, quarterly and yearly reporting, W-2 and 1095-C processing including all pre-65 retirees, and record keeping while adhering to local, state, and federal payroll laws and meeting all required reporting deadlines.

III. GENERAL LEDGER:

a. The Office of Budget & Finance will complete and enter into the financial system all general ledger work. This may include but will not be limited to fixed assets, journal entries, chart of accounts, warehouse inventory, assisting departments with their accounting needs, year-end processing, coordinating the yearly audit, state and federal financial reporting, and completing the year-end financial report whether it be a CAFR or audited set of financial statements.

b. Budget and Finance will ensure compliance with all applicable governmental accounting standards.

c. The Controller shall be afforded the opportunity to complete their own audit of all aspects of the County's financials in accordance with County code.

d. The Controller will be given the opportunity to comment on any request for proposals prior to issuance and the contract prior to execution for the hiring of any independent auditor.

Krista B. Rogers
April 22, 2021
Krista B. Rogers
April 22, 2021

IV. FINANCIAL SYSTEM:

- a. The Commissioners and Controller will agree upon an initial list of security clearances for the financial system.
- b. The Controller shall maintain full access to the financial system.
- c. If the Controller makes any changes in the financial system, she shall give notice to the Commissioner's office and/or their designee.
- d. A system will be put into place where the Commissioner's designee will review all requested access to the financial system and approve before it is forwarded on to the Controller who will then need to approve and forward to Information Services for completion.
- e. The Controller shall provide the Commissioner's designee the opportunity to comment on any request for proposals prior to issuance and the contract prior to execution for any new financial system.
- f. The Controller shall give the Commissioner's designee(s) the opportunity to sit in on any demonstrations of new financial systems.

You informed me during our conversation yesterday that you planned on continuing to perform payroll, accounts payable, and general ledger functions despite the assignment of these functions to the Office of Budget and Finance. You claimed that you would not interfere with these functions but that you would continue to perform these functions through your office. The purpose of this letter is to make it clear that performance of duplicative or repetitive payroll, accounts payable, and general ledger functions by your office is interfering with the processing of payroll, accounts payable, and general ledger functions in violation of the Court's April 21, 2021 Order, particularly if you are using two of the reassigned employees, who have not reported to the Office of Budget and Finance, to do so. Accordingly, we are requesting that you cease performing payroll, accounts payable, and general ledger functions and follow the procedure for these functions outlined herein. From the County's perspective, we have been advised that a failure to follow this procedure, which has the payroll, accounts payable, and general ledger functions running through the Office of Budget and Finance, represents a violation of the Court's April 21, 2021 Order and will warrant the filing of contempt proceedings.

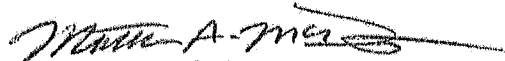
Finally, a request had been made on behalf of Heather Lehman, one of the reassigned employees, for items from her old desk in your office. This request was made yesterday. These
Krista B. Rogers
April 22, 2021

Page Five

items are necessary to the performance of her job. As the requested items have not been released by your office, we are again requesting the release of these items. We have been advised that failure to release these items represents a violation of the Court's April 21, 2021 Order and will warrant the filing of contempt proceedings.

This letter is the County's attempt to seek your cooperation in these matters as well as your compliance with the April 21, 2021 Order in order to avoid more formal contempt proceedings.

Very truly yours,



Matthew A. McDermott
Director of Administration
and Chief Clerk
Lycoming County

MAM/jw

cc: Lycoming County Commissioners
J. David Smith
J. Michael Wiley

CERTIFICATE OF COMPLIANCE

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.

Respectfully submitted,

MCCORMICK LAW FIRM



J. David Smith
Pa. I.D. No. 27813
J. Michael Wiley
Pa. I.D. No. 69657
Attorneys for Lycoming County
835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131
(570) 326-5529 (Fax)
dsmith@mclaw.com
mwiley@mclaw.com

CERTIFICATE OF SERVICE

I, J. David Smith, Esquire, hereby certify that I have served a copy of the foregoing *Motion for Contempt of April 20, 2021 Order* upon the following, this 26th day of April, 2021, as follows:

VIA HAND-DELIVERY:

Krista B. Rogers
Lycoming County Controllers' Office
330 Pine Street, Suite 204
Williamsport, PA 17701

VIA FIRST CLASS MAIL, POSTAGE PREPAID:

Krista B. Rogers
234 Gordon Street
Duboisstown, PA 17702

Respectfully submitted,

MCCORMICK LAW FIRM



J. David Smith
Pa. I.D. No. 27813
J. Michael Wiley
Pa. I.D. No. 69657
Attorneys for Lycoming County
835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131
(570) 326-5529 (Fax)
dsmith@mccclaw.com
mwiley@mccclaw.com