

Of concern is the recent discovery of the fact that William Preston Marshall (Ex. 0001, 02), Erich Weyand (Ex. 0003,04) and Kelly Balcom (Ex. 0005) positions/appointments as County of Cattaraugus, New York Assistant District Attorney's are vacate due to them not filing an oath of office within the time allowed. This would also included Court Clerks Jane St. John (Ex. 0006) and Jillian Koch (Ex. 0007, 008) positions/appointments ([Fisher v. State of New York, 10 N.Y.2d 60 \(1961\)](#)¹; [Ritter v. State of New York \(283 App. Div. 833 \[3d Dept.\]\)](#)²).

The New York State Constitution prescribes the oath or affirmation to be taken by members of the legislature and by public officers, except such inferior officers as shall be by law exempted, shall before they enter upon the duties of their office [[N.Y. Const. Art. XIII, § 1](#)]³. Every officer is also statutorily required to take an oath of office required by law before entering upon the discharge of any official duty ([Pub. Off. Law \(PO\) § 10](#), discussed in N.Y. Jur., 2nd Civil Servants and Public Officers and Employees § 85; [County Law § 402](#)), and until he or she does so, cannot exercise the functions of his or her office (In re Bishoff 80 A.D. 326, 80 N.Y.S. 917 (2d dep't 1903); New York Jurisprudence 2D § 61⁴. A notary public is a public officer (People v. Rathbone, 1895, 145 N.Y. 434, 40 N.E. 395 . See, also, People v. Wadhams, 1903, 176 N.Y. 9, 98 N.E. 65; Marzbach v City of New York 163 N.Y. 16 N.E. 96 (1900) (holding a notary to be a state officer); In re Searls 155 N.Y. 333, 49 N.E. 938 (1898); People v Rathbone 145 N.Y. 434 40 N.E. 395 (1895)). Oath of Office mandated (Carter v People (witherspoon) 77 N.Y.2d 95, 566 N.E.2d 119, 564 N.Y.S.2d 992 (1990); see also 53 NY2d 870, 871).

Depending on the Office held determines when the Oath is required to be taken. The United States v. Germaine (99 U.S. 509), inferior Officers.

- **Public Officers Law (PO) § 10:** every public officer to take and file the oath required by law before he or she performs any official duties⁵;
- **Public Officers Law (PO) § 15:** provides that a person who executes any of the functions of a public office without having taken and duly filed the required oath of office, as prescribed by law, is guilty of a misdemeanor⁶,
- **Public Officers Law (PO) § 30 (1) (h):** that an oath of office must be taken and filed before or within thirty days after the commencement of the term of office, if not the office/position becomes vacant⁷;
- **County Law § 402:** Every officer paid his compensation from county funds shall take and file an official oath in the manner prescribed in section ten of the public officers law. The refusal or neglect to take and file such oath within the time prescribed

¹ <https://www.leagle.com/decision/19617010ny2d60162>

² <https://casetext.com/case/ritter-v-state-of-new-york-1>

³ <https://www.dos.ny.gov/info/constitution.htm>

⁴ <http://legalsolutions.thomsonreuters.com/law-products/Legal-Encyclopedias/New-York-Jurisprudence-2d/p/100029357>

⁵ <http://www.nysl.nysed.gov/libdev/excerpts/pbo10.htm>

⁶ <http://codes.findlaw.com/ny/public-officers-law/pbo-sect-15.html>

⁷ <http://www.nysl.nysed.gov/libdev/excerpts/pbo30-1h.htm>

by section thirty of the public officers law, except in the cases of the sheriff, county clerk and district attorney, shall be deemed a refusal to serve and the office may be filled as in the case of a vacancy. **Until the sheriff, county clerk or district attorney shall take and file the required oath, he shall not perform any duties of the office, nor be entitled to any compensation.**

The Official NY Department of State, Division of Corporations, State Records & UCC (<https://www.dos.ny.gov/corps/oath.html>) provides a detailed description in laymen's terms of the duty of public officers as to their oaths of office and penalties for failing to do so.

It must be noted that Marshall's and Weyand's oath only appeared after Defendant filed a FOIL request of October 5, 2017 for a copy of Marshall's Oath of Office (Ex. 0009). Marshall's alleged Oath clearly shows it was notarized on October 12, 2017 and Weyand's was notarized on October 13, 2017, indicating a concerted effort to cover up the criminal conduct of both Marshall and Weyand (People v. Connolly and Seely 253 N.Y. 330⁸; 171 N.E. 393; 1930 citing People v. Miles, 123 App. Div. 862, 875; affd., 192 N. Y. 541)⁹. ADA' Kelly Balcom's comes back "No Matching Documents Found" (Exhibits 1 though 5). Further the only oath found filed of a Marshall found is that of Bridget McCue Marshall (Ex. 0010).

⁸ <https://www.courtlistener.com/opinion/3601449/people-v-connolly/>

⁹ <https://casetext.com/case/people-v-miles-112>



ALAN BERNSTEIN
CATTARAUGUS COUNTY CLERK
 Cattaraugus County Center 303 Court Street
 Little Valley, NY 14755
 (716) 938-9111
 Fax: (716) 938-2773

Instrument Number
 284685-001

Delivered By:
 CATTARAUGUS COUNTY

Receipt No. 284685

Return To:
 CATTARAUGUS COUNTY

Date: 10/12/2017

Time: 01:04 PM

Document Type: OATH OF OFFICE

Parties To Transaction: WILLIAM MARSHALL PRESTON

STATE OF NEW YORK, COUNTY OF CATTARAUGUS SS.
 I, Alan Bernstein, Clerk of the County of Cattaraugus of the County Court of
 said County and of the Supreme Court, both being Courts of Record having a
 common seal,
 DO HEREBY CERTIFY that I have compared this copy with the original filed,
 recorded, filed and recorded, filed and entered, or entered in the office and that
 the same is a correct transcript thereof and of the whole of said original.
 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal
 of said County and Courts on
 Date 10/17/2017 *Cheryl A. DeBary* Clerk
acting deputy

Town/City:

Deed Information

Mortgage Information

Taxable Consideration:

Taxable Mortgage Amount:

State Transfer Tax:

Basic Mortgage Tax:

Special Mortgage Tax:

RETT No.:

Additional Mortgage Tax:

State of New York
 Cattaraugus County Clerk

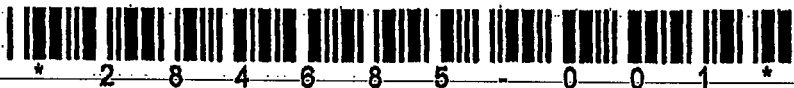
Mortgage Serial No.:

This sheet constitutes the Clerk endorsement required by Section 316-A(5) & Section 319 of the Real Property Law of the State of New York.

Alan Bernstein

Cattaraugus County Clerk

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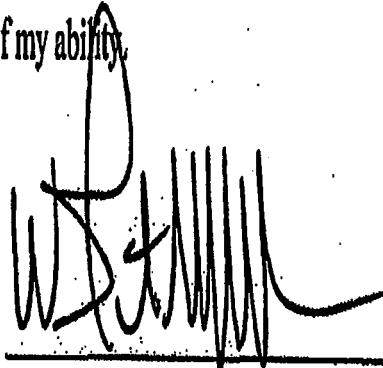
STATE OF NEW YORK
COUNTY of CATTARAUGUS
TOWN/CITY of Little Valley

I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of

Assistant District Attorney

of the County of Cattaraugus according to the best of my ability.

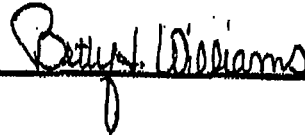
My term expires December 31, 2017.



William Marshall Preston

Subscribed and sworn to before me this 12th day of October, 2017.

BETTY L. WILLIAMS
Notary Public, State of New York
No 01W16136883
Qualified in Cattaraugus County
Commission Expires Nov. 14, 2017





**ALAN BERNSTEIN
CATTARAUGUS COUNTY CLERK**

Cattaraugus County Center 303 Court Street
Little Valley, NY 14755

(716) 938-9111
Fax: (716) 938-2773

Instrument Number
284853-001

Delivered By:
CATTARAUGUS COUNTY

Receipt No. 284853

Return To:

Date: 10/16/2017

Time: 01:49 PM

Document Type: OATH OF OFFICE

Parties
To Transaction: ERICH WEYAND

Town/City:

STATE OF NEW YORK, COUNTY OF CATTARAUGUS SS,
I, Alan Bernstein, Clerk of the County of Cattaraugus of the County Court of
said County and of the Supreme Court, both being Courts of Record having a
common seal,
DO HEREBY CERTIFY that I have compared this copy with the original filed,
recorded, filed and recorded, filed and entered, or entered in the office and that
the same is a correct transcript thereof and of the whole of said original.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal
of said County and Courts on
Date 10/17/17 *Alan Bernstein* Clerk

Acting Deputy

Deed Information

Mortgage Information

Taxable Consideration:

Taxable Mortgage Amount:

State Transfer Tax:

Basic Mortgage Tax:

RETT No.:

Special Mortgage Tax:

Additional Mortgage Tax:

State of New York
Cattaraugus County Clerk.

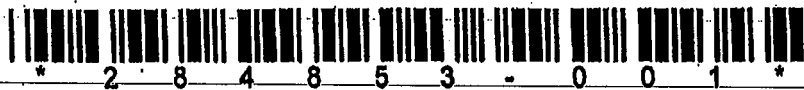
Mortgage Serial No.:

This sheet constitutes the Clerk endorsement required by Section 316-A(5) & Section 319 of the Real
Property Law of the State of New York.

Alan Bernstein

Cattaraugus County Clerk

Please do not remove this page.



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CONSTITUTIONAL OATH (County Law, Section 402; Town Law Section 25)
For County and Town Officers and Employees

STATE OF NEW YORK
COUNTY of CATTARAUGUS
TOWN/CITY of Little Valley

I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of

Assistant District Attorney

of the County of Cattaraugus according to the best of my ability.

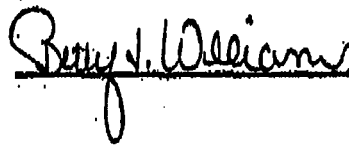
My term expires December 31, 2017.



Erich Weyand

Subscribed and sworn to before me this 13th day of October, 2017.

BETTY L. WILLIAMS
Notary Public, State of New York
No. 01W16136883
Qualified in Cattaraugus County
Commission Expires Nov 14, 2017



Betty L. Williams

00004



County Clerk
EDMS
SDC
(Redd - 10/25/10 3:28:00 PM)

Document Class: Pathways
Document Class: Document Success

ANY PATH OF OFFICE

SEARCH BY: BOOK, PAPER, FILED, INDEX

NO MATCHING DOCUMENTS FOUND

OK

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BALCOM

Clear Selections Display Document Exit

Cattaraugus County List Report

Generated 10/18/2017 11:52 AM

DOCUMENT CLASS	DOCUMENT SUBCLASS	DATE FILED	BOOK	PAGE	EST FILED	DESCRIPTION
MISCELLANEOUS	OATH OF OFFICE	09/21/2010		1		INDEX CLERK
MISCELLANEOUS	STREET					STREET NAME
142172-005						Cattaraugus County
MISCELLANEOUS						
ST JOHN LAURA						

00000

Cattaraugus County List Report

Generated 10/18/2017 11:53 AM

DOCUMENT CLASS	DOCUMENT SUBCLASS	DATE FILED	BOOK	PAGE	SHEET#	DESCRIPTION
MISCELLANEOUS	OATH OF OFFICE	01/07/2016			1	LEGISLATOR DISTRICT #5
NAME OF INTEREST						
249747-004						
Cattaraugus County						
Koch David M						
MISCELLANEOUS	OATH OF OFFICE	01/05/2017			2	ASSISTANT MINORITY LEADER
NAME OF INTEREST						
269544-005						
Cattaraugus County						
Koch David M						
MISCELLANEOUS	OATH OF OFFICE	01/07/2016			3	ASSISTANT MINORITY LEADER
NAME OF INTEREST						
249747-005						
Cattaraugus County						
Koch David M						
MISCELLANEOUS	OATH OF OFFICE	01/05/2012			4	DISTRICT #9 LEGISLATOR
NAME OF INTEREST						
170458-012						
Cattaraugus County						
Koch David M						
MISCELLANEOUS	OATH OF OFFICE	03/10/2008			5	DEPUTY REGISTRAR
NAME OF INTEREST						
BF663096-001						
Little Valley (TOWN)						
Koch Jillian S						
MISCELLANEOUS	OATH OF OFFICE	10/07/2007			6	CORRECTION OFFICER
NAME OF INTEREST						
BF663275-001						
Cattaraugus County						
Koch Kevin						

20000

Cattaraugus County List Report

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DOCUMENT CLASS	DOCUMENT SUBCLASS	DATE FILED	PAGE	BOOK	SHEET	DESCRIPTION
MISCELLANEOUS	OATH OF OFFICE	07/02/2013	7			TRANSFER STATION OPERATOR
INSURUMENT STREET NAME TOWN						
Cattaraugus County						
NAME OF INTEREST						
KOCH KYLE						
DOCUMENT CLASS	DOCUMENT SUBCLASS	DATE FILED	PAGE	BOOK	SHEET	DESCRIPTION
MISCELLANEOUS	OATH OF OFFICE	05/02/2016	8			VITAL STATISTICS
INSURUMENT STREET NAME TOWN						
Little Valley (TOWN)						
NAME OF INTEREST						
KOCH SUSAN J						
DOCUMENT CLASS	DOCUMENT SUBCLASS	DATE FILED	PAGE	BOOK	SHEET	DESCRIPTION
MISCELLANEOUS	OATH OF OFFICE	03/10/2008	9			REGISTRAR
INSURUMENT STREET NAME TOWN						
Little Valley (TOWN)						
NAME OF INTEREST						
KOCH SUSAN J						
DOCUMENT CLASS	DOCUMENT SUBCLASS	DATE FILED	PAGE	BOOK	SHEET	DESCRIPTION
MISCELLANEOUS	OATH OF OFFICE	07/02/2012	10			REGISTRAR VITAL STATISTICS
INSURUMENT STREET NAME TOWN						
Little Valley (Village)						
NAME OF INTEREST						
KOCH SUSAN J						
DOCUMENT CLASS	DOCUMENT SUBCLASS	DATE FILED	PAGE	BOOK	SHEET	DESCRIPTION
MISCELLANEOUS	OATH OF OFFICE	07/02/2012	11			REGISTRAR VITAL STATISTICS
INSURUMENT STREET NAME TOWN						
Little Valley (TOWN)						
NAME OF INTEREST						
KOCH SUSAN J						

Cattaraugus County
Application For Public Access To Records

FAX: (716) 938-2773

To: Cattaraugus County Clerk
Records Access Officer
303 Court Street
Little Valley, New York 14755

2017 OCT -5 A 10:46

For Agency Use Only

Record # 2017-179

I hereby apply to access the following record: CATTARAUGUS COUNTY CLERK

a true correct and complete copy of
William Preston Marshall, AKA Bill Marshall, AKA Preston Marshall
Oath of Office

- I hereby request to inspect the record.
- I hereby request a copy of the record, for which I agree to pay \$.25 per page.

[Redacted]

William Preston Marshall
Signature

Representing

[Redacted]

For Agency Use Only

- Approved. Record consists of _____ pages. Please call _____ at _____ to schedule an appointment to inspect the records. A copy will be available upon receipt of _____. If you wish a copy to be mailed to you, please include an additional _____ for postage.
- Denied.
- Record of which this agency is legal custodian cannot be found.
- Record is not maintained by this agency.
- Records have been (partially, fully) provided. (If not fully provided, date when records are expected to be fully provided: _____)
- Explanation: _____

Records Access Officer

Date

NOTICE: You have a right to appeal a denial of this application to the Appeals Officer, who must fully explain the reasons for such denial in writing within seven days of receipt of an appeal. If you wish to appeal, please submit your appeal to the Appeals Officer:

Cattaraugus County Administrator
Records Appeals Officer
303 Court Street
Little Valley, New York 14755

COPY

I hereby appeal:

Signature

Date

Cattaraugus County List Report

Generated 10/05/2017 10:49 AM

DOCUMENT CLASS	DOCUMENT JOB CLASS	DATE FILED	BOOK	PAGE	STATUS	DESCRIPTION
MISCELLANEOUS	OATH OF OFFICE	04/02/2014		1		4TH JUDICIAL COURT EXAMINER
INSURANCE	FEES					SEE
214335-001						Cattaraugus County
NAME: SENIERS						
MARSHALL BRIDGET MCCUE						

00010