

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RONALD T. WHITAKER, SR.,	:	
Co-Administrator of the Estate of	:	CIVIL ACTION NO. 1:08-627
Ronald Taylor Whitaker, Jr., <i>et al.</i> ,	:	
	:	(Judge Christopher C. Conner)
Plaintiffs,	:	
	:	
v.	:	
	:	
SPRINGETTSBURY TOWNSHIP, <i>et al.</i> ,	:	Filed Electronically
	:	
Defendants.	:	

**DEFENDANT GARY UTTER'S  
MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56(b), Defendant Officer Gary Utter, by and through his undersigned counsel, and for the reasons set forth in the accompanying Brief in Support of Defendant Utter's Motion for Summary Judgment and supporting Defendants' Joint Concise Statement of Uncontested Facts, hereby moves for the entry of summary judgment in his favor and the dismissal of all of Plaintiffs' claims against him, with prejudice.

Officer Utter respectfully submits, as outlined in the accompanying Brief, that there is no genuine issue of material facts and that he is entitled to judgment as a matter of law.

Respectfully submitted,

/s/ David J. MacMain

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*Attorneys for Defendant, Gary Utter*

**CERTIFICATE OF CONCURRENCE/NONCONCURRENCE**

I, David J. MacMain, attorney for Defendant Officer Gary Utter, hereby certify that concurrence in the foregoing motion was sought, but not obtained, from Matthew Weisberg, Esquire, counsel for Plaintiffs. Defendants Springettsbury Township, Springettsbury Township Police Department, and Chief of Police David Eshbach concur in this Motion.

/s/ David J. MacMain  
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*Attorneys for Defendant, Gary Utter*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day of September 2009, I caused a true and correct copy of the foregoing Defendant Officer Gary Utter's Motion for Summary Judgment to be served upon the following via the ECF system of the United States District Court for the Middle District of Pennsylvania:

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This *Certificate of Service* and the said filing are intended to be available for viewing and downloading from the ECF system of the United States District Court for the Middle District of Pennsylvania.

/s/ David J. MacMain

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David J. MacMain