

Adams County Legal Journal

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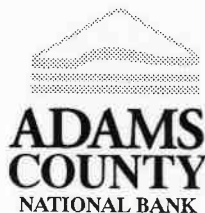
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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County--Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, February 13, 1996, at 9:00 o'clock a.m.

SHINDLEDECKER—Orphans' Court Action Number OC-168-95. The First and Final Account of Grace E. Drager, Sara A. Boyd and Richard G. Gordon, Administrators of the Estate of Mary K. Shindledecker, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

REAVER—Orphans' Court Action Number OC-5-96. The First and Final Account of Adams County National Bank, Executor of the Estate of Ernest F. Reaver, deceased, late of the Borough of Littlestown, Adams County, Pennsylvania.

SHULTZ—Orphans' Court Action Number OC-6-96. The First and Final Account of Kimberly Kreitz and Ricky Shultz, Executors of the Estate of Lester R. Shultz, deceased, late of Franklin Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

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FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Pennsylvania "Fictitious Names Act," 54 Pa.C.S.A. Sections 301 et seq., of the filing of an Application for Registration for Fictitious Name under the said Act. The fictitious name is SIMPLEGIFTS. The address of the principal office or place of business to be carried on under or through the fictitious name is 312 Baltimore Street, Gettysburg, Adams County, Pennsylvania 17325. The name and address of the individual who is interested in the business is Mary Schlichter Ward, of 312 Baltimore Street, Gettysburg, Adams County, Pennsylvania 17325. An Application for Registration of the said Fictitious Name was filed in the Office of the Secretary of the Commonwealth of Pennsylvania on January 4, 1996.

WOLFE & RICE
47 West High Street
Gettysburg, PA 17325
Attorneys for Applicant

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FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN of the filing with the Department of State of the Commonwealth of Pennsylvania, on December 28, 1995, under the Fictitious Name Act, of an Application for the registration of the fictitious name THE VILLAGE DELI with its principal office or place of business at 48 Baltimore Street, Gettysburg, PA 17325. The name and address of the persons who are party to the registration are: Richard F. Roos and Jean K. Roos, 114 Heritage Drive, Gettysburg, PA 17325.

Donald G. Oyler
112 Baltimore Street
Gettysburg, PA 17325

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UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VACANCY ANNOUNCEMENT

PRO SE LAW CLERK
Scranton, Pennsylvania

The United States District Court for the Middle District of Pennsylvania is seeking qualified candidates for the position of Pro Se Law Clerk. The Pro Se Law Clerk provides legal assistance to the Court in connection with prisoner petitions and complaints. General responsibilities include substantive screening after filing of all prisoner and inmate petitions and motions, including state habeas corpus petitions, motions to vacate sentence, and civil rights complaints. The position involves drafting appropriate recommendations and orders for the Court's approval.

The Pro Se Law Clerk will keep abreast of changes in the law to aid the Court in adjusting to new legislation in the pro-se area and will review the docket of pending prisoner litigation to assure the proper progress of such cases. Compiling statistics and preparing periodic reports which reflect the status and flow of cases is also required.

The successful candidate must be a law school graduate and possess excellent interpersonal skills, a positive attitude, and the ability to work in a team environment. Starting salary is JSP 9-14 (\$29,405.00 to \$59,920.00) depending on experience and bar membership.

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Clerk
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Scranton, PA 18501

The closing date for the position is February 23, 1996. The Court is an Equal Opportunity Employer.

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GETTYSBURG BATTLEFIELD
PRESERVATION ASSOCIATION, ET AL. VS.
GETTYSBURG COLLEGE, ET AL.

1. Where Plaintiffs' interest in the historic resources sought to be protected is no more unique to them than to any other member of the general public they have no standing to enforce the Borough Zoning Ordinance.

2. Placement of railroad tracks falls within the jurisdiction of the Pennsylvania Public Utilities Commission and is not within the regulatory authority of the local Zoning Ordinance or Subdivision and Land Development Ordinance.

3. Private citizens may not litigate a cause of action under Article I, Section 27 of the Pennsylvania Constitution against other private citizens for activity occurring on private property.

4. In order to state a cause of action for civil conspiracy, the complaint must allege (1) that two or more persons combined or agreed to commit an unlawful act by unlawful means for an unlawful purpose, (2) the existence of malice or an intent to injure, and (3) actual legal damages.

5. Averments of conspiracy are easily made and therefore merely alleging that the parties acted in concert or entered an agreement is insufficient; there must be facts pled which support or infer conspiratorial conduct.

6. Crucial to a cause of action for a concerted activity under Section 876 of the Restatement (Second) of Torts is that some tortious conduct or result must be pled.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 92-S-600, GETTYSBURG BATTLEFIELD PRESERVATION ASSOCIATION AND DR. WALTER L. POWELL, TIMOTHY H. SMITH AND EDWIN R. PETERSON VS. GETTYSBURG COLLEGE AND GETTYSBURG RAILROAD.

Eugene E. Dice, Esq., for Plaintiffs

Robert L. McQuaide, Esq., for Defendant College

Donald G. Oyler, Esq., for Defendant Railroad

OPINION ON PRELIMINARY OBJECTIONS FILED BY
BOTH DEFENDANTS

Kuhn, J., July 26, 1995.

As is well known, Gettysburg was the scene of one of the most significant military engagements in this nation's history. For three days in July, 1863, the blood of both Union and Confederate forces spilled freely on the soil in and around this community. In the intervening years, other battles have been waged to secure and preserve portions of that hallowed battlefield. Millions of visitors having anything from passing to intense interest in the Civil War make their way to this site to contemplate the significance of the conflict fought

here. Now another skirmish is being fought, not on the battlefield, but again in the courtroom¹

According to the Complaint filed in this matter, Plaintiff, Gettysburg Battlefield Preservation Association ("GBPA") is a non-profit corporation of approximately 400 members who study the historic significance of the Gettysburg National Military Park and which has, in the past, purchased land for donation to the Park in order to preserve its historic and aesthetic importance. Several of its members who live in the Borough of Gettysburg have joined in this action.

Plaintiffs allege that Defendant, Gettysburg College, effectuated a trade of a scenic easement in favor of the National Park Service (NPS) over 46.35 acres of land owned by Gettysburg College in exchange for title to 7.462 acres of land ("the parcel") located on the boundary of the Park and the College. This parcel is located on or about what is historically known as the Seminary Ridge Railroad Cut, the site of heavy fighting during early portions of the Battle of Gettysburg.

After the transfer was effectuated, the College granted an easement over the parcel to Defendant, the Gettysburg Railroad, for the relocation of approximately 4,000 feet of railroad track. As part of the relocation project, the Railroad excavated portions of Seminary Ridge within the parcel and constructed a maintenance building to house diesel engines. Plaintiffs claim that nearly 4 acres of the parcel are located within the Borough of Gettysburg including the area where the maintenance building was constructed.

Plaintiffs aver that defendants and the National Park Service failed to publicly disclose the size of the parcel being exchanged and the extent of the excavation of a portion of Seminary Ridge. They aver that this information was purposefully withheld in order to mislead GBPA from raising objections within the process of the development of a "boundary study" of the Park conducted by the NPS.

Plaintiffs claim they have been injured by defendants' conduct which allegedly adversely affected the historic resources of the Park and thereby diminished GBPA's members' ability to study, understand and enjoy the Park. Plaintiffs seek restoration of Seminary Ridge.

Plaintiffs' Complaint raises five counts: Violation of Borough Zoning Ordinances (I); Violation of Borough Subdivision and Land Development Ordinances (II); Violation of State Law (III); Civil Conspiracy (IV); and Concert of Action (V). The Railroad filed a

¹In *Commonwealth v. National Gettysburg Battlefield Tower, Inc.*, 13 Ad. Co. L.J. 45 (1971) and 14 Ad. Co. L.J. 52 (1972), later affirmed at 454 Pa. 193, 311 A.2d 588 (1973), the Honorable John A. MacPhail, P.J. was faced with the Commonwealth's challenge to a private developer's construction of a 307 foot observation tower on land adjoining the battlefield.

Motion to Dismiss claiming Plaintiffs' lack of standing. The College also filed preliminary objections on the basis of lack of standing and other issues which will be addressed herein.

I. Standing To Enforce Borough Zoning Ordinance

In Count I Plaintiffs allege that the portion of the parcel located within the Borough of Gettysburg is zoned Institutional and that relocation of the railroad line and construction of the maintenance building was done without Borough approval in violation of the Borough's zoning ordinance. Plaintiffs have not cited the Court to that zoning provision which has been violated. Nevertheless, the College claims plaintiffs have no standing to seek enforcement of the zoning ordinance.

Section 10617 of the Municipalities Planning Code, 53 P.S. §10617 defines who may seek enforcement of zoning ordinances. That section provides in pertinent part that

§10617. Causes of action

In case any building...or land is, or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of any ordinance enacted under this act or prior enabling laws, the governing body...**or any aggrieved owner** or tenant of real property **who shows that his property or person will be substantially affected by the alleged violation**, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain or abate such building...or land ...constituting a violation...(emphasis added).

Prior to February 19, 1989, only the governing body or an officer of the municipality had a statutory right to maintain such an action.

The class of persons entitled to seek relief was expanded by Act 170 of 1988 to include any aggrieved owner whose person or property was substantially affected by the alleged zoning violation.

We have found no case authority describing an aggrieved owner under §10617. By analogy a "person aggrieved" by a zoning decision and thus entitled to appeal is one who has a direct interest in the subject matter which has been adversely affected. That interest must be substantial and immediate and not an interest which is common to all citizens. In re: Farmland Industries, Inc., 109 Pa. Comlth. Ct. 304-311-2, 531 A.2d 79, 82 (1987), Alloc. den. 539 A.2d 812 (1988); Mosside Associates, Ltd. v. Zoning Hearing Board of the Municipality of Monroeville, 70 Pa. Comlth. Ct. 555, 562, 454 A.2d 199, 203 (1982). An aggrieved neighbor has standing to maintain an equity action to enjoin an encroachment upon the quiet enjoyment of his property. Frye Construction, Inc. v. City of Monongahela, 526 Pa. 170, 584 A.2d 946

(1991). Plaintiffs have claimed no affect to their property or an encroachment upon the quiet enjoyment of their property. At most they aver that their ability to enjoy the historic resources of the subject parcel have been affected.

It is our opinion this is not the type of interest contemplated by §10617 which would allow Plaintiffs to bring this action. They do not aver that their property adjoins the subject parcel or that it is even visible from their property. Their interest in the historic resources is no more unique to them than to any other member of the general public.

We conclude that Plaintiffs have no standing to pursue Count I.

II. P.U.C. Jurisdiction

The College also argued that the relocation of the railroad lines and the location of the maintenance building is a matter which falls within the jurisdiction of the Pennsylvania Public Utilities Commission. The Municipalities Planning Code specifically exempts from its application any building proposed to be used by a public utility corporation if the P.U.C. decides that the building is reasonably necessary. 53 P.S. §10619. Although §10619 refers only to buildings and not to railroad tracks, it is nevertheless clear that the placement of railroad tracks does not fall within the regulatory authority of local zoning ordinance. *Commonwealth v. Delaware and Hudson Railway Co.*, 19 Pa. Comlth. Ct. 59, 339 A.2d 155 (1975).

At the time this matter was argued there was a petition pending before the Pa. P.U.C. regarding the maintenance building. The Court has been advised that the P.U.C. has decided that issue thereby rendering this issue moot.

III. Borough Subdivision and Land Development Ordinance

The College also requests that Count II be dismissed for the same reasons articulated as to Count I. In Count II Plaintiffs contend that construction of the railroad line and the maintenance building constitutes land development requiring Borough approval.

Article V of the Municipalities Planning Code generally provides preventive and enforcement remedies to a municipality regarding violations of its subdivision ordinance. 53 P.S. §10515.1 and §10515.3. That Article contains no provision similar to §10619 found in Article VI dealing with zoning matters. One could interpret that granting a cause of action to an aggrieved owner under Article VI but not Article V was intentional and that the municipality has the exclusive right to seek enforcement of its subdivision ordinance. However, one could also argue that §10617 should be interpreted more broadly because it refers to the right to institute an action for violation of "any ordinance enacted under this act" rather than under "this Article." Whichever approach is taken for the reasons stated above, Plaintiffs lack standing.

Furthermore, as noted above, it is clear that the P.U.C. has taken jurisdiction over this particular subject matter.

IV. Pennsylvania Constitution

In Count III Plaintiffs contend that defendants failed to comply with Article I, Section 27 of the Pennsylvania Constitution by failing to consider, disclose or minimize the impact of the railroad relocation project on the natural, scenic, aesthetic and historic values associated with Seminary Ridge. Both defendants argue that Plaintiffs lack standing and the College argues that Plaintiffs have failed to state a cause of action.

Article I §27 of the Pennsylvania Constitution provides,

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public and natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

We conclude that Count III must be dismissed. When our Supreme Court has had occasion to discuss whether Article I §27 is self-executing it seems clear that one cannot merely assert that a value is about to be invaded which has either natural, scenic, historic or aesthetic importance and have an automatic right to relief. *Payne v. Kassab*, 468 Pa. 226, 246, 361 A.2d 263, 273 (1976). If the property involved is public property, private persons may assert a constitutional claim. *Id.* Furthermore, when governmental agencies act within their authority they are charged by §27 with making reasonable efforts to preserve those resources which may be threatened by their action. *Riehl v. Millcreek Township Sewer Authority*, 26 Pa. Comlth. Ct. 70, 75-6, 362 A.2d 478, 481 (1976). If, however, government seeks, under the guise of §27, to curtail activity on private property there must be enabling legislative authority to do so. *Commonwealth v. National Gettysburg Battlefield Tower, Inc.*, 454 Pa. 193, 311 A.2d 588 (1973).

Here, private citizens seek to litigate a cause of action under §27 against other private citizens for activity occurring on private property. They have cited no case authority for their ability to pursue such litigation and we have found none. *Commonwealth v. National Gettysburg Battlefield Tower, Inc.*, *supra.*, suggests that where legislative authority exists the governmental agency may pursue relief but there is no suggestion that private citizens may do so under the circumstances presented here.

V. Civil Conspiracy

In Count IV Plaintiffs allege that defendants were aware of the

extent of the excavation needed for the railroad track relocation project at Seminary Ridge and that they conspired with officers of the NPS to withhold that information from public scrutiny and in doing so did violate local, state and federal laws. The College seeks dismissal of Count IV on the basis that it fails to state a cause of action.

Caselaw consistently provides that in order to state a cause of action for civil conspiracy the complaint must allege 1) that two or more persons combined or agreed to commit an unlawful act by unlawful means for an unlawful purpose, 2) the existence of malice or an intent to injure, and 3) actual legal damages. *Mellon v. Barre-National Drug Co.*, 431 Pa. Super. 175, 179, 636 A.2d 187, 189 (1993); *Burnside v. Abbott Laboratories*, 351 Pa. Super. 264, 277-8, 505 A.2d 973, 980 (1985). Some courts also require an overt act in pursuance of the common purpose or design. *Kadel v. McMonigle*, 425 Pa. Super. 253, 261, 624 A.2d 1059, 1063 (1993), *Alloc. den.* 651 A.2d 539 (1994); *Petula v. Mellody*, 138 Pa. Comlth. Ct. 411, 418, 588 A.2d 103, 107 (1991); *Cohen v. Pelgatti*, 364 Pa. Super. 573, 576, 528 A.2d 657, 658 (1987).

The College argues that Plaintiffs' complaint has failed to allege 1) the manner in which the conspiracy was devised and carried out, 2) that either party performed an unlawful act, 3) malice, and 4) any causal connection between the acts alleged and the harm.

Pa. R.C.P. 1019(a) requires that the material facts upon which a cause of action is based be stated in concise and summary form. In that regard,

...a complaint must allege facts showing the existence of all of the elements indicated. However, to prove a conspiracy, a plaintiff is "not required to present direct and positive testimony of a collusive agreement to do something unlawful. The nature of the crime attempted usually makes it susceptible of no other proof than by circumstantial evidence."... "When [a] plaintiff...relies on subsequent acts to establish the conspiracy, these acts must be such as to clearly indicate the prior collusive combination..., not slight circumstances of suspicion, and these subsequent acts must be such as to warrant the belief and justify the conclusion that the subsequent acts were done in furtherance of the unlawful combination." ... "Thus, if a plaintiff is unable to allege facts that are direct evidence of the combination and its intent, he must in order to comply with Rule 1019(a) allege facts that if proved will support an inference of the combination and its intent." *Baker v. Rangos*, 229 Pa. Super. 333, 351, 324 A.2d 498, 506 (1974) (citations omitted).

As noted, Plaintiffs averred that the defendants knew the excavation of the portion of Seminary Ridge would destroy that historic landmark (Para. 54) and that the defendant agreed to withhold that information from Plaintiffs (Para. 55).

Averments of conspiracy are easily made and therefore merely alleging that the parties acted in concert or entered an agreement is insufficient. There must be facts pled which support or infer conspiratorial conduct. *Petula v. Melody*, supra., 138 Pa. Comlth. Ct. at 418, 588 A.2d at 107; *Burnside v. Abbott Laboratories*, supra., 351 Pa. Super. at 280, 505 A.2d at 982. There is no factual background pled here that would support the inference of a conspiracy. There is no averment of meetings, correspondence or other exchange which could be said to be or infer a conspiracy.

Second, although it is averred that the NPS was required to consult interested persons regarding the Boundary Study and the Boundary Study noted the exchange between the College and the NPS, there is no proper averment, or supporting authority that the failure to disclose the full extent of the excavation project was unlawful.

Third, nowhere in the Complaint have Plaintiffs alleged that the failure to disclose the extent of the excavation project was done maliciously or with the intent of injuring Plaintiffs. Although malice may be pled generally, Pa. R.C.P. 1019(b), proof of malice or an intent to injure is essential to prove a conspiracy. *Thompson Coal Co. v. Pike Coal Co.*, 488 Pa. 198, 211, 412 A.2d 466, 472 (1979).

Fourth, no overt act is alleged. An overt act is an open or outward act done in pursuance and manifestation of an intent or design. *Black's Law Dictionary*, 4th Ed. revised. At most, Plaintiffs allege a failure to act rather than an open or manifest act.

We are not prepared to conclude at this juncture that Plaintiffs could not establish legal damages.

The College also suggested that because the NPS is immune from suit before this Court, the complaint must be dismissed because the College cannot conspire with itself. Immunity from suit is simply a policy consideration designed to prevent government or its agencies from responding to certain litigation. It does not mean that the underlying acts did not occur. In this context, immunity does not prevent the finding of a conspiracy.

VI. Concert of Action

In Count V Plaintiffs aver that defendants and the NPS acted in concert to withhold information concerning the scope of the excavation project from Plaintiffs and others. The College again seeks dismissal.

Several Pennsylvania cases have recently recognized that a cause of

action for concerted activity under Section 876 of the Restatement (Second) of Torts may be stated under proper circumstances. See *Larsen v. Philadelphia Newspapers, Inc.*, 411 Pa. Super. 534, 547, 602 A.2d 324, 331 (1991), *Alloc. den.* 641 A.2d 587 (1994) and cases cited therein.

Second 876 provides,

For harm resulting to a third person from the tortious conduct of another, one is subject to liability if he

(a) does a tortious act in concert with the other or pursuant to a common design with him, or

(b) knows that the other's conduct constitutes a breach of duty and gives substantial assistance or encouragement to the other so to conduct himself, or

(c) gives substantial assistance to the other in accomplishing a tortious result and his own conduct, separately considered, constitutes a breach of duty to the third person.

The College has raised several arguments² to support its contention that Count V should be dismissed. We believe all but one of these lack merit. The motion to dismiss will be granted because, as the College contends, there is no recognizable tortious conduct averred. Critical to a cause of action under §876 is that some tortious conduct or result must be pled. Plaintiffs have cited no authority which recognizes an actionable tort for the conduct alleged in Plaintiffs' complaint. Of course, every theory had novel beginnings and should not be rejected on that basis alone. However, this Court is not inclined to create a new cause of action on the basis of the averments presented.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 26th day of July, 1995, preliminary objections filed by both defendants are granted and Plaintiffs' Complaint is dismissed.

Plaintiffs are granted thirty (30) days to file an amended complaint or suffer judgment of non pros.

²Lack of causal connection between alleged acts and the alleged harm, lack of intent, the sovereign immunity of the National Park Service.

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 or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF HELENA C. CONRAD, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
 Executrix: Loretta F. Conrad, c/o Michael E. Dows, Esquire, 515 Carlisle Street, Hanover, Pennsylvania 17331
 Attorney: Michael E. Dows, Esquire

ESTATE OF FRANK B. DARCEY, JR. a/k/a FRANK B. DARCEY, DEC'D

Late of Freedom Township, Adams County, Pennsylvania
 Executor: Claude R. Vess, 414 Hungerford Drive, Suite 448, Rockville, MD 20850
 Attorney: Crabbs & Frey, Daniel M. Frey, Attorney

ESTATE OF EMMA O. HARMAN, DEC'D
 Late of New Oxford, Adams County, Pennsylvania

Executrix: Joan E. Leib, 316 Moul Avenue, Hanover, PA 17331
 Attorney: Larry W. Wolf, Esquire, 215 Broadway, Hanover, PA 17331

ESTATE OF MELVIN L. KUMP, DEC'D
 Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Evelyn V. Trimmer, 1460 Fairfield Rd., Gettysburg, PA 17325
 Attorney: John W. Phillips, Esquire, 101 West Middle Street, Gettysburg, PA 17325

ESTATE OF MARGARET OTELIA PENROD, DEC'D

Late of 230 Pine Run Rd., New Oxford, Adams County, Pennsylvania
 Executrix: Judy L. Hughes, 842 East Deep Run Road, Westminster, MD 21158

ESTATE OF JOAN E. STEWART a/k/a JOAN E. S. REAHM, DEC'D

Late of Butler Township, Adams County, Pennsylvania
 Executrix: Janet Hume Wilson, 4114 Fields Drive, P. O. Box 67, Lafayette Hill, PA 19444
 Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF SARA A. TRUMP, DEC'D
 Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executors: Dale W. Trump, 39 E. Lincoln Avenue, Gettysburg, PA 17325; Ruth R. Hess, 233 Chambersburg St., Gettysburg, PA 17325
 Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF JOHN H. AIKEN, DEC'D
 Late of Highland Township, Adams County, Pennsylvania

Executor: Adams County National Bank, Trust Office, Lincoln Square, Gettysburg, PA 17325
 Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF PAUL E. ALTOFF, DEC'D
 Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Margaret Mary Altoff, 103 West Barre Street, Baltimore, MD 21201
 Attorney: David K. James, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF SARAH E. BALTZLEY, DEC'D

Late of Franklin Township, Adams County, Pennsylvania
 Executrix: Nancy M. Herring, P.O. Box 35, 1221 Old Route 30, Cashtown, PA 17310
 Attorney: Robert E. Campbell, Campbell, White & George, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF FREDERICK A. LASH, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
 Executor: Donald G. Oyler, 112 Baltimore Street, Gettysburg, PA 17325
 Attorney: Donald G. Oyler, 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARGARET R. LOEFFEL, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania
 Executrix: Margaret Adams Rineman, P.O. Box 1207, 411 Maple Avenue, Hanover, PA 17331
 Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF COREAN R. McMILLION, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executrix: Marguerite E. Davies, 100 Golf Circle, Bernville, PA 19506
 Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF BERNARD P. MURREN, DEC'D

Late of Mt. Pleasant Twp., Adams County, Pennsylvania
 Executors: Teresa C. Glass, 544 Brickcrafters Rd., New Oxford, PA 17350; Gerald A. Murren, 600 Bender Rd., Hanover, PA 17331
 Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Sq., Gettysburg, PA 17325

ESTATE OF J. DONALD SMITH, DEC'D
 Late of Oxford Township, Adams County, Pennsylvania

Executor: Thomas E. Smith, 28 Laurel Woods Lane, Hanover, PA 17331
 Attorney: Stonesifer and Kelley, 209 Broadway, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF RUTH A. COLE, DEC'D
 Late of Franklin Township, Adams County, Pennsylvania

Executor: Edward A. Herring, 50 Ragged Edge Road, Orttanna, PA 17353
 Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CHARLOTTE H. HARBOLD, DEC'D

Late of Reading Township, Adams County, Pennsylvania
 Executor: Randall S. Harbold, 801 Lakeview Drive, Lancaster, PA 17601
 Attorney: Clayton R. Wilcox, Esquire, 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF MARES SHERMAN, DEC'D
 Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325
 Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF LUTHER JUNIOR SPEELMAN a/k/a LUTHER J. SPEELMAN, DEC'D

Late of Union Township, Adams County, Pennsylvania
 Executrix: Linda Speelman, 3086 Baltimore Pike, Gettysburg, PA 17325
 Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF DOROTHY G. WILLIAMS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
 Executrix: E. Louise Williams, 415 Table Rock Road, Gettysburg, PA 17325
 Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

Adams County Legal Journal

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 94-N-257 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of March, 1996, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

TRACT NO. 1:

ALL that tract of land situate on the South side of the Hanover-McSherrystown State Highway in the Village of Midway, Conewago Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at an iron pipe along the State Highway, aforesaid, at lands now or formerly of L. G. Kuhn, thence by said lands South four (4) degrees West, one hundred ninety-six and three-tenths (196.3) feet to an iron pipe at an alley; thence by said alley South eighty-nine (89) degrees thirty (30) minutes West, twenty and four-tenths (20.4) feet to an iron pipe at lands now or formerly of Charles E. Kuhn; thence by said lands North three (3) degrees thirteen (13) minutes East, one hundred thirty-six and nine-tenths (136.9) feet to an iron pipe; thence by the same North nine (9) degrees fourteen (14) minutes East, nineteen and seven-tenths (19.7) feet to an iron pipe; thence by the same North one (1) degree thirty-nine (39) minutes West, thirty-seven and seven-tenths (37.7) feet to an iron pipe at the State Highway, aforesaid, also known as Third Street; thence by said State Highway North eighty-six (86) degrees eight (8) minutes East, twenty-seven and ninety-five hundredths (27.95) feet to an iron pipe, the place of BEGINNING. (Said lot being part of the same which was surveyed November 28, 1947, by J. H. Rife, Registered Engineer.)

IT BEING the same premises which Clarence J. E. Harner and Edna R. Harner, his wife, by their deed dated November 27, 1959, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book Vol. 228, page 50, granted and conveyed to Lester W. Pascoe and Ruth I. Pascoe, his wife, Grantors herein.

TOGETHER WITH AND SUBJECT TO the following set forth in Deed Book Vol. 180, page 451:

"TOGETHER WITH a right of way and privilege unto the grantees their heirs and assigns to use the present concrete walk as now existing and in its present location (lies along the front portion of the East side of the lot hereby conveyed) in common with the grantors, their heirs and assigns, agents, servants, employees and invitees, beginning at the State Highway aforesaid and extending in a Southerly direction to a point at or near the rear of the dwelling erected on the lot hereby conveyed as a means of ingress and egress for pedestrians to and from the house on the lot hereby conveyed. Said walk shall be kept free and clear of gates or other obstructions fixed or otherwise or objects of any description and said walk shall be used solely as a means of ingress and egress."

"This conveyance is made subject nevertheless to the restriction and condition that no buildings, structures, signs or objects of any type, fences or gates shall be erected on land of the grantors their heirs and assigns and land of the grantees, their heirs and assigns lying between the dwelling house on the lot hereby conveyed and the dwelling house on the lot of the grantors lying immediately east of the lot hereby conveyed and the area extending North to the State Highway nor shall said area or any part thereof be used for storage of any articles or things whatsoever."

TRACT NO. 2:

ALL the following described tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING at an iron pipe on the Southern side of Pennsylvania Route No. 116 (Third Street) said pipe located eighteen (18) feet from the center of said Pennsylvania Route No. 116 at other lands now or formerly of Lester Pascoe, Grantee herein, and other lands now or formerly of Edward C. Smith, Grantor herein; thence along said other lands now or formerly of Edward C. Smith and passing through a steel pin set back ten (10) feet from the end hereof South no

(00) degrees forty-four (44) minutes thirty-five (35) seconds West one hundred ninety and eighty-eight hundredths (190.88) feet to a point on the Northern side of a twenty (20) feet wide alley; thence along the Northern side of said twenty (20) feet wide alley South eighty-nine (89) degrees four (4) minutes thirty-five (35) seconds West ten and eighty-eight hundredths (10.88) feet to a point at other lands now or formerly of Lester Pascoe, Grantee herein; thence along said other lands North four (4) degrees East one hundred ninety-one and fifty-one hundredths (191.51) feet to the point and place of BEGINNING. CONTAINING 1,037 Square Feet, neat measure. This description is taken from an approved Subdivision Plan prepared for Edward C. Smith by J. H. Rife, Registered Engineer, dated August 9, 1978, and recorded in Plat Book 32, page 10, of the Adams County Records.

IT BEING a part of a larger tract of land which Bertha J. Sappington, Unmarried, by her Deed dated September 15, 1964, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book Vol. 252, page 473, granted and conveyed unto Edward C. Smith, Grantor herein.

SEIZED and taken into execution as the property of Lester W. Pascoe and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
January 29, 1996.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 1, 1996, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

2/9, 16, 23

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COUNTY**
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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, February 13, 1996, at 9:00 o'clock a.m.

SHINDLEDECKER—Orphans' Court Action Number OC-168-95. The First and Final Account of Grace E. Drager, Sara A. Boyd and Richard G. Gordon, Administrators of the Estate of Mary K. Shindledecker, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

REAVER—Orphans' Court Action Number OC-5-96. The First and Final Account of Adams County National Bank, Executor of the Estate of Ernest F. Reaver, deceased, late of the Borough of Littlestown, Adams County, Pennsylvania.

SHULTZ—Orphans' Court Action Number OC-6-96. The First and Final Account of Kimberly Kreitz and Ricky Shultz, Executors of the Estate of Lester R. Shultz, deceased, late of Franklin Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

2/2, 9

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of a Fictitious Name was filed with the Department of State, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on the 4th day of January, 1996, pursuant to the Fictitious Name Act of 1982, as amended, setting forth that Timothy A. Smith and Erika A. Osterman-Smith, of 11 High Trail, Fairfield, Pennsylvania, are individuals engaged in a business, the character of which is the service and repair of bar equipment, and that such business will be conducted under the name of "CHUCK COMER PREVENTATIVE MAINTENANCE SERVICE" and have a principal office or location at 11 High Trail, Fairfield, Pennsylvania.

2/9

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VACANCY ANNOUNCEMENT

PRO SE LAW CLERK Scranton, Pennsylvania

The United States District Court for the Middle District of Pennsylvania is seeking qualified candidates for the position of Pro Se Law Clerk. The Pro Se Law Clerk provides legal assistance to the Court in connection with prisoner petitions and complaints. General responsibilities include substantive screening after filing of all prisoner and inmate petitions and motions, including state habeas corpus petitions, motions to vacate sentence, and civil rights complaints. The position involves drafting appropriate recommendations and orders for the Court's approval.

The Pro Se Law Clerk will keep abreast of changes in the law to aid the Court in adjusting to new legislation in the pro-se area and will review the docket of pending prisoner litigation to assure the proper progress of such cases. Compiling statistics and preparing periodic reports which reflect the status and flow of cases is also required.

The successful candidate must be a law school graduate and possess excellent interpersonal skills, a positive attitude, and the ability to work in a team environment. Starting salary is JSP 9-14 (\$29,405.00 to \$59,920.00) depending on experience and bar membership.

Applicants should send a cover letter and resume to:

Clerk
U.S. District Court
P.O. Box 1148
Scranton, PA 18501

The closing date for the position is **February 23, 1996**. The Court is an Equal Opportunity Employer.

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FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, of Act 1982-295 (54 Pa. C.S. 311), the undersigned entity(ies) announce their intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania, on approximately January 26, 1996, a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of MEDIA EDGE, with its principal place of business at 131 Heritage Dr., Gettysburg, PA 17325. The names and addresses of the persons owning or interested in said business are Donald Lee Redman, residing at 131 Heritage Dr., Gettysburg, PA 17325. The character or nature of the business is Multimedia Design and Consulting

Donald Redman
P. O. Box 4053
Gettysburg, PA 17325-4053
Phone: 717-338-9188

2/9

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Fictitious Names Act, 54 Pa. C.S. §311, et seq., and its amendments and supplements, of filing with the Secretary of the Commonwealth of Pennsylvania, Harrisburg, Pennsylvania on January 26, 1996, an application for conducting business under the assumed or fictitious name of THISTLEFIELDS, with its principal place of business at 29 Chambersburg Street, Gettysburg, Pennsylvania 17325. The names and addresses of all persons owning or interested in said business are: Jan Tebbutt, 29 Crossview Trail, Carroll Valley, PA 17320

2/9

NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Commonwealth of Pennsylvania, Department of State, at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation.

The name of the proposed corporation which has been organized under the Business Corporation Law of 1988 adopted December 21, 1988, P.L. 1444, No. 177, §103, as amended, is DIANE M. SCOTT, INC.

G. Steven McKonly, Solicitor

2/9

COMMONWEALTH VS. POWELL

1. The inquiry as to whether a series of criminal acts constitutes a single criminal episode is fact dependent.

2. Section 110 (1) (ii) of 18 Pa.C.S. bars prosecution for a violation of a different provision of the statutes than a former prosecution only if: (1) the former prosecutions resulted in an acquittal or in a conviction; (2) the instant prosecutions are based on the same criminal conduct or arose from the same criminal episode as the former prosecutions; (3) the prosecutor was aware of the instant charges before the commencement of the trials on the former charges; and (4) the instant charges and the former charges were within the jurisdiction of a single court.

3. A single criminal episode exists if the charges are logically and/or temporally related and share common issues of law and fact.

4. A consideration of "same criminal episode" is whether one offense is a necessary step toward the accomplishment of a given criminal objective or if additional offenses occur because of efforts to secure the benefit of a prior offense or to conceal its commission.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-426-95, CC-427-95 and CC-428-95.

Roy Keefer, Esq., District Attorney
Charles H. Field, Esq., for Defendant

OPINION ON MOTION TO QUASH

Spicer, P.J., July 28, 1995.

Defendant asks the court to bar prosecution for arson and related charges, which arise out of a barn fire on July 10, 1994, and thefts of two all terrain vehicles, allegedly stolen between July 1, 1994, and July 19, 1994. Although we convened a hearing on July 7, 1995, no evidence was introduced. Rather, counsel relied upon records and then requested leave to supplement arguments by furnishing authority. We, therefore, rely upon backgrounds as explained by counsel, especially defense counsel, our review of case files, and our own understanding.¹ The parties must assume, along with the court, the risk that a fuller development of fact might lead to a different conclusion. Defendant's motion, based upon 18 Pa. C.S.A. § 110, is fact dependent. Supreme Court recently said, "the inquiry as to whether a series of criminal acts constitutes a single criminal episode is fact dependent." *Commonwealth v. Bracalielly*, ___ Pa. ___, 658 A.2d 755 (1995).

In all fairness, there appears to be little dispute as to facts.

¹ Defense counsel was given until July 17, 1995, and Commonwealth until July 22, 1995, to submit authority. Commonwealth has chosen not to do so. This judge presided over Juvenile Court adjudications of juvenile accomplices and is somewhat familiar with the circumstances of each crime.

Supreme Court also said, in the last cited case, the following:

The relevant portions of 18 Pa.C.S. § 110 state:

§ 110. When prosecution barred by former prosecution for different offense.

Although a prosecution is for a violation of a different provision of the statutes than a former prosecution or is based on different facts, it is barred by such former prosecution under the following circumstances:

(1) The former prosecution resulted in an acquittal or in a conviction as defined in Section 109 of this title (relating to when prosecution for same offense) and the subsequent prosecution is for:

(ii) any offense based on the same conduct or arising from the same criminal episode, if such offense was known to the appropriate prosecuting officer at the time of the commencement of the first trial and was within the jurisdiction of a single court unless the court ordered a separate trial of the charge of such offense;

[2] Section 110, by barring criminal prosecution for offenses arising from the same criminal episode on which a previous prosecution was based, effectively creates a rule of compulsory joinder. As we stated in *Commonwealth v. Hude*, 500 Pa. 482, 458 A.2d 177 (1983), Section 110 was

designed to serve two distinct policy considerations: (1) to protect a person accused of crimes from governmental harassment of being forced to undergo successive trials for offenses stemming from the same criminal episode; and (2) as a matter of judicial administration and economy, to assure finality without unduly burdening the judicial process by repetitious litigation.

Id. at 489, 458 A.2d at 180 (citations omitted). “By requiring compulsory joinder of all charges arising from a single ‘transaction,’ a defendant need only once ‘run the gauntlet’ and confront the ‘awesome resources of the state.’” *Commonwealth v. Campana*, (Campana I), 452 Pa. 233, 251, 304 A.2d 432, 440 (1973).

Section 110(1)(ii) will only bar the instant prosecutions if: (1) the former prosecutions resulted in an acquittal or in a conviction; (2) the instant prosecutions are based on the same criminal conduct or arose from the same criminal episode as the former prosecutions; (3) the prosecutor was aware of the instant charges before the commencement of the trials on the former charges; and (4) the instant charges and the former charges were within the jurisdiction of a single court. 18 Pa.C.S. § 110(1)(ii).

Id. at 760.

The court recognized that “same criminal episode” may be an amorphous phrase and troublesome to apply, but stressed that inquiry must not be approached in a hypertechnical and rigorous perspective, so as to defeat the purposes of the section. The court indicated that a single criminal episode exists if charges are logically and/or temporally related and share common issues of law and fact. However, substantial duplication, not merely a *de minimis* showing of factual duplication, is required.

It would appear that more than convenience is at stake. If one witness describes a hundred incidents which significantly vary, a hundred trials may be required. On the other hand, if there is little difference, one trial may be mandated.

In this context, we think it relevant that both *Commonwealth v. Bracalielly* and *Commonwealth v. Hude*, 500 Pa. 482, 458 A.2d 177 (1983) involved multiple drug transactions. In *Hude*, one undercover police agent participated in a large number of buys and testimony in all prosecutions was essentially the same. The section was applied to vitiate later endeavors to find defendant guilty. On the other hand, where witnesses were not the same, subsequent prosecutions were allowed in *Bracalielly*. Important, in fact crucial, to the court’s decision was involvement and independent investigations by two police departments. The latter case involved different witnesses, even though legal issues may have been the same.²

Superior Court has indicated that a consideration of “same criminal episode” is whether one offense is a necessary step toward the accom-

² There is no indication, in Supreme Court’s opinion, that either legal issues or factual issues differed. We know that entrapment is asserted fairly often in drug cases, but there was no discussion of expected evidence. Although Supreme Court emphasized that Section 110 cases are fact dependent, the different police departments were critical to the decision.

plishment of a given criminal objective or if additional offenses occur because of efforts to secure the benefit of a prior offense or to conceal its commission, *Commonwealth v. Perillo*, 426 Pa.Super. 1, 626 A.2d 163 (1993). This logical connection is certainly not present in the cases before us. All fires might be described as arising from random maliciousness. However, we understand that this does not automatically exclude application of the section.

We deal with one police department, the Pennsylvania State Police, a period of time roughly equal to three weeks, the same geographic area, defendant's confession which is common to all crimes and the same set of participants in the two arson cases. Much the same is true for charges involving theft. Powell and three juveniles, identified as T.L.L., P.A.L., and B.G.M., were involved in a crime spree between July 1, 1994, and July 20, 1994. At the start of this twenty day period, a barn owned by Mildred Geisler was burned, (CC-632-94). The Clara Krape barn was burned July 10, 1994 (CC-426-94). A bale of hay stored in a field, and belonging to John Lloyd was destroyed July 9, 1994 (CC-17-95). An all terrain vehicle, owned by Philip Hansen, was stolen between July 1 and July 19, 1994 (CC-427-95). A similar vehicle owned by Michael Bowers was taken July 18 or 19, 1994 (CC-428-95). All juvenile accomplices were involved in the two barn fires. One juvenile, T.L.L., participated in setting fire to the hay and another, B.G.M., helped steal the ATV's.

Trooper James Graham obtained a confession from defendant which implicated him in all of the crimes.

Defendant's previous pleas of guilty involved CC-632-94 and CC-17-95, the Geisler barn (July 1, 1994), and the bale (July 9, 1994). Records in CC-632-94 indicate defendant pleaded to arson as a felony of the second degree, and was sentenced from four to twenty-three months. In CC-17-95, he pleaded to agricultural vandalism, and the charge was essentially treated as a summary offense for purposes of sentencing, although technically a misdemeanor of the third degree. In neither case was conspiracy charged that implicated property or crimes involved CC-426,427 and 428-94.

Defendant argues that those pleas invoke Section 110 and preclude further prosecution.

A plea of guilty operates as a conviction for purposes of Section 110. 18 Pa. C.S.A. § 109; *Commonwealth v. Rosario*, 438 Pa.Super. 241, 652 A.2d 354 (1994); *Commonwealth v. Bracalielly*, supra.

However, plea agreements do "not present the problem of piece-

meal litigation . . . because . . . the charges filed to [other numbers] were resolved through a consensual negotiated plea agreement.” *Commonwealth v. Perillo*, supra., 628 A.2d at 168.

Defendant concedes that his argument is weaker, as it pertains to the two theft charges. While it is true that defendant’s confession will be introduced, the crimes occurred during the same general period as the earlier cases, there may be mention of one of the three juveniles and the same prosecutor will be involved, these factual duplications hardly qualify as substantial. We therefore reject the arguments, based on the theft cases.

The second arson charge is obviously a more difficult call. However, even there, we find distinctions which operate against mandatory joinder. Superior Court was asked, in *Commonwealth v. Perillo*, supra, to apply Section 110 because all victims were the same. We think it important that our victims are all different. It may be that proof of *corpus delicti* will also be different. While factual similarities exist between the three cases involving fires, there are no logical connections between them. Reduced to simple essence, the main common ingredient in these cases is that crimes were all mindless acts of destruction committed in a relatively short period of time. There is no indication of either purpose or plan.

Since defendant’s prior conviction was a plea agreement, judicial economy emerges as the main policy reason applying Section 110. The strain placed on the judicial system by trials would seem to be minimal. No additional burdens than those which pre-existed the plea arrangements will be created. Actually, any added strain on the judicial system arises almost solely from defendant’s attempt to apply Section 110.

We think it one thing to require Commonwealth to proceed at one time with all numerous drug cases, all involving the same basic scenario, and quite another to apply Section 110 to cases involving different victims, different property and different circumstances.³

Although consolidation might have been wise, had all charges gone to trial, we do not believe it either expedient or wise to hold that Section 110 applies.

³ A recent Superior Court decision, *Commonwealth v. Lane*, Pa. Super. ___, 658 A.2d 1353 (1995) reversed a dismissal under §110. Lane, when arrested in August for an April robbery was found to possess drugs. While collecting and discussing cases, that court observed that temporal connection is often more theoretical than real and that the test is whether the charges constitute completely separate episodes of criminal conduct.

Accordingly, the attached order is entered.

ORDER OF COURT

AND NOW, this 28th day of July, 1995, defendant's motion to quash is denied.

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 or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF EDITH C. CRISWELL, DEC'D

Late of Straban Township, Adams County, Pennsylvania
Administrator C.T.A.: David E. Wilt, 7 Royal Court at Waterford, York, PA 17402

Attorney: Pyle and Entwistle, 33 West Middle Street, Gettysburg, PA 17325

ESTATE OF GERALDINE I. FUNT, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania
Executrix: Linda Kay Wyatt, 175 Funt Road, Aspers, PA 17304

Attorney: Richard E. Thrasher, Esq., Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF ELIZABETH M. GEMMILL, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
Executor: Russell W. Maitland, 1280 Herr's Ridge Road, Gettysburg, PA 17325

Attorney: Robert E. Campbell, Campbell, White & George, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF WILLIAM W. KELLISON, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania
Executrices: Elizabeth Fridinger, 717 Hunt Valley Drive, Reynoldsburg, OH 43068; Doris J. Stickley, Rt. 1, Box 389, Weyer's Cave, VA 24468

Attorney: Michael A. George, Campbell, White & George, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ANNA G. LONG, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
Executor: Adams County National Bank, Trust Office, Lincoln Square, Gettysburg, PA 17325

Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore St., Gettysburg, PA 17325

ESTATE OF MARIE P. SOLLENBERGER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
Executors: Robert H. Hand, Jr. 1371 Herrs Ridge Road, Gettysburg, PA 17325; Betty M. Michaels, 1428 Marene Drive, Harrisburg, PA 17109-5654

Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF HAROLD H. REUNING, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
Executrix: Jane R. English, 68 West High Street, Gettysburg, PA 17325

Attorney: Donald W. Dorr, 126 Carlisle Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF HELENA C. CONRAD, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
Executrix: Loretta F. Conrad, c/o Michael E. Dows, Esquire, 515 Carlisle Street, Hanover, Pennsylvania 17331

Attorney: Michael E. Dows, Esquire

ESTATE OF FRANK B. DARCEY, JR. a/k/a FRANK B. DARCEY, DEC'D

Late of Freedom Township, Adams County, Pennsylvania
Executor: Claude R. Vess, 414 Hungerford Drive, Suite 448, Rockville, MD 20850

Attorney: Crabbs & Frey, Daniel M. Frey, Attorney

ESTATE OF EMMA O. HARMAN, DEC'D

Late of New Oxford, Adams County, Pennsylvania
Executrix: Joan E. Leib, 316 Moul Avenue, Hanover, PA 17331

Attorney: Larry W. Wolf, Esquire, 215 Broadway, Hanover, PA 17331

ESTATE OF MELVIN L. KUMP, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
Executrix: Evelyn V. Trimmer, 1460 Fairfield Rd., Gettysburg, PA 17325

Attorney: John W. Phillips, Esquire, 101 West Middle Street, Gettysburg, PA 17325

ESTATE OF MARGARET OTELIA PENROD, DEC'D

Late of 230 Pine Run Rd., New Oxford, Adams County, Pennsylvania
Executrix: Judy L. Hughes, 842 East Deep Run Road, Westminster, MD 21158

ESTATE OF JOAN E. STEWART a/k/a JOAN E. S. REAHM, DEC'D

Late of Butler Township, Adams County, Pennsylvania
Executrix: Janet Hume Wilson, 4114 Fields Drive, P. O. Box 67, Lafayette Hill, PA 19444

Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF SARA A. TRUMP, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
Executors: Dale W. Trump, 39 E. Lincoln Avenue, Gettysburg, PA 17325; Ruth R. Hess, 233 Chambersburg St., Gettysburg, PA 17325

Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF JOHN H. AIKEN, DEC'D

Late of Highland Township, Adams County, Pennsylvania
Executor: Adams County National Bank, Trust Office, Lincoln Square, Gettysburg, PA 17325

Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF PAUL E. ALTOFF, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania
Executrix: Margaret Mary Altoff, 103 West Barre Street, Baltimore, MD 21201

Attorney: David K. James, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF SARAH E. BALTZLEY, DEC'D

Late of Franklin Township, Adams County, Pennsylvania
Executrix: Nancy M. Herring, P.O. Box 35, 1221 Old Route 30, Cashtown, PA 17310

Attorney: Robert E. Campbell, Campbell, White & George, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF FREDERICK A. LASH, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
Executor: Donald G. Oyler, 112 Baltimore Street, Gettysburg, PA 17325

Attorney: Donald G. Oyler, 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARGARET R. LOEFFEL, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania
Executrix: Margaret Adams Rineman, P.O. Box 1207, 411 Maple Avenue, Hanover, PA 17331

Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF COREAN R. McMILLION, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
Executrix: Marguerite E. Davies, 100 Golf Circle, Bernville, PA 19506

Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

Continued on next page

ESTATE NOTICES (cont.)**ESTATE OF BERNARD P. MURREN, DEC'D**

Late of Mt. Pleasant Twp., Adams County, Pennsylvania

Executors: Teresa C. Glass, 544 Brickcrafters Rd., New Oxford, PA 17350; Gerald A. Murren, 600 Bender Rd., Hanover, PA 17331

Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Sq., Gettysburg, PA 17325

ESTATE OF J. DONALD SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Thomas E. Smith, 28 Laurel Woods Lane, Hanover, PA 17331

Attorney: Stonesifer and Kelley, 209 Broadway, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-1125 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of March, 1996, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate and lying and being in the Township of Hamiltonban, County of Adams, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING for a point at a car valve one foot north of the center line of Legislative Route 01015 and land now or formerly of P.H. Glatfelter Pulpwood Company; thence along said Legislative Route 01015, North 71 degrees 45 minutes 30 seconds East, 226.89 feet to a bolt one foot south of the center line at Lot No. 1 of the hereinafter referenced subdivision plan; thence along same, South 1 degree 22 minutes 10 seconds East, 92.83 feet to a steel rod at land now or formerly of Elvin E. Fair; thence along same, the following two courses and distances: 1) South 55 degrees 34 minutes 50 seconds West, 30.87 feet to an iron pin; thence 2) South 00 degrees 23 minutes 10 seconds East, 523.89 feet to an iron pin at Lot No. 2 of the hereinafter referenced subdivision plan; thence along same, North 77 degrees 32 minutes 35 seconds West, 590.81 feet to a steel rod at land now or formerly of Glatfelter Pulpwood Company; thence along same, the following two courses and distances: 1) North 55 degrees 15 minutes 30 seconds East, 519.75 feet to a concrete monument; thence 2) passing through an existing pipe set back 17.67 feet from the next mentioned point, North 18 degrees 14 minutes 30 seconds West, 146.85 feet to a car valve one foot north to the center line of Legislative Route 01015, the point and place of BEGINNING.

CONTAINING 4.038 acres, more or less.

HAVING erected thereon a single family dwelling house known as 1670 Iron Springs Road.

The above description was taken from a draft of survey prepared by Adams County Surveyors, recorded in Plat Book 37 at page 22, designating the above as Lot No. 3.

BEING THE SAME PREMISES which Ivan R. Weaver and Caroline J. Weaver, husband and wife, legal owners; David E. Hadlock, single, and Melissa J. Hadlock, single, by their deed dated May 23, 1985 and recorded in the Office of the Recorder of Deeds of Adams County, in Record Book 400, Page 1114, granted and conveyed unto Connie F. Baker.

SEIZED and taken into execution as the property of **Connie F. Baker** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
January 24, 1996.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 8, 1996, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

2/9, 16, 23

Adams County Legal Journal

Vol. 37

February 16, 1996

No. 38, pp. 207-210

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 94-N-257 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of March, 1996, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

TRACT NO. 1:

ALL that tract of land situate on the South side of the Hanover-McSherrystown State Highway in the Village of Midway, Conewago Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at an iron pipe along the State Highway, aforesaid, at lands now or formerly of L. G. Kuhn, thence by said lands South four (4) degrees West, one hundred ninety-six and three-tenths (196.3) feet to an iron pipe at an alley; thence by said alley South eighty-nine (89) degrees thirty (30) minutes West, twenty and four-tenths (20.4) feet to an iron pipe at lands now or formerly of Charles E. Kuhn; thence by said lands North three (3) degrees thirteen (13) minutes East, one hundred thirty-six and nine-tenths (136.9) feet to an iron pipe; thence by the same North nine (9) degrees fourteen (14) minutes East, nineteen and seven-tenths (19.7) feet to an iron pipe; thence by the same North one (1) degree thirty-nine (39) minutes West, thirty-seven and seven-tenths (37.7) feet to an iron pipe at the State Highway, aforesaid, also known as Third Street; thence by said State Highway North eighty-six (86) degrees eight (8) minutes East, twenty-seven and ninety-five hundredths (27.95) feet to an iron pipe, the place of BEGINNING. (Said lot being part of the same which was surveyed November 28, 1947, by J. H. Rife, Registered Engineer.)

IT BEING the same premises which Clarence J. E. Harner and Edna R. Harner, his wife, by their deed dated November 27, 1959, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book Vol. 228, page 50, granted and conveyed to Lester W. Pascoe and Ruth I. Pascoe, his wife, Grantors herein.

TOGETHER WITH AND SUBJECT TO the following set forth in Deed Book Vol. 180, page 451:

"TOGETHER WITH a right of way and privilege unto the grantees their heirs and assigns to use the present concrete walk as now existing and in its present location (lies along the front portion of the East side of the lot hereby conveyed) in common with the grantors, their heirs and assigns, agents, servants, employees and invitees, beginning at the State Highway aforesaid and extending in a Southerly direction to a point at or near the rear of the dwelling erected on the lot hereby conveyed as a means of ingress and egress for pedestrians to and from the house on the lot hereby conveyed. Said walk shall be kept free and clear of gates or other obstructions fixed or otherwise or objects of any description and said walk shall be used solely as a means of ingress and egress."

"This conveyance is made subject nevertheless to the restriction and condition that no buildings, structures, signs or objects of any type, fences or gates shall be erected on land of the grantors their heirs and assigns and land of the grantees, their heirs and assigns lying between the dwelling house on the lot hereby conveyed and the dwelling house on the lot of the grantors lying immediately east of the lot hereby conveyed and the area extending North to the State Highway nor shall said area or any part thereof be used for storage of any articles or things whatsoever."

TRACT NO. 2:

ALL the following described tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING at an iron pipe on the Southern side of Pennsylvania Route No. 116 (Third Street) said pipe located eighteen (18) feet from the center of said Pennsylvania Route No. 116 at other lands now or formerly of Lester Pascoe, Grantee herein, and other lands now or formerly of Edward C. Smith, Grantor herein; thence along said other lands now or formerly of Edward C. Smith and passing through a steel pin set back ten (10) feet from the end hereof South no (00) degrees forty-four (44) minutes thirty-

five (35) seconds West one hundred ninety and eighty-eight hundredths (190.88) feet to a point on the Northern side of a twenty (20) feet wide alley; thence along the Northern side of said twenty (20) feet wide alley South eighty-nine (89) degrees four (4) minutes thirty-five (35) seconds West ten and eighty-eight hundredths (10.88) feet to a point at other lands now or formerly of Lester Pascoe, Grantee herein: thence along said other lands North four (4) degrees East one hundred ninety-one and fifty-one hundredths (191.51) feet to the point and place of BEGINNING. CONTAINING 1,037 Square Feet, neat measure. This description is taken from an approved Subdivision Plan prepared for Edward C. Smith by J. H. Rife, Registered Engineer, dated August 9, 1978, and recorded in Plat Book 32, page 10, of the Adams County Records.

IT BEING a part of a larger tract of land which Bertha J. Sappington, Unmarried, by her Deed dated September 15, 1964, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book Vol. 252, page 473, granted and conveyed unto Edward C. Smith, Grantor herein.

SEIZED and taken into execution as the property of Lester W. Pascoe and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
January 29, 1996.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 1, 1996, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

2/9, 16, 23

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COUNTY**
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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Pennsylvania Department of State, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania, on January 30, 1996, for the purpose of obtaining a Certificate of Incorporation of a proposed business corporation under the Pennsylvania Business Corporation Law of 1988. The name of the corporation is CHAPEL-RIDGE MEAT & MERCANTILE, INC.

Mary Esther Boyd, Esq.
69 East Middle Street
Gettysburg, PA 17325
Attorney for Corporation

2/16

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the Fictitious Names Act, Act 1982-295, as amended, of the filing in the Office of the Secretary of the Commonwealth of Pennsylvania on January 12, 1996, of an application by The Church of the Brethren, of Marsh Creek, Penna. to carry on business or other activity under or through the fictitious name of GETTYSBURG CHURCH OF THE BRETHERN. The address of the principal place of business of the business or other activity to be carried on under or through such fictitious name is 1710 Biglerville Road, Gettysburg, Pennsylvania 17325, also the address of the aforesaid entity interested in conducting activity under such name.

Teeter, Teeter & Teeter
108 West Middle Street
Gettysburg, PA 17325-2194

2/16

NOTICE

NOTICE IS HEREBY GIVEN that on January 31, 1996, the Petition of Howard Deming Shields was filed in the Adams County Court of Common Pleas, praying for a Decree to change his name to Robert William Shields.

The Court has fixed March 18, 1996, at 9:00 a.m. in Courtroom No. 1 of the Adams County Courthouse as the time and place for the hearing of said Petition, when and where all persons interested may appear and show cause, if any they have, why the prayer of the said Petition should not be granted.

John W. Phillips, I.D. #7340
Attorney for Petitioner
101 West Middle Street
Gettysburg, PA 17325

2/16

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

**CIVIL ACTION—LAW
NO. 96-S-92
Action in Divorce**

GAIL M. POTENT, Plaintiff,

vs.

RICHARD M. POTENT, Defendant

To: Richard M. Potent

Your wife, Gail M. Potent, has filed a Divorce Complaint against you, stating that your marriage is irretrievably broken and you and your wife are separated and have lived separate and apart for a period in excess of two years. She has requested the Court to enter a decree of divorce.

You may request marriage counseling. A list of marriage counselors is available in the Office of the Prothonotary, Adams County Courthouse, 111 Baltimore Street, Gettysburg, Pennsylvania.

IF YOU DO NOT FILE A CLAIM FOR ALIMONY, DIVISION OF PROPERTY, LAWYER'S FEES OR EXPENSES BEFORE A DIVORCE IS GRANTED, YOU MAY LOSE THE RIGHT TO CLAIM ANY OF THEM.

IF YOU WISH TO DEFEND, YOU MUST PROMPTLY ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE YOUR DEFENSES OR OBJECTIONS IN WRITING WITH THE COURT. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND A DECREE OF DIVORCE MAY BE ENTERED AGAINST YOU BY THE COURT, WITHOUT FURTHER NOTICE.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Adams County Courthouse
Gettysburg, PA 17325

Bulleit, Schultz & Thrasher
Attorneys for Plaintiff

2/16

DISSOLUTION NOTICE

NOTICE IS HEREBY GIVEN that the voluntary dissolution of Stormhaven Ltd., a Pennsylvania business corporation with its registered office located at 1655 Herrs Ridge Road, Gettysburg, PA 17325, has been approved by the Board of Directors and shareholders of the corporation. Said corporation is now engaged in winding up its affairs so that the existence of the corporation shall cease upon the filing of Articles of Dissolution in the Department of State of the Commonwealth of Pennsylvania.

Bigham & Raffensperger
Attorneys at Law
16 Lincoln Square
Gettysburg, PA 17325

2/16

**IN THE COURT OF COMMON
PLEAS OF ADAMS COUNTY,
PENNSYLVANIA
ORPHANS' COURT DIVISION**

In Re: First and Partial Account of PNC Bank, National Association, Trustee of Deed of Trust of Helen G. Hoyt, Settlor, dated August 26, 1975, as amended

TO ALL BENEFICIARIES, HEIRS AND OTHER PERSONS CONCERNED:

NOTICE IS HEREBY GIVEN that the First and Partial Account of PNC Bank, N.A., formerly The Gettysburg National Bank, Trustee, under a Trust Agreement of Helen G. Hoyt, dated August 26, 1975, as amended, has been filed in the Office of the Clerk of the Orphans' Court, and will be presented to the Court of Common Pleas of Adams County, Pennsylvania, at Gettysburg, Pennsylvania, for confirmation and approval on March 18, 1996, at 9:00 a.m.

Peggy J. Breighner, Clerk

Hartman and Yannetti
Attorneys for the Estate

2/16, 23

MICHIGAN MUTUAL INSURANCE COMPANY VS. LIPPY

1. The decision to grant a judgment of non-pros rests within the discretion of the trial court.

2. In order for the Court to grant a judgment of non-pros for inactivity on the record, it must consider whether (1) a party has shown a want of due diligence by failing to proceed with reasonable promptitude, (2) there is no compelling reason for the delay, and (3) the delay has caused prejudice to the adverse party, which prejudice will be presumed in all cases in which the delay is two years or longer.

3. Delays in proceeding with an action caused by bankruptcy, liquidation or other operation of law and those occurring while awaiting significant developments in the law are considered to be per se compelling reasons for the delay while other compelling reasons must be determined on a case-by-case basis.

4. The Statute of Limitations comes into play on a Defendants' Petition to Dismiss for Inactivity and/or Petition For Judgment of Non-Pros only in the sense that, if it does not run on a particular cause of action, the Plaintiff may seek reinstatement of the suit with the payment of costs and satisfaction of the tripartite test for opening a judgment of non-pros.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 91-S-489, MICHIGAN MUTUAL INSURANCE COMPANY VS. DONALD L. LIPPY AND MARYANNE LIPPY T/D/B/AD & M TRUCK SERVICE.

N. Christopher Menges, Esq., for Plaintiff
Michael A. Koranda, Esq., for Defendant

OPINION ON DEFENDANTS' PETITION TO DISMISS FOR INACTIVITY AND/OR PETITION FOR JUDGMENT OF NON-PROS

Kuhn, J., August 22, 1995.

The background of this matter reveals the following history. On February 13, 1991, Plaintiff filed a complaint to collect workmen's compensation insurance premiums in the Court of Common Pleas of York County. Plaintiff was represented by Eugene R. Campbell, Esquire. By Order dated June 11, 1991, the matter was transferred to the Court of Common Pleas of Adams County. On July 26, 1991, Defendants filed their Answer, New Matter and Counterclaim containing a Notice To Defend. Defendants were represented by Thomas E. Miller, Esquire.

Plaintiff avers that on or about August 7, 1991, Defendants served interrogatories and a request for production of documents upon Plaintiff. This averment is not verified, however, documents do suggest that by February 18, 1992, Defendants' counsel had received some answers to the discovery requests. Documents further suggest some communi-

cation and negotiation between defense counsel and Plaintiff's representative in September and November, 1992.

For whatever reason Plaintiff at some point retained the services of N. Christopher Menges, Esquire, who on December 6, 1993, filed a Complaint in 93-S-1066 for unpaid workmen's compensation insurance premiums for the same coverage period and for the same amount as the above captioned matter. Defendants, by their new counsel, Michael A. Koranda, Esquire, filed an Answer With New Matter on January 4, 1994. On the same date Defendants filed a Petition To Dismiss For Inactivity and/or Petition For Judgment of Non Pros in 91-S-489. That Petition is before the Court for disposition.

Defendants contend that the above captioned matter should be dismissed because there is no docket activity from July 26, 1991, to the date of filing of the Petition.¹ They argue that pursuant to the ruling in *Penn Piping, Inc. v. INA.*, 529 Pa. Super. 350, 603 A.2d 1006 (1992) the delay is presumed to be prejudicial and there was no compelling reason for the delay.

It is well settled that the decision to grant a judgment of non-pros rests within the discretion of the trial court. *Pennridge Electric, Inc. v. Souderton Area Joint School Authority*, 419 Pa. Super. 201, 615 A.2d 95, 98 (1992). In order for the court to grant a judgment of non-pros for inactivity on the record it must consider whether 1) a party has shown a want of due diligence by failing to proceed with reasonable promptitude, 2) there is no compelling reason for the delay, and 3) the delay has caused prejudice to the adverse party, which prejudice will be presumed in all cases in which the delay is two years or longer. *Penn Piping, Inc.*, *Supra*. Delays caused by bankruptcy, liquidation or other operation of law and those occurring while awaiting significant developments in the law are considered to be per se compelling reasons for the delay while other compelling reasons must be determined on a case-by-case basis. *Streidl v. Community General Hospital*, 529 Pa. 360, 363, 603 A.2d 1011, 1012 (1992).

In the instant case prejudice is presumed. There was no docket activity after July 26, 1991, or for a period of 29 months 9 days when the petition to dismiss was filed. The two year rule set forth in *Penn Piping* is applicable to cases pending at the time that case was decided. *Blackburn v. Sharlock, Repcheck, Engell and Mahler*, 433 Pa. Super. 581, 641 A.2d 612 (1994) *Alloc. den.* 652 A.2d 1319 (1994).

Plaintiff points out that discovery was requested on or about August 7, 1991, with responses forthcoming from Defendants by February 8,

¹Defendant did file a Reply to New Matter and Answer to Defendant's Counterclaim on February 22, 1994.

1992. Interestingly, in *Gates v. Servicemaster Commercial Service*, 428 Pa. Super. 568, 631 A.2d 677 (1993) plaintiff's request for production of documents served upon the defendant on December 10, 1991 was not viewed as a compelling reason for the 33 month period of docket inactivity between July 19, 1989 and April 14, 1992. There is little basis to distinguish that case from the instant matter. There was, however, in this case a reminder to Plaintiff's first counsel from Defendants' first counsel in a letter dated February 18, 1992, that Plaintiff had not filed a responsive pleading to Defendants' new matter and counterclaim filed on July 26, 1991. Nevertheless, no response was forthcoming or any explanation offered for that failure.

Plaintiff also contends that some of the delay was occasioned by its attempt to secure new counsel. We give little consideration to this argument because there is no evidence presented as to why new counsel was required or when new counsel was retained. It is somewhat curious that present counsel filed a new complaint thereby suggesting that somewhere within Plaintiff's corporate structure confusion existed. We have been presented with no case authority recognizing these excuses as compelling reasons for a delay.

Correspondence from Defendants' first counsel to Plaintiff's representative dated September 30, 1992, solicited a settlement offer. This apparently brought some response as by November 9, 1992, Defendants' first counsel advised Plaintiff's representative that Plaintiff's settlement offer was rejected and that "we have nothing more to discuss." Nevertheless it was not until more than one year later, on December 6, 1993, that Plaintiff filed the new complaint in 93-S-1066. In *Pennridge Electric, Inc. v. Souderton Area Joint School Authority*, supra., the Court found that the settlement negotiations in that case did not constitute a compelling reason for a 53 month delay in docket activity.² The Court acknowledged that counsel should be given a reasonable time in which to attempt an amicable resolution, but that without some deadline, settlements are impeded rather than promoted. 615 A.2d at 98. There, apparently like here, negotiations were infrequent and without progress. By early November, 1992, Plaintiff should have realized that settlement was unlikely and it should have at least filed responsive pleadings. As noted in *Pennridge*, "it is plaintiff's burden to move a case to trial, and it is plaintiff, not

²See also *Blackburn v. Sharlock, Repcheck, Engel and Mahler*, supra., where a belief that a case would settle was held not to be a sufficient excuse to delay filing a complaint for a period of 65 months after the action was commenced with the filing of a praecipe.

defendant, who bears the risk of not acting within a reasonable time.” 615 A.2d at 99.

Plaintiff comments that this is a contract action and has a four year statute of limitations. The demand seeks payment of premiums for the period June 1, 1988 to July 1, 1989 and June 1, 1989 to November 4, 1989. Plaintiff then states that here, unlike in Penn Piping the delay was shorter than the applicable statute of limitations. That comparison is invalid. In fact, even if the Statute of Limitations has not run on the cause of action that factor is to be given no consideration. In determining whether a non-pros should be granted, the Court’s main concern is lack of diligent prosecution. “ The statute of limitations comes into play only in the sense that, if it has not run on a particular cause of action, the plaintiff may seek reinstatement of the suit with the payment of costs and satisfaction of the tripartite test for opening a judgment of non-pros.” *Gates v. Servicemaster Commercial Service*, supra.. 631 A.2d at 682. This Court cannot allow potential statute of limitations problems in the second lawsuit to blur its focus in resolving the request for a non-pros in the first lawsuit. To the extent there is a limitations problem that problem existed when Plaintiff filed the second lawsuit. If Defendants are entitled to a non-pros of the first action, the merits of that request existed prior to the filing of the second action.

Finally, Plaintiff argues that by filing an answer in the case docketed at 93-S-1066 without referencing the earlier action defendants waived their right to a non-pros in the instant action. We disagree for two reasons. First, Defendants did nothing in the case at 91-S-489 which would constitute a waiver. Second, the same day that Defendants filed their answer in 93-S-1066 they also filed the petition requesting the non-pros. Nothing in that scenario suggests that Defendants abandoned their right to pursue dismissal of the first action.

We take no delight in granting the judgment of non-pros but under the circumstances a span of nearly two and one-half years of docket inactivity shows lack of due diligence for which no reasonably compelling excuse has been offered.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 22nd day of August, 1995, Defendants’ Petition To Dismiss For Inactivity and/or Petition For Judgment of Non-Pros is granted.

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 or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF JAMES L. BYNAKER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325
Attorney: Pyle and Entwistle, 33 West Middle Street, Gettysburg, PA 17325

ESTATE OF HAZEL L. KAYSER, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Administrator: Richard J. Mills, 2451 Hanover Road, Gettysburg, PA 17325
Attorney: Micheal A. George, Campbell, White & George, 122 Baltimore St., Gettysburg, PA 17325

ESTATE OF DOROTHY MARIA REIGLE, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Robert A. Musselman, 24 Main Street, McSherrystown, PA 17344

ESTATE OF MAURICE EDGAR SANDERS, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Co-Executors: Larry F. Sanders and Patricia A. Nickey (Wildasin)
Attorney: John J. Mooney, III, Gates and Mooney, 250 York Street, Hanover, PA 17331

ESTATE OF THELMA M. SPANGLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Norma Eckard, 735 McCallister Street, Hanover, PA 17331
Attorney: Muriel Anne Crabbs, Esq., 202 Broadway, Hanover, PA 17331

ESTATE OF MARTIN C. WINTERS, DEC'D

Late of New Oxford, Adams County, Pennsylvania

Attorney: John B. Mancke, Esq., Mancke, Wagner, Hershey & Tully, 2233 North Front Street, Harrisburg, PA 17110

SECOND PUBLICATION

ESTATE OF EDITH C. CRISWELL, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrator C.T.A.: David E. Wilt, 7 Royal Court at Waterford, York, PA 17402

Attorney: Pyle and Entwistle, 33 West Middle Street, Gettysburg, PA 17325

ESTATE OF GERALDINE I. FUNT, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Executrix: Linda Kay Wyatt, 175 Funt Road, Aspers, PA 17304

Attorney: Richard E. Thrasher, Esq., Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF ELIZABETH M. GEMMILL, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Russell W. Maitland, 1280 Herr's Ridge Road, Gettysburg, PA 17325

Attorney: Robert E. Campbell, Campbell, White & George, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF WILLIAM W. KELLISON, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Executrices: Elizabeth Fridinger, 717 Hunt Valley Drive, Reynoldsburg, OH 43068; Doris J. Stickley, Rt. 1, Box 389, Weyer's Cave, VA 24468

Attorney: Michael A. George, Campbell, White & George, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ANNA G. LONG, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Adams County National Bank, Trust Office, Lincoln Square, Gettysburg, PA 17325
Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore St., Gettysburg, PA 17325

ESTATE OF MARIE P. SOLLENBERGER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Robert H. Hand, Jr. 1371 Herra Ridge Road, Gettysburg, PA 17325; Betty M. Michaels, 1428 Marene Drive, Harrisburg, PA 17109-5654

Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF HAROLD H. REUNING, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Jane R. English, 68 West High Street, Gettysburg, PA 17325

Attorney: Donald W. Dorr, 126 Carlisle Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF HELENA C. CONRAD, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Loretta F. Conrad, c/o Michael E. Dows, Esquire, 515 Carlisle Street, Hanover, Pennsylvania 17331

Attorney: Michael E. Dows, Esquire

ESTATE OF FRANK B. DARCEY, JR. a/k/a FRANK B. DARCEY, DEC'D

Late of Freedom Township, Adams County, Pennsylvania

Executor: Claude R. Vess, 414 Hungerford Drive, Suite 448, Rockville, MD 20850

Attorney: Crabbs & Frey, Daniel M. Frey, Attorney

ESTATE OF EMMA O. HARMAN, DEC'D

Late of New Oxford, Adams County, Pennsylvania

Executrix: Joan E. Leib, 316 Moul Avenue, Hanover, PA 17331

Attorney: Larry W. Wolf, Esquire, 215 Broadway, Hanover, PA 17331

ESTATE OF MELVIN L. KUMP, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Evelyn V. Trimmer, 1460 Fairfield Rd., Gettysburg, PA 17325

Attorney: John W. Phillips, Esquire, 101 West Middle Street, Gettysburg, PA 17325

ESTATE OF MARGARET OTELIA PENROD, DEC'D

Late of 230 Pine Run Rd., New Oxford, Adams County, Pennsylvania

Executrix: Judy L. Hughes, 842 East Deep Run Road, Westminster, MD 21158

ESTATE OF JOAN E. STEWART a/k/a JOAN E. S. REAHM, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executrix: Janet Hume Wilson, 4114 Fields Drive, P. O. Box 67, Lafayette Hill, PA 19444

Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF SARA A. TRUMP, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Dale W. Trump, 39 E. Lincoln Avenue, Gettysburg, PA 17325; Ruth R. Hess, 233 Chambersburg St., Gettysburg, PA 17325

Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-1125 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of March, 1996, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate and lying and being in the Township of Hamiltonban, County of Adams, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING for a point at a car valve one foot north of the center line of Legislative Route 01015 and land now or formerly of P.H. Glatfelter Pulpwood Company; thence along said Legislative Route 01015, North 71 degrees 45 minutes 30 seconds East, 226.89 feet to a bolt one foot south of the center line at Lot No. 1 of the hereinafter referenced subdivision plan; thence along same, South 1 degree 22 minutes 10 seconds East, 92.83 feet to a steel rod at land now or formerly of Elvin E. Fair; thence along same, the following two courses and distances: 1) South 55 degrees 34 minutes 50 seconds West, 30.87 feet to an iron pin; thence 2) South 00 degrees 23 minutes 10 seconds East, 523.89 feet to an iron pin at Lot No. 2 of the hereinafter referenced subdivision plan; thence along same, North 77 degrees 32 minutes 35 seconds West, 590.81 feet to a steel rod at land now or formerly of Glatfelter Pulpwood Company; thence along same, the following two courses and distances: 1) North 55 degrees 15 minutes 30 seconds East, 519.75 feet to a concrete monument; thence 2) passing through an existing pipe set back 17.67 feet from the next mentioned point, North 18 degrees 14 minutes 30 seconds West, 146.85 feet to a car valve one foot north to the center line of Legislative Route 01015, the point and place of BEGINNING.

CONTAINING 4.038 acres, more or less.

HAVING erected thereon a single family dwelling house known as 1670 Iron Springs Road.

The above description was taken from a draft of survey prepared by Adams County Surveyors, recorded in Plat Book 37 at page 22, designating the above as Lot No. 3.

BEING THE SAME PREMISES which Ivan R. Weaver and Caroline J. Weaver, husband and wife, legal owners; David E. Hadlock, single, and Melissa J. Hadlock, single, by their deed dated May 23, 1985 and recorded in the Office of the Recorder of Deeds of Adams County, in Record Book 400, Page 1114, granted and conveyed unto Connie F. Baker.

SEIZED and taken into execution as the property of **Connie F. Baker** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
January 24, 1996.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 8, 1996, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

2/9, 16, 23

NOTICE OF TERMINATION OF PARENTAL RIGHTS

To: Dale Shultz, Jr.

A Petition has been filed asking the Court to put an end to all rights you have to your child, Baby Boy Shultz. The Court has set a hearing to consider ending your rights to your child. That hearing will be held at the Lancaster County Courthouse, Courtroom No.6, 50 North Duke Street, Lancaster, Pennsylvania, on Wednesday, March 20, 1996, at 9:00 a.m. Your rights may be subject to termination pursuant to Section 2511(a)(1) of the Adoption Act if you fail to file either an acknowledgment of paternity or a claim of paternity pursuant to Section 5103 of the Adoption Act (relating to acknowledgment and claim of paternity), and you fail to either appear at the hearing for the purpose of objecting to the termination of your rights or file a written objection to such termination with the Court prior to the hearing. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without your being present. If your rights are terminated at this hearing, you will not receive notice of the later adoption proceedings concerning the child. You have a right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help:

Court Administrator
Court Administrator's Office
Lancaster County Courthouse
50 North Duke Street
Lancaster, PA 17602
(717) 299-8041

2/16, 23

NOTICE CONCERNING TERMINATION OF PARENTAL RIGHTS

To: Miriam Jane Shultz

A Petition has been filed asking the Court to put an end to all rights you have to your child, Baby Boy Shultz. The Court has set a hearing to consider ending your rights to your child. That hearing will be held at the Lancaster County Courthouse, Courtroom No.6, 50 North Duke Street, Lancaster, Pennsylvania, on Wednesday, March 20, 1996, at 9:00 a.m. Your rights may be subject to termination pursuant to Section 2504 of the Adoption Act if you fail to either appear at the hearing for the purpose of objecting to the termination of your rights or file a written objection to such termination with the Court prior to the hearing. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without your being present. If your rights are terminated at this hearing, you will not receive notice of the later adoption proceedings concerning the child. You have a right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help:

Court Administrator
Court Administrator's Office
Lancaster County Courthouse
50 North Duke Street
Lancaster, PA 17602
(717) 299-8041

2/16, 23

Adams County Legal Journal

ol. 37

February 23, 1996

No. 39, pp. 211-214

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 94-N-257 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of March, 1996, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

TRACT NO. 1:

ALL that tract of land situate on the South side of the Hanover-McSherrystown State Highway in the Village of Midway, Conewago Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at an iron pipe along the State Highway, aforesaid, at lands now or formerly of L. G. Kuhn, thence by said lands South four (4) degrees West, one hundred ninety-six and three-tenths (196.3) feet to an iron pipe at an alley; thence by said alley South eighty-nine (89) degrees thirty (30) minutes West, twenty and four-tenths (20.4) feet to an iron pipe at lands now or formerly of Charles E. Kuhn; thence by said lands North three (3) degrees thirteen (13) minutes East, one hundred thirty-six and nine-tenths (136.9) feet to an iron pipe; thence by the same North nine (9) degrees fourteen (14) minutes East, nineteen and seven-tenths (19.7) feet to an iron pipe; thence by the same North one (1) degree thirty-nine (39) minutes West, thirty-seven and seven-tenths (37.7) feet to an iron pipe at the State Highway, aforesaid, also known as Third Street; thence by said State Highway North eighty-six (86) degrees eight (8) minutes East, twenty-seven and ninety-five hundredths (27.95) feet to an iron pipe, the place of BEGINNING. (Said lot being part of the same which was surveyed November 28, 1947, by J. H. Rife, Registered Engineer.)

IT BEING the same premises which Clarence J. E. Harner and Edna R. Harner, his wife, by their deed dated November 27, 1959, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book Vol. 228, page 50, granted and conveyed to Lester W. Pascoe and Ruth I. Pascoe, his wife, Grantors herein.

TOGETHER WITH AND SUBJECT TO the following set forth in Deed Book Vol. 180, page 451:

"TOGETHER WITH a right of way and privilege unto the grantees their heirs and assigns to use the present concrete walk as now existing and in its present location (lies along the front portion of the East side of the lot hereby conveyed) in common with the grantors, their heirs and assigns, agents, servants, employees and invitees, beginning at the State Highway aforesaid and extending in a Southerly direction to a point at or near the rear of the dwelling erected on the lot hereby conveyed as a means of ingress and egress for pedestrians to and from the house on the lot hereby conveyed. Said walk shall be kept free and clear of gates or other obstructions fixed or otherwise or objects of any description and said walk shall be used solely as a means of ingress and egress."

"This conveyance is made subject nevertheless to the restriction and condition that no buildings, structures, signs or objects of any type, fences or gates shall be erected on land of the grantors their heirs and assigns and land of the grantees, their heirs and assigns lying between the dwelling house on the lot hereby conveyed and the dwelling house on the lot of the grantors lying immediately east of the lot hereby conveyed and the area extending North to the State Highway nor shall said area or any part thereof be used for storage of any articles or things whatsoever."

TRACT NO. 2:

ALL the following described tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and limited as follows, to-wit:

BEGINNING at an iron pipe on the Southern side of Pennsylvania Route No. 116 (Third Street) said pipe located eighteen (18) feet from the center of said Pennsylvania Route No. 116 at other lands now or formerly of Lester Pascoe, Grantee herein, and other lands now or formerly of Edward C. Smith, Grantor herein; thence along said other lands now or formerly of Edward C. Smith and passing through a steel pin set back ten (10) feet from the end hereof South no (00) degrees forty-four (44) minutes thirty-

five (35) seconds West one hundred ninety and eighty-eight hundredths (190.88) feet to a point on the Northern side of a twenty (20) feet wide alley; thence along the Northern side of said twenty (20) feet wide alley South eighty-nine (89) degrees four (4) minutes thirty-five (35) seconds West ten and eighty-eight hundredths (10.88) feet to a point at other lands now or formerly of Lester Pascoe, Grantee herein; thence along said other lands North four (4) degrees East one hundred ninety-one and fifty-one hundredths (191.51) feet to the point and place of BEGINNING. CONTAINING 1,037 Square Feet, neat measure. This description is taken from an approved Subdivision Plan prepared for Edward C. Smith by J. H. Rife, Registered Engineer, dated August 9, 1978, and recorded in Plat Book 32, page 10, of the Adams County Records.

IT BEING a part of a larger tract of land which Bertha J. Sappington, Unmarried, by her Deed dated September 15, 1964, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book Vol. 252, page 473, granted and conveyed unto Edward C. Smith, Grantor herein.

SEIZED and taken into execution as the property of **Lester W. Pascoe** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
January 29, 1996.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 1, 1996, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

2/9, 16, 23

**ADAMS
COUNTY**
NATIONAL BANK

Our Trust Department makes a business of
caring for other people's property.

Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW NO. 96-S- Action To Quiet Title

COUNTY OF ADAMS, Plaintiff, vs.

THOMAS PENN, RICHARD PENN, MARTIN WINTER, JAMES P. MCCONOUGHY, MOSES MCCLEAN AND GEORGE WEISMANTLE, their heirs, executors, administrators and assigns, successors in title, and all persons and entities unknown claiming any right, title or interest in certain real estate situate in Cumberland Township, Adams County, Pennsylvania, containing 90.094 Acres, Defendants,

To: Thomas Penn, Richard Penn, Martin Winter, James P. McConoughy, Moses McClean and George Weismantle, their heirs, executors, administrators and assigns, successors in title, and all persons and entities unknown claiming any right, title or interest in certain real estate situate in Cumberland Township, Adams County, Pennsylvania, containing 90.094 acres:

NOTICE

YOU ARE HEREBY NOTIFIED that the Plaintiff has commenced an Action To Quiet Title against you by Complaint filed to the above docket number on February 8, 1996, which action you are required to defend.

You are required to plead to the said Complaint within twenty (20) days after service has been completed by publication, or judgment by default may be entered against you. The above-captioned action concerns the premises hereinafter described:

ALL those six (6) tracts of land, comprised of 90.094 acres, situate in Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described in that certain survey, dated April 14, 1992, by Jerry LaRue, P.L.S., attached to the above-mentioned Complaint as Exhibit "B".

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the Court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice and relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator Adams County Courthouse 111-117 Baltimore Street Gettysburg, PA 17325 Telephone Number: (717) 334-6781 County Of Adams Adams County Commissioners John R. White, Solicitor

2/23

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, on January 19, 1996. The Corporation has been incorporated under the provisions of the Business Corporation Law of 1988. The name of the Corporation is P & S GOODS & SERVICES, INC.

Donald G. Oyler 112 Baltimore Street Gettysburg, PA 17325

2/23

NOTICE OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on 01/04/1996, for the purpose of obtaining a Certificate of Incorporation of a business corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177. The name of the corporation is HAND CRAFTED FURNITURE CO., INC. The purpose for which the corporation has been organized is: The corporation shall have unlimited power to engage in and do any law act concerning any or all lawful business for which corporations may be organized under the Pennsylvania Business Corporation Law.

Hand Crafted Furniture Co., Inc. 3005 Carlisle Pike New Oxford, PA 17350

2/23

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

In Re: First and Partial Account of PNC Bank, National Association, Trustee of Deed of Trust of Helen G. Hoyt, Settlor, dated August 26, 1975, as amended

TO ALL BENEFICIARIES, HEIRS AND OTHER PERSONS CONCERNED:

NOTICE IS HEREBY GIVEN that the First and Partial Account of PNC Bank, N.A., formerly The Gettysburg National Bank, Trustee, under a Trust Agreement of Helen G. Hoyt, dated August 26, 1975, as amended, has been filed in the Office of the Clerk of the Orphans' Court, and will be presented to the Court of Common Pleas of Adams County, Pennsylvania, at Gettysburg, Pennsylvania, for confirmation and approval on March 18, 1996, at 9:00 a.m.

Peggy J. Breighner, Clerk

Hartman and Yannetti Attorneys for the Estate

2/16, 23

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for CHAMBERSBURG STREET INVESTORS, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on February 5, 1996, for the purpose of obtaining a Certificate of Incorporation of a Domestic Business Corporation organized under the provisions of the Pennsylvania Business Corporation Law of 1988.

Walton V. Davis Attorney for the Corporation

2/23

MIRON VS. FISHER, ET AL.

1. A duty to warn arises only when one engages in conduct which foreseeably creates an unreasonable risk of harm to others.
2. In causes of action sounding both in negligence and products liability, a supplier of chattels is duty bound to adequately warn an intended user of unobvious dangers inherent in the product.
3. Liability is imposed on a supplier who knows, or has reason to know, that the chattel is dangerous for the use supplied, has no reason to believe that those for whose use the chattel is supplied will realize its dangerous condition and fails to reasonably inform users of that condition.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 94-S-219, SUSAN MIRON VS. LAURA L. FISHER AND VECTOR MARKETING CORP., a/k/a CUTCO CUTLERY CORP., a/k/a ALCAS CORP.

Susan Miron, pro se
Jeffrey B. Rettig, Esq., for Defendants

OPINION ON MOTION FOR SUMMARY JUDGMENT

Spicer, P.J., August 30, 1995.

Plaintiff filed her complaint March 15, 1994, alleging that she cut her finger during a cutlery demonstration June 5, 1992. Laura L. Fisher, while attempting to sell corporate defendant's products, displayed a line of knives and scissors. Discussion ensued concerning a user's ability to cut watermelon with a particular knife. Plaintiff attempted to cut through a watermelon rind and, in the process, injured her left hand.

On April 12, 1994, defendants filed an answer with New Matter, which raised contributory negligence. On April 21, 1994, plaintiff replied that she used the knife as suggested or directed by Ms. Fisher.

Plaintiff posits liability on two theories: a) failure of defendants to warn her of the dangerous condition of the knife; and b) failure of corporate defendant to properly train Ms. Fisher to conduct demonstrations safely.

Defendants move for summary judgment. The court is required to consider the following principles:

A motion for summary judgment may properly be granted only "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is not genuine issue of material act and that the moving party is entitled to judgment as a matter of law."

ment as a matter of law.” Pa.R.Civ.P. Rule 1035(b) . . .
... In passing on a motion for summary judgment the court
must examine the record in a light most favorable to the
nonmoving party It is not a part of the court’s function
to decide issues of fact but solely to determine whether
there is an issue of fact to be tried Any doubt must be
resolved against the moving party The court, in ruling
on a motion for summary judgment, must ignore the
controverted facts contained in the pleadings The
court must restrict its review to the material authorized by
Rule 1035 to be filed in support of and in opposition to the
motion for summary judgment and *only* those allegations
in the pleadings that are uncontroverted.

Murray v. Hamot Medical Center, 429 Pa.Super. 625,
628, 633 A.2d 196, 199 (1993), quoting Samarin v. GAF
Corp., 391 Pa.Super. 340, 346-347, 571 A.2d 398, 401-402
(1989), allocatur denied, 524 Pa. 624, 574 A.2d 66 (1990).

Amarhanov. Fassel, ___ Pa.Super. ___, , 658 A.2d 808, 809,
(1995).

We have considered the record in this case and arguments presented
by defendants. Plaintiff has not reacted or responded to the defense
motion. This court granted a request by plaintiff’s former counsel to
withdraw on July 10, 1995, and plaintiff has not secured substitute
counsel, nor has she addressed the court in any fashion since the
withdrawal.

Since plaintiff cut herself during the demonstration, we see little
point in discussing Count II, based upon improper training. This case
rises or falls on defendants’ duty, if one exists, to warn plaintiff of
dangerous characteristics of the knife. If there was no duty, it would
be anomalous to require training. Defendants argue there is no such
duty and, even if there were, plaintiff has failed to establish proximate
cause.

Although duty and causation are separate legal concepts, they are
inseparably interwoven for purposes of this opinion. If negligence
arises from a failure to warn, it could certainly be termed the cause of
injury. If, on the other hand, defendants were not obligated to warn, the
failure to do so can hardly be said to have caused a self inflicted injury.

Superior Court has described both legal principles, in Amarhanov
v. Fassel, *supra*..

It has long been hornbook law that a duty arises only when one engages in conduct which foreseeably creates an unreasonable risk of harm to others. See e.g., *Burman v. Golay and Co., Inc.*, 420 Pa.Super. 209, 616 A.2d 657 (1992), appeal denied, 533 Pa. 648, 624 A.2d 108 (1993); Restatement (Second) of Torts, § 302A.

and,

Proximate causation has been found where wrongful conduct is a substantial factor in bringing about the harm incurred. *Whitner v. Lojeski*, 437 Pa. 448, 458, 263 A.2d 889, 894 (1970). Proximate causation, which differs from causation-in-fact, is generally a question of law and depends on whether responsibility for the negligent conduct will extend to the harm which in fact occurred. When the harm which ultimately results appears to the court to be a remote and highly extraordinary consequence of the defendant's conduct, legal causation will not be found and liability will not attach. (citations omitted)

658 A.2d at 810.

Whether a risk is unreasonable often depends upon whether the danger is obvious and recognizable, or one which the expected user might neither appreciate nor discover. In causes in action sounding both in negligence and products liability, a supplier of chattels is duty bound to adequately warn an intended user of unobvious dangers inherent in the product. Restatement of Torts 2d § 388; *Mackowick v. Westinghouse Electric Corporation*, 525 Pa. 52, 575 A.2d 100 (1990).

The Restatement, *supra*, imposes liability on suppliers who know, or have reason to know, that the chattel is dangerous for the use supplied, has no reason to believe that those for whose use the chattel is supplied will realize its dangerous condition, and fails to reasonably inform users of that condition. This section has been adopted in Pennsylvania and applies both to negligence actions and to products liability. *Phillips v. A.P. Green Refractories Co.*, 428 Pa.Super. 167, 630 A.2d 874 (1993).

We deal with a product widely and commonly used. We can assume that every adult of reasonable experience appreciates dangers inherent in sharp edges. The record clearly establishes that the knife was

obviously sharp and that the method by which plaintiff attempted to cut the watermelon posed considerable risk that what happened would happen. The knife finally cut through the rind and injured her hand. Under principles discussed, no duty existed requiring defendants to warn of such an obvious danger. There being no duty, defendants' failure to warn could not have been the proximate cause of a self-inflicted injury.

Accordingly, the attached order is entered.

ORDER OF COURT

AND NOW, this 30th day of August, 1995, judgment is entered in favor of defendants and against plaintiff.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-1067 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of March, 1996, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of real estate located in Hamiltonban Township Adams County, Pennsylvania, and more particularly described in accordance with a subdivision plan prepared by Adams County Surveyors dated April 4, 1984, Drawing E-464, as follows:

BEGINNING at a steel rod located within the right-of-way of the Mt. Hope Road, L.R. 01016, at lands of Hiram J. Lentz; thence by same North two (2) degrees forty-three (43) minutes thirty-five (35) seconds West two hundred twenty-two and seventy-five one hundredths (222.75) feet to a steel rod; thence by same South eighty-seven (87) degrees sixteen (16) minutes twenty-five (25) seconds West one hundred ninety-eight (198) feet to a pipe at lands of Karen Grout; thence by same North two (2) degrees forty-three (43) minutes thirty-five (35) seconds West twenty (20) feet to a point at land of David J. Mickley; thence by same North twenty-three (23) degrees forty (40) minutes thirty (30) seconds East four hundred seventy-three and sixty-four hundredths (473.64) feet to a steel rod at other lands of the Grantors herein; thence by same South seventy-seven (77) degrees forty-one (41) minutes zero (0) seconds East six hundred fifty-three and twenty-five hundredths (653.25) feet to a steel rod and stones at other lands of the Grantees herein; thence by same South twenty-five (25) degrees twenty-three (23) minutes twenty (20) seconds West three hundred forty-one and twenty hundredths (341.20) feet to a point at the lands of Dennis R. Reecher; thence by same and other lands about to be conveyed by Grantors to Reecher South eighty-eight (88) degrees four (4) minutes thirty (30) seconds West two hundred nineteen and twenty-four hundredths (219.24) feet to a steel rod; thence by same and through an existing eye bolt located fifteen and two tenths (15.2) feet from the terminus of this course South eleven (11) degrees twenty-two (22) minutes forty (40) seconds West two hundred seven and twenty hundredths (207.20) feet to a point in the right-of-way of Mt. Hope Road; thence through said right-of-way South eighty-seven (87) degrees thirty-nine (39) minutes zero (0) seconds West two hundred twelve and ninety-seven hundredths (212.97) feet to a steel rod at the point and place of beginning.

CONTAINING 7.230 Acres and shown as Lot No. 3 on the aforesaid subdivision plan.

BEING 1765 Mount Hope Road, Fairfield, PA 17320.

PARCEL NO. B-14-40

SEIZED and taken into execution as the property of **Michael Sites and Shirley Sites** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
January 25, 1996.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 8, 1996, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

2/23 & 3/1, 8

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 or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF DOROTHY E. KEIM, DEC'D
Late of Mount Pleasant Township, Adams County, Pennsylvania
Executrix: Sandra L. Wood, 325 Bon Ox Road, Gettysburg, PA 17325
Attorney: David K. James, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ROBERT B. STAUFFER, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executrix: Barbara J. Zimmerman, 361 Caraway Drive, Mountville, PA 17554
Attorney: Stonesifer and Kelley, 209 Broadway, Hanover, Pennsylvania 17331

SECOND PUBLICATION

ESTATE OF JAMES L. BYNAKER, DEC'D
Late of Reading Township, Adams County, Pennsylvania
Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325
Attorney: Pyle and Entwistle, 33 West Middle Street, Gettysburg, PA 17325

ESTATE OF HAZEL L. KAYSER, DEC'D
Late of Mt. Pleasant Township, Adams County, Pennsylvania
Administrator: Richard J. Mills, 2451 Hanover Road, Gettysburg, PA 17325
Attorney: Micheal A. George, Campbell, White & George, 122 Baltimore St., Gettysburg, PA 17325

ESTATE OF DOROTHY MARIA REIGLE, DEC'D
Late of the Borough of McSherrystown, Adams County, Pennsylvania
Executor: Robert A. Musselman, 24 Main Street, McSherrystown, PA 17344

ESTATE OF MAURICE EDGAR SANDERS, DEC'D
Late of the Borough of McSherrystown, Adams County, Pennsylvania
Co-Executors: Larry F. Sanders and Patricia A. Nickey (Wildasin)
Attorney: John J. Mooney, III, Gates and Mooney, 250 York Street, Hanover, PA 17331

ESTATE OF THELMA M. SPANGLER, DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania
Executrix: Norma Eckard, 735 McCallister Street, Hanover, PA 17331
Attorney: Muriel Anne Crabbs, Esq., 202 Broadway, Hanover, PA 17331

ESTATE OF MARTIN C. WINTERS, DEC'D
Late of New Oxford, Adams County, Pennsylvania
Attorney: John B. Mancke, Esq., Mancke, Wagner, Hershey & Tully, 2233 North Front Street, Harrisburg, PA 17110

THIRD PUBLICATION

ESTATE OF EDITH C. CRISWELL, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Administrator C.T.A.: David E. Wilt, 7 Royal Court at Waterford, York, PA 17402
Attorney: Pyle and Entwistle, 33 West Middle Street, Gettysburg, PA 17325

ESTATE OF GERALDINE I. FUNT, DEC'D
Late of Tyrone Township, Adams County, Pennsylvania
Executrix: Linda Kay Wyatt, 175 Funt Road, Aspers, PA 17304
Attorney: Richard E. Thrasher, Esq., Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF ELIZABETH M. GEMMILL, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executor: Russell W. Maitland, 1280 Herr's Ridge Road, Gettysburg, PA 17325
Attorney: Robert E. Campbell, Campbell, White & George, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF WILLIAM W. KELLISON, DEC'D
Late of Tyrone Township, Adams County, Pennsylvania
Executrices: Elizabeth Fridinger, 717 Hunt Valley Drive, Reynoldsburg, OH 43068; Doris J. Stickle, Rt. 1, Box 389, Weyer's Cave, VA 24468
Attorney: Michael A. George, Campbell, White & George, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ANNA G. LONG, DEC'D
Late of the Borough of McSherrystown, Adams County, Pennsylvania
Executor: Adams County National Bank, Trust Office, Lincoln Square, Gettysburg, PA 17325
Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore St., Gettysburg, PA 17325

ESTATE OF HAROLD H. REUNING, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executrix: Jane R. English, 68 West High Street, Gettysburg, PA 17325
Attorney: Donald W. Dorr, 126 Carlisle Street, Hanover, PA 17331

ESTATE OF MARIE P. SOLLENBERGER, DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania
Executors: Robert H. Hand, Jr. 1371 Herrs Ridge Road, Gettysburg, PA 17325; Betty M. Michaels, 1428 Marene Drive, Harrisburg, PA 17109-5654
Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of a Fictitious Name has been filed with the Department of State of the Commonwealth of Pennsylvania in Harrisburg, Pennsylvania, on February 2, 1996, pursuant to the Fictitious Name Act, Act No. 1982-295, setting forth that Rebecca A. Darcey, 1198 Bullfrog Road, Fairfield, Adams County, Pennsylvania is the only individual engaged or interested in a business, the character of which is for the purpose of breeding, raising and sale of cattle and that the name, style and designation under which said business is and will be conducted is **SPRING BOT-TOM FARM**, and the principal office or place of business is 1198 Bullfrog Road, Fairfield, Adams County, Pennsylvania.
Crabbs & Frey
Solicitor

2/23

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an application for fictitious name registration has been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, under the Fictitious Name Act approved March 16, 1982, setting forth that Nathan A. Updyke is the only person owning or interested in the business the character of which is repair and service of on and off road motorcycles, ATVs, snowmobiles and jet skis, and that the name under which said business will be conducted is **MOTO-TECH** and the location of said business is 150 Brickyard Road, New Oxford, Pennsylvania, 17350.

W. W. Hafer
Solicitor

2/23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-1125 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of March, 1996, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate and lying and being in the Township of Hamiltonban, County of Adams, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING for a point at a car valve one foot north of the center line of Legislative Route 01015 and land now or formerly of P.H. Glatfelter Pulpwood Company; thence along said Legislative Route 01015, North 71 degrees 45 minutes 30 seconds East, 226.89 feet to a bolt one foot south of the center line at Lot No. 1 of the hereinafter referenced subdivision plan; thence along same, South 1 degree 22 minutes 10 seconds East, 92.83 feet to a steel rod at land now or formerly of Elvin E. Fair; thence along same, the following two courses and distances: 1) South 55 degrees 34 minutes 50 seconds West, 30.87 feet to an iron pin; thence 2) South 00 degrees 23 minutes 10 seconds East, 523.89 feet to an iron pin at Lot No. 2 of the hereinafter referenced subdivision plan; thence along same, North 77 degrees 32 minutes 35 seconds West, 590.81 feet to a steel rod at land now or formerly of Glatfelter Pulpwood Company; thence along same, the following two courses and distances: 1) North 55 degrees 15 minutes 30 seconds East, 519.75 feet to a concrete monument; thence 2) passing through an existing pipe set back 17.67 feet from the next mentioned point, North 18 degrees 14 minutes 30 seconds West, 146.85 feet to a car valve one foot north to the center line of Legislative Route 01015, the point and place of BEGINNING.

CONTAINING 4.038 acres, more or less.

HAVING erected thereon a single family dwelling house known as 1670 Iron Springs Road.

The above description was taken from a draft of survey prepared by Adams County Surveyors, recorded in Plat Book 37 at page 22, designating the above as Lot No. 3.

BEING THE SAME PREMISES which Ivan R. Weaver and Caroline J. Weaver, husband and wife, legal owners; David E. Hadlock, single, and Melissa J. Hadlock, single, by their deed dated May 23, 1985 and recorded in the Office of the Recorder of Deeds of Adams County, in Record Book 400, Page 1114, granted and conveyed unto Connie F. Baker.

SEIZED and taken into execution as the property of **Connie F. Baker** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
January 24, 1996.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 8, 1996, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

2/9, 16, 23

NOTICE OF TERMINATION OF PARENTAL RIGHTS

To: Dale Shultz, Jr.

A Petition has been filed asking the Court to put an end to all rights you have to your child, Baby Boy Shultz. The Court has set a hearing to consider ending your rights to your child. That hearing will be held at the Lancaster County Courthouse, Courtroom No.6, 50 North Duke Street, Lancaster, Pennsylvania, on Wednesday, March 20, 1996, at 9:00 a.m. Your rights may be subject to termination pursuant to Section 2511(a)(1) of the Adoption Act if you fail to file either an acknowledgment of paternity or a claim of paternity pursuant to Section 5103 of the Adoption Act (relating to acknowledgment and claim of paternity), and you fail to either appear at the hearing for the purpose of objecting to the termination of your rights or file a written objection to such termination with the Court prior to the hearing. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without your being present. If your rights are terminated at this hearing, you will not receive notice of the later adoption proceedings concerning the child. You have a right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help:

Court Administrator
Court Administrator's Office
Lancaster County Courthouse
50 North Duke Street
Lancaster, PA 17602
(717) 299-8041

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NOTICE CONCERNING TERMINATION OF PARENTAL RIGHTS

To: Miriam Jane Shultz

A Petition has been filed asking the Court to put an end to all rights you have to your child, Baby Boy Shultz. The Court has set a hearing to consider ending your rights to your child. That hearing will be held at the Lancaster County Courthouse, Courtroom No.6, 50 North Duke Street, Lancaster, Pennsylvania, on Wednesday, March 20, 1996, at 9:00 a.m. Your rights may be subject to termination pursuant to Section 2504 of the Adoption Act if you fail to either appear at the hearing for the purpose of objecting to the termination of your rights or file a written objection to such termination with the Court prior to the hearing. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without your being present. If your rights are terminated at this hearing, you will not receive notice of the later adoption proceedings concerning the child. You have a right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help:

Court Administrator
Court Administrator's Office
Lancaster County Courthouse
50 North Duke Street
Lancaster, PA 17602
(717) 299-8041

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