Adams County Legal Journal

Vol. 40 November 6, 1998 No. 24, pp. 153–158

CONTINUING LEGAL EDUCATION PROGRAMS

1. *Estate Planning for the Owner of a Family Business*
   Friday, November 13, 1998—9:00 a.m.
   Room 307, Adams County Courthouse
   Credits: Substantive Law—4, Ethics—0
2. *New Pennsylvania Rules of Evidence*
   Thursday, November 19, 1998—9:00 a.m.
   Room 307, Adams County Courthouse
   Credits: Substantive Law—6, Ethics—0
3. *How to Use the Tax Code to Facilitate Resolutions-*
   How to Avoid the Top Divorce Tax Mistakes
   Monday, November 23, 1998—9:00 a.m.
   Room 307, Adams County Courthouse
   Credits: Substantive Law—4, Ethics—0
4. *Driving Under the Influence*
   Wednesday, December 16, 1998—9:00 a.m.
   Adams County Cooperative Extension
   Credits: Substantive Law—4, Ethics—0
5. *A Practical Approach to Liens on Real Estate*
   Friday, December 18, 1998—9:00 a.m.
   Room 307, Adams County Courthouse
   Credits: Substantive Law—4, Ethics—0

Registration through P.B.I. 800-932-4637.

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 98-S-1034
Notice of Hearing on Petition
For Change of Name.

IN RE: Kyaw Kyaw Soe, a/k/a Aung Thu

NOTICE IS HEREBY GIVEN that on October 19, 1998, a Petition For Change of Name was filed by Kyaw Kyaw Soe, a/k/a Aung Thu in the above named Court praying for a decree to change his name from Kyaw Kyaw Soe, a/k/a Aung Thu to Aungthu Kyaw Schlenker.

The Court has fixed December 21, 1998 at 9:00 a.m. in Courtroom No. 1, Adams County Courthouse, 111 Baltimore Street, Gettysburg, PA 17325 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 said Petitioner should not be granted.

Bulleit, Schultz & Thrasher
Richard E. Thrasher
Attorney for Petitioner
16 Lincoln Square
Gettysburg, PA 17325

11/6

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-552 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of November, 1998, 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 piece, parcel or tract of land situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a point along the right-of-way line of Stayman Way at corner of Lot No. 80 of the hereinafter referred to subdivision plan; thence along the right-of-way line of Stayman, by a curve to the left, having a radius of fifty (50.00) feet, an arc length of thirty-nine and fifty-eight hundredths (39.58) feet, and a long chord bearing and distance of North sixty-six (66) degrees forty-six (46) minutes sixteen (16) seconds West, thirty-eight and fifty-five hundredths (38.55) feet to a point; thence continuing along the right-of-way line of Stayman Way, the following (2) courses and distances: [1] North sixty-two (62) degrees seventeen (17) minutes twenty-nine (29) seconds west, nine and thirteen hundredths (9.13) feet to a point; thence [2] North thirty-five (35) degrees eight (08) minutes three (03) seconds West, twenty-nine and twenty hundredths (29.20) feet to a point at corner of Lot No. 82 of the hereinafter referred to subdivision plan; thence along said Lot No. 82, North fifty-four (54) degrees fifty-one (51) minutes fifty-seven (57) seconds East, ninety-seven and sixteen hundredths (97.16) feet to a point along Lot No. 85 of the hereinafter referred to subdivision plan; thence along Lot No. 85 and Lot No. 86 of said plan, South sixty (60) degrees thirty-seven (37) minutes sixteen (16) seconds East, sixty and forty-five hundredths (60.45) feet to a point at corner of Lot No. 80, aforesaid; thence along Lot No. 80, South forty-five (45) degrees fifty-four (54) minutes twenty-three (23) seconds West, one hundred and zero hundredths (100.00) feet to the point and place of beginning.

TITLE TO SAID PREMISES IS VESTED IN Lewis L. Maurer and Carol C. Maurer, husband and wife by Deed from SAA Custom Built Homes, Inc. a PA Corp. dated 8/9/96, recorded 8/13/96, in Record Book 1241, page 1.

SEIZED and taken into execution as the property of **Lewis L. Mauer & Carol C. Maurer** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
September 19, 1998.

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 December 7, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

10/23, 30, 11/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-297 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of November, 1998, 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 lot of land situate, lying and being in Littlestown Borough, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point on the right-of-way line of South Columbus Avenue at Lot No. 12 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 12, North forty-eight (48) degrees eight (08) minutes twenty-six (26) seconds West, one hundred eighteen and fifty-seven hundredths (118.57) feet to a point on the right-of-way and cartway of Independence Drive as shown on the hereinafter referenced subdivision plan; thence along the right-of-way and cartway of Independence Drive, North forty-one (41) degrees seventeen (17) minutes two (02) seconds East, seventy and fourteen hundredths (70.14) feet to a point at Lot No. 14 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 14, South forty-five (45) degrees forty-one (41) minutes twenty-six (26) seconds East, one hundred twenty and thirty-two hundredths (120.32) feet to a point on the right-of-way line of South Columbus Avenue; thence along the right-of-way of South Columbus Avenue, South forty-two (42) degrees forty-one (41) minutes twenty-two (22) seconds West, sixty-five (65.00) feet to a point, the point and place of BEGINNING. CONTAINING 8.066.66 square feet, 0.18 acres.

The above described lot being designated as Lot No. 13 on the Final Subdivision Plan of "Heritage Hill - Phase 2", prepared by James R. Holley, Registered Professional Surveyor, dated March 10, 1993, and recorded in the Office of the Recorder ot Deeds in and for Adams County, Pennsylvania, in Plat Book 63 at page 58.

TAX PARCEL NUMBER: 11-188

SEIZED and taken into execution as the property of **David A. Holland, Mary E. Holland, Hank O. Holland & Jesse L. Holland** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
July 1, 1998.

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 December 14, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

10/23 & 30, 11/6

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 98-S-1038
Notice of Hearing on Petition
For Change of Name.

IN RE: Deborah Ann Shaffer

NOTICE IS HEREBY GIVEN that on October 20, 1998, a Petition For Change of Name was filed by Deborah Ann Shaffer in the above named Court praying for a decree to change her name from Deborah Ann Shaffer to Deborah Ann Wentling.

The Court has fixed December 21, 1998 at 9:00 a.m. in Courtroom No. 1, Adams County Courthouse, 111 Baltimore Street, Gettysburg, PA 17325 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 said Petitioner should not be granted.

Bulleit, Schultz & Thrasher
Richard E. Thrasher
Attorney for Petitioner
16 Lincoln Square
Gettysburg, PA 17325

11/6

KIEL VS. DITZLER VS. LITTLE, ET. AL.

1. Summary judgment may be entered only in those cases where the right is clear and free from doubt.

2. It is the Court's function to interpret contracts, the language of which is clear; but, if ambiguity exists, the factfinder must determine the intent of the parties, and summary judgment is inappropriate.

3. If the Court can determine its meaning, even though the parties may disagree as to its interpretation, the contract is not ambiguous.

4. Ambiguity exists if the contract is reasonably susceptible of different constructions, is obscure through indefiniteness of expression or has a double meaning.

5. Like any other contract a lease may be ambiguous in which case parol evidence may be considered to interpret it.

6. Although indemnity contracts in employment situations, where employer agrees to indemnify a negligent third party, are not favored, they will be enforced if expressed in language which clearly and unequivocally states that the employer intends to indemnify the third party for that party's negligence and waive its protection under the Workmen's Compensation Act.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 96-S-455, SHARON KIEL VS. MELVIN L. AND BARBARA ROSELLA DITZLER VS. JANE LITTLE AND GLENN'S FAMILY RESTAURANT, INC.

Ralph D. Oyler, Esq., for Plaintiff
Karen S. Feuchtenberger, Esq., for Defendants
C. Kent Price, Esq., for Additional Defendants

OPINION ON MOTION FOR SUMMARY JUDGMENT

Spicer, P. J., December 2, 1997.

In her complaint, filed December 4, 1996, plaintiff identified herself only as an adult individual who was walking through defendants' basement on July 5, 1995. She alleged that she slipped and fell on a pile of mud that defendants had allowed to accumulate and suffered serious injuries.

Defendants filed their complaint against additional defendants on January 9, 1997. They alleged that additional defendants were lessees of the first floor of the building in which the basement was located and:

5. Pursuant to a verbal agreement, Additional Defendants were permitted to use a portion of the basement of the Premises for storage of items used in their restaurant business.

7. Additional Defendants were responsible for, and did, in fact, maintain the parking lot area of the Premises, including, but not limited to, the entrance area to the basement door.

8. Pursuant to the Lease Agreement between Defendants and Additional Defendants, the Additional Defendants were responsible to "keep and maintain the property, all improvement on the property, and all facilities adjacent to the property in as safe and clean a condition as they were when received by it from the Lessor, reasonable wear and tear excepted." See Article VII of the lease.

9. Article XI of the Lease Agreement provides in relevant part that:

> The Lessee agrees to indemnify and hold Lessor and the property of Lessor, including the real estate subject to this Lease, free and harmless from any and all claims, liability, loss, damage, or expense resulting from the Lessee's occupation and use of the demised premises, specifically including without limitation,any claim, liability, loss or damage arising:
>
> A. By reason of the injury to persons or property, from whatever cause, while in or on the real estate subject to this Lease Agreement or in any way connected with the real estate subject to this Lease Agreement, including any liability for injury to the person or personal property of the Lessees, its agents, officers or employers...

On October 14, 1997, additional defendants moved for summary judgment. The motion contains, inter alia, the following:

2. The real estate consists of a three-story building with basement and a rear lot used for parking.

3. At the time of the incident, a portion of the basement was rented as a barbershop, the first floor was rented to Glenn's Family Restaurant, and the second and third floors were rented as residential apartments.

4. On or about October 16, 1992 Defendants entered into a lease with either Additional Defendant Jane Little or Additional Defendant Glenn's Family Restaurant, Inc. for "the entire first floor of the building situated on the Lessor's (sic) property at 5 South Main Street, Borough of Biglerville."...

The motion went on to recite that the basement area in which the accident occurred was not part of the demised premises and therefore lease provisions concerning maintenance and indemnity did not apply. The motion did not directly raise any issues relating to the lessee's identity, counsel have alluded to them in arguments. We will, therefore, address them.

The law governing entry of summary judgment has been described

as follows:

> Summary judgment is properly granted where 'the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law.' Pa. R.C.P. 1035(b). 'The record must be viewed in a light most favorable to the nonmoving party, and all doubts as to the existence of a genuine issue of material fact must be resolved against the moving party.' Marks v. Tasman, 527 Pa. 132, 135, 589 A.2d 205, 206 (1991). Summary judgment may be entered only in those cases where the right is clear and free from doubt. Musser v. Vilsmeier Auction Co. Inc., 522 Pa. 367, 369, 562 A.2d 279, 280. (1989).
>
> Pennsylvania State University v. County of Centre, 532 Pa. 142, 615 A.2d 303, 304 (1992).

Quoted in Kapres v. Heller, 536 Pa. 551, 555, 640 A.2d 888, 890 (1994).

Further, under Pa.R.C.P. 1035.2, summary judgment is appropriate if a party fails to meet his or her burden of producing evidence of facts essential to a cause of action or defense which in a jury trial would require the issue to be submitted to a jury. Ertel v. Patriot-News Co., 544 Pa. 93, 674 A.2d 1038 (1996).

Depositions establish that the basement contains a barbershop, obviously rented to someone else, and that a portion has historically been used by operators of the restaurant to store stock and soda bottles. Ms. Little said her father, a prior tenant, used a portion of the basement for this purpose and she continued the use. The parties apparently did not think to include any provisions in their written lease concerning the custom. The record identifies plaintiff as an employee of additional defendants who was acting within the scope of her employment when the accident occurred. Entrance to the basement area involved in this suit can be accomplished only through an exterior door. That portal apparently does not fit tightly on the floor or threshold, and allows mud to get into the basement from the outside.

Ms. Little, in her deposition, said that plowing and stoning the building's parking lot has fallen upon the restaurant operation by default. She said that defendants failed to respond to requests for action. She questioned the fairness of imposing obligations on the

restaurant, since there were eight rental units in the building, but conceded that additional defendants, through employees, have cleaned the concrete slab outside the basement door and have cleaned up debris from the parking lot.

Defendants argue that indemnification provisions in the lease extend to the basement area because such provisions cover any real estate connected with the leased premises. Additionally, they argue that the provision is also encompassed in the duty to maintain all facilities appurtenant to the leased premises.

The court's inquiry into terms of the lease involves three questions: (a), the identity of the lessee; (b), whether additional defendants had the duty to clean the area around the basement door; and (c), whether the indemnity provisions apply even if additional defendants had no such duty.

Summary judgment is sometimes appropriate in contractual disputes relating to the obligations of the parties. It is the court's function to interpret contracts, the language of which is clear. However, if ambiguity exists, the factfinder must determine the intent of the parties, and summary judgment is inappropriate. Where the language of a contract is clear, its meaning must be determined by expressed terms only. It will be interpreted to give effect to all its provisions. If the court can determine its meaning, even though the parties may disagree as to its interpretation, the contract is not ambiguous. An ambiguous contract is interpreted in light of all of the surrounding circumstances and other extrinsic evidence. Young v. Donegal Mutual Insurance Company, 400 Pa. Super. 311, 583 A.2d 803 (1990); Krause v. Great Lakes Holdings, Inc., 387 Pa. Super 56, 563 A.2d 1182 (1989). Ambiguity exists if the contract is reasonable susceptible of different constructions, is obscure through indefiniteness of expression or has a double meaning. If an ambiguous term is employed, a party is bound to a particular meaning only if he or she has reason to know it. Ardrey Ins. Agency v. Ins. Co. of Decatur, 441 Pa. Super. 94, 656 A.2d 936 (1995). Like any other contract, a lease may be ambiguous, in which case parol evidence may be considered to interpret it. Ambiguity is determined by considering the entire lease, not just isolated portions thereof. Lampenfeld v. Seitz, 450 Pa. Super. 527, 676 A.2d 684 (1996).

The court's role presently is to determine whether the lease provisions clearly exclude the duties of additional defendant upon which defendants base their claim. We begin our appraisal by considering contract language and content concerning the identity of the lessee.

Identity of lessee: The lease is typewritten. Added by hand-printing was the name of Jane Little as lessee, followed by "with its principal place of business..." The lease was executed, on page 12, as follows:

Witnesses:	"LESSORS"
/s/ Harold L. Ditzler	/s/ Melvin L. Ditzler Melvin L. Ditzler
_____	/s/Barbara R. Ditzler Barbara R. Ditzler
	"LESSEE" By: /s/ Jane Little Its President

ATTEST:
/s/ Durand R. Little
Its Secretary

Ms. Little testified that her name was already printed on the form when she received it, but she assumed the agreement was intended for the corporation that conducts the restaurant. Mr. Ditzler indicated, in his deposition, that he believed Ms. Little was the lessee. Although the corporation's name appears nowhere in the lease agreement, he has named it as an addition defendant. It appears fairly obvious that the lease is ambiguous as to the identity of lessee. Parol evidence would be admissible to establish this fact. 49 Am Jur 2d., Landlord and Tenant, §26.

Duty to maintain and clean: The basement is not part of the leased premises and, therefore, the question is whether it is a facility appurtenant to the property.

Black's Law Dictionary, Fifth Edition, states "A thing is 'appurtenant' to something else when it stands in relation of an incident to a principal and is necessarily connected with the use and enjoyment of the latter. A thing is deemed to be incidental or appurtenant to land when it is by right used with the land for its benefit, as in the case of a way, or water-course, or of a passage for light, air, or heat from or across the land of another.

This would seem in accord with Pennsylvania law. Southall v. Humbert, 454 Pa. Super 360, 685 A.2d 574 (1996).

The same dictionary defines "Facilities" as "That which promotes the ease of any action, operation, transaction, or course of conduct. The term normally denotes inanimate means rather than human agencies,

though it may also include animate beings such as person, people and groups thereof."

We doubt that many laypersons could successfully define either 'appurtenant" or "facilities" in the context of this lease. We also believe some lawyers would be perplexed. We are inclined to believe the phrase refers to walkways and, perhaps, the parking lot, and not another space that lessee was allowed to use. However, we are not prepared to say with certainty that the parties intended to restrict the meaning so as to exclude the basement area and doorway. The record indicates that additional defendants used the area for the benefit of the first floor operation. We find the agreement can be reasonably interpreted to both include and exclude the area in question and, therefore, hold it ambiguous in this respect.

Indemnity: Although indemnity contracts in employment situations, where employer agrees to indemnify a negligent third party, are not favored, they will be enforced if clearly expressed. Language must clearly and unequivocally state that the employer intends to indemnify the third party for that party's negligence and waive its protection under the Workmen's Compensation Act, 77 P.S. §481(b). The burden of proving the applicability of an indemnity provision the agreement is on defendants, and the burden increases since they prepared the lease agreement. Snare v. Ebensburg Power Co., 431 Pa. Super. 515, 637 A.2d 296 (1993).

The indemnity clause falls short of the requirements described supra. General provisions will not suffice. Id. Although the provision refers to injuries resulting from whatever cause, it does not specifically refer to the landlord's negligence nor does it specifically refer to actions brought by an employee. Hackman v. Moyer Packing, 423 Pa. Super. 378, 621 A.2d 166 (1993). Judged by case law, the agreement contains nothing from which the court can find an intent on the part of additional defendants to waive the protection of the Workers' Compensation Act. Thus, additional defendants are entitled to summary judgment on the issue of indemnity.

The attached order is entered.

ORDER OF COURT

AND NOW, this 2nd day of December, 1997, summary judgment is entered in favor of additional defendants on defendants' claims based on indemnity. Requests for summary judgment are otherwise 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 EDNA B. BUBB a/k/a EDNA P. BUBB, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executrices: Lucille K. Miller, 5810 Old Harrisburg Road, York Springs, PA 17372; Bonita C. Hoke, 2742 Brisner Road, Middletown, PA 17057-4411
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF MARY E. BUCHANAN a/k/a ANNA MARY ELIZABETH BUCHANAN, DEC'D
Late of McSherrystown Borough, Adams County, Pennsylvania
Executrix: Shirley Wood, 1719 Bollinger Road, Finksburg, MD 21048
Attorney: Puhl & Eastman, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF GERALDINE H. CARTY, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executrix: Joni L. Knott, 90–15 Knight Road, Gettysburg, PA 17325
Attorney: Mary A. Kenney, Esq., 1085 Stone Jug Road, Biglerville, PA 17307

ESTATE OF MARY F. DOVE a/k/a MARY FRANCES DOVE, DEC'D
Late of Latimore Township, Adams County, Pennsylvania
Executor: Charles J. Dove, 92 Blackberry School Road, York Springs, PA 17372
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF JESSIE G. NOEL a/k/a JESSIE H. NOEL, DEC'D
Late of Bonneauville Borough, Adams County, Pennsylvania
Executors: Monica Pittenturf, now Monica N. McGoldrick, 19 Maple Street, Gettysburg, PA 17325; Roger T. Noel, 107 Cottage Lane, New Oxford, PA 17350
Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARIE RISANO, DEC'D
Late of Conewago Township, Adams County, Pennsylvania
Executor: Arthur A. Risano, 29 Lincoln Drive, Hanover, PA 17331
Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF ANNA V. ALLISON, DEC'D
Late of 158 East Main Street, Arendtsville, Adams County, Pennsylvania
Co-Executors: Richard N. Allison, 52 North High Street, Arendtsville, PA 17303; Robert E. Allison, 137 Conewago Street, Arendtsville, PA 17303
Attorney: John R. White, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JOSEPH L. DAVIES, DEC'D
Late of Mt. Joy Township, Adams County, Pennsylvania
Executrices: Virginia M. Schriver, 5 Country Drive, Gettysburg, PA 17325; Janice L. Althoff, 2430 Baltimore Pike, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF GEORGE H. IRVIN, DEC'D
Late of Franklin Township, Adams County, Pennsylvania
Administratrix: Elizabeth M. Dillon, 207 Bottom Road, Orrtanna, PA 17353
Attorney: Bernard A. Yannetti, Jr., Esquire, Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RUTH M. MUSSELMAN, DEC'D
Late of Franklin Township, Adams County, Pennsylvania
Executors: Joyce M. Shutt, 878 Mt. Carmel Road, Orrtanna, PA 17353-9430; Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325
Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF FRANCIS B. STORM, DEC'D
Late of the Borough of Bonneauville, Adams County, Pennsylvania
Executrices: Dorothy Mae Barnes, 701 Littlestown Road, Littlestown, PA 17340; Doris Jean Boyer, 390 Montclair Road, Gettysburg, PA 17325
Attorney: John W. Phillips, Esquire, 101 W. Middle Street, Gettysburg, PA 17325

ESTATE OF GERALDINE K. TRONE a/k/a GERALDINE B. TRONE, DEC'D
Late of Conewago Township, Adams County, Pennsylvania
Executrix: Linda T. Miller, 66 Pleasant View Drive, Hanover, PA 17331
Attorney: James T. Yingst, Esquire, Rudsill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

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 Monday, November 9, 1998, at 9:00 o'clock a.m.

BENSON—Orphans' Court Action Number OC-110-98. The First and Final Account of PNC Bank, N.A., Executor of the Estate of William C. Benson, deceased, late of Cumberland Township, Adams County, Pennsylvania.

MILLEVILLE—Orphans' Court Action Number OC-111-98. The First and Final Account of Dauphin Deposit Bank and Trust Company, Administrator C.T.A. of the Estate of Miriam A. Milleville, deceased, late of Franklin Township, Adams County, Pennsylvania.

KELLER—Orphans' Court Action Number OC-117-98. The First and Final Account of Kenneth J. Keller and Julia M. Weishaar, Executors of the Estate of Clarence A. Keller, deceased, late of Straban Township, Adams County, Pennsylvania.

HOKE—Orphans' Court Action Number OC-118-98. The First and Final Account of Adams County National Bank, Executor of the Estate of Chester W. Hoke, decreased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

GRIMES—Orphans' Court Action Number OC-116-96. The Second and Final Account of Ralph D. Oyler, Executor under the Will of Vatus Emma Pauline Grimes a/k/a Vatus Emma Grimes, decreased, late of Butler Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

10/30 & 11/6

ADMINISTRATRIX NOTICE

Estate of ELMER FRANKLIN CURRENS, late of Straban Township, Adams County, Pennsylvania, Deceased.

Letters of Administration on said estate having been granted to the undersigned, all persons indebted thereto are requested to make immediate payment, and those having claims or demands against the same will present them without delay for settlement to the undersigned, at the following address: Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, Pennsylvania 17331

Mary J. Garman, Administratrix
Douglas H. Gent, Esquire
Attorney for Estate

10/23, 30 & 11/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-357 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of November, 1998, 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 THOSE tracts of land situate, lying and being on the South side of Berlin Street in the Village of Hampton, Reading Township, Adams County, Pennsylvania, which is bounded and described as follows:

TRACT NO. 1: BEGINNING at point on Berlin Street aforesaid at Lot #64 as laid out on the plan of said town, Tract No. 2 hereof being a portion thereof; thence by Berlin Street North forty-nine and one-half (49 1/2) degrees East, sixty-five (65) feet to a point at Lot #62 (on the plan of said town); thence by Lot #62 South twenty (20) degrees East, two hundred (200) feet to a point at a twenty (20) foot wide alley; thence by said alley South forty-nine and one-half (49 1/2) degrees West, sixty-five (65) feet to a point at Lot #64; thence by the same North twenty (20) degrees West, two hundred (200) feet to a point at Berlin Street aforesaid, the place of BEGINNING. Said lot being known on the plan of said town as Lot #63.

TRACT NO. 2: BEGINNING at a stake at Berlin Street aforesaid at Lot #63, Tract No. 1 thereof thence by Lot #63 South twenty (20) degrees East, ninety-two (92) feet, more or less, to a stake at land now or formerly of John C. Leinert; thence by the same South sixty and one-fourth (60 1/4) degrees West, three and four tenths (3.4) feet, more or less, to a stake at land now or formerly of Melvin M. Sharrer and wife thence by the same North eighteen (18) degrees West, thirty-three and five tenths (33.5) feet to a stake at land of the same; thence by the same North thirty-one and three-fourths (31 3/4) degrees West, fifty-five and six tenths (55.6) feet to a stake at Berlin Street aforesaid; thence by the same North fifty-two and one-half (52 1/2) degrees East, twelve and nine tenths (12.9) feet, more or less, to a stake, the place of BEGINNING. Said lot being a part of the eastern portion of Lot #64.

TRACT NO 3: ALL that tract or parcel of land situate, lying and being in the Town of Hampton, Reading Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point at a twenty (20) foot alley near a stable; thence along said alley, South nineteen and one-fourth (19 1/4) degrees East, one hundred eight (108) feet to back alley; thence North fifty-two and one-half (52 1/2) degrees East, sixty-five (65) feet to Lot No. 63; thence North nineteen and one-fourth (19 1/4) degrees West, one hundred eight (108) feet; thence South fifty-two and one-half (52 1/2) degrees West, sixty-five (65) feet to the place of BEGINNING.

IT BEING the same tracts of land which Harriet A. Hoff, also known as Harriet S. Huff, widow, by deed dated May 13, 1983, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book, 368, page 287, granted and conveyed unto Leroy E. Wenschhof and Joan M. Wenschhof, his wife.

TAX MAP I, PARCEL 53

SEIZED and taken into execution as the property of **Leory E. Wenschhof, Jr.** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
August 22, 1998.

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 December 14, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

10/23, 30 & 11/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-652 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of November, 1998, 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 tract of land situate in Mt. Joy Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an existing railroad spike six feet north of the centerline of Hickory Road (S.R. 32003) along land of Michael Schuman; thence along said Schuman land, North 3 degrees 20 minutes 35 seconds West, 648.91 feet to a steel rod at a corner of Lot No. 1; thence along Lot No. 1, South 66 degrees 49 minutes 20 seconds East, 128.86 feet to a steel rod; thence by same, North 24 degrees 39 minutes 25 seconds East, 275.28 feet to a steel rod; thence by same and passing through an existing steel rod 134.44 feet from the beginning of this course, South 66 degrees 49 minutes 20 seconds East, 680.13 feet to an existing P.K. nail in the centerline of Hickory Road; thence in and along the centerline of Hickory Road, South 30 degrees 37 minutes 55 seconds West, 388.05 feet to an existing P.K. nail three feet east of the centerline of Hickory Road; thence continuing in and along the centerline of Hickory Road by a curve to the left, the radius of which is 307.08 feet with an arc distance of 180.72 feet, the long chord of which is South 59 degrees 09 minutes 05 seconds West, 178.12 feet to a P.K. nail in the centerline of Hickory Road; thence continuing in and along the centerline of Hickory Road, South 71 degrees 23 minutes 05 seconds West, 374.22. feet to an existing railroad spike one foot south of the centerline of Hickory Road; thence continuing in and along the centerline of Hickory Road, South 73 degrees 10 minutes 50 seconds West, 120.58 feet to the above-described place of BEGINNING. CONTAINING 10.20 acres.

The above description was taken from a subdivision plan of the property of Barton L. Breighner prepared by Adams County Surveyors, recorded in Adams County Plat Book 67 at page 73, designating the above as Lot No. 2.

Tax Parcel # H-15-22

TITLE TO SAID PREMISES IS VESTED IN Patrick J. Donohue and Kathleen M. Donohue, husband and wife by Deed from Barton L. Breighner and Karen K. Breighner, his wife dated 12/23/95, recorded 1/16/96, in Record Book 1134 page 237.

SEIZED and taken into execution as the property of **Patrick J. Donohue & Kathleen M. Donohue** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
September 19, 1998.

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 December 7, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

10/23, 30 & 11/6

NOTICE OF APPLICATION FOR ACQUISITION OF SHARES OF A BANK HOLDING COMPANY

ACNB Corporation, the parent company of ACNB North, Inc., a Pennsylvania corporation, with headquarters located at 675 Old Harrisburg Road, Gettysburg, Pennsylvania, has filed an Application to Acquire Control, under Section 115 of the Pennsylvania Banking Code of 1965, as amended, with the Commonwealth of Pennsylvania, Department of Banking for permission to acquire 100% of the outstanding shares of common stock of Farmers National Bancorp, Inc., a Pennsylvania corporation and the parent company of Farmers National Bank of Newville, located at One West Big Spring Avenue, Newville, Pennsylvania 17241.

All interested persons may file comments in favor of, or in protest of the Application, in writing, with the Department of Banking, Commonwealth of Pennsylvania, 333 Market Street, 16th Floor, Harrisburg, PA 17101-2290.

11/6

Adams County
Legal Journal

Vol. 40 November 13, 1998 No. 25, pp. 159–162

IN THIS ISSUE

MCKENNA, ET UX.
VS.
YINGLING, ET UX.

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-85 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of December, 1998, 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 unit in the property known, named and identified in the Declaration referred to below as Oxford Commons Condominiums, located in the Borough of New Oxford, Adams County, PA, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101, et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, PA, of a Declaration dated September 13, 1996 and recorded October 18, 1996 in Record Book 1276, Page 3, (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such Declaration as Unit Declaration No. 29 as more fully bounded and described in such Declaration, together with a proportionate undivided interest in the Common Elements as defined in such Declaration.

UNDER AND SUBJECT TO any and all covenants, conditions, restrictions, rights of way, easements and agreements of record, including (but not limited to) those contained in the instruments recorded in the aforesaid Recorder's Office in said Declaration.

TOGETHER with the limited common elements appurtenant as more fully shown in said Declaration, together with all amendments and supplements thereto recorded on or before the date hereof..

HAVING ERECTED THEREON a dwelling known as 8 Oxford Court, New Oxford, PA 17350. Parcel No. 184A-029.

SEIZED and taken into execution as the property of **William E. Brookhart** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
October 3, 1998.

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 January 4, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

11/13, 20, 25

1. A preliminary injunction may be granted if the moving party satisfied the following prerequisites: (1) that the relief is necessary to thwart immediate and irreparable harm which could not be remedied by damages; (2) that greater injury will result by refusing the injunction than by granting it; (3) that the injunction will restore the parties to their status as it existed immediately prior to the alleged wrongful conduct; (4) that the activity sought to be restrained is actionable; (5) that the injunction is reasonably suited to abate such activity; and (6) unless the Plaintiff's right is clear and the wrong is manifest a preliminary injunction will not generally be awarded.

2. A preliminary injunction is designed to preserve the status quo until the legality of the challenged action can be determined on the merits; therefore, one seeking a preliminary injunction is not required to establish his or her claim absolutely.

3. Plaintiffs seeking a preliminary injunction have the burden of establishing irreparable harm which is an injury which will cause damage which can be estimated only by conjecture and not be an accurate pecuniary standard and that the loss is not entirely ascertainable and compensable by money damages.

4. There is an exception to the Statute of Frauds where it appears that the purchasers took possession of the real estate under the contract and made improvements that are not readily compensable in money.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 97-S-387, EDWARD J. McKENNA AND PATRICIA E. McKENNA VS. ROBERT E. YINGLING AND LESLIE A. YINGLING.

Robert G. Teeter, Esq., for Plaintiffs
Jeffery M. Cook, Esq., for Defendants

DISPOSITION OF PLAINTIFFS' PETITION FOR PRELIMINARY INJUNCTION

Kuhn, J., December 5, 1997.

On April 24, 1997, Plaintiffs, Edward J. and Patricia E. McKenna, filed a three-count Complaint in equity against Defendants, Robert E. and Leslie B. Yingling setting forth counts for ejectment (I), lost profits (II) and waste (III). Plaintiffs seek to enjoin Defendants' possession of the Motel, holding themselves out as owners of the real estate, collecting rents, contracting and making changes to the property, allowing the sewage to overflow the onsite system and maintaining junk on the premises. Plaintiffs did not personally appear for the hearing.

STATEMENT OF FACTS

The record and the hearing produced the following evidence. Since July 30, 1979, Plaintiffs have been the owners of real estate, as tenants by the entireties, known as "Cleveland's Motel and Trailer Park" (hereinafter "the Motel") located in Straban Township, Adams County, Pennsylvania. Sometime between April 21, 1995 and June 1, 1996

Defendants took possession of the property as managers.

On June 1, 1996, Plaintiff, Edward J. McKenna, and Defendants executed a document entitled "Contract for Deed". Sometime between April 21, 1995 and June 1, 1996 Defendants took possession of the property as managers. The Contract for Deed, prepared by Defendants' attorney, provided that the sellers (both plaintiffs) "intend herein to convey said property unto Buyers by way of a contract for deed "and set the purchase price at $300,000 "plus other considerations as hereinafter mentioned." The contract did not indicate how or when the purchase price was to be paid.

Defendant, Robert E. Yingling, testified that payments, in some unspecified amount, were made under the agreement in June and July, 1996, but that payments ended in August, 1996 when Defendants paid approximately $6,000.00 to stop a Sheriff's sale against the real estate for delinquent taxes. In addition Mr. Yingling stated that Defendants made payments on Plaintiffs' mortgage with PNC Bank for the months of January and February, 1997. Finally, Mr. Yingling testified that he had been consulting with several private funding sources and that he is ready to complete the purchase but he needs a title search to be completed and a list of obligations owed against the real estate provided by the Plaintiffs.

Plaintiffs contended that Defendants have allowed sewage to overflow on the real estate. Defendants provided evidence which, if believed, would result in a contrary conclusion. Mr. Yingling indicated that the property had sewage problems when he took over. Dean Shultz, Straban Township Sewage Enforcement Officer, testified that the property's septic system had malfunctioned for many years. He verified that Defendants had applied for a sand mound system and in the interim had installed septic tanks from which the sewage is hauled as needed. During his last visit to the site, two to three weeks before the hearing, there was no surface sewage visible. Tenants verified the pre-existing condition and Defendants' efforts to correct the sewage problem.

Plaintiffs contended that Defendants have allowed unsightly junk to accumulate on the real estate causing the property to diminish in value. Photographs taken during the late Fall of 1996 or early Winter 1997 showed numerous junked vehicles and scrap metal on the premises. There is a dispute as to how much junk was on the property before Defendants took over. Mr. Yingling testified that many of the vehicles were brought to the property with permission of Mr. McKenna. He further testified that most of the vehicles only remain on the property several days before being sold. He stated that the 1954 Greyhound bus is operable and is used to store construction materials and that the Airstream trailer was being rebuilt. These vehicles are located to the

rear of the real estate. Finally, Defendants contend that the photographs introduced as exhibits by Plaintiffs are not representative of the condition of the real estate at the time of the hearing.

Plaintiffs' son, Steve McKenna, testified that in 1995 the home and trailers on the property generated $2200.00 per month in income and eight units in the motel generated $30-40 per day for 180 days per year. This testimony was not corroborated by any records. On the contrary, Michael Mahalage, testified that he managed the motel for Plaintiffs in 1993-4 and only three rooms were tenable. He referenced sewage odors, electrical malfunctions and lack of hot water as contributing factors. Defendants acknowledge only renting three rooms per week on the average and that rentals depend upon local activities.

One must frankly acknowledge this motel is not one which will likely appear on the AAA recommended list. Testimony revealed that instead of committing waste on the property that Defendants have been making efforts to maintain and improve it.

Plaintiffs contend that in April, 1997 Defendants were advised in writing to vacate the premises but have refused to do so.

LEGAL DISCUSSION

A preliminary injunction may be granted if the moving party satisfied the following prerequisites: (1) that the relief is necessary to thwart immediate and irreparable harm which could not be remedied by damages; (2) that greater injury will result by refusing the injunction than by granting it; (3) that the injunction will restore the parties to their status as it existed immediately prior to the alleged wrongful conduct; (4) that the activity sought to be restrained is actionable, (5) that the injunction is reasonably suited to abate such activity; and (6) unless the plaintiff's right is clear and the wrong is manifest a preliminary injunction will not generally be awarded. City of Philadelphia v. District Council 33, 528 Pa. 355, 361, 598 A.2d 256, 259 (1991). A preliminary injunction is designed to preserve the status quo until the legality of the challenged action can be determined on the merits, therefore, one seeking a preliminary injunction is not required to establish his or her claim absolutely. Penn Interscholastic Athletic Association v. Geisinger, 81 Pa. Commw. 421, 474 A.2d 62, 65 (1984).

Reluctantly, we conclude that Plaintiffs have failed to satisfy all the requisite criteria for a preliminary injunction as set forth above.

Plaintiffs have the burden of establishing irreparable harm which is an injury which will cause damage which can be estimated only by conjecture and not be an accurate precuniary standard and that the loss is not entirely ascertainable and compensable by money damages. Sheridan Broadcasting Networks, Inc. v. NBN Broadcasting, Inc., ___ Pa. Super.

___, ___, 693 A.2d 989, 995 (1997). While impending loss of business opportunities may be considered an irreparable injury Plaintiffs have not shown that the premises is in worse condition now than in June 1996. Certainly Plaintiffs' opportunity to market the property for sale may be diminished by virtue of Defendant's claim; however, Plaintiffs offered no evidence that they have made any efforts to market the property. Furthermore, granting the injunction will not give Plaintiffs any better opportunity to market the premises because the relief requested is not a final determination on the merits and Defendants' claim will remain at issue.

The primary issue in this case is the strength of Defendant's right to be on the premises, to hold themselves out as lawful possessors, to collect rents and to make necessary repairs. Resolution of these issues is dependent upon the validity of the Contract for Deed. Plaintiffs claim the document violates the Statute of Frauds because it is not signed by an owner and because it failed to include essential terms related to date for performance, payment method, interest rate and mortgage term.

As is well known the statute of frauds requires agreements for the sale of real estate to be in writing in order to be enforceable. Terms must be definite. Arguably, the Contract for Deed is deficient in the several respects raised by Plaintiffs, however, we cannot conclude that their right is clear and Defendant's position is manifestly wrong at this time. There definitely is a writing which purports to sell the motel property to Defendants for a stated consideration. The settlement date is not stated but there is a general rule requiring settlement within a reasonable time. Mr. Yingling testified that he has been ready to settle. Payments terms may not have been clear in the Contract, however, Mr. Yingling testified that he made several payments under the contract. There may well be written documentation of such payment by Defendants and acceptance by Plaintiffs which when considered with the Contract will take the transaction outside the statute. Furthermore, there is an exception to the statute where it appears that the purchasers took possession of the real estate under the contract and made improvements which are not readily compensable in money. Hostetter v. Hoover, 378 Pa. Super. 1, 8–9, 547 A.2d 1247, 1251 (1988), Alloc. den. 565 A.2d 1167 (1989).

With regard to Mrs. McKenna's failure to execute the Contract For Deed there was testimony from Mr. Yingling that Mr. McKenna stated he had a power-of-attorney to execute his wife's signature. Verification of this information must be fleshed out but was not contradicted by Plaintiffs at the hearing.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 5th day of December, 1997, Plaintiffs' request for a preliminary injunction 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 M. FRANCES JACOBS, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Co-executors: Charles David Jacobs, 4527 23rd Avenue North, St. Petersburg, FL 33713; Gwen Louise Jacobs, 108 Carlisle Street, Gettysburg, PA 17325
Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF STANLEY R. PATRICK, DEC'D
Late of Gettysburg Borough, Adams County, Pennsylvania
Administratrix: Mary Lee Patrick, 261 South Washington Street, Gettysburg, PA 17325
Attorney: John W. Phillips, Esq., 101 West Middle Street, Gettysburg, PA 17325

ESTATE OF MARY S. PHILLIPS, DEC'D
Late of New Oxford Borough, Adams County, Pennsylvania
Executrix: Gail P. Della Pelle, c/o Michael R. Perna, Esq., Rigler, Perna & Vosburgh, 610 Millers Hill, P.O. Box 96, Kennett Square, PA 19348
Attorney: Michael R. Perna, Esq., Rigler, Perna & Vosburgh, 610 Millers Hill, P.O. Box 96, Kennett Square, PA 19348

ESTATE OF ETHEL MAE SEASE, a/k/a ETHEL MAY SEASE, DEC'D
Late of Berwick Township, Adams County, Pennsylvania
Executrix: Kathleen S. Benner, 285 Bowers Road, Littlestown, PA 17340
Attorney: Walton V. Davis, Esq., 116 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RUTH E. SELL, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executor: Richard B. Garrett, c/o Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331
Attorney: Douglas H. Gent, Esq., Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

ESTATE OF MELVIN L. SPANGLER, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executrix: Jean S. Brenner, 88 Hunter's Trail, Gettysburg, PA 17325
Attorney: Catherine J. Gault, Esq., 31 South Washington Street, Gettysburg, PA 17325

ESTATE OF HARLAND C. STAUB, SR. DEC'D
Late of Straban Township, Adams County, Pennsylvania
Executrix: Blanche R. Staub, 2500 Hunterstown-Hampton Road, New Oxford, PA 17350
Attorney: Walton V. Davis, Esq., 116 Baltimore Street, Gettysburg, PA 17325

ESTATE OF EARL F. WENSCHHOF, DEC'D
Late of Littlestown Borough, Adams County, Pennsylvania
Executor: PNC Bank, N.A., 10 York Street, Gettysburg, PA 17325
Attorney: Robert L. McQuaide, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CLAIR E. WILDASIN, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executors: Daniel M. Frey, 14 Center Square, Hanover, PA 17331; Catherine R. Deitz, R.D. 7, Box 7384, Spring Grove, PA 17362
Attorney: Daniel M. Frey, Esq., Daniel M. Frey & Associates, P.C., 14 Center Square, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF EDNA B. BUBB a/k/a EDNA P. BUBB, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executrices: Lucille K. Miller, 5810 Old Harrisburg Road, York Springs, PA 17372; Bonita C. Hoke, 2742 Brisner Road, Middletown, PA 17057-4411
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF MARY E. BUCHANAN a/k/a ANNA MARY ELIZABETH BUCHANAN, DEC'D
Late of McSherrystown Borough, Adams County, Pennsylvania
Executrix: Shirley Wood, 1719 Bollinger Road, Finksburg, MD 21048
Attorney: Puhl & Eastman, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF GERALDINE H. CARTY, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executrix: Joni L. Knott, 90–15 Knight Road, Gettysburg, PA 17325
Attorney: Mary A. Kenney, Esq., 1085 Stone Jug Road, Biglerville, PA 17307

ESTATE OF MARY F. DOVE a/k/a MARY FRANCES DOVE, DEC'D
Late of Latimore Township, Adams County, Pennsylvania
Executor: Charles J. Dove, 92 Blackberry School Road, York Springs, PA 17372
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF JESSIE G. NOEL a/k/a JESSIE H. NOEL, DEC'D
Late of Bonneauville Borough, Adams County, Pennsylvania
Executors: Monica Pittenturf, now Monica N. McGoldrick, 19 Maple Street, Gettysburg, PA 17325; Roger T. Noel, 107 Cottage Lane, New Oxford, PA 17350
Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARIE RISANO, DEC'D
Late of Conewago Township, Adams County, Pennsylvania
Executor: Arthur A. Risano, 29 Lincoln Drive, Hanover, PA 17331
Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF ANNA V. ALLISON, DEC'D
Late of 158 East Main Street, Arendtsville, Adams County, Pennsylvania
Co-Executors: Richard N. Allison, 52 North High Street, Arendtsville, PA 17303; Robert E. Allison, 137 Conewago Street, Arendtsville, PA 17303
Attorney: John R. White, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JOSEPH L. DAVIES, DEC'D
Late of Mt. Joy Township, Adams County, Pennsylvania
Executrices: Virginia M. Schriver, 5 Country Drive, Gettysburg, PA 17325; Janice L. Althoff, 2430 Baltimore Pike, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-979 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of December, 1998, 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 the following described tract of land situate, lying and being in Berwick Township, Adams County, Pennsylvania, further bounded and limited as follows, to-wit:

BEGINNING for a corner at an existing steel pin on the southerly edge of Applewood Drive at previously approved Lot No. 3 as shown on the hereinafter referred to Subdivision Plan; thence along said previously approved Lot No. 3, the following two (2) courses and distances: 1) South eleven (11) degrees fifty-eight (58) minutes seven (07) seconds West three hundred twenty-six and twenty-three hundredths (326.23) feet to an existing steel pin; 2) South seventy-two (72) degrees seven (07) minutes three (03) seconds West three hundred eighty-six and twenty-seven hundredths (386.27) feet to an existing steel pin at lands now or formerly of Charles R. Chubb as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Charles R. Chubb, South eighty-five (85) degrees five (05) minutes twenty (20) seconds West two hundred fifty-five and eighty hundredths (255.80) feet to a steel pin (set) at lands now or formerly of Warren T. Becker as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Warren T. Becker, North thirty-two (32) degrees fifty-one (51) minutes thirty (30) seconds West, one thousand four hundred twenty-six and thirty-seven hundredths (1,426.37) feet to an existing stone at lands now or formerly of Raymond G. Burkett and Martha E. Fisher as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Raymond G. Burkett and Martha E. Fisher and also along lands now or formerly of Paul C. Sipe, Jr. as shown on the hereinafter referred to Subdivision Plan, North twenty-six (26) degrees no (00) minutes no (00) seconds East eight hundred forty-five and twenty-eight hundredths (845.28) feet to a steel pin (set) at lands now or formerly of Donald J. Sneeringer as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Donald J. Sneeringer and also along lands now or formerly of Paul C. Sipe, Jr. as shown on the hereinafter referred to Subdivision Plan, North eighty-eight (88) degrees fifty-two (52) minutes ten (10) seconds East seven hundred thirty-five and ninety hundredths (735.90) feet to an existing steel pin at lands now or formerly of Elmer H. Miller, Jr. as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Elmer H. Miller, Jr., South thirteen (13) degrees forty-eight (48) minutes thirty (30) seconds East three hundred eighteen and forty-two hundredths (318.42) feet to a point at lands now or formerly of Mitchell O. Diviney as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Mitchell O. Diviney, South thirteen (13) degrees twenty-one (21) minutes ten (10) seconds East two hundred sixty-six and forty-one hundredths (266.41) feet to a steel pin (set) at lands now or formerly of John C. Leese as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of John C. Leese, South seventy-eight (78) degrees fifty-nine (59) minutes twenty-two (22) seconds West one hundred fifty-eight and thirty-seven hundredths (158.37) feet to an existing steel pin at previously approved Lot No. 5 on the hereinafter referred to Subdivision Plan; thence along said previously approved Lot No. 5, the following two (2) courses and distances: 1) South forty-nine (49) degrees fifty-nine (59) minutes twenty-four (24) seconds West one hundred eighty-eight and twenty-five hundredths (188.25) feet to an existing steel pin; 2) South forty (40) degrees no (00) minutes thirty-six (36) seconds East, seven hundred twenty-seven and thirty-five hundredths (727.35) feet to an existing steel pin at lands now or formerly of Robert E. Lawyer as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Robert E. Lawyer, the following three (3) courses and distances: 1) South eleven (11) degrees fifty-eight (58) minutes seven (07) seconds West one hundred seventy and two hundredths (170.02) feet to an existing steel pin; 2) South seventy-eight (78) degrees one (01) minute fifty-three (53) seconds East four hundred forty-two and sixty-three hundredths (442.63) feet to a point; 3) by a curve to the right having a radius of two hundred eighty (280.00) feet, the long chord of which is South sixty-six (66) degrees forty-nine (49) minutes one (01) second East one hundred eight and ninety-one hundredths (108.91) feet for an arc distance of one hundred nine and sixty-one hundredths (109.61) feet to a point on the northerly edge of Applewood Drive aforesaid, where it intersects with Township Road (T-706) as shown on the hereinafter referred to Subdivision Plan; thence in and along Township Road (T-306), South twenty-eight (28) degrees fifty-three (53) minutes fifty-three (53) seconds East one hundred sixty-two and forty-one hundredths (162.41) feet to a point in the centerline of SR-0194 (Abbottstown Pike) as shown on the hereinafter referred to Subdivision Plan; thence crossing said SR-0194 (Abbottstown Pike) North seventy-eight (78) degrees six (06) minutes twelve (12) seconds West twenty-seven and fifty-nine hundredths (27.59) feet to a point on the aforesaid southerly edge of Applewood Drive; thence in and along the southerly edge of Applewood Drive, the following three (3) courses and distances: 1) by a curve to the left having a radius of two hundred thirty (230.00) feet, the long chord of which is North thirty-two (32) degrees twelve (12) minutes one (01) second West sixty-three and forty-seven hundredths (63.47) feet for an arc distance of sixty-three and sixty-seven hundredths (63.67) feet to an existing steel pin; 2) by a curve to the left having a radius of two hundred thirty (230.00) feet, the long chord of which is North fifty-nine (59) degrees forty (40) minutes fifty-two (52) seconds West one hundred forty-nine and thirty-eight hundredths (149.38) feet for an arc distance of one hundred fifty-two and fourteen hundredths (152.14) feet to a point; 3) North seventy-eight (78) degrees one (01) minute fifty-three (53) seconds West three hundred forty-two and sixty-three hundredths (342.63) feet to the point and place of BEGINNING. CONTAINING 42.276 acres.

The above description was taken from a Survey prepared by Mort, Brown and Assoc. for TRIPLO, INC., dated April 3, 1989, bearing File No. E-496.

SEIZED and taken into execution as the property of **Joseph A. Lawrence & Wanda J. Lawrence** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
July 11, 1998.

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 January 4, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

11/13, 20, 25

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an application for registration has been filed with the Department of State of the Commonwealth of Pennsylvania, with respect to the registration of a fictitious name under 54 Pa.C.S. §311. The fictitious name is R. SCOTT HARTMAN CONSTRUCTION CO.

Wendy Weikal-Beauchat, Esquire
116 Baltimore Street
Gettysburg, PA 17325

11/13

Adams County Legal Journal

Vol. 40 November 20, 1998 No. 26, pp. 163–168

CONTINUING LEGAL EDUCATION PROGRAMS

1. *Solving Problems Before They Arise: Using ADR to Achieve Your Client's Objectives*
Tuesday, December 29, 1998–9:00 a.m.
Room 307, Adams County Courthouse
Credits: Substantive Law–2, Ethics–1

Registration through P.B.I. 800-932-4637.

IN THE COURT OF COMMON PLEAS OF CUMBERLAND COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION
NO. 98-0077
Adoptions

To: Allen DeHoff

IN RE: Adoption of Alisha Marie Sheets

A PETITION HAS BEEN FILLED asking the court to put an end to all right you have to your child, Alisha Marie Sheets. The Court has set a hearing to consider ending your rights to your child. The hearing will be held in Courtroom No. 1, Cumberland County Courthouse, Carlisle, Pennsylvania, on Thursday, December 17, 1998, at 9:00 a.m. You are advised 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 you being present. 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.

Cumberland County Bar Association
Lawyer Referral Service
2 Liberty Avenue
Carlisle, PA 17013
Telephone (717) 249-3166
(800) 990-9108 (In PA only)

Sandra L. Meilton
Tucker Arensberg & Swartz
111 North Front Street
Harrisburg, PA 17108
Attorney For Petitioner

11/20

NOTICE

PURSUANT to the October 18, 1998 Order of the Court of Common Pleas of Adams County, Pennsylvania, NOTICE IS HEREBY GIVEN that Raymond Newman, Sheriff of Adams County, has filed a Petition in the Court of Common Pleas of Adams County to dispose of the following weapons and ammunition (case no. 98-S-1023):

1. Topper Jr. Model 490, 410-Gauge Hand Gun 2. R.G. 63 Rohm 38 Caliber 4-in Revolver 3. Titan 25-Caliber Automatic Revolver 4. Astra 9MM Semi-Automatic Revolver 5. 2 Colt Cobra 2 inch Airweight Revolvers 6. Ruger Blackhaws 357 Magnum 4 inch Revolver 7. 1 H&R Sportsman 22 Caliber Revolver Model 999 8. RTS Starater Pistol 9. Smith & Wesson 2 inch 32 Special 10. 2 380 Cal. Colt Clips 11. Stoeger Arms Co. 22 Cal. L.R 12. David Industries, Model P-32 Cal. 13. Smith & Wesson 38 Cal. Revolver 14. R/G 38 Cal. Revolver 15. Beretta 22 Cal. LR Pistol - Model 948 16. Derringer Model D 38 Caliber 17. Browning Double Action Shotgun - 12 gauge 18. Mossburg 500A - 12 Gauge Riot Gun 19. Winchester Model 94 Lever Action 30-30 Rifle 20. Stevens Model 73 22-Caliber Single Shot Rifle 21. Winchester 30-30 22. Mossberg 20 gauge 23. Revelation 410 gauge 24. Marlin 22 Caliber 25. Winchester Model 94 lever action 30-30 26. Commemorative Winchester Model 94 Lever Action 30-30 Rifle 27. American Gun - 12 Gauge 28. 30 rounds 33 caliber 29. 15 rounds 30/30 caliber-Western Super X 30. 26 rounds 380 caliber - in bag 31. 41 rounds 380 caliber - in box 32. 1 round 16 gauge shotshell 33. 1 round 20 gauge shotshell

Any person claiming an ownership interest in any of the above weapons or ammunition should contact the Sheriff of Adams County at (717) 337-9828, go to the Sheriff's office located on the lower level of the Adams County Courthouse, 111 Baltimore Street, Gettysburg, Pennsylvania, contact the attorney for the Sheriff as listed below, or appear at the hearing of this motion on **December 21, 1998 at 9:00 a.m.** at the Adams County Courthouse. Any such claimant should bring with him or her any proof of ownership he or she may have.

Wendy Weikal-Beauchat, Esq.
116 Baltimore Street
Gettysburg, Pennsylvania 17325
(717) 334-4515
Solicitor to the Adams County Sheriff

11/20, 25 & 12/4

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA on August 26, 1998, for the purpose of obtaining a charter of a nonprofit corporation organized under the Nonprofit Corporation Law of the Commonwealth of Pennsylvania.

The name of the corporation is: GO FORTH MINISTRIES, INC.

The purpose for which it was organized is as follows: exclusively for charitable, religious and educational purposes within the meaning of Section 501 (c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law).

Lowenthal & Abrams, P.C., Solicitors
Suite 440, 555 City Line Avenue
Bala Cynwyd, PA 19004

11/20

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices. Published every Friday by Adams County Bar Association, John W. Phillips, Esq., Editor and Business Manager.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 111 Baltimore Street, Room 305, Gettysburg, PA 17325.

Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 334-6781 ext 336

Second-class postage paid at Gettysburg, PA 17325.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-85 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of December, 1998, 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 unit in the property known, named and identified in the Declaration referred to below as Oxford Commons Condominiums, located in the Borough of New Oxford, Adams County, PA, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101, et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, PA, of a Declaration dated September 13, 1996 and recorded October 18, 1996 in Record Book 1276, Page 3, (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such Declaration as Unit Declaration No. 29 as more fully bounded and described in such Declaration, together with a proportionate undivided interest in the Common Elements as defined in such Declaration.

UNDER AND SUBJECT TO any and all covenants, conditions, restrictions, rights of way, easements and agreements of record, including (but not limited to) those contained in the instruments recorded in the aforesaid Recorder's Office in said Declaration.

TOGETHER with the limited common elements appurtenant as more fully shown in said Declaration, together with all amendments and supplements thereto recorded on or before the date hereof.

HAVING ERECTED THEREON a dwelling known as 8 Oxford Court, New Oxford, PA 17350. Parcel No. 184A-029.

SEIZED and taken into execution as the property of **William E. Brookhart** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
October 3, 1998.

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 January 4, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

11/13, 20, 25

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-533 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of December, 1998, 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 land situate in Liberty Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a nail in the center of a public road at corner of land now or formerly of David C. Tressler and wife, said road being Cove Haven Road; thence in said road, South 5 degrees 44 minutes West 340.40 feet to a nail in the road; thence in said road, South 25 degrees 33 minutes West 72.80 feet to a nail in road at land now or formerly of Clyde McClean; thence in a stone row to creek and passing a stream by said McClean land, North 51 degrees 1 minute 5 seconds West 436.13 feet to an existing iron pin; thence by land now or formerly of Earl Harbaugh, North 35 degrees 30 minutes East 244.50 feet to an iron pin; thence by land now or formerly of David C. Tressler and wife, and through an iron pin at an 18-inch red oak set back 11.40 feet from the end of this line, South 75 degrees 15 minutes 45 seconds East 271.38 feet to a nail in the road, the place of BEGINNING. CONTAINING 2.588 acres.

This description taken from draft of survey prepared by Harry Knox, Registered Surveyor, and being known as Lot No. 1-A on said draft; subdivision plan recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, on March 11, 1977, in Plat Book 13 at Page 41.

TOGETHER WITH the right to use a 20-foot right-of-way which follows the northwestern boundaries herein described in a general direction as now visible by inspection on said premises.

IT BEING the same premises which Martin A. Hardman and Beulah M. Hardman, husband and wife, by deed dated July 17, 1979 and recorded the same date in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 346-520, granted and conveyed unto Clyde J. Marsh and Margaret V. Marsh.

Tax Map B-18, Parcel 1-A.

SEIZED and taken into execution as the property of **Clyde J. Marsh & Margaret V. Marsh** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
September 5, 1998.

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 January 11, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

11/20 & 25, 12/04

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-396 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 January, 1999, 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 the following described tract, piece or parcel of land, situate, lying and being in the Borough of McSherrystown, County of Adams, State of Pennsylvania, bounded and limited as follows, to wit:

BEGINNING at a point on the North side of North Street at corner of Oxford Avenue; Thence along North Street, South 60 degrees, 40 minutes West, 161.5 feet to a 16 feet wide alley; Thence along said alley North 30 degrees 45 minutes West, 68.5 feet to lands now or formerly of Bessie M. Spies; Thence North 53 degrees, 35 minutes East, 162.05 feet to Oxford Avenue; Thence along the said Oxford Avenue South 30 degrees, 22 minutes East, 71.75 feet to the place BEGINNING.

EXCEPTING THEREFROM and thereout, nevertheless, all that certain parcel of land which the Commonwealth of Pennsylvania acquired by its Declaration of Taking filed in the Court of Common Pleas of Adams County, Pennsylvania, to No. 326 August Term, 1966, as set forth on the Plan Exhibit 5 of the Notice of Condemnation which is recorded in the Recorder of Deeds Office of Adams County, Pennsylvania, in Misc. Book 5, Page 842.

BEING the same premises which William H. Brady, widower, granted and conveyed unto Dennis Charles Rishel and Denise M. Rishel by Deed dated July 27, 1992 and recorded in the Office of the Recorder of Deeds for Adams County on August 4, 1992 in Deed Book 636, Page 1001.

Seized in execution as the property of Dennis Charles Rishel a/k/a Dennis C. Rishel and Denise M. Rishel.

SEIZED and taken into execution as the property of **Dennis C. Rishel and Denise M. Rishel** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
October 3, 1998.

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 February 1, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

11/20, 25 & 12/04

ROHRBAUGH ET VIR. VS. THE 516 BALTIMORE STREET INN OF GETTYSBURG, INC.

1. Summary judgment may be entered only in those cases where the right is clear and free from doubt.

2. A possessor of land owes a duty to protect invitees from foreseeable harm although no duty extends to invitees for conditions whose danger is known or obvious to the invitee.

3. Whether a danger is known or obvious to an invitee is usually a jury question, but may be decided by the Court where no two reasonable minds could differ as to the conclusion to be drawn from the facts.

4. In the case of transitory conditions, to be liable the possessor of land must either have had a hand in creating the dangerous condition or had knowledge, actual or constructive, of the condition.

5. Slips and falls on ice and snow sometimes involve special rules, due to hemispheric climatic conditions.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 96-S-11, NORMA DARLENE ROHRBAUGH AND D. MICHAEL ROHRBAUGH VS. THE 516 BALTIMORE STREET INN OF GETTYSBURG, INC.

Judith Koper Morris, Esq., for Plaintiffs
Lisa M. DiBernardo, Esq., for Defendant

OPINION ON MOTION FOR SUMMARY JUDGMENT

Spicer, P. J., December 5, 1997.

The defendant has filed a motion for summary judgment. Finding that plaintiff's recitation of facts is supported by the record, we adopt them for purposes of ruling on the motion.

I. STATEMENT OF FACTS

This is a personal injury action arising out of Plaintiff Norma Darlene Rohrbaugh's ("Rohrbaugh") slip and fall on ice in Defendant's parking lot on March 17, 1994. She sustained serious fractures of her right wrist which is permanently deformed and painful.

On March 17, 1994, St. Patrick's Day, Rohrbaugh decided to meet some friends. At about 7:30 p.m., she first went to Howard Johnson's Restaurant located in Gettysburg. She stayed there until approximately 11:00 p.m. During those three hours, she drank approximately three 12 ounce Miller Lite beers. At about 11:00 p.m., she and two friends, Bonita B. Baltzley and Judy A. West, decided to go to the Defendant's establishment, The 516 Baltimore Street Inn of Gettysburg, Inc., also known as the Holiday Inn ("Holiday Inn").

They took separate cars. Rohrbaugh arrived first and parked in the fifth parking spot to the right of the back entrance. She walked into the Holiday Inn without incident. Baltzley and West, each traveling in her own vehicle,

arrived a few minutes after Rohrbaugh.

Baltzley noticed ice on the parking lot in places and she slipped and almost fell. She and West went from the parking lot to the Holiday Inn. They were holding on to each other to keep their balance. (Baltzley deposition, p. 12) In the distance between their cars and the entrance to the Holiday Inn, there was ice like rivulets across the parking lot. She described it as black ice. (Baltzley deposition, p. 13)

West noted that the conditions in the parking lot were slippery. (West deposition, p. 17) West slipped on the ice. (West deposition, p. 19) West also thinks there were spots of ice on the sidewalk. (West deposition, p. 19)

Because it was so crowded, Rohrbaugh, Baltzley and West decided not to stay and instead, decided to go to another establishment. Baltzley and West went to the upper parking area and Rohrbaugh went to the lower parking area. Baltzley and West had the same difficulty with ice and slipping. (Baltzley deposition, p. 15) They held on to each other going back to the cars. (West deposition at 23).

Rohrbaugh headed for her car which was located to her left after leaving the Holiday Inn. She at first walked along the sidewalk but had to step off of it because it was slippery under her feet. She stepped into the parking lot thinking she would be better off. (Rohrbaugh deposition, p. 32)

She walked halfway through an empty parking space and just went up in the air and then down. Both of her feet went out from underneath her. She landed on her bottom and used her right hand to brace her fall, thus sustaining a fracture to that wrist. (Rohrbaugh deposition, p. 33)

There was no light along the sidewalk or in the parking lot where she fell. She fell on ice but did not see it because it was very dark. When she stood up, she could feel it slippery under her feet. (Rohrbaugh deposition, p. 56) She stood up very carefully, got her balance, took a step or two, and was able to walk to her car without slipping under her feet. (Rohrbaugh deposition, p. 57)

The surface was slippery, not wet, and it was in patches. (Rohrbaugh deposition, p. 57)

Rohrbaugh did not go back into the Holiday Inn to report her injury because she did not want to take a chance on falling again. (Rohrbaugh deposition, p. 35)

About one a.m. on March 18, 1994, Rohrbaugh telephoned West and told her that she (Rohrbaugh) had slipped on ice as she was leaving the Holiday Inn, had hurt her wrist and had driven herself to the hospital. (Baltzley deposition, pp. 26-27)

Rohrbaugh called Holiday Inn and spoke with Barry Wonder on March 18, 1994. Wonder gave a recorded statement stating that Rohrbaugh told him that she had fallen on ice. (See Defendant's Response to Plaintiffs' Request for Production of Documents and Things, Attachment to Response Number 2)

Allyson Brinser, Defendant's Assistant Guest Service Manager, was on duty from 3-11 p.m. on March 14, 1994. It was her duty to inspect for ice that evening. (Brinser deposition, p. 6) Part of her job was to make sure that entrances were free of any kind of snow and ice. Defendant had no written instructions as to how and when inspections were to be made regarding inspection for ice. There are several times when she leaves the front desk and if she would see anything like ice, she had ice melt on hand. (Brinser deposition, p. 7)

It was St. Patrick's Day and the establishment was crowded. (Brinser deposition, p. 13) There were a lot of groups in during the day and even staying overnight, lots of senior citizens. (Brinser deposition, p. 13) The bar area was wall-to-wall people. (Rohrbaugh deposition, p. 47)

It had snowed on March 1, 1994 and March 2, 1994 and Defendant's records indicate "two feet?" (Brinser deposition, p. 10) These were the dates of the Blizzard of 1994. At 11:15 a.m. on March 14, 1994, Defendant's employee called the weather service and was told that it was 32 degrees. (Brinser deposition, p. 8) On March 14, 1997, Defendant's records indicate that the temperature rose to 54 degrees. (Brinser deposition, p. 11)

Brinser has no recollection of going out and checking to see if there was ice on the rear sidewalk. Brinser has no recollection of inspecting the rear parking lot where Rohrbaugh fell on the evening of March 14, 1994. (Brinser deposition, p. 13)

Ted Lawyer was the night auditor at Holiday Inn and was on duty from 11 p.m. until 7 a.m. on March 14, 1994. (Lawyer deposition, p. 4) He was the only person on duty at the desk from 11:00 p.m. on. He cannot do walkarounds if he is busy with people at the desk or the phone is ringing. (Lawyer deposition, p. 6) Lawyer has no recollection of the conditions on March 14-15, 1994. He does not keep a detailed log which would indicate times of a walkaround. (Lawyer deposition, p. 7)

Defendant does not maintain any written records which would indicate when the outside areas were patrolled for ice nor do they have any specific regulations governing same. (Deposition of Norma Herring, Desk Service Manager, p. 12)

There was no lighting along the sidewalk where Rohrbaugh began to walk as she returned to her car. (Brinser deposition, p. 15)

Plaintiff's brief, pp.1–6

II. LEGAL DISCUSSION

A: Summary Judgment.

Rules governing entry of summary judgment have been summarized as follows:

> Summary judgment is properly granted where 'the pleadings, depositions, answers to interrogatories, and admissions

on file, together with the affidavits, if any, show there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law.' Pa. R.C.P. 1035(b). 'The record must be viewed in a light most favorable to the nonmoving party, and all doubts as to the existence of a genuine issue of material fact must be resolved against the moving party.' Marks v. Tasman, 527 Pa. 132, 135, 589 A.2d 205, 206 (1991). Summary judgment may be entered only in those cases where the right is clear and free from doubt. Musser v. Vilsmeier Auction Co. Inc., 522 Pa. 367, 369, 562 A.2d 279, 280. (1989).

Pennsylvania State University v. County of Centre, 532 Pa. 142, 615 A.2d 303, 304 (1992).

Quoted in Kapres v. Heller, 536 Pa. 551, 555, 640 A.2d 888, 890 (1994).

Further, under Pa.R.C.P. 1035.2, summary judgment is appropriate if a party fails to meet his or her burden of producing evidence of facts essential to a cause of action or defense which in a jury trial would require the issue to be submitted to a jury. Ertel v. Patriot-News Co., 544 Pa. 93, 674 A.2d 1038 (1996).

B. Slip and Fall.

Pennsylvania has adopted the provisions of the Restatement of Torts, Second, sections 328, 341, 342 and 343. A possessor of land owes a duty to protect invitees from foreseeable harm. Under §343A, no duty extends to invitees for conditions whose danger is known or obvious to the invitee. Whether a danger is known or obvious is usually a jury question, but may be decided by the court where no two reasonable minds could differ as to the conclusion to be drawn from facts. Generally, a possessor is subject to liability only if he:

(a) knows or by the exercise of reasonable care would discover the condition and should realize that it involves an unreasonable risk of harm to such invitee, and

(b) should expect that they will not discover or realize the danger, or will fail to protect to protect themselves against it, and

(c) fails to exercise reasonable care to protect them against the danger

Carrender v. Fitterer, 503 Pa. 178, 185,469 A.2d 120, 123 (1983).

The possessor's duty is sometimes described as heightened. Swift v. Northeastern Hospital of Philadelphia, 456 Pa. Super. 330, 690 A.2d 719 (1997). It has also been said, in the case of transitory conditions, that

defendant must either have had a hand in creating the dangerous condition or had knowledge, actual or constructive, of the condition. Id. Constructive knowledge is sometimes said to involve passage of enough time to enable defendant to discover the condition through the use of due care. Myers v. Penn Traffic Co., 414 Pa. Super 181, 606 A.2d 926 (1992).

Slips and falls on ice and snow sometimes involve special rules, due to hemispheric climatic conditions. The hills and ridges doctrine is sometimes invoked in cases involving sidewalks, parking lots and other places where pedestrians would be expected to travel. Gilligan v. Villanova University, 401 Pa. Super. 113, 584 A.2d 1005 (1991). However, the doctrine applies only to generally slippery conditions in the community, and is not applicable to localized patches of ices. Harmotta v. Bender, 411 Pa. Super 371, 601 A.2d 837 (1992). Although facts, supra, indicate there had been a heavy snowfall, the doctrine would not apply since defendant's parking was plowed and ice apparently occurred because of subsequent thawing and freezing.

Defendant argues that plaintiff has not shown enough to charge defendant with constructive knowledge of the condition. It contends that it cannot be charged with a duty of discovering ice under parked cars and points out that it received no complaints from customers prior to the accident. While the argument may have appeal in the abstract, we find it unpersuasive in light of Supreme Court's decision in Ferencz v. Milie, 517 Pa. 141, 535 A.2d 59 (1987). That case involved a legal malpractice suit, where an attorney failed to prosecute a negligence case involving a fall on ice in a parking lot. In order to determine if plaintiff Ferencz could maintain her malpractice action, the court considered whether facts in the underlying negligence case justified a recovery.

Ferencz's fall occurred in the morning, which was relevant to lighting conditions and whether ice could be seen in the glare of daylight. Her daughter testified that she could not see the ice patch until she knelt down beside her mother. The trial court held that no evidence showed the ice to be visible and the possessor could not, therefore, be found negligent for failing to see it. Interestingly, Superior Court affirmed, but on the grounds that the ice was clearly visible and the possessor owed no duty to protect an invitee from an obvious condition.

Supreme Court reversed. Commenting on facts not unlike those at bar, our highest court said:

> On the basis of the competent evidence in the record, and under the circumstances, we think that Appellant presented more than enough evidence to go to the jury on the underlying claim against the hospital and hence avoid a non-suit in this case. A jury could have inferred from the testimony of Donna Ferencz alone that various patches of ice were present and discoverable in the general parking lot area at this time, both

> in the evening and early mornings hours at least, and that hospital employees, once they had already undertaken to plow and clear the lot, knew or, in the exercise of reasonable care, should have known, of the ice patches and, hence, of a generally dangerous set of conditions. A jury would be further entitled to conclude that once it was aware (or should have been aware) of the existence of such ice patches, which were not obvious and avoidable, the hospital had a duty to exercise reasonable care to search out the ice patches, and spread salt or ashes thereon. We fail to see how such a duty could in any way be onerous to institutions or businesses, like the hospital here, that have thousands of invitees and visitors every year. See, Vanic v. Ragni, 435 Pa. 26, 254 A.2d 618 (1969).
>
> 517 Pa at 150, 535 A.2d at 64.

Facts in the case sub judice are, if anything, more favorable to plaintiff. Despite inviting its customers to use its parking facilities, defendant failed to provide adequate lighting to allow its customers to discover icy conditions. The duty to search out ice patches does not depend upon complaints, or lack thereof. A jury could find that walking across empty parking spaces is not an unusual practice, and was especially foreseeable in light of the condition of the sidewalk. In short, there are important issues that must be determined by a jury.

The attached order is entered.

ORDER OF COURT

AND NOW, this 5th day of December, 1997, defendant's motion for summary judgment is denied.

ERRATA

AND NOW, this 9th day of December, 1997, the Opinion issued December 5, 1997 is corrected by changing the dates erroneously stated in plaintiff's brief to reflect dates reflected in the record. Accordingly, the following changes are made:

PAGE	LINE	FROM	TO
2	40	March 14, 1994	March 17, 1994
3	12	March 14, 1994	March 17, 1994
3	14	March 14, 1997	March 17, 1994
3	18	March 14, 1994	March 17, 1994
3	21	March 14, 1994	March 17, 1994
3	25	March 14–15, 1994	March 17–18, 1994

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 ROBERT S. PITTMAN, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Administratrix: Anna M. Pittman, 95 Walker Avenue, Gettysburg, PA 17325
Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ERNEST W. WOLFE, DEC'D
Late of Hamiltonban Township, Adams County, Pennsylvania
Executors: David J. Topper, 60 Hickory Bridge Road, Orrtanna, PA 17353; Teresa L. Fowler, 925 Old Waynesboro Road, Fairfield, PA 17320
Attorney: Edward G. Puhl, Esq. Puhl & Eastman, 16 Lincoln Square, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF M. FRANCES JACOBS, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Co-executors: Charles David Jacobs, 4527 23rd Avenue North, St. Petersburg, FL 33713; Gwen Louise Jacobs, 108 Carlisle Street, Gettysburg, PA 17325
Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF STANLEY R. PATRICK, DEC'D
Late of Gettysburg Borough, Adams County, Pennsylvania
Administratrix: Mary Lee Patrick, 261 South Washington Street, Gettysburg, PA 17325
Attorney: John W. Phillips, Esq., 101 West Middle Street, Gettysburg, PA 17325

ESTATE OF MARY S. PHILLIPS, DEC'D
Late of New Oxford Borough, Adams County, Pennsylvania
Executrix: Gail P. Della Pelle, c/o Michael R. Perna, Esq., Rigler, Perna & Vosburgh, 610 Millers Hill, P.O. Box 96, Kennett Square, PA 19348
Attorney: Michael R. Perna, Esq., Rigler, Perna & Vosburgh, 610 Millers Hill, P.O. Box 96, Kennett Square, PA 19348

ESTATE OF ETHEL MAE SEASE, a/k/a ETHEL MAY SEASE, DEC'D
Late of Berwick Township, Adams County, Pennsylvania
Executrix: Kathleen S. Benner, 285 Bowers Road, Littlestown, PA 17340
Attorney: Walton V. Davis, Esq., 116 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RUTH E. SELL, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executor: Richard B. Garrett, c/o Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331
Attorney: Douglas H. Gent, Esq., Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

ESTATE OF MELVIN L. SPANGLER, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executrix: Jean S. Brenner, 88 Hunter's Trail, Gettysburg, PA 17325
Attorney: Catherine J. Gault, Esq., 31 South Washington Street, Gettysburg, PA 17325

ESTATE OF HARLAND C. STAUB, SR. DEC'D
Late of Straban Township, Adams County, Pennsylvania
Executrix: Blanche R. Staub, 2500 Hunterstown-Hampton Road, New Oxford, PA 17350
Attorney: Walton V. Davis, Esq., 116 Baltimore Street, Gettysburg, PA 17325

ESTATE OF EARL F. WENSCHHOF, DEC'D
Late of Littlestown Borough, Adams County, Pennsylvania
Executor: PNC Bank, N.A., 10 York Street, Gettysburg, PA 17325
Attorney: Robert L. McQuaide, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CLAIR E. WILDASIN, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executors: Daniel M. Frey, 14 Center Square, Hanover, PA 17331; Catherine R. Deitz, R.D. 7, Box 7384, Spring Grove, PA 17362
Attorney: Daniel M. Frey, Esq., Daniel M. Frey & Associates, P.C., 14 Center Square, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF EDNA B. BUBB a/k/a EDNA P. BUBB, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executrices: Lucille K. Miller, 5810 Old Harrisburg Road, York Springs, PA 17372; Bonita C. Hoke, 2742 Brisner Road, Middletown, PA 17057-4411
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF MARY E. BUCHANAN a/k/a ANNA MARY ELIZABETH BUCHANAN, DEC'D
Late of McSherrystown Borough, Adams County, Pennsylvania
Executrix: Shirley Wood, 1719 Bollinger Road, Finksburg, MD 21048
Attorney: Puhl & Eastman, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF GERALDINE H. CARTY, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executrix: Joni L. Knott, 90–15 Knight Road, Gettysburg, PA 17325
Attorney: Mary A. Kenney, Esq., 1085 Stone Jug Road, Biglerville, PA 17307

ESTATE OF MARY F. DOVE a/k/a MARY FRANCES DOVE, DEC'D
Late of Latimore Township, Adams County, Pennsylvania
Executor: Charles J. Dove, 92 Blackberry School Road, York Springs, PA 17372
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF JESSIE G. NOEL a/k/a JESSIE H. NOEL, DEC'D
Late of Bonneauville Borough, Adams County, Pennsylvania
Executors: Monica Pittenturf, now Monica N. McGoldrick, 19 Maple Street, Gettysburg, PA 17325; Roger T. Noel, 107 Cottage Lane, New Oxford, PA 17350
Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARIE RISANO, DEC'D
Late of Conewago Township, Adams County, Pennsylvania
Executor: Arthur A. Risano, 29 Lincoln Drive, Hanover, PA 17331
Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-979 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of December, 1998, 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 the following described tract of land situate, lying and being in Berwick Township, Adams County, Pennsylvania, further bounded and limited as follows, to-wit:

BEGINNING for a corner at an existing steel pin on the southerly edge of Applewood Drive at previously approved Lot No. 3 as shown on the hereinafter referred to Subdivision Plan; thence along said previously approved Lot No. 3, the following two (2) courses and distances: 1) South eleven (11) degrees fifty-eight (58) minutes seven (07) seconds West three hundred twenty-six and twenty-three hundredths (326.23) feet to an existing steel pin; 2) South seventy-two (72) degrees seven (07) minutes three (03) seconds West three hundred eighty-six and twenty-seven hundredths (386.27) feet to an existing steel pin at lands now or formerly of Charles R. Chubb as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Charles R. Chubb, South eighty-five (85) degrees five (05) minutes twenty (20) seconds West two hundred fifty-five and eighty hundredths (255.80) feet to a steel pin (set) at lands now or formerly of Warren T. Becker as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Warren T. Becker, North thirty-two (32) degrees fifty-one (51) minutes thirty (30) seconds West, one thousand four hundred twenty-six and thirty-seven hundredths (1,426.37) feet to an existing stone at lands now or formerly of Raymond G. Burkett and Martha E. Fisher as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Raymond G. Burkett and Martha E. Fisher and also along lands now or formerly of Paul C. Sipe, Jr. as shown on the hereinafter referred to Subdivision Plan, North twenty-six (26) degrees no (00) minutes no (00) seconds East eight hundred forty-five and twenty-eight hundredths (845.28) feet to a steel pin (set) at lands now or formerly of Donald J. Sneeringer as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Donald J. Sneeringer and also along lands now or formerly of Paul C. Sipe, Jr. as shown on the hereinafter referred to Subdivision Plan, North eighty-eight (88) degrees fifty-two (52) minutes ten (10) seconds East seven hundred thirty-five and ninety hundredths (735.90) feet to an existing steel pin at lands now or formerly of Elmer H. Miller, Jr. as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Elmer H. Miller, Jr., South thirteen (13) degrees forty-eight (48) minutes thirty (30) seconds East three hundred eighteen and forty-two hundredths (318.42) feet to a point at lands now or formerly of Mitchell O. Diviney as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Mitchell O. Diviney, South thirteen (13) degrees twenty-one (21) minutes ten (10) seconds East two hundred sixty-six and forty-one hundredths (266.41) feet to a steel pin (set) at lands now or formerly of John C. Leese as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of John C. Leese, South seventy-eight (78) degrees fifty-nine (59) minutes twenty-two (22) seconds West one hundred fifty-eight and thirty-seven hundredths (158.37) feet to an existing steel pin at previously approved Lot No. 5 on the hereinafter referred to Subdivision Plan; thence along said previously approved Lot No. 5, the following two (2) courses and distances: 1) South forty-nine (49) degrees fifty-nine (59) minutes twenty-four (24) seconds West one hundred eighty-eight and twenty-five hundredths (188.25) feet to an existing steel pin; 2) South forty (40) degrees no (00) minutes thirty-six (36) seconds East, seven hundred twenty-seven and thirty-five hundredths (727.35) feet to an existing steel pin at lands now or formerly of Robert E. Lawyer as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Robert E. Lawyer, the following three (3) courses and distances: 1) South eleven (11) degrees fifty-eight (58) minutes seven (07) seconds West one hundred seventy and two hundredths (170.02) feet to an existing steel pin; 2) South seventy-eight (78) degrees one (01) minute fifty-three (53) seconds East four hundred forty-two and sixty-three hundredths (442.63) feet to a point; 3) by a curve to the right having a radius of two hundred eighty (280.00) feet, the long chord of which is South sixty-six (66) degrees forty-nine (49) minutes one (01) second East one hundred eight and ninety-one hundredths (108.91) feet for an arc distance of one hundred nine and sixty-one hundredths (109.61) feet to a point on the northerly edge of Applewood Drive aforesaid, where it intersects with Township Road (T-706) as shown on the hereinafter referred to Subdivision Plan; thence in and along Township Road (T-306), South twenty-eight (28) degrees fifty-three (53) minutes fifty-three (53) seconds East one hundred sixty-two and forty-one hundredths (162.41) feet to a point in the centerline of SR-0194 (Abbottstown Pike) as shown on the hereinafter referred to Subdivision Plan; thence crossing said SR-0194 (Abbottstown Pike) North seventy-eight (78) degrees six (06) minutes twelve (12) seconds West twenty-seven and fifty-nine hundredths (27.59) feet to a point on the aforesaid southerly edge of Applewood Drive; thence in and along the southerly edge of Applewood Drive, the following three (3) courses and distances: 1) by a curve to the left having a radius of two hundred thirty (230.00) feet, the long chord of which is North thirty-two (32) degrees twelve (12) minutes one (01) second West sixty-three and forty-seven hundredths (63.47) feet for an arc distance of sixty-three and sixty-seven hundredths (63.67) feet to an existing steel pin; 2) by a curve to the left having a radius of two hundred thirty (230.00) feet, the long chord of which is North fifty-nine (59) degrees forty (40) minutes fifty-two (52) seconds West one hundred forty-nine and thirty-eight hundredths (149.38) feet for an arc distance of one hundred fifty-two and fourteen hundredths (152.14) feet to a point; 3) North seventy-eight (78) degrees one (01) minute fifty-three (53) seconds West three hundred forty-two and sixty-three hundredths (342.63) feet to the point and place of BEGINNING. CONTAINING 42.276 acres.

The above description was taken from a Survey prepared by Mort, Brown and Assoc. for TRIPLO, INC., dated April 3, 1989, bearing File No. E-496.

SEIZED and taken into execution as the property of **Joseph A. Lawrence & Wanda J. Lawrence** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
July 11, 1998.

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 January 4, 1999, and distribution will be made in accordance with said schedule, unless. exceptions are filed thereto within 10 days after 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.

11/13, 20, 25

Adams County Legal Journal

Vol. 40 November 25, 1998 No. 27, pp. 169–172

NOTICE

PURSUANT to the October 18, 1998 Order of the Court of Common Pleas of Adams County, Pennsylvania, NOTICE IS HEREBY GIVEN that Raymond Newman, Sheriff of Adams County, has filed a Petition in the Court of Common Pleas of Adams County to dispose of the following weapons and ammunition (case no. 98-S-1023):

1. Topper Jr. Model 490, 410-Gauge Hand Gun 2. R.G. 63 Rohm 38 Caliber 4-in Revolver 3. Titan 25-Caliber Automatic Revolver 4. Astra 9MM Semi-Automatic Revolver 5. 2 Colt Cobra 2 inch Airweight Revolvers 6. Ruger Blackhaws 357 Magnum 4 inch Revolver 7. 1 H&R Sportsman 22 Caliber Revolver Model 999 8. RTS Starater Pistol 9. Smith & Wesson 2 inch 32 Special 10. 2 380 Cal. Colt Clips 11. Stoeger Arms Co. 22 Cal. L.R 12. David Industries, Model P-32 Cal. 13. Smith & Wesson 38 Cal. Revolver 14. R/G 38 Cal. Revolver 15. Beretta 22 Cal. LR Pistol - Model 948 16. Derringer Model D 38 Caliber 17. Browning Double Action Shotgun - 12 gauge 18. Mossburg 500A - 12 Gauge Riot Gun 19. Winchester Model 94 Lever Action 30-30 Rifle 20. Stevens Model 73 22-Caliber Single Shot Rifle 21. Winchester 30-30 22. Mossberg 20 gauge 23. Revelation 410 gauge 24. Marlin 22 Caliber 25. Winchester Model 94 lever action 30-30 26. Commemorative Winchester Model 94 Lever Action 30-30 Rifle 27. American Gun - 12 Gauge 28. 30 rounds 33 caliber 29. 15 rounds 30/30 caliber-Western Super X 30. 26 rounds 380 caliber - in bag 31. 41 rounds 380 caliber - in box 32. 1 round 16 gauge shotshell 33. 1 round 20 gauge shotshell

Any person claiming an ownership interest in any of the above weapons or ammunition should contact the Sheriff of Adams County at (717) 337-9828, go to the Sheriff's office located on the lower level of the Adams County Courthouse, 111 Baltimore Street, Gettysburg, Pennsylvania, contact the attorney for the Sheriff as listed below, or appear at the hearing of this motion on **December 21, 1998 at 9:00 a.m.** at the Adams County Courthouse. Any such claimant should bring with him or her any proof of ownership he or she may have.

Wendy Weikal-Beauchat, Esq.
116 Baltimore Street
Gettysburg, Pennsylvania 17325
(717) 334-4515
Solicitor to the Adams County Sheriff

11/20, 25 & 12/4

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY,
PENNSYLVANIA

CIVIL ACTION LAW
MORTGAGE FORECLOSURE
NO. 98-S-744

PRAECIPE

PNC BANK, NATIONAL ASSOCIATION, Plaintiff,

vs.

KARYL M. SPEELMAN, Defendant

TO THE PROTHONOTARY:

PLEASE ENTER JUDGMENT in the above-captioned proceeding in favor of Mellon Bank, N.A., Plaintiff, and against Karyl M. Speelman, Defendant, in the amount of Fourteen Thousand Three Hundred Ninety-Two and 00/100 Dollars ($14,392.00), plus interest in the amount of $2.0844 per day, through the date of payment, including on and after the date of entry of judgment on this complaint, and costs, and for foreclosure and sale of the mortgaged property. Judgment is entered pursuant to Pa. R.C.P. 3031 for failure to file an Answer on behalf of Defendant to Plaintiff's Complaint within twenty (20) days of service thereof and after a 10-day Notice was sent.

Respectfully submitted,
Saidis, Shuff & Masland
Johnna J. Deily, Esquire
Supreme Court ID #53147
2109 Market Street
Camp Hill, PA 17011
Attorney For Plaintiff

Date: November 9, 1998

I hereby certify that a notice of intent to take a default judgment was forwarded to Karyl M. Speelman, via publication in the Adams County Legal Journal on October 23, 1998 and The Gettysburg Times on October 20, 1998. The aforesaid notice was contained within an envelope bearing the return address of the undersigned. The notice has not been returned to the undersigned as undeliverable or otherwise. Copies of the advertisements are attached hereto and marked Exhibits "A" and "B", respectively.

Johnna J. Deily, Esquire

NOTICE OF JUDGMENT

To: Karyl M. Speelman

YOU ARE HEREBY NOTIFIED that on November 10, 1998 the following judgment has been entered against you in the above captioned case:

Judgment in favor of the Plaintiff, Mellon Bank and against the Defendant, Karyl M. Speelman, in the amount of Fourteen Thousand Three Hundred Ninety-Two and 00/100 Dollars ($14,392.00) plus interest in the amount of $2.0844 per day, through the date of payment, including on and after the date of entry of judgment on this complaint, and costs, and for foreclosure and sale of the mortgaged property. Judgment was entered pursuant to Pa. R.C.P. 3031 for failure to file an Answer on behalf of the Defendant within twenty (20) days of service thereof and after a 10-day Notice was sent.

Dated: 11/10/98

_____
Prothonotary

I hereby certify that the proper person to receive this notice under Pa. R.C.P. 236 is:

Karyl M. Speelman
309 Forreset Drive
Gettysburg, PA 17325

Karyl M. Speelman

Por este medio se le esta notificando que el _____ de _____ del 1998, el/la siguiente (Orden), (Decreto), (Fallo), ha sido anotado en contra suya en el caso mencionado en el epigrafe.

FECHA: _____

_____
Protonotario

Certifico que la siguiente direccion as la del defendido/a segun indicada en el certificado de residencia:

Karyl M. Speelman
309 Forrest Drive
Gettysburg, PA 17325

Respectfully submitted,
Saidis, Shuff & Masland

Dated: November 9, 1998

Johanna J. Deily, Esquire
Supreme Court ID #53147
2109 Market Street
Camp Hill, PA 17011
Attorney For Plaintiff

11/25

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices. Published every Friday by Adams County Bar Association, John W. Phillips, Esq., Editor and Business Manager.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 111 Baltimore Street, Room 305, Gettysburg, PA 17325.

Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 334-6781 ext 336

Second-class postage paid at Gettysburg, PA 17325.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-85 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of December, 1998, 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 unit in the property known, named and identified in the Declaration referred to below as Oxford Commons Condominiums, located in the Borough of New Oxford, Adams County, PA, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101, et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, PA, of a Declaration dated September 13, 1996 and recorded October 18, 1996 in Record Book 1276, Page 3, (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such Declaration as Unit Declaration No. 29 as more fully bounded and described in such Declaration, together with a proportionate undivided interest in the Common Elements as defined in such Declaration.

UNDER AND SUBJECT TO any and all covenants, conditions, restrictions, rights of way, easements and agreements of record, including (but not limited to) those contained in the instruments recorded in the aforesaid Recorder's Office in said Declaration.

TOGETHER with the limited common elements appurtenant as more fully shown in said Declaration, together with all amendments and supplements thereto recorded on or before the date hereof..

HAVING ERECTED THEREON a dwelling known as 8 Oxford Court, New Oxford, PA 17350. Parcel No. 184A-029.

SEIZED and taken into execution as the property of **William E. Brookhart** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
October 3, 1998.

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 January 4, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

11/13, 20, 25

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-533 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of December, 1998, 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 land situate in Liberty Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a nail in the center of a public road at corner of land now or formerly of David C. Tressler and wife, said road being Cove Haven Road; thence in said road, South 5 degrees 44 minutes West 340.40 feet to a nail in the road; thence in said road, South 25 degrees 33 minutes West 72.80 feet to a nail in road at land now or formerly of Clyde McClean; thence in a stone row to creek and passing a stream by said McClean land, North 51 degrees 1 minute 5 seconds West 436.13 feet to an existing iron pin; thence by land now or formerly of Earl Harbaugh, North 35 degrees 30 minutes East 244.50 feet to an iron pin; thence by land now or formerly of David C. Tressler and wife, and through an iron pin at an 18-inch red oak set back 11.40 feet from the end of this line, South 75 degrees 15 minutes 45 seconds East 271.38 feet to a nail in the road, the place of BEGINNING. CONTAINING 2.588 acres.

This description taken from draft of survey prepared by Harry Knox, Registered Surveyor, and being known as Lot No. 1-A on said draft; subdivision plan recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, on March 11, 1977, in Plat Book 13 at Page 41.

TOGETHER WITH the right to use a 20-foot right-of-way which follows the northwestern boundaries herein described in a general direction as now visible by inspection on said premises.

IT BEING the same premises which Martin A. Hardman and Beulah M. Hardman, husband and wife, by deed dated July 17, 1979 and recorded the same date in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 346-520, granted and conveyed unto Clyde J. Marsh and Margaret V. Marsh.

Tax Map B-18, Parcel 1-A.

SEIZED and taken into execution as the property of **Clyde J. Marsh & Margaret V. Marsh** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
September 5, 1998.

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 January 11, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

11/20 & 25, 12/04

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-396 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 January, 1999, 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 the following described tract, piece or parcel of land, situate, lying and being in the Borough of McSherrystown, County of Adams, State of Pennsylvania, bounded and limited as follows, to wit:

BEGINNING at a point on the North side of North Street at corner of Oxford Avenue; Thence along North Street, South 60 degrees, 40 minutes West, 161.5 feet to a 16 feet wide alley; Thence along said alley North 30 degrees 45 minutes West, 68.5 feet to lands now or formerly of Bessie M. Spies; Thence North 53 degrees, 35 minutes East, 162.05 feet to Oxford Avenue; Thence along the said Oxford Avenue South 30 degrees, 22 minutes East, 71.75 feet to the place BEGINNING.

EXCEPTING THEREFROM and thereout, nevertheless, all that certain parcel of land which the Commonwealth of Pennsylvania acquired by its Declaration of Taking filed in the Court of Common Pleas of Adams County, Pennsylvania, to No. 326 August Term, 1966, as set forth on the Plan Exhibit 5 of the Notice of Condemnation which is recorded in the Recorder of Deeds Office of Adams County, Pennsylvania, in Misc. Book 5, Page 842.

BEING the same premises which William H. Brady, widower, granted and conveyed unto Dennis Charles Rishel and Denise M. Rishel by Deed dated July 27, 1992 and recorded in the Office of the Recorder of Deeds for Adams County on August 4, 1992 in Deed Book 636, Page 1001.

Seized in execution as the property of Dennis Charles Rishel a/k/a Dennis C. Rishel and Denise M. Rishel.

SEIZED and taken into execution as the property of **Dennis C. Rishel and Denise M. Rishel** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
October 3, 1998.

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 February 1, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

11/20, 25 & 12/04

COMMONWEALTH VS. BRADY

1. As a general rule, the First Amendment prohibits government interference with an individual's freedom of speech and only very narrow exceptions, such as obscenity, defamation, "fighting words" and speech designed to coerce through fear and intimidation have been carved out of this general guarantee of freedom.
2. Speech is constitutionally protected by the First Amendment regardless of how vulgar or lacking in taste or social, political or artistic content it may be.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-173-97, COMMONWEALTH VS. FREDERICK MARK BRADY.

Mary-Jo Mullen, Esq., Office of Attorney General
John J. Mooney, III, Esq., for Defendant

OPINION PURSUANT TO Pa. R.App.P. 1925(a)

Kuhn, J., December 5, 1997.

Appellant, Frederick Mark Brady, appeals the entry of a guilty verdict entered on August 26, 1997, after a summary appeal hearing on the charge of Harassment in violation of 18 Pa. C.S.A. §2709(a)(3). Sentence was imposed on September 25, 1997 and was limited to a $125 fine and costs.

The factual background, presented in a light most favorable to the Commonwealth, reveals the following situation.

Appellant is a neighbor of Tammy Boyle who resides at 339 Third Street, Hanover, Adams County. The parties have been neighbors for 26 years. Contrary to popular belief, fences do not always make good neighbors. Sometime within the last several years the Boyles erected a fence on their common boundary with Appellant. A dispute arose whether the fence encroached onto Appellant's property.

The most recent incident in question occurred on October 29, 1996. However, leading up to that date there was obvious friction between the parties. On January 27, 1994, Mrs. Boyle contacted Officer John Luckenbaugh of the Conewago Township Police Department complaining that Appellant had parked his truck on an easement that gives him access across Boyle's property to get to a parking area on his property. When contacted, Appellant stated he would not move his truck off of the easement. On May 15, 1995, Appellant contacted Officer Luckenbaugh requesting that the Boyles be arrested. Appellant had erected "No Trespassing" signs to keep the Boyles off his property but was complaining that they were allowing grass to grow along his side of the fence. On May 29, 1996, Officer Carl Boyer of the Conewago Township Police Department was called to the Boyle

residence and observed Appellant knocking down sections of the aforementioned fence with a sledgehammer. He told the officer that a pending lawsuit over the fence was taking too long and he was "tired of it." On July 1, 1996, Officer William Hartlaub of the same department was called by Appellant to meet at his home. Apparently, the parties' attorneys had arranged for the Boyles to move the fence approximately one foot. Appellant wanted the workers who were there for that purpose to be arrested for trespassing when they were on any portion of his property as part of that task.

On October 29, 1996, Tammy Boyle again called Officer Luckenbaugh to the Boyle residence. The credible evidence showed that while in the area of the car port on her property Appellant started coming toward her, from a distance of 10–12 feet, waving his arms and yelling "You fat bitch. The next time you throw shit on my deck...I know it was you. I'll stuff it down your throat and up your ass." Mrs. Boyle did not respond to Appellant's threats although she was visibly upset and shaken by the incident. Appellant approached the officer and stated that Mrs. Boyle put dog feces on his property and admitted saying to her that "The next time you throw dog shit in my yard I'll stuff it down your throat." He then offered to show the officer the substance that he claimed was thrown onto his property. Both parties have dogs so the officer declined the invitation.

The relevant section of the Crimes Code provides that:

> §2709. Harassment
>
> A person commits a summary offense when, with the intent to harass, annoy or alarm another person:
>
> ...
>
> (3) He engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose.

Appellant has raised the following issues:

(1) That the Court erred in allowing testimony regarding incidents not set forth in the citation.

(2) That Appellant's speech is constitutionally protected.

(3) That Appellant's speech served a legitimate purpose and did not constitute a course of conduct.

The citation identified Appellant's verbal threats made on October 29, 1996, as the incident for which the charge was being filed. Appellant did not appear for the hearing.[1] However, when Officer

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1 Pa.R.Crim.P. 1117(c)—The summary appeal could have been dismissed because of Appellant's failure to appear, however, Commonwealth made no such request.

Boyer was called to testify Appellant's counsel objected to any evidence of incidents occurring on dates other than October 29, 1996. Counsel argued that he did not have prior notice of the other incidents and therefore was unprepared to respond.

Pa.R.Crim.P. 53(a)(6) requires that a citation set forth "a summary of the facts sufficient to advise the defendant of the nature of the offense charged." The citation did not set forth any reference to the prior incidents and if counsel had requested a continuance it would have been granted. However, counsel simply argued that the discovery rules required the Commonwealth to release information regarding the other incidents. (T4). This argument fails because the discovery rules (Rule 304 and 305) only apply to court cases (see definition Rule 3) and not to a summary case. Additionally, Appellant made no discovery request.

We note that Pa. R.Crim.P. 90 requires that defects in the form of a citation must be prejudicial to a defendant not whether it is prejudicial to his attorney. Here, as noted, Appellant failed to appear. How can it be said that he was prejudiced? Appellant may well have acknowledged awareness of the incidents in question and have been adequately prepared to respond. Whether he was actually prejudiced is therefore unknown (see Comment to Rule 90 requiring actual prejudice).

The prior incidents are relevant to establish a course of conduct and to establish the nature of the relationship between the parties and; circumstantially, intent.

The second issue raised by Appellant concerns whether his speech was constitutionally protected.

Superior Court recently wrote,

> As a general rule, the first Amendment prohibits government interference with an individual's freedom of speech. Only very narrow exceptions, such as obscenity, defamation, and "fighting words" have been carved out of this general guarantee of freedom...Any speech which does not fit into one of these narrow exceptions is constitutionally protected regardless of how vulgar or lacking in taste or social, political, or artistic content. Commonwealth v. Zullinger, 450 Pa. Super. 533, 537, 676 A.2d. 687, 689 (1996) (citations omitted).

Likewise, speech designed to coerce through fear and intimidation is not protected. Commonwealth v. Schierscher, 447 Pa. Super. 61, 668 A.2d 164 (1995).

In this case Appellant's speech clearly can be viewed as intending to seriously annoy or alarm Mrs. Boyle by putting her in fear of physical harm anytime Appellant would conclude, for whatever reason, that she

placed dog feces on his property. As such Appellant's speech is not constitutionally protected.

The third issue raised by Appellant is whether the conduct complained of served a legitimate purpose or did not constitute a course of conduct.

There is no denying that these parties have experienced a boundary dispute and that Appellant has a legitimate interest in preserving the integrity of his property. It is likewise unchallenged that the singular verbal tirade spewed by appellant on October 29, 1996 would not constitute a course of conduct. Commonwealth v. Spiropoulos, 14 D&C4th 495 (Carbon 1992), Commonwealth v. Stull, 1 D&C4th 24 (Crawford 1988). However, the record in this case goes well beyond a legitimate dispute.

Appellant's animosity toward the Boyles is clearly evident. In May 1995, he tried to have them arrested for not cutting grass on his side of the fence despite his "no trespassing" signs. In May 1996, Appellant is seen knocking down the fence with a sledgehammer because the duration of the civil process irritated him. In July 1996, he tried to have Boyles' workers arrested for attempting to move the fence despite his acknowledgment that the attorneys had arranged for the work to be done. Then on October 29, 1996, while yelling and waving his arms, Appellant verbally threatened to perform unnatural acts upon Mrs. Boyle with a disgusting substance. There is no record evidence that Appellant actually saw Mrs. Boyle throw the substance onto Appellant's property and the Court observed nothing in her demeanor that would suggest she would engage in such behavior. The record does suggest that Appellant will act irrationally.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-979 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of December, 1998, 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 the following described tract of land situate, lying and being in Berwick Township, Adams County, Pennsylvania, further bounded and limited as follows, to-wit:

BEGINNING for a corner at an existing steel pin on the southerly edge of Applewood Drive at previously approved Lot No. 3 as shown on the hereinafter referred to Subdivision Plan; thence along said previously approved Lot No. 3, the following two (2) courses and distances: 1) South eleven (11) degrees fifty-eight (58) minutes seven (07) seconds West three hundred twenty-six and twenty-three hundredths (326.23) feet to an existing steel pin; 2) South seventy-two (72) degrees seven (07) minutes three (03) seconds West three hundred eighty-six and twenty-seven hundredths (386.27) feet to an existing steel pin at lands now or formerly of Charles R. Chubb as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Charles R. Chubb, South eighty-five (85) degrees five (05) minutes twenty (20) seconds West two hundred fifty-five and eighty hundredths (255.80) feet to a steel pin (set) at lands now or formerly of Warren T. Becker as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Warren T. Becker, North thirty-two (32) degrees fifty-one (51) minutes thirty (30) seconds West, one thousand four hundred twenty-six and thirty-seven hundredths (1,426.37) feet to an existing stone at lands now or formerly of Raymond G. Burkett and Martha E. Fisher as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Raymond G. Burkett and Martha E. Fisher and also along lands now or formerly of Paul C. Sipe, Jr. as shown on the hereinafter referred to Subdivision Plan, North twenty-six (26) degrees no (00) minutes no (00) seconds East eight hundred forty-five and twenty-eight hundredths (845.28) feet to a steel pin (set) at lands now or formerly of Donald J. Sneeringer as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Donald J. Sneeringer and also along lands now or formerly of Paul C. Sipe, Jr. as shown on the hereinafter referred to Subdivision Plan, North eighty-eight (88) degrees fifty-two (52) minutes ten (10) seconds East seven hundred thirty-five and ninety hundredths (735.90) feet to an existing steel pin at lands now or formerly of Elmer H. Miller, Jr. as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Elmer H. Miller, Jr., South thirteen (13) degrees forty-eight (48) minutes thirty (30) seconds East three hundred eighteen and forty-two hundredths (318.42) feet to a point at lands now or formerly of Mitchell O. Diviney as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Mitchell O. Diviney, South thirteen (13) degrees twenty-one (21) minutes ten (10) seconds East two hundred sixty-six and forty-one hundredths (266.41) feet to a steel pin (set) at lands now or formerly of John C. Leese as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of John C. Leese, South seventy-eight (78) degrees fifty-nine (59) minutes twenty-two (22) seconds West one hundred fifty-eight and thirty-seven hundredths (158.37) feet to an existing steel pin at previously approved Lot No. 5 on the hereinafter referred to Subdivision Plan; thence along said previously approved Lot No. 5, the following two (2) courses and distances: 1) South forty-nine (49) degrees fifty-nine (59) minutes twenty-four (24) seconds West one hundred eighty-eight and twenty-five hundredths (188.25) feet to an existing steel pin; 2) South forty (40) degrees no (00) minutes thirty-six (36) seconds East, seven hundred twenty-seven and thirty-five hundredths (727.35) feet to an existing steel pin at lands now or formerly of Robert E. Lawyer as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Robert E. Lawyer, the following three (3) courses and distances: 1) South eleven (11) degrees fifty-eight (58) minutes seven (07) seconds West one hundred seventy and two hundredths (170.02) feet to an existing steel pin; 2) South seventy-eight (78) degrees one (01) minute fifty-three (53) seconds East four hundred forty-two and sixty-three hundredths (442.63) feet to a point; 3) by a curve to the right having a radius of two hundred eighty (280.00) feet, the long chord of which is South sixty-six (66) degrees forty-nine (49) minutes one (01) second East one hundred eight and ninety-one hundredths (108.91) feet for an arc distance of one hundred nine and sixty-one hundredths (109.61) feet to a point on the northerly edge of Applewood Drive aforesaid, where it intersects with Township Road (T-706) as shown on the hereinafter referred to Subdivision Plan; thence in and along Township Road (T-306), South twenty-eight (28) degrees fifty-three (53) minutes fifty-three (53) seconds East one hundred sixty-two and forty-one hundredths (162.41) feet to a point in the centerline of SR-0194 (Abbottstown Pike) as shown on the hereinafter referred to Subdivision Plan; thence crossing said SR-0194 (Abbottstown Pike) North seventy-eight (78) degrees six (06) minutes twelve (12) seconds West twenty-seven and fifty-nine hundredths (27.59) feet to a point on the aforesaid southerly edge of Applewood Drive; thence in and along the southerly edge of Applewood Drive, the following three (3) courses and distances: 1) by a curve to the left having a radius of two hundred thirty (230.00) feet, the long chord of which is North thirty-two (32) degrees twelve (12) minutes one (01) second West sixty-three and forty-seven hundredths (63.47) feet for an arc distance of sixty-three and sixty-seven hundredths (63.67) feet to an existing steel pin; 2) by a curve to the left having a radius of two hundred thirty (230.00) feet, the long chord of which is North fifty-nine (59) degrees forty (40) minutes fifty-two (52) seconds West one hundred forty-nine and thirty-eight hundredths (149.38) feet for an arc distance of one hundred fifty-two and fourteen hundredths (152.14) feet to a point; 3) North seventy-eight (78) degrees one (01) minute fifty-three (53) seconds West three hundred forty-two and sixty-three hundredths (342.63) feet to the point and place of BEGINNING. CONTAINING 42.276 acres.

The above description was taken from a Survey prepared by Mort, Brown and Assoc. for TRIPLO, INC., dated April 3, 1989, bearing File No. E-496.

SEIZED and taken into execution as the property of **Joseph A. Lawrence & Wanda J. Lawrence** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
July 11, 1998.

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 January 4, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

11/13, 20, 25

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, that on November 3, 1998, an application was filed under the Fictitious Name Act, No. 1982-295 (54 Pa. C.S. 311) in the Office of the Secretary of the Commonwealth of Pennsylvania setting forth that: Thomas C. Crist is the only person or entity owning or interested in a business, the character of which is to conduct retail sales, and that the name, style and designation under which said business is and will be conducted is FLEX AND FLANIGAN'S SUTLER SHOP and the location where said business is and will be located is 240 Steinwehr Avenue, Gettysburg, PA, 17325.

11/25

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 BERNICE E.CULLISON, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Administrator: Nelson G. Mattingly, 503 Bentwood Lane, York, PA 17404
Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF BETTY C. GASS, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executor: John W. Gass, 110 Pleasant View Dr., Strasburg, PA 17579
Attorney: G. Steven McKonly, 119 Baltimore Street, Hanover, PA 17331

ESTATE OF KIMBERLY A. KORNBAU, DEC'D
Late of the Borough of East Berlin, Adams County, Pennsylvania
Administrator: Kevin L. Kornbau, 105 Curtis Drive, East Berlin, PA 17316
Attorney: Daniel Carn, Esq., 98 South George St., Suite 210, York, PA 17401

ESTATE OF DOROTHY M. RHOADS, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Executrix: Joyce A. Albright, 420 Oxford Road, Gardners, PA 17324
Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF ROBERT S. PITTMAN, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Administratrix: Anna M. Pittman, 95 Walker Avenue, Gettysburg, PA 17325
Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ERNEST W. WOLFE, DEC'D
Late of Hamiltonban Township, Adams County, Pennsylvania
Executors: David J. Topper, 60 Hickory Bridge Road, Orrtanna, PA 17353; Teresa L. Fowler, 925 Old Waynesboro Road, Fairfield, PA 17320
Attorney: Edward G. Puhl, Esq. Puhl & Eastman, 16 Lincoln Square, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF M. FRANCES JACOBS, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Co-executors: Charles David Jacobs, 4527 23rd Avenue North, St. Petersburg, FL 33713; Gwen Louise Jacobs, 108 Carlisle Street, Gettysburg, PA 17325
Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF STANLEY R. PATRICK, DEC'D
Late of Gettysburg Borough, Adams County, Pennsylvania
Administratrix: Mary Lee Patrick, 261 South Washington Street, Gettysburg, PA 17325
Attorney: John W. Phillips, Esq., 101 West Middle Street, Gettysburg, PA 17325

ESTATE OF MARY S. PHILLIPS, DEC'D
Late of New Oxford Borough, Adams County, Pennsylvania
Executrix: Gail P. Della Pelle, c/o Michael R. Perna, Esq., Rigler, Perna & Vosburgh, 610 Millers Hill, P.O. Box 96, Kennett Square, PA 19348
Attorney: Michael R. Perna, Esq., Rigler, Perna & Vosburgh, 610 Millers Hill, P.O. Box 96, Kennett Square, PA 19348

ESTATE OF ETHEL MAE SEASE, a/k/a ETHEL MAY SEASE, DEC'D
Late of Berwick Township, Adams County, Pennsylvania
Executrix: Kathleen S. Benner, 285 Bowers Road, Littlestown, PA 17340
Attorney: Walton V. Davis, Esq., 116 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RUTH E. SELL, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executor: Richard B. Garrett, c/o Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331
Attorney: Douglas H. Gent, Esq., Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

ESTATE OF MELVIN L. SPANGLER, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executrix: Jean S. Brenner, 88 Hunter's Trail, Gettysburg, PA 17325
Attorney: Catherine J. Gault, Esq., 31 South Washington Street, Gettysburg, PA 17325

ESTATE OF HARLAND C. STAUB, SR. DEC'D
Late of Straban Township, Adams County, Pennsylvania
Executrix: Blanche R. Staub, 2500 Hunterstown-Hampton Road, New Oxford, PA 17350
Attorney: Walton V. Davis, Esq., 116 Baltimore Street, Gettysburg, PA 17325

ESTATE OF EARL F. WENSCHHOF, DEC'D
Late of Littlestown Borough, Adams County, Pennsylvania
Executor: PNC Bank, N.A., 10 York Street, Gettysburg, PA 17325
Attorney: Robert L. McQuaide, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CLAIR E. WILDASIN, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executors: Daniel M. Frey, 14 Center Square, Hanover, PA 17331; Catherine R. Deitz, R.D. 7, Box 7384, Spring Grove, PA 17362
Attorney: Daniel M. Frey, Esq., Daniel M. Frey & Associates, P.C., 14 Center Square, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-670 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 January, 1999, 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 tract of land situate, lying and being in Mount Joy Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a P.K. nail in the center line of Pennsylvania Route 97, said P.K. nail being South 52 degrees 15 minutes 00 seconds East, 384 feet, more or less from corner of land now or formerly of James Martin; thence in said center line of Pennsylvania Route 97, South 52 degrees 15 minutes 00 seconds East, 478.40 feet to a P.K. nail in said center line at corner of other land now or formerly of John P. Randall; thence by said other land of John P. Randall and passing through U.T.C. Pole #96 set back 23 feet from the last mentioned point, South 29 degrees 30 minutes 00 seconds West, 463.00 feet to a steel fence post; thence by same, North 52 degrees 15 minutes 00 seconds West, 478.40 feet to a pipe; thence continuing by same, and passing through U.T.C. #94, set back 25.00 feet from the next mentioned point, North 29 degrees 30 minutes 00 seconds East, 463.00 feet to a P.K. nail, the place of BEGINNING. CONTAINING 5.032 Acres.

The above description was taken from a draft survey prepared by Adams County Surveyors, dated April 26, l979, as recorded in Adams County Plat Book 28 at page 35.

BEING the same premises which Clarence C Hawkins, Sr. and Kay F. Hawkins, husband and wife, by Deed dated August 9, 1989 and recorded August 9, 1989 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 530, Page 557, granted and conveyed to Barry N. Poole and Kelly A. Poole, husband and wife, Debtors herein.

TAX PARCEL NO.: MP H15-47

SEIZED and taken into execution as the property of **Barry N. Poole & Kelly A. Poole** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
October 10, 1998.

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 February 1, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

11/25, 12/4, & 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-97 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 January, 1999, 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 THE RIGHT, title, interest and claim of Cheryl J. Shew of, in and to the following described property:

All the following described real estate situated in Carroll Valley Borough, Adams County, Commonwealth of Pennsylvania, lots numbered 148, 149, 150, and 201, Sec. B, Charnita Inc., having erected thereon a dwelling know and numbered as 29 Meadowlark Trail, Fairfield, PA 17320. DBV 445, page 955. Map No. 29-158.

SEIZED and taken into execution as the property of **Cheryl J. Shew** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
October 10, 1998.

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 February 1, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

11/25, 12/4, & 11