

Adams County Legal Journal

Vol. 42

June 2, 2000

No. 1, pp. 1-4

CONTINUING LEGAL EDUCATION PROGRAM

Taxes Affecting Decedents' Estates

June 27, 2000 – 9:00 a.m. - 5:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

Alternative Medical Approaches to Reduce Stress

June 28, 2000 – 9:00 a.m. - 10:00 a.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 0, Ethics – 1

Trial Evidence in Criminal Cases

August 3, 2000 – 9:00 a.m. - 1:30 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

Issues in Commercial Mortgage Foreclosures

August 9, 2000 – 9:00 a.m. - 1:30 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

Advanced Nursing Home Planning

September 13, 2000 – 9:00 a.m. - 5:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

Fundamentals of Family Law

September 19, 2000 – 9:00 a.m. - 5:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

Tax Planning Strategies for Small Businesses

October 19, 2000 – 9:00 a.m. - 1:30 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 3.5, Ethics – 0

(continued)

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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Litigating in Orphan's Court

November 9, 2000 – 9:00 a.m. - 5:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

REGISTRATION THROUGH P.B.I. 800-247-4724

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-910 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of June, 2000, 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 the Borough of Carroll Valley (formerly Liberty Township), Adams County, Pennsylvania, being Lot No. 58 in Section RD, bounded and described as follows:

BEGINNING at a point in the center of Hickory Trail (formerly Autumn Trail) at Lot No. 57; thence by said lot North 45 degrees 54 minutes 40 seconds East, 225 feet to Lot No. 25; thence by said Lot South 44 degrees 05 minutes 20 seconds East, 100 feet to Lot No. 59; thence by said lot South 45 degrees 54 minutes 40 seconds West, 225 feet to a point in the center of said Hickory Trail; thence in said Hickory Trail North 44 degrees 05 minutes 20 seconds West, 100 feet to the place of BEGINNING.

THE above description was taken from a plan of lots labeled "Section RD of Charnita, Inc." dated November 18, 1968, prepared by Gordon I. Brown, R.S., and recorded in Adams County Plat Book 1 at page 36.

Tax Parcel # 43-76

TITLE TO SAID PREMISES IS VESTED IN Edward C. Sanders and Deborah L. Sanders, husband and wife by Deed from Robert L. Donnelly and Gail A. Donnelly, husband and wife dated 3/28/92, recorded 4/1/92, in Record Book 620, Page 619.

SEIZED and taken into execution as the property of **Edward C. Sanders & Deborah L. Sanders** and to be sold by me.

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 17, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/19, 26 & 6/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-136 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of June, 2000, 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 58 page 41 (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such Declaration as Unit No. 4D as more fully bounded and described in such Declaration, together with a proportionate undivided

interest in the Common Elements as defined in such Declaration.

Tax Parcel #5-184A

TITLE TO SAID PREMISES IS VESTED IN Thomas R. Carrick and Rebecca A. Holt by Deed from Philip R. Garland t/d/b/a Garland Construction dated 11/24/98, recorded 1/26/99, in Record Book 1751 page 338.

SEIZED and taken into execution as the property of **Thomas R. Carrick a/k/a Thomas Robert Carrick & Rebecca A. Carrick a/k/a Rebecca A. Holt** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 24, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/2, 9 & 16

STAKE VS. SCHRIVER ET AL

1. It is established beyond argument that consideration of challenges to the legal sufficiency of a complaint is restricted to material facts set forth in the complaint.
2. It is always incumbent upon a judge to determine whether facts pled support any theory upon which recovery is possible.
3. An action for conversion...involves deprivation of a right of property, use or possession of a chattel or interference therewith, without justification or consent. Good faith is not a defense. Plaintiff need not be in possession. A secured party may maintain an action against a transferee.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil No. 98-S-950. B. DEAN STAKE VS. PETER J. SCHRIVER
AND VICKIE L. SCHRIVER AND KEVIN ARNSBERGER.

Joseph A. Macaluso, Esq., for Plaintiff
Steven E. Geduldig, Esq., for Defendants, Peter J. Schriver and
Vickie L. Schriver
Wendy Weikal-Beauchat, Esq., for Defendant, Kevin Arnsberger
Spicer, P.J., February 1, 1999.

OPINION ON PRELIMINARY OBJECTIONS

According to the complaint filed September 30, 1998, plaintiff and defendants Peter J. Schriver and Vickie L. Schriver (individually and collectively referred to hereinafter as Schrivens) entered into a real estate installment sales agreement (the Agreement). That contract, dated April 24, 1997, provided for the sale of approximately four acres of land for \$35,000.00, payable in monthly installments over a period of ten years. It also provided, inter alia:

7. Possession. Buyers shall have actual possession of the entire Property from the date of this Agreement, subject to the limitations contained in this Agreement.

9. Condition of the Property: Improvements. Buyer shall keep the Property in as good condition as at present. Seller shall have the right to enter upon the Property at reasonable times and upon reasonable notice for the purpose of making necessary inspections...

10. Time of the Essence: Seller's Right to Terminate Agreement. Time shall be OF THE ESSENCE of this agreement and of all its terms and conditions. In case the Buyers fail to make any monthly payments within fifteen (15) days after the due date thereof...then Seller at her sole and exclusive discretion may elect to terminate this Agreement; whereupon this Agreement shall become null and void

and the amounts paid by Buyers pursuant to this Agreement shall be forfeited to Seller as rent and liquidated damages for failure to fulfill this Agreement completely. ...

Plaintiff alleged that she terminated the agreement after Schrivens failed to make the monthly payment for August, 1998. She then made an inspection and discovered that timber had been cut and removed. She has sued both Schrivens and Kevin Arnsberger (Arnsberger), the person who harvested the timber. The suit against Arnsberger is styled as an action in negligence, in that defendant cut the timber without making a diligent inquiry respecting who was the owner. Schrivens have filed an answer with New Matter. Arnsberger filed preliminary objections in the nature of a demurrer on October 26, 1998.

There have been other legal maneuvering, which we presently ignore, because everything can be resolved through a ruling on the demurrer. At this point of the proceedings, it is only necessary to mention that Arnsberger attached an affidavit to his preliminary objections stating that he was aware of and read the Agreement, noted that it did not prohibit logging, and that Schrivens represented that the agreement was only a financing arrangement. He said he concluded that Schrivens had the right to sell the timber.

He attached a notice to plead to his preliminary objections.

First of all, the undersigned feels constrained to express strong disapproval of this approach. Although a preliminary objection is a pleading, and there are instances when facts may and should be determined, this is not such a case. It is established beyond argument that consideration of challenges to the legal sufficiency of a complaint is restricted to material facts set forth in the complaint. *Gabel v. Cambuzzi*, 532 Pa. 584, 616 A.2d 1364 (1992); *Willet v. Pennsylvania Medical Catastrophe Fund*, 549 Pa. 613, 702 A.2d 850 (1997), reargument dn. January 12, 1998. One authority states:

Preliminary objections in the nature of demurrer require the court to resolve issues solely on the basis of pleadings; no testimony or other evidence outside a complaint may be considered to dispose of legal issues presented by demurrer.

3 *Goodrich Amram* 2d §1028(c):8

This defendant's attempt to use a demurrer as a motion for summary judgment has already wasted some (admittedly not much) judicial time, because we were required to previously address plaintiff's preliminary objections to the demurrer. Counsel should be aware of limitations placed on preliminary objections by Rules of Civil Procedure and court decisions, and tailor actions accordingly.

This being said, we conclude that the demurrer must be overruled. We do so for reasons we will discuss, and with the understanding that crucial questions remain concerning the transaction between Schrivens and plaintiff. Although it has been common practice to provide that installment land sales contracts are converted into leases upon default of an installment payment, see 1 *Ladner, Conveyancing in Pennsylvania* §6.15, such provisions are subject to caveat. For example, Superior Court has held that when an agreement would otherwise qualify as a residential mortgage, it will be treated as such for purposes of 41 P.S. § 404. *Anderson Contracting Co. v. Daugherty*, 274 Pa. Super. 13, 417 A.2d 1227 (1979), appeal dismissed, 492 Pa. 630, 425 A.2d 329 (1980). That decision gave installment purchasers the right to cure a default in accordance with the act, *supra*. It may be that plaintiff's claim against Arnsberger may be mooted if Schrivens are given an opportunity and do cure their alleged default.

However, we cannot determine if Schrivens may be granted that opportunity, either because of the act, *supra*, or other reasons. We note only that the Agreement does not specifically provide for conversion into a lease upon default, nor does it stipulate that payments be considered only rent. The use of "liquidated damages" may raise issues concerning penalties¹. Even so and perhaps especially so, Arnsberger's request for judgment is premature.

Schriens's dispute with plaintiff has yet to be resolved. On the basis of the complaint, we know only that Schrivens acquired the right to force plaintiff to convey legal title in accordance with the terms of the Agreement. *Ladner, supra*, §6.10, and have not fulfilled those terms. That leaves Arnsberger faced with plaintiff's assertions

¹ *Hanrahan v. Audubon Builders, Inc.*, 418 Pa. Super. 497, 614 A.2d 748 (1992), is one of several cases holding that liquidated damages must bear a reasonable relationship to actual damages or will be unenforceable as penalties. Four considerations are listed, along with the statement that the issue is usually a mixed question of law and fact.

of rights in and to the timber. At this point, plaintiff is entitled to maintain the action for several reasons:

Negligence: Arnsberger acknowledges that he owed plaintiff a duty of ordinary care (brief, page 4), but argues that he satisfied the duty for reasons set forth in his affidavit. We have already pointed out that we may not consider the affidavit, and even if we could, judgment may not be granted on the basis of plaintiff's oral testimony. *Resolution Trust Corporation v. Urban Development Authority of Pittsburgh*, 536 Pa. 219, 638 A.2d 972 (1994).

Conversion: Arnsberger's demurrer must be overruled if well pleaded facts in the complaint support a recovery under any theory of law. *Willet*, supra. It is always incumbent upon a judge to determine whether facts pled support any theory upon which recovery is possible. *Kelly by Kelly v. Ickes*, 427 Pa. Super. 542, 629 A.2d 1002 (1993), opinion corrected October 8, 1993. Thus, the fact that plaintiff styles her cause of action as sounding in negligence is not dispositive. Allegations would support an action for conversion. That tort involves deprivation of a right of property, use or possession of a chattel or interference therewith, without justification or consent. Good faith is not a defense. *Underhill Coal Mining Co. v. Hixon*, 438 Pa. Super. 219, 652 A.2d 343 (1994); alloc. dn. 541 Pa. 642, 663 A.2d 693 (1995). Plaintiff need not be in possession. A secured party may maintain an action against a transferee. *Chrysler Credit Corporation v. Smith*, 434 Pa. Super. 429, 643 A.2d 1098 (1994); alloc. dn. 539 Pa. 664, 652 A.2d 834 (1994).

Based only on complaint allegations, a finder of fact could conclude that Arnsberger, a) breached a duty of due care when he harvested timber without checking with the record title holder, namely plaintiff, and b) interfered with plaintiff's rights to the timber without justification or plaintiff's consent.

For reasons discussed, the attached order is entered.

ORDER

And Now, this 1ST day of February, 1999, Kevin Arnsberger's preliminary objections to the complaint are overruled. In accordance with Pa. R.C.P. 1028(d), defendant is given twenty days to plead over.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-849 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of June, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Carroll Valley Borough, formerly Liberty Township, Adams County, Pennsylvania, being Lot No. 26 in Section B, more particularly bounded and described as follows:

BEGINNING at a point in the center of Sky Lark Trail at Lot No. 25; thence by said lot, South 3 degrees 21 minutes 40 seconds East, 200 feet to Lot No. 41; thence by said lot, South 86 degrees 38 minutes 20 seconds West, 100 feet to Lot No. 27; thence by said lot, North 3 degrees 21 minutes 40 seconds West, 200 feet to a point in the center of said Sky Lark Trail; thence in said Sky Lark Trail, North 86 degrees 38 minutes 20 seconds East, 100 feet to the place of BEGINNING.

THE above description was taken from a plan of lots labeled "Section B Supplemental Charnita, dated July 10, 1965, prepared by Gordon L. Brown, R.S., recorded in Adams County Miscellaneous Docket 4 at page 654.

BEING the same which Edward F. Lane, widower, by his deed dated March 19, 1998, and intended to be recorded immediately prior hereto in the Office of the Recorder of Deeds of Adams County, Pennsylvania, sold and conveyed unto Country Builders Custom Homes, Inc., a Pennsylvania corporation, the Mortgagor herein.

TOGETHER WITH the rights and SUBJECT TO the restrictions, reservations, conditions and easements as contained in Miscellaneous Book 4 at page 654 and Deed Book 277 at page 278.

SEIZED and taken into execution as the property of **Country Builders Custom Homes, Inc.**, and to be sold by me.

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 17, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/19, 26 & 6/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-905 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of June, 2000, 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 ground, as improved, situate in Conewago Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a stake for a corner at the Oxford Avenue (T-476); thence by said Oxford Road North 30 degrees West 50 feet to a stake for a corner at Lot formerly of Augustine Strausbaugh, now or formerly of Larry J. Hollinger and Barbara J. Hollinger; thence by lands now or formerly of Larry J. Hollinger and Barbara J. Hollinger, South 69 3/4 degrees West, 164.5 feet to a stake for a corner at a 20 foot wide public alley on the rear; thence by said public alley South 38 degrees East 50 feet to a stake for a corner at Lot formerly of John Markle; thence by lands formerly of John Markle, now or formerly of Ronald P. Markle and Catherine E. Markle, North 69 3/4 degrees East, 164.5 feet to a stake for a corner at the Oxford Road, the place of BEGINNING.

Tax Parcel # K-13-54

SEIZED and taken into execution as the property of **Craig A. Hess** and to be sold by me.

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 17, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/19, 26 & 6/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-1035 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of June, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point at Lynx Drive and Lot No. 133A; thence along Lot No. 133A South Forty-three (43) degrees, Nineteen (19) minutes, Twenty-four (24) seconds East One hundred Eighty (180.00) feet to a point at Conewago Industrial Park; thence along said lands South Forty-six (46) degrees, Forty (40) minutes, Thirty-six (36) seconds West Sixty-five (65.00) feet to a point at Lot No. 134; thence along Lot No. 134 North Forty-three (43) degrees, Nineteen (19) minutes, Twenty-four (24) seconds West One hundred Eighty (180.00) feet to a point at Lynx Drive; thence along Lynx Drive North Forty-six (46) degrees, Forty (40) minutes, Thirty-six (36) seconds East Sixty-five (65.00) feet to the point and place of BEGINNING. CONTAINING 11,700 square feet and identified as Lot No. 133B on a plan of lots entitled Lot 133, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plan Book 58 page 90.

TITLE TO SAID PREMISES IS VESTED IN David Gregory Herb and Barbara J. Herb, husband and wife by Deed from Leroy E. Hoffheins and Nadine E. Hoffheins, husband and wife dated 7/8/94 recorded 7/18/94 in Record Book 913 page 151.

SEIZED and taken into execution as the property of **David Gregory Herb & Barbara J. Herb** and to be sold by me.

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 17, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/19, 26 & 6/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-87 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of June, 2000, 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 the Village of McKnightstown, Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an existing iron pin on the South side of a 20 foot wide alley which leads to Legislative Route 01018 at corner of lands now or formerly of David W. Teets; thence along the South side of said 20 foot wide alley, South 53 degrees 40 minutes 6 seconds East, 190.47 feet to an iron pin on the South side of said alley; thence by lands now or formerly of LeRoy C. Martin, South 31 degrees 41 minutes 21 seconds West, 90.95 feet to an existing iron pin; thence by lands of same North 60 degrees 25 minutes 52 seconds West, 181.58 feet to an existing iron pin; thence by lands now or formerly of David W. Teets, North 27 degrees 27 minutes 54 seconds East, 113.40 feet to the existing iron pin on the South side of the 20 foot wide alley, the place of BEGINNING. CONTAINING 18,921.1 square feet.

The above description is taken from a draft of survey dated July 1, 1976 by Wilbur L. Plank, R.E.

Parcel #D 11-53A

TITLE TO SAID PREMISES IS VESTED IN Robert J. Brogan and Deborah A. Brogan, husband and wife, by Deed from Steven R. Koontz and Catherine J. Koontz, husband and wife, dated 9/19/97, recorded 9/22/97, in Record Book 1442, Page 176.

SEIZED and taken into execution as the property of **Robert J. Brogan (Deceased) & Deborah A. Brogan** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 24, 2000, 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.

5/26, 6/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-830 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of June, 2000, 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 Huntington Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING for the Northwest corner hereof at a railroad spike found near the center of Township Road T-588 (Ground Oak Church Road) at corner of land now or formerly of Samuel J. Bricker; thence by said land of Bricker, South 64 degrees 55 minutes 39 seconds East, 140.70 feet to a concrete monument set at an iron pipe found at the Northeast corner hereof, which pipe is located at the Northwest corner of land now or formerly of Robbie Lynn Barrick; thence by said land of Barrick, by land now or formerly of Katherine A. Riley and running through an iron pipe found 146.94 feet from the end of this course, South 18 degrees 12 minutes 20 seconds West, 325.81 feet to a steel pin set at the Northeast corner of Lot No. 2 on the plan of lots herebelow identified; thence by said Lot No. 2 and running through a steel pin set 25.00 feet from the end of this course, North 64 degrees 54 minutes 24 seconds West, 179.76 feet to a railroad spike set in or near the center of aforementioned Township Road T-588; thence in said road, North 25 degrees 05 minutes 36 seconds East, 323.40 feet to the above-described place of BEGINNING. CONTAINING 1.190 Acres.

IMPROVEMENTS consist of a residential dwelling.

BEING PREMISES: 75 Ground Oak Church Road, Gardners, PA 17324

SOLD as the property of **RICKY E. BUPP** and **MELVA J. BUPP**

TAX PARCEL #22-G05-0014B-000

SEIZED and taken into execution as the property of **Ricky E. & Melva J. Bupp** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 24, 2000, 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.

5/26, 6/2 & 9

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, of Act 1982 - 295 (54 Pa. C.S. 311), the undersigned entity (ies) announce their intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania, on approximately May 22, 2000, a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of **MEDITATING FOR LIFE**, with its principal place of business at 1951 Herrs Ridge Road, Gettysburg, PA 17325-7229. The names and addresses of the persons owning or interested in said business are Lynda H. Terry, residing at 1951 Herrs Ridge Road, Gettysburg, PA 17325-7229. The character or nature of the business is meditation instruction and consulting services.

6/2

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 GEORGE C. COMER, JR., DEC'D

Late of Penn Township, York County, Pennsylvania

Executrix: Sally A. Harkay, 124 Circle Drive, Hanover, PA 17331

Attorney: Alison H. Peterson, Esq., Peterson & Peterson, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF ANNA B. DRACHA, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325

Attorney: Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JANET L. GROSS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Holly Messinger, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF ROGER LEE SMITH, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administratrix: Karen A. Shepherd, 3216 Preston Hollow Rd., Fort Worth, TX 76109

Attorney: Chester G. Schultz, Esq., 145 Baltimore St., Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF DORCAS J. MYERS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator: Jane M. Klivans

Attorney: Fred E. Kilgore, Esq., 2550 Kingston Road, Suite 115, York, PA 17402

ESTATE OF OSCAR C. RICE, JR., DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: William L. Rice, 108 North Williams Avenue, York, PA 17404

Attorney: Chester G. Schultz, Esq., 145 Baltimore Street, Gettysburg, PA 17325

ESTATE OF FLORENCE M. STAM-BAUGH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Glenn O. Stambaugh, 122 Ruth Avenue, Hanover, PA 17331

Attorney: James T. Yingst, Esq., Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF MARY E. WITTER A/K/A MARY EDNA WITTER, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Representative: Harold E. Miller, 710 Buchanan Valley Road, Orrtanna, PA 17353

Attorney: Thomas M. Painter, Ullman and Painter, 10 East Main Street, Waynesboro, PA 17268

THIRD PUBLICATION

ESTATE OF IGNACIO C. CARBAJAL, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Administrator: Hipolito Carbajal, 10 Diana Drive, New Oxford, PA 17350

Attorney: Clayton R. Wilcox, Esq., 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF MATTIA M. HANKEY, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executor: Kathryn C. Ilgenfritz, c/o 29 North Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., Countess Gilbert Andrews

ESTATE OF ELEANOR A. JACOBS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: F. Ann Guarneschelli, 4724 Laurel Dr., Harrisburg, PA 17110

Attorney: Ralph D. Oylar, Esq., 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF H. RENEE KLEINFELTER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Barbara K. Lawver, 55 Ridgewood Way, Gettysburg, PA 17325

Attorney: Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARY K. KOPP, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Co-Executrices: Susan K. Hyde, 56 Allen Drive, Hanover, PA 17331; Elizabeth A. Staub, 117 White Fence Lane, York, PA 17404

Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, PA 17331

ESTATE OF HAZEL R. LAWVER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Phyllis Mae Bream, P.O. Box 105, Fairfield, PA 17320

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARY FRANCES LYNCH, DEC'D

Late of Borough of Littlestown, Adams County, Pennsylvania

Executor: Phillip E. Schaszberger, 37 North Queen Street, Littlestown, PA 17340

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

ESTATE OF MABEL I. WISENSALE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Eileen P. Maitland, 310 McKinley Avenue, Hanover, PA 17331; Steven K. Wisensale, P.O. Box 565, Essex, CT 06426

Attorney: Thomas E. Miller, Esq., Miller & Shultis, P.C., 249 York Street, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-865 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of June, 2000, 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 ground, together with the improvements thereon erected, situate, lying and being on the South side of South Street, in the Borough of McSherrystown. Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a point on the South side of South Street at lands now or formerly of Lester Berkheimer; thence by the same, South 31 degrees 40 minutes East, 180 feet to a point on the North side of a 16 foot alley; thence by said alley, South 57 degrees 40 minutes West, 45 feet to a point at other lands now or formerly of Clarence C. Smith; thence by the same, North 31 degrees 40 minutes West, 180 feet to a point on the south side of South Street, aforesaid; thence by the same, North 57 degrees 40 minutes East, 45 feet to a point at lands now or formerly of Lester Berkheimer, aforesaid, the point and place of BEGINNING.

Having thereon erected a dwelling known as 418 South Street, McSherrystown, PA 17344.

Being Map/Parcel No. 6-51.

Being the same premises which Mary T. Wilkinson, formerly known as Mary T. Hartlaub, granted and conveyed unto Daniel L. Keeney and Pamela A. Keeney by Deed dated September 13, 1996 and recorded September 18, 1996 in the Recorder of Deeds Office of Adams County in Record Book 1260, page 42.

SEIZED and taken into execution as the property of **Daniel L. Keeney & Pamela A. Keeney** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 24, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-106 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of June, 2000, 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 with improvements, situate on the West side of Cemetery Street, in the Borough of Littlestown, Adams County, Pennsylvania, adjoining land now or formerly of Samuel Althouse and formerly of J. Ernest Ohler, bounded and described as follows, to wit:

BEGINNING for a corner at lot now or formerly of Samuel Althouse and Cemetery Street, forty-four (44) feet and two (2) inches Southwest to corner of land formerly of J. Ernest Ohler; thence along said land one hundred and twenty-two (122) feet, more or less, Northwest to P.R.R. Co. right-of-way; thence along the said right-of-way, forty-four (44) feet and two (2) inches Northeast to lands now or formerly of Althouse; thence one hundred and twenty-two (122) feet, more or less, Southeast along said last mentioned lands to the place of BEGINNING.

BEING the same tract of land which Jonathan E. Teal and Linda S. Teal, by deed dated July 9, 1998, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1618 at page 300, conveyed to Jonathan E. Teal, the Defendant herein.

Improved with a two story single family residence with detached garage and shed.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 24, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/2, 9 & 16

Adams County Legal Journal

Vol. 42

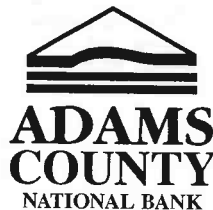
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Our Trust Department
makes a business of caring
for other people's property.



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-136 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of June, 2000, 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 58 page 41 (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such Declaration as Unit No. 4D as more fully bounded and described in such Declaration, together with a proportionate undivided interest in the Common Elements as defined in such Declaration.

Tax Parcel #5-184A

TITLE TO SAID PREMISES IS VESTED IN Thomas R. Carrick and Rebecca A. Holt by Deed from Philip R. Garland t/d/b/a Garland Construction dated 11/24/98, recorded 1/26/99, in Record Book 1751 page 338.

SEIZED and taken into execution as the property of **Thomas R. Carrick a/k/a Thomas Robert Carrick & Rebecca A. Carrick a/k/a Rebecca A. Holt** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 24, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-87 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of June, 2000, 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 the Village of McKnightstown, Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an existing iron pin on the South side of a 20 foot wide alley which leads to Legislative Route 01018 at corner of lands now or formerly of David W. Teets; thence along the South side of said 20 foot wide alley, South 53 degrees 40 minutes 6 seconds East, 190.47 feet to an iron pin on the South side of said alley; thence by lands now or formerly of LeRoy C. Martin, South 31 degrees 41 minutes 21 seconds West, 90.95 feet to an existing iron pin; thence by lands of same North 60 degrees 25 minutes 52 seconds West, 181.58 feet to an existing iron pin; thence by lands now or formerly of David W. Teets, North 27 degrees 27 minutes 54 seconds East, 113.40 feet to the existing iron pin on the South side of the 20 foot wide alley, the place of BEGINNING. CONTAINING 18,921.1 square feet.

The above description is taken from a draft of survey dated July 1, 1976 by Wilbur L. Plank, R.E.

Parcel #D 11-53A

TITLE TO SAID PREMISES IS VESTED IN Robert J. Brogan and Deborah A. Brogan, husband and wife, by Deed from Steven R. Koontz and Catherine J. Koontz, husband and wife, dated 9/19/97, recorded 9/22/97, in Record Book 1442, Page 176.

SEIZED and taken into execution as the property of **Robert J. Brogan (Deceased) & Deborah A. Brogan** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 24, 2000, 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.

5/26, 6/2 & 9

BIGGINS VS. STOOKEY

1. The general rule (is) that in the absence of a lease provision to the contrary, a tenant is not relieved from the obligation to pay rent despite the *total destruction* of the leased premises. The harshness of the rule may be avoided in two instances. First, where only a portion of the building is leased, total destruction of the building relieves the tenant of the obligation to pay rent. Second, where there is impossibility of performance, the tenant is released from obligations under the agreement.

2. Where a contract relates to specific property in existence, the maintenance of which is essential to the carrying out of the [sic] purpose of the agreement, the condition of its continued existence is implied in the agreement by law, just as though it were written in the agreement. The question then was whether the impossibility of performance or frustration of purpose, without fault of either party, arising from the destruction of the property or its use, ends all contractual obligations. Impossibility in that connection means not only strict impossibility but *impracticability* because of extreme and unreasonable difficulty, expense, or loss involved. At that point, it is up to the parties to waive the difficulties or seek to terminate the agreement.

3. Possessory rights regarding chattels that are attached to leased realty are determined by classifying the chattels as either fixtures or personal property. A fixture is an article of personal property which has been so annexed to the realty that it is regarded as part and parcel of the land. When a fixture is leased property by the lessor, the fixture becomes part of the leasehold estate and cannot be removed during the duration of the lease. Chattels that remain personal property, however, are not part of the leasehold and can be freely removed by their owner.

4. Under Pennsylvania law, there is a strong presumption that trade fixtures installed by a lessee remain the lessee's personal property. This rule is premised on the notion that lessees install trade fixtures for their own benefit and do not intend for the chattels to become part of the real estate.

5. Chattels used in connection with real estate can fall into one of three categories. First, chattels that are not physically attached to realty are always personalty. Second, chattels which are annexed to realty in such a manner that they cannot be removed without materially damaging either the realty or the chattels are always fixtures. The third category consists of those chattels that are physically connected to the real estate but can be removed without material injury to either the land or the chattels. When a chattel falls into the third category, its status as a fixture or as personalty depends upon the objective intent of the owner to permanently incorporate the chattel into real property, as evidenced by the proven facts and surrounding circumstances entered into evidence.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil No. 98-S-153. THOMAS G. BIGGINS VS. LOIS E. STOOKEY.

Thomas E. Miller, Esq., for Plaintiff
Edward G. Puhl, Esq., for Defendant
Kuhn, J., February 2, 1999.

OPINION ON DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Plaintiff, Thomas G. Biggins, filed a Complaint against Defendant, Lois E. Stookey, on February 11, 1998. On December 10, 1998, Defendant filed a motion for summary judgment. The matter is now before this Court for disposition.

STATEMENT OF FACTS

The record, viewed in the light most favorable to Plaintiff, presents the following facts: On April 18, 1996, Plaintiff leased to Defendant real property located on Drummer Drive in New Oxford, Adams County, Pennsylvania for the period of June 1, 1996, to June 1, 1999. Defendant only leased a portion of the premises with the remainder of the premises being operated by Plaintiff as an auction house. The portion of the property leased by Defendant was to be used as a delivery and take-out pizza restaurant. In or after June of 1996, the parties agreed that Defendant could permit some patron seating in the restaurant.

On August 19, 1997, a fire severely damaged Plaintiff's portion of the real estate. The fire was caused by an unknown arsonist. Plaintiff alleges that the damage to Defendant's portion of the property was minor. However, Plaintiff admits that in June of 1998 the Cincinnati Insurance Company paid him the sum of \$26,376.79 for damages to the leased portion of the premises. (Plaintiff's Answer to Defendant's Request for Admissions and to Defendant's Interrogatories at ¶ 4).

Plaintiff alleges that in or about Thanksgiving 1997 and without notice, Defendant abandoned the property and failed to pay rent after August 19, 1997, thereby breaching the lease agreement. Plaintiff further alleges that when Defendant abandoned the premises she "literally tore out fixtures." (Complaint at ¶ 13). Some fixtures taken included plumbing, toilet, urinal, vanities, doors, stainless steel paneling, H-VAC unit and ductwork, and a water heater. Plaintiff claims the premises were leased to Defendant for less than fair market rental value in consideration of the improvements that were to be made by Defendant and retained by Plaintiff. Plaintiff demands \$19,880.64 for the cost to repair the premises and replace the fixtures removed and \$14,700.00 for unpaid rent.

LEGAL DISCUSSION

Our Superior Court has recently set forth the standard for summary judgment as follows:

Initially, we note that our standard for reviewing a grant of summary judgment is well settled.

[S]ummary judgment is properly entered where the pleadings, depositions, answers to interrogatories, and admissions, together with affidavits demonstrate that no genuine, triable issue of fact exists and that the moving party is entitled to judgment as a matter of law. Pa.R.Civ.P. 1035(b); *Cosmas v. Bloomingdales Bros., Inc.*, 442 Pa.Super. 476, 480, 660 A.2d 83, 85 (1995) (citation omitted); *Aetna Casualty and Surety Company v. Roe*, 437 Pa.Super. 414, 419-20, 650 A.2d 94, 97 (1994) (citations omitted); *Accu-Weather, Inc. v. Prospect Communications, Inc.*, 435 Pa.Super. 93, 98-99, 644 A.2d 1251, 1254 (1994) (citation omitted); *Stidham v. Millvale Sportsmen's Club*, 421 Pa.Super. 548, 558, 618 A.2d 945, 950 (1992), *allocatur denied*, 536 Pa. 630, 637 A.2d 290 (1993) (citation omitted). The court must examine the record in the light most favorable to the non-moving party and resolve all doubts against the moving party. *Aetna Casualty and Surety Company v. Roe, supra*; *Accu-Weather v. Prospect Communications, supra*; *Stidham v. Millvale Sportsmen's Club, supra*. Moreover, the burden is on the moving party to prove that no genuine issue of material fact exists. *Accu-Weather v. Prospect Communications, supra* (citing *Overly v. Kass*, 382 Pa.Super. 108, 111, 554 A.2d 970, 972 (1989)). . . . *Butterfield v. Giuntoli*, 448 Pa.Super. 1, 10, 670 A.2d 646, 650 (1995). *Accord Roselli v. General Electric Co.*, 410 Pa.Super. 223, 226, 599 A.2d 685, 687 (1991), *allocatur granted*, 530 Pa. 645, 607 A.2d 255 (1992), *appeal discontinued* (1993). *See also* Pa.R.Civ.P. 1035.1-1035.4 (effective July 1, 1996). *Long v. Yingling*, ___ Pa. Super. ___, 700 A.2d 508, 512 (1997).

Defendant's first argument raised in her motion for summary judgment is that she had no obligation to continue under the lease due to destruction of the premises and/or frustration of the purpose of the lease. Defendant relies heavily on *Albert M. Greenfield & Co. v. Kolea*, 475 Pa. 351, 380 A.2d 758 (1977). In that case, two connected properties were leased, under two separate lease agreements, to Kolea for the storage of automobiles. One of the leased properties had a garage building located on the property. Neither lease discussed the parties' obligations in the event of destruction of the building.

After Kolea had occupied the premises for approximately one year, fire destroyed the building. The fire was labeled accidental. Kolea then refused to pay rent under either lease agreement. The Court discussed the general rule that in the absence of a lease provision to the contrary, a tenant is not relieved from the obligation to pay rent despite the total destruction of the leased premises. *Id.* at 759 (citing *Magaw v. Lambert*, 3 Pa. 444 (1846); *Hoy v. Holt*, 91 Pa. 88 (1879)). However, the Court went on to explain that the harshness of the rule may be avoided in two instances. First, where only a portion of the building is leased, *total destruction* of the building relieves the tenant of the obligation to pay rent. *Id.* (emphasis added) (citing *Moving Picture Co. of America v. Scottish Union & Nat'l. Ins. Co. of Edinburgh*, 244 Pa. 358, 90 A. 642 (1914)). Second, where there is impossibility of performance, the tenant is released from obligations under the agreement. *Id.* (citing *Greenberg v. Sun Shipbuilding Co.*, 277 Pa. 312, 121 A. 63 (1923)).

Under the first exception, and for purposes of this motion, Defendant would have to show that there is no genuine issue of material fact that the building in question was totally destroyed. Plaintiff has denied that there was total destruction of the building. However, Defendant claims that the payment of \$26,376.79 by Plaintiff's insurance company for damage to the nearly 1,300 square feet of the pizza shop portion of the premises evidences the fact that the property leased by Defendant was totally destroyed. Although the insurance payment is a good indication of the condition of the premises, the Court believes that the determination of "total destruction" of the pizza shop is a factual determination for which there remains a genuine issue of fact.

The second exception is related to impossibility of performance. Defendant argues that the fire, followed by Plaintiff's cessation of his auction business, frustrated the purpose of the lease and made Defendant's continued performance impossible or impracticable. Our Superior Court has held:

... where a contract relates to specific property in existence, the maintenance of which is essential to the carrying out the [sic] purpose of the agreement, the condition of its continued existence is implied in the agreement by law, just as though it were written in the agreement. The question then was whether the impossibility of performance or frustration of purpose, without fault of either party, arising from the destruction of the property or its use, ends all contractual obligations. Our Supreme Court noted the Restatement of Contracts § 454 also applies the test of impracticability rather than strict impossibility, stating: "[I]mpossibility in that connection means not only strict impossibility but *impracticability* because of extreme and unreasonable difficulty, expense, or loss involved. *Id.*, 378 Pa. at 282, 106 A.2d at 432. (emphasis in original). At that point, it is up to the parties to waive the difficulties or seek to terminate the agreement. *Id.*

Ellwood City Forge Corp. v. Fort Worth Heat Treating Company, Inc., 431 Pa. Super. 240, 248-9, 636 A.2d 219, 223 (1994) (citing *West v. Peoples First Nat'l. Bank & Trust Co.*, 378 Pa. 275, 106 A.2d 427 (1954)).

Even examining the record in the light most favorable to the non-moving party, it is clear that the purpose of the lease in question was frustrated by the fire damage to the building. Although the Court is not in a position to say the building was completely destroyed, there is no question that were Defendant required to continue with the lease she could not have used the premises for the purpose intended without extreme expense and difficulty. The lease clearly stated that its purpose was to have Defendant operate a restaurant business on the property. (Exhibit A, Complaint). Although Plaintiff claims the damage to the leased portion of the premises was minor, that allegation is contradicted by Plaintiff's own insurance company's payment

of over \$26,000.00 to renovate the restaurant.¹

The fire occurred on August 9, 1997. The lease term began June 1, 1996, and was to end June 1, 1999, with an option to continue the term for another 7 years. Thus, at the time of the fire Defendant had 21 months left on the initial lease term. Rent for the remaining 21 months would equal \$14,700.00 at the agreed upon rate of \$700.00 per month. If Defendant was also required to pay \$26,376.79 in repairs, in addition to rent for another 21 months, that would undoubtedly be an extreme expense constituting impossibility of performance due to impracticability. In addition, at least a portion of Defendant's business trade was related to Plaintiff's auction business, which was also destroyed and apparently not re-opened. Finally, there appears to have been an arson investigation, which delayed when repairs could be made. Thus, the Court believes that the purpose of the contract was frustrated by the fire damage to the leased premises and Defendant's duty to pay rent was terminated.

Defendant next argues that the fixtures removed from the premises were trade fixtures used in the running of her business and therefore rightfully removed by her. Our Superior Court has explained the law of fixtures as follows:

Possessory rights regarding chattels that are attached to leased realty are determined by classifying the chattels as either fixtures or personal property. *See Clayton v. Lienhard*, 312 Pa. 433, 436-37, 167 A. 321, 322 (1933). "A fixture is an article ... of personal property which has been so annexed to the realty that it is regarded as part and parcel of the land." *Smith v. Weaver*, 445 Pa.Super. 461, 467, 665 A.2d 1215, 1218 (1995). When a fixture is

¹ Plaintiff argues that he had no duty to fix the damage to the leased portion of the premises. The lease makes no provision indicating that either party has a duty to restore the leased portion of the premises due to fire or other unexpected damage. (Exhibit B, Plaintiff's Answer to Defendant's Request for Admissions and to Defendant's Interrogatories). Thus, Plaintiff is correct in his statement that he had no duty to fix the premises. *Brockett v. Carnes*, 273 Pa. Super. 34, 416 A.2d 1075 (1979) (holding that landlord is under no obligation to repair leased premises absent provision in lease). However, in the same regard, neither did Defendant. *See, Barbour Estate*, 36 D. & C. 2d 323 (Allegheny 1964) (holding that lessee had no obligation to restore building destroyed by fire by no fault of his own). While neither party had a duty to fix the restaurant, that does not mean that Defendant is required to uphold her end of the agreement when the purpose of the lease has been frustrated.

attached to leased property by the lessor, the fixture becomes part of the leasehold estate and cannot be removed during the duration of the lease. See 36A C.J.S. *Fixtures* § 33 (1961). Chattels that remain personal property, however, are not part of the leasehold and can be freely removed by their owner. See *Peoples-Pittsburgh Trust Co. v. Security Peoples Trust Co.*, 133 Pa.Super. 18, 23-24, 1 A.2d 520, 522 (1938)...Under Pennsylvania law, there is a strong presumption that trade fixtures installed by a lessee remain the lessee's personal property. E.g., *Willison v. Consolidation Coal Co.*, 536 Pa. 49, 53, 637 A.2d 979, 982 (1993); *Black v. Hoffman*, 324 Pa. 193, 198, 188 A. 149, 151 (1936). This rule is premised on the notion that lessees install trade fixtures for their own benefit and do not intend for the chattels to become part of the real estate. See *Cattie v. Joseph P. Cattie & Brothers, Inc.*, 403 Pa. 161, 164, 168 A.2d 313, 314 (1961) ... Chattels used in connection with real estate can fall into one of three categories. *Clayton v. Lienhard, supra*, at 436, 167 A. at 322. First, chattels that are not physically attached to realty are always personalty. *Id.* Second, chattels which are annexed to realty in such a manner that they cannot be removed without materially damaging either the realty or the chattels are always fixtures. *Id.* at 436-37, 167 A. at 322. The third category consists of those chattels that are physically connected to the real estate but can be removed without material injury to either the land or the chattels. *Id.* at 437, 167 A. at 322. When a chattel falls into the third category, its status as a fixture or as personalty depends upon the "objective intent of the [owner] to permanently incorporate [the] chattel into real property, as evidenced by the proven facts and surrounding circumstances entered into evidence." *Noll v. Harrisburg Area YMCA*, 537 Pa. 274, 288, 643 A.2d 81, 88 (1994).
Lehmann v. Keller, 454 Pa. Super. 42, 48-9, 684 A.2d 684 A.2d 618, 621 (1996).

What the parties in the case *sub judice* intended with regard to the various items installed by Plaintiff is disputed and therefore is a genuine issue of material fact not properly determined on a motion for summary judgment.

Accordingly, the attached Order is issued.

ORDER OF COURT

AND NOW, this 2nd day of February, 1999, Defendant's Motion for Summary Judgment is hereby granted in part and denied in part in accordance with the attached opinion.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-830 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of June, 2000, 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 Huntington Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING for the Northwest corner hereof at a railroad spike found near the center of Township Road T-588 (Ground Oak Church Road) at corner of land now or formerly of Samuel J. Bricker; thence by said land of Bricker, South 64 degrees 55 minutes 39 seconds East, 140.70 feet to a concrete monument set at an iron pipe found at the Northeast corner hereof, which pipe is located at the Northwest corner of land now or formerly of Robbie Lynn Barrick; thence by said land of Barrick, by land now or formerly of Katherine A. Riley and running through an iron pipe found 146.94 feet from the end of this course, South 18 degrees 12 minutes 20 seconds West, 325.81 feet to a steel pin set at the Northeast corner of Lot No. 2 on the plan of lots herebelow identified; thence by said Lot No. 2 and running through a steel pin set 25.00 feet from the end of this course, North 64 degrees 54 minutes 24 seconds West, 179.76 feet to a railroad spike set in or near the center of aforementioned Township Road T-588; thence in said road, North 25 degrees 05 minutes 36 seconds East, 323.40 feet to the above-described place of BEGINNING. CONTAINING 1.190 Acres.

IMPROVEMENTS consist of a residential dwelling.

BEING PREMISES: 75 Ground Oak Church Road, Gardners, PA 17324

SOLD as the property of RICKY E. BUPP and MELVA J. BUPP

TAX PARCEL #22-G05-0014B-000

SEIZED and taken into execution as the property of **Ricky E. & Melva J. Bupp** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 24, 2000, 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.

5/26, 6/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-237 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of July, 2000, 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 Reading Township, Adams County, Pennsylvania, bounded and described as follows:

BEING known as Lot No. 633 on a plan of lots of Lake Meade subdivision duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 1, page 4, and subject to all legal highways, easements, rights of way and restrictions of record.

Being known as 75 Curtis Drive
Property ID No. 2-10

TITLE TO SAID PREMISES IS VESTED IN Dean R. Green and Catherine L. Green, husband and wife, as tenants by the entirety by deed from Hamilton Homes, Inc., dated 9/5/1997 and recorded 9/9/1997 in Deed Book 1437 page 107.

SEIZED and taken into execution as the property of **Dean R. Green & Catherine L. Green** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 August 7, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-106 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of June, 2000, 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 with improvements, situate on the West side of Cemetery Street, in the Borough of Littlestown, Adams County, Pennsylvania, adjoining land now or formerly of Samuel Althouse and formerly of J. Ernest Ohler, bounded and described as follows, to wit:

BEGINNING for a corner at lot now or formerly of Samuel Althouse and Cemetery Street, forty-four (44) feet and two (2) inches Southwest to corner of land formerly of J. Ernest Ohler; thence along said land one hundred and twenty-two (122) feet, more or less, Northwest to P.R.R. Co. right-of-way; thence along the said right-of-way, forty-four (44) feet and two (2) inches Northeast to lands now or formerly of Althouse; thence one hundred and twenty-two (122) feet, more or less, Southeast along said last mentioned lands to the place of BEGINNING.

BEING the same tract of land which Jonathan E. Teal and Linda S. Teal, by deed dated July 9, 1998, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1618 at page 300, conveyed to Jonathan E. Teal, the Defendant herein.

Improved with a two story single family residence with detached garage and shed.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 24, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-33 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of July, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate in the Borough of York Springs, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the South curb line of Main Street at land now or formerly of C. F. Ditzler and Marie R. Ditzler, his wife; thence by said land South 53 1/2 degrees West 156 feet to a point on the North side of a 15 foot alley; thence by said alley North 36 1/2 degrees West 27.5 feet to a point at other land now or formerly of C. F. Ditzler and Marie R. Ditzler, his wife; thence by the same North 53 1/2 degrees East 156 feet to a point on the South curb line of Main Street aforesaid; thence by the same South 36 1/2 degrees East 27.5 feet to a point, the place of BEGINNING.

The above described parcel of land being the same which Wayne B. Ogburn and Shirley D. Ogburn, husband and wife, by their deed dated June 3, 1988 and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 490 at page 832, granted and conveyed unto William D. Hoffman, the Defendant herein.

IMPROVED WITH a building with mixed uses, York Springs Hardware on the first floor and apartments on the second floor.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 August 7, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/9, 16 & 23

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that on May 12, 2000, a certificate was filed under the Fictitious Names Act in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that Robert J. Croft, 182 Beaver Creek Road, Hanover, PA 17331 is the only person owning a business, which will be conducted under the name GOLDEN IMAGES BY BOB CROFT and the location where said business is and will be located is 182 Beaver Creek Road, Hanover, PA 17331.

Donald W. Dorr
Buchen, Wise & Dorr
Solicitor

6/9

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 FRANCIS H. MCKINNEY, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Pearl F. McKinney, 212 Stombach Street, McSherrystown, PA 17344

ESTATE OF CLARA A. SAGER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executors: Gordon H. Sager, 67 Linda Avenue, Hanover, PA 17331; Darrell M. Sager, 7 Hampshire Drive, New Oxford, PA 17350

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF GEORGE C. COMER, JR., DEC'D

Late of Penn Township, York County, Pennsylvania

Executrix: Sally A. Harkay, 124 Circle Drive, Hanover, PA 17331

Attorney: Alison H. Peterson, Esq., Peterson & Peterson, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF ANNA B. DRACHA, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325

Attorney: Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JANET L. GROSS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Holly Messinger, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF ROGER LEE SMITH, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administratrix: Karen A. Shepherd, 3216 Preston Hollow Rd., Fort Worth, TX 76109

Attorney: Chester G. Schultz, Esq., 145 Baltimore St., Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF DORCAS J. MYERS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator: Jane M. Klivans

Attorney: Fred E. Kilgore, Esq., 2550 Kingston Road, Suite 115, York, PA 17402

ESTATE OF OSCAR C. RICE, JR., DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: William L. Rice, 108 North Williams Avenue, York, PA 17404

Attorney: Chester G. Schultz, Esq., 145 Baltimore Street, Gettysburg, PA 17325

ESTATE OF FLORENCE M. STAMBAUGH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Glenn O. Stambaugh, 122 Ruth Avenue, Hanover, PA 17331

Attorney: James T. Yingst, Esq., Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF MARY E. WITTER a/k/a MARY EDNA WITTER, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Representative: Harold E. Miller, 710 Buchanan Valley Road, Orrtanna, PA 17353

Attorney: Thomas M. Painter, Ullman and Painter, 10 East Main Street, Waynesboro, PA 17268

CONTINUING LEGAL EDUCATION PROGRAM*Taxes Affecting Decedents' Estates*

June 27, 2000 – 9:00 a.m. - 5:00 p.m.
Room 307, Adams County Courthouse
Credits: Substantive Law – 5, Ethics – 1

Alternative Medical Approaches to Reduce Stress

June 28, 2000 – 9:00 a.m. - 10:00 a.m.
Room 307, Adams County Courthouse
Credits: Substantive Law – 0, Ethics – 1

Trial Evidence in Criminal Cases

August 3, 2000 – 9:00 a.m. - 1:30 p.m.
Room 307, Adams County Courthouse
Credits: Substantive Law – 4, Ethics – 0

Issues in Commercial Mortgage Foreclosures

August 9, 2000 – 9:00 a.m. - 1:30 p.m.
Room 307, Adams County Courthouse
Credits: Substantive Law – 4, Ethics – 0

Advanced Nursing Home Planning

September 13, 2000 – 9:00 a.m. - 5:00 p.m.
Room 307, Adams County Courthouse
Credits: Substantive Law – 5, Ethics – 1

Fundamentals of Family Law

September 19, 2000 – 9:00 a.m. - 5:00 p.m.
Room 307, Adams County Courthouse
Credits: Substantive Law – 5, Ethics – 1

Tax Planning Strategies for Small Businesses

October 19, 2000 – 9:00 a.m. - 1:30 p.m.
Room 307, Adams County Courthouse
Credits: Substantive Law – 3.5, Ethics – 0

Litigating in Orphan's Court

November 9, 2000 – 9:00 a.m. - 5:00 p.m.
Room 307, Adams County Courthouse
Credits: Substantive Law – 5, Ethics – 1

REGISTRATION THROUGH P.B.I. 800-247-4724

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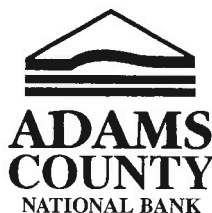
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In times like these,
you and your clients need
the experience and expertise
provided by a trust professional.



Member FDIC

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-170 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 August, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being in the Borough of McSherrystown, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point along the easterly right-of-way line of Westview Drive and Lot No. 20 of the hereinafter referred to subdivision plan; thence along said Lot No. 20, North seventy (70) degrees forty (40) minutes thirty-one (31) seconds East fifty-nine and zero hundredths (59.00) feet to a point; thence continuing along same, North forty-four (44) degrees thirty-nine (39) minutes twelve (12) seconds East forty-nine and four hundredths (49.14) feet to a point at Lot No. 19-A; thence along said Lot No. 19-A, South forty-five (45) degrees twenty (20) minutes forty-eight (48) seconds East forty-seven and sixty-three hundredths (47.63) feet to a point at lands now or formerly of Philip L. Hagarman; thence along said lands now or formerly of Philip L. Hagarman, South fifty-nine (59) degrees twenty-nine (29) minutes five (5) seconds West fifty-six and seventy hundredths (56.70) feet to a point; thence continuing along same, South thirty (30) degrees thirty (30) minutes fifty-five (55) seconds East thirteen and zero hundredths (13.00) feet to a point at Lot No. 21; thence along said Lot No. 21, South seventy (70) degrees forty (40) minutes thirty-one (31) seconds West seventy and ninety-five hundredths (70.95) feet to a point along the easterly right-of-way line of Westview Drive; thence along the easterly right-of-way line of Westview Drive, North nineteen (19) degrees nineteen (19) minutes twenty-nine (29) seconds West forty-five and zero hundredths (45.00) feet to a point, the place of BEGINNING.

CONTAINING 5,151.6703 square feet and being identified as Lot No. 20-A on the subdivision plan recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 66, page 82.

SUBJECT to a twenty (20) foot wide drainage easement along the boundary of said tract and Lot No. 21 as shown on the aforesaid subdivision plan.

TITLE TO SAID PREMISES IS VESTED IN Donna R. Hertz by Deed from Patrick J. Bethas, single and Lynda K. Racer, single dated 10/25/95, recorded 10/26/95, in Record Book 1100, Page 89.

SEIZED and taken into execution as the property of Donna R. Hertz and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 4, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/16, 23 & 30

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that on May 31, 2000, a certificate has been filed under Section 311 of the Act 1982-295 (54 Pa.C.S. Section 311), the Fictitious Name Act, in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that Carpenter's Helper, LLC is the only person or entity owning or interested in a business, the character of which is operating a bowling alley and that the name, style and designation under which said business is and will be conducted is CH LANES and the location where said business is and will be located is 6455 Old Harrisburg Road, York Springs, Pennsylvania 17372.

Douglas H. Gent
Solicitor

6/16

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, of Act 1982 - 295 (54 Pa. C.S. 311), the undersigned entity(ies) announce their intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania, on approximately May 11, 2000, a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of THE GOOD LIFE CLEANING SERVICE, with its principal place of business at 1564 Carrolls Tract Road, Orrtanna, PA. The names and addresses of the persons owning or interested in said business are Carol J. Leaman, residing at 1564 Carrolls Tract Road, Orrtanna, PA. The character or nature of the business is a maid service providing cleaning to residential and commercial customers.

6/16

SULLIVAN VS. SKI LIBERTY

1. Summary Judgment is proper when the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits demonstrate that there exists no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. In determining whether to grant summary judgment a trial court must resolve all doubts against the moving party and examine the record in a light most favorable to the non-moving party.

2. One who asserts an agency must prove the authority of the agent to do the act in question.

3. There are four grounds upon which an agency relationship exists and upon which a principal is bound by the act of the agent as against a third party. Those grounds include where the agent had 1) express authority directly granted by the principal to bind the principal as to certain matters, 2) implied authority to bind the principal to those acts of the agent that are necessary, proper and usual in the exercise of the agent's express authority, 3) apparent authority, i.e. authority that the principal has by words or conduct held the alleged agent out as having, and 4) authority that the principal is estopped to deny.

4. The law is clear that an agent cannot, by his or her words alone, invest himself or herself with apparent authority because such authority emanates from the action of the principal, not from the acts of the agent.

5. Apparent authority arises from words or conduct of the principal. It may be derived from a course of dealing or from a single transaction.

6. Where the principal places his agent in, or knowingly permits him to occupy a position in which, according to the ordinary experience and habits of mankind, it is usual for the occupant to have authority of a particular kind, anyone having occasion to deal with the agent is justified in inferring that he possesses such authority, unless the contrary shall be shown.

7. While the marital status in itself does not give rise to any agency relationship, it is competent evidence when considered with other circumstances as tending to establish that one spouse was agent for the other.

8. Although a third party cannot rely on the apparent authority of an agent to bind a principal if he has knowledge of the limits of the agent's authority, without such actual knowledge, the third party must exercise only reasonable diligence to ascertain the agent's authority.

9. A third party can rely on the apparent authority of an agent when this is a reasonable interpretation of the manifestation of the principal.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil. No. 98-S-1039. ABBY ALISE SULLIVAN, A MINOR BY
TERRY J. SULLIVAN, HER PARENT AND GUARDIAN, AND
TERRY J. SULLIVAN, INDIVIDUALLY, VS. SKI LIBERTY
OPERATING CORP.

John N. Keller, Esq., for Plaintiff

Hugh M. Emory, Esq., for Defendant

Kuhn, J., February 17, 1999.

OPINION ON DEFENDANT'S MOTION
FOR PARTIAL SUMMARY JUDGMENT

On December 12, 1996, Terry J. Sullivan (hereinafter "Husband") filed a Complaint on behalf of his minor daughter, Abby Alise Sullivan (hereinafter "Abby") and himself against Defendant. Count I seeks damages for personal injury suffered by Abby as a result of a skiing accident on February 9, 1996 at Defendant's ski resort, Ski Liberty, based upon Defendant's alleged negligence in not providing her with appropriate ski rental equipment, and Count II seeks recovery by Husband of medical and related expenses incurred as a result of Abby's accident. On November 2, 1998, Defendant filed a Motion for Partial Summary Judgment as to Count II, the claim for medical and related expenses. That Motion is before the Court for disposition.

Our Superior Court has recently set forth the standard for summary judgment as follows:

Summary Judgment is proper when the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits demonstrate that there exists no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. Pa.R.C.P. 1035.2, 42 Pa.C.S.A. In determining whether to grant summary judgment a trial court must resolve all doubts against the moving party and examine the record in a light most favorable to the non-moving party. *Id.* Summary judgment may only be granted in cases where it is clear and free from doubt that the moving party is entitled to judgment as a matter of law. *Id.*

Electronic Laboratory Supply Co. v. Cullen, ___ Pa. Super. ___, 712 A.2d 304, 307 (1998).

The pleadings and admissions reveal the following background. Abby was born on February 15, 1984. On November 30, 1995, her mother, Cynthia Sullivan (hereinafter "Wife") took Abby, then age 11, to Ski Liberty to enroll in the Ski School program. As part of the enrollment process Wife signed a single page, 13 paragraph, document entitled "Ski Liberty Rental and Ski School Liability Release Agreement." The agreement contained the following provision:

10. I hereby agree to release from any legal liability, Ski Liberty and its owners, agents and employees . . . for any and all liability for damage, injury or death to my child . . . resulting from the selection, installation, maintenance, adjustment or use of the rental equipment and for any claim based upon negligence . . . or other legal theory accepting full responsibility on behalf of my child for any and all such damage, injury or death which may result.

Preprinted beneath the signature line, upon which Wife executed her signature, are the words “The signature of one parent or guardian binds both parents or guardians concerning any losses they might have.”

The sole issue before the Court is whether Wife’s signature releasing Defendant from liability is binding upon Husband and, in turn, his claim for payment of medical and related expenses incurred on behalf of their daughter. In other words, was Wife acting as Husband’s authorized agent when she executed the release? Defendant concedes that the release is not binding on Abby. Plaintiff concedes that the release is binding upon Wife. See, *Galisson v. Shawnee Mountain Ski Area*, ___ Pa. Super. ___, 697 A.2d 281 (1996); *alloc. den.*, 702 A.2d 1060; *Simmons v. Parkette National Gymnastics Training Center*, 670 F. Supp. 140 (E.D. Pa. 1987). No Pennsylvania case precisely on point has been located.

Defendant has the burden of establishing the agency relationship. *Moyer v. Norristown-Penn Trust Co.*, 296 Pa. 26, 29, 145 A. 682, 683 (1929) (“One who asserts an agency must prove the authority of the agent to do the act in question”). For the reasons that follow, we conclude that the evidence of record presently, although close on the issue, is not sufficient to carry that burden.

There are four grounds upon which an agency relationship exists and upon which a principal is bound by the act of the agent as against a third party. Those grounds include where the agent had 1) express authority directly granted by the principal to bind the principal as to certain matters, 2) implied authority to bind the principal to those acts of the agent that are necessary, proper and usual in the exercise of the agent’s express authority, 3) apparent authority, i.e. authority that the principal has by words or conduct held the alleged agent out

as having, and 4) authority that the principal is estopped to deny. *Bolus v. United Penn Bark*, 363 Pa. Super. 247, 259, 525 A.2d 1215, 1221 (1986); *alloc. den.*, 541 A.2d 1138.

There is no evidence in the record to establish an agency based upon express or implied authority. In fact, in Husband's Affidavit he expressly denies giving Wife authority to sign any release. Defendant points to the preprinted language below Wife's signature on the release that her signature binds both parents as evidence of her authority. However, that act standing alone is inadequate to establish express authority. Wife's deposition was not presented for consideration so we have no knowledge of what she may say about express authority given to her.

The record comes much closer to evidencing Wife's apparent authority to sign the release on behalf of Husband. The law is clear that an agent cannot, by his or her words alone, invest himself or herself with apparent authority because such authority emanates from the action of the principal, not from the acts of the agent. *Turnway Corp. v. Soffer*, 461 Pa. 447, 458, 336 A.2d 871, 876 (1975). Thus, Wife's signature on the release above the wording which indicates that such signature binds both parents is not enough, in and of itself, to establish the authority.

As noted above, apparent authority arises from words or conduct of the principal. It may be derived from a course of dealing or from a single transaction. *Turner Hydraulics, Inc. v. Susquehanna Construction Corp.*, 414 Pa. Super. 130, 136, 606 A.2d 532, 535 (1992). Under the concept of apparent authority the principal places his agent in a position where it would appear to third persons that the agent is authorized to act. It is said that,

Where the principal places his agent in, or knowingly permits him to occupy a position in which, according to the ordinary experience and habits of mankind, it is usual for the occupant to have authority of a particular kind, anyone having occasion to deal with the agent is justified in inferring that he possesses such authority, unless the contrary shall be shown.

Passarelli v. Shields, 191 Pa. Super. 194, 156 A.2d 343, 346 (1959).

Here, in Husband's deposition he indicated that he and Wife gave Abby the ski package as a Christmas present. (Dep. at 9). As had been the custom in the family, Husband worked as a referee in the winter and was not available from November through February. (Dep. at 14). Therefore, arrangements for enrolling Abby in the ski program at Liberty and taking care of all the paperwork was one of Wife's roles in the family. (Dep. at 8, 15). In fact, Wife was in charge of those details when Abby skied at Whitetail for several years before enrolling at Ski Liberty. (Dep. at 5-7).

Defendant argues that the marital relationship and the division of duties within the family establishes the agency relationship in this case. "While the marital status in itself does not give rise to any agency relationship, it is competent evidence when considered with other circumstances as tending to establish that one spouse was agent for the other." *Croft v. Malli*, 378 Pa. 6, 12, 105 A.2d 372, 376 (1954). However, Pennsylvania recognizes the uniqueness of the marital relationship in the law of agency.

'Neither husband nor wife by virtue of the relation has power to act as agent for the other. The relation is of such a nature, however, that circumstances which in the case of strangers would not indicate the creation of authority or apparent authority may indicate it in the case of husband and wife. Thus, a husband habitually permitted by his wife to attend to some of her business matters may be found to have authority to transact all of her business affairs.'" Restatement, Agency 2nd §22(b).

Tonuci v. Beegal, 186 Pa. Super. 66, 70, 145 A.2d 885, 888 (1958); *see also, Bradney v. Sakelson*, 325 Pa. Super. 519, 523, 473 A.2d 189, 191 (1984).

Therefore, in the situation where a wife is given responsibility to enroll the parties' child in activities it is more likely that she is acting as her husband's agent in doing so than if an alleged agent was purportedly acting on behalf of an unrelated principal. Of course, all the circumstances must be considered and the third party cannot blindly accept the acts of the alleged agent as being authorized.

Although a third party cannot rely on the apparent authority of an agent to bind a principal if he has knowledge of the limits of the agent's authority, without such

actual knowledge, the third party must exercise only reasonable diligence to ascertain the agent's authority . . . The third party is entitled to believe the agent has the authority he purports to exercise only where a person of ordinary prudence, diligence and discretion would so believe . . . Thus, a third party can rely on the apparent authority of an agent when this is a reasonable interpretation of the manifestation of the principal.

Bolus v. United Penn Bank, supra., 363 Pa. Super. at 261, 525 A.2d at 1222 (citations omitted).

Husband contends that he only authorized Wife to enroll Abby to ski but not to release Defendant from any claims he could otherwise pursue. Defendant contends that signing the release is part of the package that had to be signed in order to enroll in the program and that it was entitled to rely upon Wife's apparent authority. Regardless of the strength or attractiveness of either argument "whether an agency relation exists is a question of fact for the jury...", *Bolus v. United Penn Bank, supra.*, 363 Pa. Super. at 259, 525 A.2d at 1221, and where the facts are disputed, summary judgment on the issue is not proper.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 17th day of February 1999, Defendant's Motion for Partial Summary Judgment, filed November 2, 1998, is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-157 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 August, 2000, 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 ground situate on the East side of South Peters Street in the Borough of New Oxford, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point at the intersection of South Peters Street with a public alley; thence along said alley, North 76 1/2 degrees East, 180 feet to a point at another alley; thence by the last mentioned alley, South 14 degrees East, 40 feet to a point at lands now or formerly of William Smith, thence by the same, South 76 1/2 degrees West, 180 feet to a point at South Peters Street aforesaid; thence along said street, North 14 degrees West, 40 feet to a point, the place of BEGINNING.

CONTAINING 7,200 square feet.

HAVING erected thereon a dwelling house being known and numbered as 112 South Peters Street, New Oxford, Pennsylvania.

Tax Parcel #5-173

TITLE TO SAID PREMISES IS VESTED IN Judy A. Rosebrock by Deed from John H. Bechtel, III and Leslie A. Bechtel, h/w dated 11/29/1996 recorded 12/2/1996 in Record Book 1296 Page 114.

SEIZED and taken into execution as the property of **Judy A. Rosebrock** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 4, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-348 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being partly in Franklin Township and partly in Highland Township, Adams County, Pennsylvania, known and numbered as 410 Seven Stars Road, Gettysburg, PA.

BEGINNING at an iron pin at public road and land now or formerly of Harry E. Cluck; thence along land now or formerly of Harry E. Cluck, North 29 3/4 degrees West, 39 perches to a post at road leading from McKnightstown Station to Seven Stars; thence in and along said road, North 58 1/2 degrees East, 43.2 perches to a post at public road; thence in and along said last mentioned public road and adjoining lands now or formerly of Pern Rebert, South 15 1/2 degrees West, 44.62 perches to an iron pin; thence in and along said last mentioned public road and land now or formerly of Pern Rebert, South 24 1/2 degrees West, 14.84 perches to an iron pin at lands now or formerly of Harry E. Cluck, the place of BEGINNING. CONTAINING 5 acres and 75 perches more or less.

Tax Map D12-19

SEIZED and taken into execution as the property of **Leroy A. Bolton & Rose B. Bolton** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 August 21, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-237 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of July, 2000, 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 Reading Township, Adams County, Pennsylvania, bounded and described as follows:

BEING known as Lot No. 633 on a plan of lots of Lake Meade subdivision duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 1, page 4, and subject to all legal highways, easements, rights of way and restrictions of record.

Being known as 75 Curtis Drive
Property ID No. 2-10

TITLE TO SAID PREMISES IS VESTED IN Dean R. Green and Catherine L. Green, husband and wife, as tenants by the entireties by deed from Hamilton Homes, Inc., dated 9/5/1997 and recorded 9/9/1997 in Deed Book 1437 page 107.

SEIZED and taken into execution as the property of **Dean R. Green & Catherine L. Green** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 August 7, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-106 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of June, 2000, 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 with improvements, situate on the West side of Cemetery Street, in the Borough of Littlestown, Adams County, Pennsylvania, adjoining land now or formerly of Samuel Althouse and formerly of J. Ernest Ohler, bounded and described as follows, to wit:

BEGINNING for a corner at lot now or formerly of Samuel Althouse and Cemetery Street, forty-four (44) feet and two (2) inches Southwest to corner of land formerly of J. Ernest Ohler; thence along said land one hundred and twenty-two (122) feet, more or less, Northwest to P.R.R. Co. right-of-way; thence along the said right-of-way, forty-four (44) feet and two (2) inches Northeast to lands now or formerly of Althouse; thence one hundred and twenty-two (122) feet, more or less, Southeast along said last mentioned lands to the place of BEGINNING.

BEING the same tract of land which Jonathan E. Teal and Linda S. Teal, by deed dated July 9, 1998, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1618 at page 300, conveyed to Jonathan E. Teal, the Defendant herein.

Improved with a two story single family residence with detached garage and shed.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 24, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-33 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of July, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate in the Borough of York Springs, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the South curb line of Main Street at land now or formerly of C. F. Ditzler and Marie R. Ditzler, his wife; thence by said land South 53 1/2 degrees West 156 feet to a point on the North side of a 15 foot alley; thence by said alley North 36 1/2 degrees West 27.5 feet to a point at other land now or formerly of C. F. Ditzler and Marie R. Ditzler, his wife; thence by the same North 53 1/2 degrees East 156 feet to a point on the South curb line of Main Street aforesaid; thence by the same South 36 1/2 degrees East 27.5 feet to a point, the place of BEGINNING.

The above described parcel of land being the same which Wayne B. Ogburn and Shirley D. Ogburn, husband and wife, by their deed dated June 3, 1988 and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 490 at page 832, granted and conveyed unto William D. Hoffman, the Defendant herein.

IMPROVED WITH a building with mixed uses, York Springs Hardware on the first floor and apartments on the second floor.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 August 7, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/9, 16 & 23

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, June 26, 2000, at 9:00 o'clock a.m.

MILLER—Orphans' Court Action Number OC-42-00. The First and Final Account of Ernest John Weiss, Jr., Executor of the Last Will and Testament of Murray L. Miller, Sr., deceased, late of Straban Township, Adams County, Pennsylvania.

JOHNSON—Orphans' Court Action Number OC-45-00. The First and Final Account of Roxey Baker, Executrix of the Estate of William J. Johnson, deceased, late of Franklin Township, Adams County, Pennsylvania.

CLAPSADDLE—Orphans' Court Action Number OC-44-00. The First and Final Account of Larry M. Mickley, Executor of the Estate of John D. Clapsaddle, deceased, late of Mt. Joy Township, Adams County, Pennsylvania.

SNYDER—Orphans' Court Action Number OC-47-00. The First and Final Account of Lois R. Reynolds, Executrix of the Will of John E. Snyder, deceased, late of Oxford Township, Adams County, Pennsylvania.

BUCHANAN—Orphans' Court Action Number OC-2-99. The First and Final Account of Shirley Wood, Executrix of the Last Will and Testament of Mary E. Buchanan, a/k/a Anna Mary Elizabeth Buchanan, deceased, late of McSherrystown Boro, Adams County, Pennsylvania.

RILEY—Orphans' Court Action Number OC-48-00. The First and Final Account of Adams County National Bank, Executor of the Last Will and Testament of Gladys A. Riley, deceased, late of Cumberland Township, Adams County, Pennsylvania, including accounting of said bank as Attorney-in-Fact for Gladys A. Riley, deceased, under P.E.F. Code Sec. 3501.2.

Peggy J. Breighner
Clerk of Courts

6/16 & 23

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 WILLIAM F. ANDERSON, SR., DEC'D

Late of Straban Township, Adams County, Pennsylvania

Carla Anderson, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF PAULINE WEHLER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executor: Robert E. Wehler, Route 7, Box 255, Fairmont, WV 26554

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF FRANCIS H. MCKINNEY, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Pearl F. McKinney, 212 Stombach Street, McSherrystown, PA 17344

ESTATE OF CLARA A. SAGER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executors: Gordon H. Sager, 67 Linda Avenue, Hanover, PA 17331; Darrell M. Sager, 7 Hampshire Drive, New Oxford, PA 17350

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF GEORGE C. COMER, JR., DEC'D

Late of Penn Township, York County, Pennsylvania

Executrix: Sally A. Harkay, 124 Circle Drive, Hanover, PA 17331

Attorney: Alison H. Peterson, Esq., Peterson & Peterson, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF ANNA B. DRACHA, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325

Attorney: Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JANET L. GROSS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Holly Messinger, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF ROGER LEE SMITH, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administratrix: Karen A. Shepherd, 3216 Preston Hollow Rd., Fort Worth, TX 76109

Attorney: Chester G. Schultz, Esq., 145 Baltimore St., Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-136 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of June, 2000, 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 58 page 41 (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such Declaration as Unit No. 4D as more fully bounded and described in such Declaration, together with a proportionate undivided interest in the Common Elements as defined in such Declaration.

Tax Parcel #5-184A

TITLE TO SAID PREMISES IS VESTED IN Thomas R. Carrick and Rebecca A. Holt by Deed from Philip R. Garland t/d/b/a Garland Construction dated 11/24/98, recorded 1/26/99, in Record Book 1751 page 338.

SEIZED and taken into execution as the property of **Thomas R. Carrick a/k/a Thomas Robert Carrick & Rebecca A. Carrick a/k/a Rebecca A. Holt** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 July 24, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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6/2, 9 & 16

CONTINUING LEGAL EDUCATION PROGRAM*Feldman on Long-Term Care Planning*

July 20, 2000 – 9:00 a.m. - 1:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 3, Ethics – 0

Trial Evidence in Criminal Cases

August 3, 2000 – 9:00 a.m. - 1:30 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

Issues in Commercial Mortgage Foreclosures

August 9, 2000 – 9:00 a.m. - 1:30 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

Advanced Nursing Home Planning

September 13, 2000 – 9:00 a.m. - 5:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

Fundamentals of Family Law

September 19, 2000 – 9:00 a.m. - 5:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

Tax Planning Strategies for Small Businesses

October 19, 2000 – 9:00 a.m. - 1:30 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 3.5, Ethics – 0

Litigating in Orphan's Court

November 9, 2000 – 9:00 a.m. - 5:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

REGISTRATION THROUGH P.B.I. 800-247-4724

Adams County Legal Journal

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June 23, 2000

No. 4, pp. 19-21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-218 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 August, 2000, 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 Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a spike in the center of Legislative Route 01002 at the Southwest corner of land now or formerly of Leroy B. Appar with a pin set back along the Appar line 20 feet; thence in the center of said State Highway, Legislative Route 01002, North 78 degrees 15 minutes West, 435.60 feet to a point in the center of old L.R. 01002; thence through a pin set back along the line 25 feet by other land of Garland Baker, North 11 degrees 45 minutes West, 200 feet through an iron pin set back along the line 20 feet, to a spike in the center of L.R. 01002, the place of BEGINNING. CONTAINING 2 acres.

THIS description was taken from a draft of survey made January 1, 1969 by Wilbur V. Redding, R.S.

Tax Parcel # F16-22A

TITLE TO SAID PREMISES IS VESTED IN Hubert D. Snyder, Sr. and Deborah A. Snyder, husband and wife by Deed from Mark R. Smith and Doris A. Smith, husband and wife dated 1/8/93, recorded 1/8/93, in Record Book 677 page 2.

SEIZED and taken into execution as the property of **Hubert D. Snyder a/k/a Hubert D. Snyder, Sr. & Deborah A. Snyder** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 4, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/23, 30 & 7/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-1117 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 August, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows to wit:

BEGINNING at a point along the right-of-way line of Colorado Avenue and corner of Lot No. 88 on subdivision plan hereinafter referred to; thence along Lot No. 88, South sixty-two (62) degrees thirty-two (32) minutes forty-three (43) seconds West, one hundred six and twenty-eight hundredths (106.28) feet to a point along Lot No. 80 on subdivision plan hereinafter referred to; thence along Lot No. 80, North twenty-seven (27) degrees twenty-seven (27) minutes thirteen (13) seconds West, forty-two and ninety-five hundredths (42.95) feet to a point at corner of Lot No. 86 on subdivision plan hereinafter referred to; thence along Lot No. 86, North forty-five (45) degrees fifty-four (54) minutes twenty-three (23) seconds East, one hundred and zero hundredths (100.00) feet to a point along the right-of-way line of Colorado Avenue; thence along the right-of-way line of Colorado Avenue, by a curve to the right, having a radius of two hundred fifty and zero hundredths (250.00) feet, an arc length of seventy-two and sixty hundredths (72.60) feet, and a long chord bearing and distance of South thirty-five (35) degrees forty-six (46) minutes twenty-seven (27) seconds East, seventy-two and thirty-five hundredths (72.35) feet to the point and place of BEGINNING. (CONTAINING 5,989 square feet and being designated as Lot No. 87 on subdivision plan of Appler Development prepared by Group Hanover, Inc., dated July 15, 1994, as revised, Project No. 921060, which said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 65, page 89.)

Tax Parcel # 7-183

TITLE TO SAID PREMISES IS VESTED IN Jose L. Ibero, by Deed from S & A Custom Built Homes, Inc., a Pennsylvania Corporation, by its Attorney-in-fact, Mark Cummins dated 3/31/97, recorded 4/8/97, in Record Book 1352, Page 213.

SEIZED and taken into execution as the property of **Jose L. Ibero** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 4, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/23, 30 & 7/7

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on or about June 2, 2000 for DEMARCHE, INC. The said corporation has been incorporated under the provisions of the Business Corporation Law of 1988.

The purpose for which said corporation is formed are that: The corporation shall have unlimited power to engage in and do any lawful act concerning any and all lawful business for which corporations may be incorporated under the Act of December 21, 1988, P.L. 1444, its amendments and supplements, under the provisions of which said Act this corporation is incorporated.

Stonesifer and Kelley
Solicitor

6/23

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-170 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 August, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being in the Borough of McSherrystown, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point along the easterly right-of-way line of Westview Drive and Lot No. 20 of the hereinafter referred to subdivision plan; thence along said Lot No. 20, North seventy (70) degrees forty (40) minutes thirty-one (31) seconds East fifty-nine and zero hundredths (59.00) feet to a point; thence continuing along same, North forty-four (44) degrees thirty-nine (39) minutes twelve (12) seconds East forty-nine and fourteen hundredths (49.14) feet to a point at Lot No. 19-A; thence along said Lot No. 19-A, South forty-five (45) degrees twenty (20) minutes forty-eight (48) seconds East forty-seven and sixty-three hundredths (47.63) feet to a point at lands now or formerly of Philip L. Hagarman; thence along said lands now or formerly of Philip L. Hagarman, South fifty-nine (59) degrees twenty-nine (29) minutes five (5) seconds West fifty-six and seventy hundredths (56.70) feet to a point; thence continuing along same, South thirty (30) degrees thirty (30) minutes fifty-five (55) seconds East thirteen and zero hundredths (13.00) feet to a point at Lot No. 21; thence along said Lot No. 21, South seventy (70) degrees forty (40) minutes thirty-one (31) seconds West seventy and ninety-five hundredths (70.95) feet to a point along the easterly right-of-way line of Westview Drive; thence along the easterly right-of-way line of Westview Drive, North nineteen (19) degrees nineteen (19) minutes twenty-nine (29) seconds West forty-five and zero hundredths (45.00) feet to a point, the place of BEGINNING.

CONTAINING 5,151.6703 square feet and being identified as Lot No. 20-A on the subdivision plan recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 66, page 82.

SUBJECT to a twenty (20) foot wide drainage easement along the boundary of said tract and Lot No. 21 as shown on the aforesaid subdivision plan.

TITLE TO SAID PREMISES IS VESTED IN Donna R. Hertz by Deed from Patrick J. Bethas, single and Lynda K. Racer, single dated 10/25/95, recorded 10/26/95, in Record Book 1100, Page 89.

SEIZED and taken into execution as the property of **Donna R. Hertz** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 4, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/16, 23 & 30

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Act of Assembly No. 295 of 1982, of the filing in the Office of the Secretary of Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on May 5, 2000, a certificate for the conduct of business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of **COURTYARD CAFÉ** with its principal place of business at 619 Baltimore Street, Gettysburg, Pennsylvania. The names and addresses of the persons owning or interested in said business are Village Holdings, Inc., 516 Baltimore Street, Gettysburg, PA 17325

David K. James, III, Esq.
Wilcox & James

6/23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-259 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 August, 2000, 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 or parcel of real estate Situated in the Township of Reading, County of Adams and Commonwealth of Pennsylvania, being known and described as Lot No. 407 on a Plan of Lots known as "Lake Meade Subdivision", said Plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 1 page 4.

BEING known and numbered as 8 Sherman Drive, East Berlin, Pennsylvania.

Tax Parcel # 2-26

TITLE TO SAID PREMISES IS VESTED IN Lorraine D. Greene, single woman by Deed from Kenneth P. Nagle and Martha S. Nagle, formerly known as Martha S. Windigler, his wife dated 10/19/98, recorded 11/3/98, in Deed Book 1693, Page 306.

SEIZED and taken into execution as the property of **Lorraine Green a/k/a Lorraine D. Greene** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 4, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/23, 30 & 77

COMMONWEALTH VS. WILLIAMS

1. We did not inform defendant of his right to seek modification of the sentence because it is this judge's understanding that there is no such right. The order did not amount to a re-sentence, but a recommittal. There is no authority for a minimum and maximum.

2.a recommittal is not a sentence. Further, it has been held that Rule 1410, which specifically governs motion to modify, does not apply to parole violations.

3. Defendant committed a substantive violation by committing other crimes while on parole. Even if the 61 P.S. §331.21a were to be applied, he would have no grounds for a modification.

4. Defendant was entitled to credit for time spent in custody as a result of the parole detainer, but not as to time credited on another sentence.

In the Court of Common Pleas of Adams County, Pennsylvania,
Criminal. No. CC-535-97. COMMONWEALTH OF PENNSYLVANIA VS. JAMES LEE WILLIAMS.

Michael A. George, Esq., for Commonwealth

Roy A. Keefer, Esq., for Defendant

Spicer, P. J., March 5, 1999.

STATEMENT PURSUANT TO PA. R.APP.P. 1925

Defendant was sentenced to serve a term of not less than three months, nor more than twenty-three months in Adams County Prison by Judge John D. Kuhn on November 17, 1997. By order dated February 17, 1998, he was released on parole for the balance of his unexpired sentence. The record indicates he signed and agreed to abide by conditions attached to his petition.

The Adams County Probation Office filed a motion for revocation April 22, 1998, and an order was entered issuing a rule to show cause and scheduling a Gagnon I hearing for May 20, 1998 at 9:00 a.m. When defendant failed to appear, a bench warrant was issued for his arrest. He was produced before Judge Kuhn on December 28, 1998. Judge Kuhn noted that it appeared that defendant was in York County Prison when the bench warrant was issued, and recited that the violation report had not then been prepared. He directed that the report be presented to the defendant as soon as possible. Bail was set and defendant was given an application for the appointment of counsel.

Defendant appeared with counsel before the undersigned, on January 8, 1999 and admitted violating conditions 3(a), 3(b), 5(b),

6(a) and 7(a) of his parole. The violation report described these violations as follows:

1. On 10/21/98 in York Co. Court the defendant pled guilty to Terroristic Threats and Simple Assault for an incident that occurred on 04/06/98 while on parole in Adams County.
2. The defendant failed to notify his Probation Officer of his arrest and subsequent incarceration in York County.
3. The defendant failed to report for scheduled appointment on 03/09/98 and 03/23/98.
4. The defendant failed to obey directions given by Probation Officer Hartlaub on 12/28/98.
5. The defendant has failed to make any payments since being paroled on 02/17/98 and owes \$2327.64.
6. The defendant has failed to complete any hours of public service.
7. The defendant has failed to notify the Probation Officer of his change in mailing address and physical residence.

Defendant was committed to Adams County Prison to serve the balance of his unexpired sentence of 20 months. The order recited that the Probation Office would reconsider his parole when he had served 12 months. This appeal followed.

Defendant's statement of matters complained of on appeal alleges ineffectiveness of counsel, an excessive sentence, and lack of credit for time previously served.

We did not inform defendant of his right to seek modification of the sentence because it is this judge's understanding that there is no such right. The order did not amount to a re-sentence, but a recommittal. There is no authority for a minimum and maximum. *Commonwealth v. Mitchell*, 429 Pa. Super. 435, 632 A.2d 934 (1993). Although the heading of Pa. R. Crim. P. 1409 refers to parole violations, the provisions of (C) Sentencing Procedures would seem to refer, at most, to probation and intermediate punishment, since ... a recommittal is not a sentence. *Id.* Further, it has been held that Rule 1410, which specifically governs motions to modify, does not apply to parole violations. *Commonwealth v. Coleman*, Pa., 721 A.2d 798 (1998).

Defendant committed a substantive violation by committing other crimes while on parole. Even if the 61 P.S. §331.21a¹ were to be applied, he would have no grounds for a modification.

Since there is no authority for a minimum and maximum, it stands to reason that defendant has no right to be reparaoled. The statement in the order concerning the Probation Office's future position created no right, even after 12 months were served. Instead, it only indicated that the Probation Office would not oppose such a request.

Defendant was entitled to credit for time spent in custody as a result of the parole detainer, but not as to time credited on another sentence. *Commonwealth v. Merigris*, 452 Pa. Super. 78, 681 A.2d 194 (1996); alloc. dn. 548 Pa. 616, 693 A.2d 587 (1997). Before being returned to Adams County, defendant was in York County Prison serving a York County sentence. The mere fact that a detainer was lodged against him prior to his completion of that sentence does not entitle him to credit. The January 8th order was made effective December 28, 1998, which was the date defendant was available for Adams County proceedings.

We have conducted no hearing on defendant's allegations regarding ineffectiveness of counsel. However, it is hard to understand what evidence could be introduced. Defendant was told he had a right to a hearing. He came to Adams County fresh out of jail for a York County crime that was committed while he was on probation. Revocation was a foregone conclusion, whether he admitted or denied violations.

¹ Obviously the statute, by its terms does not apply to County parole revocations. It is the policy of this court to give no credit for street time in all violations. Even if this were not the policy, no street time would be credited when a violation of the law is involved. See *Threats v. Board of Probation and Parole*, 520 Pa. 182, 553 A.2d 906 (1989).

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-157 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 August, 2000, 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 ground situate on the East side of South Peters Street in the Borough of New Oxford, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point at the intersection of South Peters Street with a public alley; thence along said alley, North 76 1/2 degrees East, 180 feet to a point at another alley; thence by the last mentioned alley, South 14 degrees East, 40 feet to a point at lands now or formerly of William Smith; thence by the same, South 76 1/2 degrees West, 180 feet to a point at South Peters Street aforesaid; thence along said street, North 14 degrees West, 40 feet to a point, the place of BEGINNING.

CONTAINING 7,200 square feet.

HAVING erected thereon a dwelling house being known and numbered as 112 South Peters Street, New Oxford, Pennsylvania.

Tax Parcel #5-173

TITLE TO SAID PREMISES IS VESTED IN Judy A. Rosebrock by Deed from John H. Bechtel, III and Leslie A. Bechtel, h/w dated 11/29/1996 recorded 12/2/1996 in Record Book 1296 Page 114.

SEIZED and taken into execution as the property of **Judy A. Rosebrock** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 4, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-348 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being partly in Franklin Township and partly in Highland Township, Adams County, Pennsylvania, known and numbered as 410 Seven Stars Road, Gettysburg, PA.

BEGINNING at an iron pin at public road and land now or formerly of Harry E. Cluck; thence along land now or formerly of Harry E. Cluck, North 29 3/4 degrees West, 39 perches to a post at road leading from McKnightstown Station to Seven Stars; thence in and along said road, North 58 1/2 degrees East, 43.2 perches to a post at public road; thence in and along said last mentioned public road and adjoining lands now or formerly of Pern Rebert, South 15 1/2 degrees West, 44.62 perches to an iron pin; thence in and along said last mentioned public road and land now or formerly of Pern Rebert, South 24 1/2 degrees West, 14.84 perches to an iron pin at lands now or formerly of Harry E. Cluck, the place of BEGINNING. CONTAINING 5 acres and 75 perches more or less.

Tax Map D12-19

SEIZED and taken into execution as the property of **Leroy A. Bolton & Rose B. Bolton** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 August 21, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-237 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of July, 2000, 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 Reading Township, Adams County, Pennsylvania, bounded and described as follows:

BEING known as Lot No. 633 on a plan of lots of Lake Meade subdivision duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 1, page 4, and subject to all legal highways, easements, rights of way and restrictions of record.

Being known as 75 Curtis Drive

Property ID No. 2-10

TITLE TO SAID PREMISES IS VESTED IN Dean R. Green and Catherine L. Green, husband and wife, as tenants by the entirety by deed from Hamilton Homes, Inc., dated 9/5/1997 and recorded 9/9/1997 in Deed Book 1437 page 107.

SEIZED and taken into execution as the property of **Dean R. Green & Catherine L. Green** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 August 7, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-33 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of July, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate in the Borough of York Springs, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the South curb line of Main Street at land now or formerly of C. F. Ditzler and Marie R. Ditzler, his wife; thence by said land South 53 1/2 degrees West 156 feet to a point on the North side of a 15 foot alley; thence by said alley North 36 1/2 degrees West 27.5 feet to a point at other land now or formerly of C. F. Ditzler and Marie R. Ditzler, his wife; thence by the same North 53 1/2 degrees East 156 feet to a point on the South curb line of Main Street aforesaid; thence by the same South 36 1/2 degrees East 27.5 feet to a point, the place of **BEGINNING**.

The above described parcel of land being the same which Wayne B. Ogburn and Shirley D. Ogburn, husband and wife, by their deed dated June 3, 1988 and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 490 at page 832, granted and conveyed unto William D. Hoffman, the Defendant herein.

IMPROVED WITH a building with mixed uses, York Springs Hardware on the first floor and apartments on the second floor.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 August 7, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/9, 16 & 23

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, June 26, 2000, at 9:00 o'clock a.m.

MILLER—Orphans' Court Action Number OC-42-00. The First and Final Account of Ernest John Weiss, Jr., Executor of the Last Will and Testament of Murray L. Miller, Sr., deceased, late of Straban Township, Adams County, Pennsylvania.

JOHNSON—Orphans' Court Action Number OC-45-00. The First and Final Account of Roxey Baker, Executrix of the Estate of William J. Johnson, deceased, late of Franklin Township, Adams County, Pennsylvania.

CLAPSADDLE—Orphans' Court Action Number OC-44-00. The First and Final Account of Larry M. Mickle, Executor of the Estate of John D. Clapsaddle, deceased, late of Mt. Joy Township, Adams County, Pennsylvania.

SNYDER—Orphans' Court Action Number OC-47-00. The First and Final Account of Lois R. Reynolds, Executrix of the Will of John E. Snyder, deceased, late of Oxford Township, Adams County, Pennsylvania.

BUCHANAN—Orphans' Court Action Number OC-2-99. The First and Final Account of Shirley Wood, Executrix of the Last Will and Testament of Mary E. Buchanan, a/k/a Anna Mary Elizabeth Buchanan, deceased, late of McSherrystown Boro, Adams County, Pennsylvania.

RILEY—Orphans' Court Action Number OC-48-00. The First and Final Account of Adams County National Bank, Executor of the Last Will and Testament of Gladys A. Riley, deceased, late of Cumberland Township, Adams County, Pennsylvania, including accounting of said bank as Attorney-in-Fact for Gladys A. Riley, deceased, under P.E.F. Code Sec. 3501.2.

Peggy J. Breighner
Clerk of Courts

6/16 & 23

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

ACTION IN DIVORCE
NO. 00-S-235

SHARON LYNN THOMAS
3090 Carlisle Road
Tyrone Township - Adams County
Gardners, Pennsylvania 17324
Plaintiff,

vs.

WILLIAM DENNIS THOMAS
(Last known address)
3090 Carlisle Road
Tyrone Township - Adams County
Gardners, Pennsylvania 17324
Defendant

NOTICE TO DEFEND AND CLAIM RIGHTS

You have been sued in court. If you wish to defend against the claims set forth in this law suit, you must take prompt action. You are warned that if you fail to do so, the case may proceed without you and a decree of divorce or annulment may be entered against you by the court. A judgment may also be entered against you for any other claim or relief requested in these papers by the plaintiff. You may lose money or property or other rights important to you, including custody or visitation of your children.

When the ground for divorce is indignities or irretrievable breakdown of the marriage, you may request marriage counseling. A list of marriage counselors is available in the Office of the Prothonotary for Adams County, Pennsylvania at: Room 104, 111 - 117 Baltimore Street, Gettysburg, Pennsylvania 17325.

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

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.

Name: Court of Common Pleas of Adams County - Administrator's Office

Address: 111 - 117 Baltimore Street, Gettysburg, Pennsylvania 17325

Telephone No.: 717-334-6781

6/23

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 ADELAIDE MILLER FROUNFELTER, DEC'D

Late of Union Township, Adams County, Pennsylvania

Walter Lee Simpson, 131 Lumber Street, Littlestown, PA 17340

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

ESTATE OF DOROTHY M. LEININGER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Kay A. Bock, c/o Lacy Hayes, Jr., Esq., 2216 Walnut Street, Harrisburg, PA 17103-2426

Attorney: Lacy Hayes, Jr., Esq., 2216 Walnut Street, Harrisburg, PA 17103-2426

ESTATE OF WILBERT F. NOEL, SR., DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Wilbert F. Noel, Jr. or Stephen Noel, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

Attorneys: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF EDNA M. POTTER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Administrator: Carl Alan Potter, 1355 Biglerville Road, Gettysburg, PA 17325

Attorney: John James Mooney, III, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF MANDLE B. WRIGHT, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Ronald H. Smith, 2741 Meadow Drive, Gettysburg, PA 17325

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

SECOND PUBLICATION

ESTATE OF WILLIAM F. ANDERSON, SR., DEC'D

Late of Straban Township, Adams County, Pennsylvania

Carla Anderson, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF PAULINE WEHLER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executor: Robert E. Wehler, Route 7, Box 255, Fairmont, WV 26554

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF FRANCIS H. MCKINNEY, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Pearl F. McKinney, 212 Storbach Street, McSherrystown, PA 17344

ESTATE OF CLARA A. SAGER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executors: Gordon H. Sager, 67 Linda Avenue, Hanover, PA 17331; Darrell M. Sager, 7 Hampshire Drive, New Oxford, PA 17350

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

CONTINUING LEGAL EDUCATION PROGRAM*Feldman on Long-Term Care Planning*

July 20, 2000 – 9:00 a.m. - 1:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 3, Ethics – 0

Trial Evidence in Criminal Cases

August 3, 2000 – 9:00 a.m. - 1:30 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

Issues in Commercial Mortgage Foreclosures

August 9, 2000 – 9:00 a.m. - 1:30 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

Advanced Nursing Home Planning

September 13, 2000 – 9:00 a.m. - 5:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

Fundamentals of Family Law

September 19, 2000 – 9:00 a.m. - 5:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

Tax Planning Strategies for Small Businesses

October 19, 2000 – 9:00 a.m. - 1:30 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 3.5, Ethics – 0

Litigating in Orphan's Court

November 9, 2000 – 9:00 a.m. - 5:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

REGISTRATION THROUGH P.B.I. 800-247-4724

Adams County **Legal Journal**

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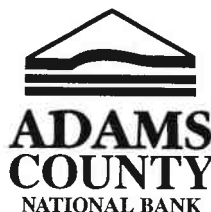
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BAKER VS. BAKER AND WOLFE

Adams County National Bank's commitment to its communities is more than a fleeting promise. It is a tradition founded upon our more than 130 years of service to the individuals, businesses and organizations in these communities.



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-170 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 August, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being in the Borough of McSherrystown, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point along the easterly right-of-way line of Westview Drive and Lot No. 20 of the hereinafter referred to subdivision plan; thence along said Lot No. 20, North seventy (70) degrees forty (40) minutes thirty-one (31) seconds East fifty-nine and zero hundredths (59.00) feet to a point; thence continuing along same, North forty-four (44) degrees thirty-nine (39) minutes twelve (12) seconds East forty-nine and fourteen hundredths (49.14) feet to a point at Lot No. 19-A; thence along said Lot No. 19-A, South forty-five (45) degrees twenty (20) minutes forty-eight (48) seconds East forty-seven and sixty-three hundredths (47.63) feet to a point at lands now or formerly of Philip L. Hagarman; thence along said lands now or formerly of Philip L. Hagarman, South fifty-nine (59) degrees twenty-nine (29) minutes five (5) seconds West fifty-six and seventy hundredths (56.70) feet to a point; thence continuing along same, South thirty (30) degrees thirty (30) minutes fifty-five (55) seconds East thirteen and zero hundredths (13.00) feet to a point at Lot No. 21; thence along said Lot No. 21, South seventy (70) degrees forty (40) minutes thirty-one (31) seconds West seventy and ninety-five hundredths (70.95) feet to a point along the easterly right-of-way line of Westview Drive; thence along the easterly right-of-way line of Westview Drive, North nineteen (19) degrees nineteen (19) minutes twenty-nine (29) seconds West forty-five and zero hundredths (45.00) feet to a point, the place of BEGINNING.

CONTAINING 5,151.6703 square feet and being identified as Lot No. 20-A on the subdivision plan recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 66, page 82.

SUBJECT to a twenty (20) foot wide drainage easement along the boundary of said tract and Lot No. 21 as shown on the aforesaid subdivision plan.

TITLE TO SAID PREMISES IS VESTED IN Donna R. Hertz by Deed from Patrick J. Bethas, single and Lynda K. Racer, single dated 10/25/95, recorded 10/26/95, in Record Book 1100, Page 89.

SEIZED and taken into execution as the property of **Donna R. Hertz** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 4, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-259 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 August, 2000, 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 or parcel of real estate Situated in the Township of Reading, County of Adams and Commonwealth of Pennsylvania, being known and described as Lot No. 407 on a Plan of Lots known as "Lake Meade Subdivision", said Plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 1 page 4.

BEING known and numbered as 8 Sherman Drive, East Berlin, Pennsylvania.

Tax Parcel # 2-26

TITLE TO SAID PREMISES IS VESTED IN Lorraine D. Greene, single woman by Deed from Kenneth P. Nagle and Martha S. Nagle, formerly known as Martha S. Windigler, his wife dated 10/19/98, recorded 11/3/98, in Deed Book 1693, Page 306.

SEIZED and taken into execution as the property of **Lorraine Green a/k/a Lorraine D. Greene** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 4, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/23, 30 & 7/7

BAKER VS. BAKER AND WOLFE

1. Summary Judgment is proper when the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits demonstrate that there exists no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. In determining whether to grant summary judgment a trial court must resolve all doubts against the moving party and examine the record in a light most favorable to the non-moving party.

2. A breach of contract claim cannot be brought against a person who was not a party to the contract.

3. Plaintiff has the burden of proving, by a fair preponderance of the evidence, that an agency relationship existed.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil. No. 96-S-120. MARIAN G. BAKER, PLAINTIFF, VS. BERNARD BAKER, JR., DEFENDANT, AND JOHN A. WOLFE, ESQ., ADDITIONAL DEFENDANT.

Christopher C. Conner, Esq., for Plaintiff

Bernard A. Yannetti, Jr., Esq., for Defendant

James R. Clippinger, Esq., for Additional Defendant

Kuhn, J., March 15, 1999.

OPINION ON PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT ON LIABILITY

Plaintiff, Marian Baker, filed a motion for summary judgment on the issue of liability as it relates to both Defendants, Bernard Baker ("Defendant") and John Wolfe, Esq. ("Additional Defendant"). The matter was submitted on the briefs pursuant to Local Rule of Court 211, Adams C. Civ. R. 211, and is now before this Court for disposition.

PROCEDURAL HISTORY

Plaintiff filed a complaint against Defendant on February 9, 1996, docketed at 96-S-120. In a separate action, Defendant filed a Writ of Summons against Additional Defendant on August 15, 1997, docketed at 97-S-780.¹ On August 14, 1997, Defendant filed a Petition to Allow Joinder of Additional Defendant in 96-S-120. On September 22, 1997, all three parties stipulated to Additional Defendant's joinder.

¹Two cases were originally filed pertaining to the same circumstances. A Petition to Consolidate the separate actions was filed by Defendant on September 5, 1997, in the case docketed at 97-S-780. It does not appear that any other action was taken on the Petition to Consolidate.

A Complaint in the matter was then filed by Defendant against Additional Defendant on October 27, 1997.

STATEMENT OF FACTS

Plaintiff has alleged that Defendant is liable to her for monetary damages due to breach of their Marriage Settlement Agreement dated April 27, 1995. In particular, Plaintiff claims paragraph 24 was breached. That paragraph reads, in pertinent part, as follows:

LUMP SUM PAYMENT: In consideration for the conveyances set forth herein, WIFE shall pay to HUSBAND the sum of Twenty Thousand (\$20,000) Dollars immediately upon receiving the funds when she refinances the marital home. WIFE shall pay an additional Thirty Thousand (\$30,000) Dollars to HUSBAND on or before January 1, 1997, said sum to be secured by a note and mortgage against the property after the bank which shall be executed on the distribution date. The note and mortgage shall be held by HUSBAND'S attorney who shall not record them unless WIFE is unable to pay the Thirty Thousand (\$30,000) Dollars on or before January 1, 1997. HUSBAND'S attorney will return the note and mortgage and mark the note and mortgage satisfied upon WIFE'S payment of Thirty Thousand (\$30,000) Dollars to HUSBAND...

(Plaintiff's First Amended Complaint, Exhibit A).

Plaintiff alleges that shortly after the Agreement was signed Husband recorded the mortgage. Wife repeatedly requested that the mortgage be satisfied due to its erroneous recordation but Husband did not satisfy the mortgage until February 13, 1996. In January of 1996, Wife attempted to refinance the mortgage but was told by Eastern Mortgage Services that it would not refinance if its mortgage did not have a first lien position. When Husband finally satisfied the mortgage, Wife did refinance but at a higher interest rate. Had Wife been able to refinance earlier she allegedly would have saved \$27,801.68 through the term of the loan.

In the complaint filed against Additional Defendant, Defendant alleges that he never instructed or authorized Additional Defendant to record the mortgage. Defendant further claims that Additional

Defendant informed him that he was not required to satisfy the mortgage because it was recorded erroneously. Additional Defendant admitted that he recorded the mortgage without authority or direction from Defendant.

LEGAL DISCUSSION

Our Superior Court has recently set forth the standard for summary judgment as follows:

Summary Judgment is proper when the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits demonstrate that there exists no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. Pa.R.C.P. 1035.2, 42 Pa.C.S.A. In determining whether to grant summary judgment a trial court must resolve all doubts against the moving party and examine the record in a light most favorable to the non-moving party. *Id.* Summary judgment may only be granted in cases where it is clear and free from doubt that the moving party is entitled to judgment as a matter of law. *Id.*

Electronic Laboratory Supply v. Cullen, ___ Pa. Super. ___, 712 A.2d 304, 307 (1998).

Plaintiff argues that summary judgment against Defendant and Additional Defendant is warranted because both parties admitted to a breach of the Marriage Settlement Agreement in their answers to Plaintiff's request for admissions. Defendant has failed to file a brief but in his answer to the motion denies that he ever admitted liability. Additional Defendant filed a brief in which he argues that Plaintiff is precluded from obtaining summary judgment because she has failed to directly plead any cause of action against him.

Initially, the Court will address Additional Defendant's argument that summary judgment for Plaintiff is not permissible because she has failed to claim a direct cause of action. Plaintiff argues that Rule 2255 of the Pennsylvania Rules of Civil Procedure dictates that Additional Defendant become subject to Plaintiff's claim "with the same force and effect as if he had been an original defendant without the need of any amendment of the plaintiff's claim to include him." *Goodrich Amram 2d*, § 2255(d):1.

However, the Court need not make this determination because even assuming that Additional Defendant was subject to Plaintiff's claim he cannot be held liable. A breach of contract claim cannot be brought against a person who was not a party to the contract. *See, Electron Energy Corp. v. Short*, 408 Pa. Super. 563, 597 A.2d 175 (1991); *affirmed*, 533 Pa. 66, 618 A.2d 395 (1993) (holding that it is fundamental contract law that one cannot be liable for breach of contract unless one is a party to that contract). Thus, there can be no summary judgment against Additional Defendant for Plaintiff's breach of contract claim.

Defendant's liability for breach of the Marital Settlement Agreement is dependent on Additional Defendant being his agent in the recording of the mortgage. This is so because the parties admitted that it was Additional Defendant that recorded the mortgage in violation of the Agreement. (*See*, Brief of Plaintiff, Marian G. Baker, In Support of Motion for Summary Judgment on Liability, Exhibit A; Answer to Plaintiff's First Request for Admissions Directed to Defendant Bernard Baker, Jr., and Additional Defendant, John A. Wolfe, Esq.; Additional Defendant's Answer to Plaintiff's First Set of Requests for Admissions).

Plaintiff has the burden of proving, by a fair preponderance of the evidence, that an agency relationship existed between Defendant and Additional Defendant. *Volunteer Fire Co. of New Buffalo v. Hilltop Oil Co.*, 412 Pa. Super. 140, 146, 602 A.2d 1348, 1351 (1992). It is not clear from the record as it stands whether Additional Defendant was acting as Defendant's agent at the time he recorded the mortgage. In fact, Defendant alleges that he did not authorize Additional Defendant to record the mortgage and Additional Defendant agrees. Thus, the capacity in which Additional Defendant was acting remains an issue of fact. *See, Turner Hydraulics, Inc. v. Susquehanna Const. Corp.*, 414 Pa. Super. 130, 606 A.2d 532 (1992) (holding that nature and extent of agent's authority is a question of fact for the trier).

Accordingly, the attached Order is issued.

ORDER OF COURT

AND NOW, this 15th day of March, 1999, Plaintiff's Motion for Summary Judgment on Liability is hereby denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-157 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 August, 2000, 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 ground situate on the East side of South Peters Street in the Borough of New Oxford, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point at the intersection of South Peters Street with a public alley; thence along said alley, North 76 1/2 degrees East, 180 feet to a point at another alley; thence by the last mentioned alley, South 14 degrees East, 40 feet to a point at lands now or formerly of William Smith; thence by the same, South 76 1/2 degrees West, 180 feet to a point at South Peters Street aforesaid; thence along said street, North 14 degrees West, 40 feet to a point, the place of BEGINNING.

CONTAINING 7,200 square feet.

HAVING erected thereon a dwelling house being known and numbered as 112 South Peters Street, New Oxford, Pennsylvania.

Tax Parcel #5-173

TITLE TO SAID PREMISES IS VESTED IN Judy A. Rosebrock by Deed from John H. Bechtel, III and Leslie A. Bechtel, h/w dated 11/29/1996 recorded 12/2/1996 in Record Book 1296 Page 114.

SEIZED and taken into execution as the property of **Judy A. Rosebrock** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 4, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-348 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being partly in Franklin Township and partly in Highland Township, Adams County, Pennsylvania, known and numbered as 410 Seven Stars Road, Gettysburg, PA.

BEGINNING at an iron pin at public road and land now or formerly of Harry E. Cluck; thence along land now or formerly of Harry E. Cluck, North 29 3/4 degrees West, 39 perches to a post at road leading from McKnightstown Station to Seven Stars; thence in and along said road, North 58 1/2 degrees East, 43.2 perches to a post at public road; thence in and along said last mentioned public road and adjoining lands now or formerly of Pern Rebert, South 15 1/2 degrees West, 44.62 perches to an iron pin; thence in and along said last mentioned public road and land now or formerly of Pern Rebert, South 24 1/2 degrees West, 14.84 perches to an iron pin at lands now or formerly of Harry E. Cluck, the place of BEGINNING. CONTAINING 5 acres and 75 perches more or less.

Tax Map D12-19

SEIZED and taken into execution as the property of **Leroy A. Bolton & Rose B. Bolton** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 August 21, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-852 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of August, 2000, 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 Cumberland Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a spike in the center of the Gettysburg-Ermitz State Highway at other lands now or formerly of Maurice E. Fissel; thence by said lands and through a railroad spike North 57 degrees West, 115 feet to an iron pin; thence by same North 33 degrees East, 30 feet to a point; thence by same North 57 degrees West, 212.5 feet to a post at lands now or formerly of Russell Reaver; thence by same North 16 degrees East, 121 feet to a post at lands now or formerly of Walter May; thence by same South 53 degrees West, 24 minutes East, 372.4 feet to a spike in the center of the aforesaid State Highway; thence in said State Highway South 37 degrees 15 minutes West, 122.4 feet to a spike, the place of BEGINNING. CONTAINING 146 perches.

The above description was taken from a draft of survey prepared by Leroy H. Winebrenner, C.S., and dated August 12, 1965.

IT BEING the same premises which Curtis W. Fissel and Betty S. Fissel, husband and wife, by their deed dated July 12, 1989 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 528, page 408, granted and conveyed unto Betty S. Fissel, Grantor herein.

SEIZED and taken into execution as the property of **Betty S. Fissel & Curtis W. Fissel, II** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 18, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/30, 7/7 & 14

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-574 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of August, 2000, 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 Oxford Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a point on the property line of Birch Lane, a fifty (50) foot street, at corner of Lot No. 518, on the hereinafter referred plan of lots; thence by said lot, North eighty-six (86) degrees twelve (12) minutes forty-seven (47) seconds East, eighty-eight and ninety-eight hundredths (88.98) feet to a steel pin at Lot No. 520; thence by said lot, South three (03) degrees forty-seven (47) minutes thirteen (13) seconds East, one hundred ten (110.00) feet to a steel pin on the property line of Spruce Lane, a fifty (50) foot street; thence by said street, South eighty-six (86) degrees twelve (12) minutes forty-seven (47) seconds West, eighty (80.00) feet to a point at a rounded radius at Spruce Lane and Birch Lane; thence by said radius by a curve to the right whose radius is fifteen (15.00) feet, an arc distance of twenty-three and fifty-six hundredths (23.56) feet, the long chord of which is North forty-eight (48) degrees forty-seven (47) minutes thirteen (13) seconds West, twenty-one and twenty-one hundredths (21.21) feet to a point on the property line of Birch Lane; thence by said street, North three (03) degrees forty-seven (47) minutes thirteen (13) seconds West, fifty-four and forty hundredths (54.40) feet to a point; thence by the same by a curve to the right whose radius is one hundred forty (140.00) feet, an arc distance of forty-one and nineteen hundredths (41.19) feet, the long chord of which is North four (04) degrees thirty-eight (38) minutes thirty-four (34) seconds East, forty-one and five hundredths (41.05) feet to the point and place of BEGINNING. (CONTAINING 10,321 square feet and being known as Lot No. 519 on a plan of lots of Oxford Estates, Tract II - Phase Three, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 53, page 66.)

Having thereon erected a dwelling known as 18 Birch Lane, New Oxford, PA 17350.

Being Tax Parcel No. 35-008-0182.

BEING THE SAME PREMISES WHICH Jenette W. Reynolds Hawley and Walter L. Hawley granted and conveyed unto James Marcellus Hammons and Dawn Hammons by Deed dated June 20, 1994 and recorded June 22, 1994 in the Recorder of Deeds Office of Adams County in Deed Book 902, page 138.

TO BE SOLD AS THE PROPERTY OF JAMES MARCELLUS HAMMONS AND DAWN HAMMONS.

SEIZED and taken into execution as the property of **James Marcellus Hammons & Dawn Hammons** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 18, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/30, 7/7 & 14

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

In re: First and Final Account of PNC Bank, National Association (formerly Gettysburg National Bank), Guardian of the Estate of William J. Goodin, a minor dated June 2, 2000 - Adams County Orphans' Court No. OC-61-00

TO ALL PERSONS CONCERNED:

NOTICE IS HEREBY GIVEN that the First and Final Account of PNC Bank, NA (formerly Gettysburg National Bank), Guardian of the Estate of William J. Goodin, a minor, under an Order of Court dated April 15, 1991 in regard to the Estate of Charles Raymond Wolf, has been filed in the Office of the Clerk of the Orphans' Court and will be presented to the Court of Common Pleas of Adams County, Pennsylvania, at Gettysburg, Pennsylvania, for confirmation and approval on July 31, 2000, at 9:00 a.m.

Peggy J. Breighner
Clerk

Hartman & Yannetti
Attorneys for William J. Goodin

6/30 & 7/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-277 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of August, 2000, 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 lot of land situated in Mount Pleasant Township, Adams County, Pennsylvania, being more particularly described as Lot No. 681 on a plan of lots of Lake Heritage Subdivision, duly entered and appearing of record in the Office to the Recorder of Deeds of Adams County, in Misc. Book 4, page 665, and subject to all legal highways, easements, rights-of-way and restrictions of record.

TOGETHER with the rights and SUBJECT TO the restrictions, conditions, agreements, reservations and charges set forth at length in the deed recorded in Deed Book 284 at Page 363.

BEING the same property which Charles J. Pusateri, Sr., and Sharon E. Pusateri, his wife Granted and Conveyed unto Jimmy Artis and Darlene E. Artis, his wife, by Deed dated April 15, 1992, and Recorded in the Office of the Recorder of Deeds of Adams County on April 15, 1992, in Deed Book Volume 622, Page 911.

DBV 622

Page 911

Parcel 5-157

SEIZED and taken into execution as the property of **Jimmy Artis & Darlene E. Artis** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 18, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/30, 7/7 & 14

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-218 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 August, 2000, 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 Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a spike in the center of Legislative Route 01002 at the Southwest corner of land now or formerly of Leroy B. Apgar with a pin set back along the Apgar line 20 feet; thence in the center of said State Highway, Legislative Route 01002, North 78 degrees 15 minutes West, 435.60 feet to a point in the center of old L.R. 01002; thence through a pin set back along the line 25 feet by other land of Garland Baker, North 11 degrees 45 minutes West, 200 feet through an iron pin set back along the line 20 feet, to a spike in the center of L.R. 01002, the place of BEGINNING. CONTAINING 2 acres.

THIS description was taken from a draft of survey made January 1, 1969 by Wilbur V. Redding, R.S.

Tax Parcel # F16-22A

TITLE TO SAID PREMISES IS VESTED IN Hubert D. Snyder, Sr. and Deborah A. Snyder, husband and wife by Deed from Mark R. Smith and Doris A. Smith, husband and wife dated 1/8/93, recorded 1/8/93, in Record Book 677 page 2.

SEIZED and taken into execution as the property of **Hubert D. Snyder a/k/a Hubert D. Snyder, Sr. & Deborah A. Snyder** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 4, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/23, 30 & 7/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-1117 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 August, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows to wit:

BEGINNING at a point along the right-of-way line of Colorado Avenue and corner of Lot No. 88 on subdivision plan hereinafter referred to; thence along Lot No. 88, South sixty-two (62) degrees thirty-two (32) minutes forty-three (43) seconds West, one hundred six and twenty-eight hundredths (106.28) feet to a point along Lot No. 80 on subdivision plan hereinafter referred to; thence along Lot No. 80, North twenty-seven (27) degrees twenty-seven (27) minutes thirteen (13) seconds West, forty-two and ninety-five hundredths (42.95) feet to a point at corner of Lot No. 86 on subdivision plan hereinafter referred to; thence along Lot No. 86, North forty-five (45) degrees fifty-four (54) minutes twenty-three (23) seconds East, one hundred and zero hundredths (100.00) feet to a point along the right-of-way line of Colorado Avenue; thence along the right-of-way line of Colorado Avenue, by a curve to the right, having a radius of two hundred fifty and zero hundredths (250.00) feet, an arc length of seventy-two and sixty hundredths (72.60) feet, and a long chord bearing and distance of South thirty-five (35) degrees forty-six (46) minutes twenty-seven (27) seconds East, seventy-two and thirty-five hundredths (72.35) feet to the point and place of BEGINNING. (CONTAINING 5,989 square feet and being designated as Lot No. 87 on subdivision plan of Appler Development prepared by Group Hanover, Inc., dated July 15, 1994, as revised, Project No. 921060, which said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 65, page 89.)

Tax Parcel # 7-183

TITLE TO SAID PREMISES IS VESTED IN Jose L. Ibero, by Deed from S & A Custom Built Homes, Inc., a Pennsylvania Corporation, by its Attorney-in-fact, Mark Cummins dated 3/31/97, recorded 4/8/97, in Record Book 1352, Page 213.

SEIZED and taken into execution as the property of **Jose L. Ibero** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

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 September 4, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/23, 30 & 7/7

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

NOTICE

To: ROBERT LERAY STOKES
No. RT-1-00(A)

TAKE NOTICE that all parental rights or claims which you have in or to your child have been terminated as a result of a hearing held on April 3, 2000, by an Order of Court and Decree Nisi of April 3, 2000. The Order of termination of your parental rights will become permanent if you do not file exceptions with the Court within ten (10) days from the date of the publication of this Notice of Decree Nisi.

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325

Telephone number: 717-337-9846,
or 1-888-337-9846

Chester G. Schultz
Attorney at Law
145 Baltimore Street
Gettysburg, PA 17325

6/30

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

NOTICE

To: SAROJA BROWN No. RT-1-00(B)

TAKE NOTICE that all parental rights or claims which you have in or to your child have been terminated as a result of a hearing held on April 3, 2000, by an Order of Court and Decree Nisi of April 3, 2000. The Order of termination of your parental rights will become permanent if you do not file exceptions with the Court within ten (10) days from the date of the publication of this Notice of Decree Nisi.

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325

Telephone number: 717-337-9846,
or 1-888-337-9846

Chester G. Schultz
Attorney at Law
145 Baltimore Street
Gettysburg, PA 17325

6/30

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

NOTICE

To: ROBERT LERAY STOKES
No. RT-2-00(A)

TAKE NOTICE that all parental rights or claims which you have in or to your child have been terminated as a result of a hearing held on April 3, 2000, by an Order of Court and Decree Nisi of April 3, 2000. The Order of termination of your parental rights will become permanent if you do not file exceptions with the Court within ten (10) days from the date of the publication of this Notice of Decree Nisi.

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325

Telephone number: 717-337-9846,
or 1-888-337-9846

Chester G. Schultz
Attorney at Law
145 Baltimore Street
Gettysburg, PA 17325

6/30

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

NOTICE

To: SAROJA BROWN No. RT-2-00(B)

TAKE NOTICE that all parental rights or claims which you have in or to your child have been terminated as a result of a hearing held on April 3, 2000, by an Order of Court and Decree Nisi of April 3, 2000. The Order of termination of your parental rights will become permanent if you do not file exceptions with the Court within ten (10) days from the date of the publication of this Notice of Decree Nisi.

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325

Telephone number: 717-337-9846,
or 1-888-337-9846

Chester G. Schultz
Attorney at Law
145 Baltimore Street
Gettysburg, PA 17325

6/30

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 MILDRED C. ERB, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executor: James R. Erb, Jr., R.D. 7, Box 7250, Spring Grove, PA 17362
Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF EUGENE L. HELLER a/k/a EUGENE LINCOLN HELLER, DEC'D
Late of Butler Township, Adams County, Pennsylvania
Executrix: Ruby D. Heller, 460 Center Mills Rd., Aspers, PA 17304
Attorney: Chester G. Schultz, Esq., 145 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF ADELAIDE MILLER FROUNFELTER, DEC'D
Late of Union Township, Adams County, Pennsylvania
Walter Lee Simpson, 131 Lumber Street, Littlestown, PA 17340
Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF DOROTHY M. LEININGER, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executrix: Kay A. Bock, c/o Lacy Hayes, Jr., Esq., 2216 Walnut Street, Harrisburg, PA 17103-2426
Attorney: Lacy Hayes, Jr., Esq., 2216 Walnut Street, Harrisburg, PA 17103-2426

ESTATE OF WILBERT F. NOEL, SR., DEC'D
Late of the Borough of McSherrystown, Adams County, Pennsylvania
Executors: Wilbert F. Noel, Jr. or Stephen Noel, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331
Attorneys: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF EDNA M. POTTER, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Administrator: Carl Alan Potter, 1355 Biglerville Road, Gettysburg, PA 17325
Attorney: John James Mooney, III, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF MANDLE B. WRIGHT, DEC'D
Late of Butler Township, Adams County, Pennsylvania
Executor: Ronald H. Smith, 2741 Meadow Drive, Gettysburg, PA 17325
Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF WILLIAM F. ANDERSON, SR., DEC'D
Late of Straban Township, Adams County, Pennsylvania
Carla Anderson, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331
Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF PAULINE WEHLER, DEC'D
Late of Mt. Joy Township, Adams County, Pennsylvania
Executor: Robert E. Wehler, Route 7, Box 255, Fairmont, WV 26554
Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325

CONTINUING LEGAL EDUCATION PROGRAM*Feldman on Long-Term Care Planning*

July 20, 2000 – 9:00 a.m. - 1:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 3, Ethics – 0

Trial Evidence in Criminal Cases

August 3, 2000 – 9:00 a.m. - 1:30 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

Issues in Commercial Mortgage Foreclosures

August 9, 2000 – 9:00 a.m. - 1:30 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

Advanced Nursing Home Planning

September 13, 2000 – 9:00 a.m. - 5:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

Fundamentals of Family Law

September 19, 2000 – 9:00 a.m. - 5:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

Tax Planning Strategies for Small Businesses

October 19, 2000 – 9:00 a.m. - 1:30 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 3.5, Ethics – 0

Litigating in Orphan's Court

November 9, 2000 – 9:00 a.m. - 5:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

REGISTRATION THROUGH P.B.I. 800-247-4724