

Adams County Legal Journal

Vol. 42

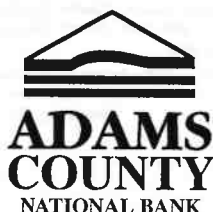
November 3, 2000

No. 23, pp. 126-133

IN THIS ISSUE

SANDERS VS. SMITH ET AL

**Quality Customer Service.
Our promise to you every day.**



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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

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

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

Periodicals postage paid at Gettysburg, PA 17325.

Copyright © 1959 by Wm. W. Gaunt & Sons, Inc., for Adams County Bar Association, Gettysburg, PA 17325.

All rights reserved.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-662 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of November, 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.:

Situate in Reading Twp., Adams Cty., Cmwth. of PA. Being more particularly described as Lot #868 on Plan of Lots of Lake Meade Subdivision recorded in Miscellaneous Deed Book 1, Pg. 6. HET a dwg. k/a 369 Lake Meade Dr., E. Berlin, PA 17316. Parcel 32 & Tax Map 10. DBV 1893, Pg. 180.

SEIZED and taken into execution as the property of **Michael E. King** 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 December 11, 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.

10/20, 27 & 11/3

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed by Robert A. Brodbeck, Inc. Consulting Horticulturalist with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania. The corporation is incorporated under the Pennsylvania Business Corporation Law of 1988. Articles of Amendment have also been filed changing the corporate name to R. A. BRODBECK, INC.

Teeter, Teeter & Teeter

11/3

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that pursuant to the provisions of the Fictitious Names Act, 54 PA.C.S.A. Sec 301, et seq., as amended, of the filing with the Secretary of the Commonwealth at Harrisburg, PA on October 6, 2000 an application for conducting business under the assumed or fictitious name of: PAT'S HAIR & TANNING, with its principal place of business at 380 Lincolnway East, New Oxford, PA 17350.

The name and address of the person owning or interested in said business is: Pat Godfrey, 304 A Lincolnway West, New Oxford, PA 17350.

11/3

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on October 16, 2000, pursuant to the Fictitious Name Act, setting forth that Biagio Scamardella, of 125 Hillcrest Drive, Hanover, Pennsylvania 17331, is the only person owning or interested in a business, the character of which is a restaurant and that the name, style and designation under which said business is and will be conducted is BROTHER'S PIZZA and the location where said business is and will be conducted is Main Street Plaza, #4 South Sixth Street, McSherrystown, PA 17344.

Guthrie, Nonemaker, Guthrie & Yingst
Solicitor

11/3

NOTICE

NOTICE IS HEREBY GIVEN that John Matthew Hartzell intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 20th day of November, 2000, and that he intends to practice law as the Solicitor for the County of Adams, Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania.

Office of the Adams County Solicitor
111-117 Baltimore Street
Gettysburg, PA 17325

11/3, 10 & 17

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 October 17, 2000 for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is: DEVITA'S INC.

The purpose for which the corporation has been organized is: The corporation shall have unlimited power to engage in and do any law act concerning any or all lawful business for which corporations may be organized under the Pennsylvania Business Corporation Law.

John C. Zepp, III, Esq.
8438 Carlisle Pike
P.O. Box 204
York Springs, PA 17372

11/3

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on September 27, 2000, pursuant to the Fictitious Name Act, setting forth that Mark S. Adams and Judy Y. Adams are the only individuals interested in a business, the character of which is a pizza restaurant, and that the designation under which the business is and will be conducted is DINO'S PIZZA OF LITTLESTOWN and that the location where said business is and will be conducted is 220 King Street, Littlestown, PA 17340.

Bernard A. Yannetti, Jr.
Solicitor

11/3

SANDERS VS. SMITH ET AL

1. Had an implied warranty of habitability been pleaded, plaintiffs would have been required to prove that: (1) a condition existed that made the premises unsafe or unsanitary, (2) notice of the condition was given to the landlord, and (3) the landlord failed to remedy the condition. With adjustments, the same elements would apply to breach of contract.

2. Negligence requires proof that (1) plaintiff's injuries were caused by a breach of statutory or specifically defined duty, (2) defendants failed to correct the condition causing such injuries, and (3) that the condition was known to them or discoverable through the exercise of reasonable care.

3. Although it has been observed that tort and contract liability are sometimes difficult to distinguish, negligence involves the breach of a social duty. The gist of the action must be the wrong ascribed to defendant with the contract being collateral.

4. Pennsylvania follows the general law that a lessor of land is not liable to a lessee or to others, including business invitees, for physical harm caused by a natural or artificial condition on the land that existed when the land was transferred. Exceptions to the general rule arise: (1) when the lessor fails to disclose a dangerous condition, (2) where the lease is for inviting the public onto the premises, (3) where the lessor retains a portion and allows the lessee to use it, (4) where lessor retains a portion that is necessary for the safe maintenance of the leased premises, (5) where lessor negligently makes repairs, and (6) where lessor retains possession and control.

5. In multi-tenanted buildings, the landlord is also responsible for common approaches.

6. Exculpatory clauses are generally valid if, 1) the clause does not contravene public policy, 2) the contract is between persons relating entirely to their own private affairs, and 3) each person must be a free bargaining agent to the agreement so that the contract is not one of adhesion. They will not be enforced unless the language is clear that the person is being relieved of liability for his own acts of negligence. When interpreting such clauses, the following guidelines apply: a) such clauses will be strictly construed since exculpatory language is not favored in the law, and b) the clauses must state the intention of the parties with the greatest particularity, beyond doubt by express stipulation, and no inference from words of general import can establish the intent of the parties, c) the language of the contract, in case of ambiguity, must be construed against the person seeking the immunity, and d) the burden of establishing immunity is on the person seeking it.

7. Ambiguity exists if a contract is reasonably susceptible of different constructions, is obscure in meaning through definiteness of expression or has a double meaning. If a contract is ambiguous, a party is bound to a particular meaning only if he or she had reason to know the meaning.

8. The threshold determination of ambiguity is with the court. A contract is ambiguous if reasonably intelligent minds would differ regarding its meaning. However, overly subtle or technical interpretations will not defeat the reasonable expectations of the parties.

9. Although other jurisdictions sometimes have technically distinguished "injury" and "damages," Pennsylvania law has not. Unless the context in which they are used give the words different meanings, they are generally used interchangeably. Injury includes personal injury and bodily injury, without those adjectives being used.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 97-S-1188. REBA SANDERS AND KENNETH
SANDERS VS. CLARK J. SMITH AND KATHERINE J. SMITH,
AND CLARKS BODY SHOP, INC.

R. Elliott Katherman, Esq., for Plaintiffs

John Keller, Esq., for Defendants

Spicer, P.J., July 16, 1999

OPINION RE: PRE-TRIAL ORDER

Following a pre-trial conference before Judge John D. Kuhn, an order was entered containing the following:

1. The question of the effect of the release of liability in the lease agreement shall be set for Argument Court on July 13, 1999. Briefs are due on or before July 8, 1999. Disposition shall be made without oral argument.

The undersigned assumed responsibility for ruling on the question. Both parties submitted briefs and plaintiffs' counsel appeared, perhaps because his brief was not filed precisely on time. A review of arguments and the record leads us to conclude that issues are somewhat more complicated than the question might indicate.

For purposes of simplifying references in this opinion, "transcript" shall mean the transcript appearing in the record and containing testimony of Reba Sanders.

Background: Plaintiffs filed their complaint December 19, 1997 alleging that they entered into a written lease with defendants on or about June 1, 1993, and rented an apartment identified as Unit 2. When another apartment (unit 4) became vacant around Christmas, 1994, (transcript page 16), plaintiffs moved into that apartment. Ms. Sanders said she agreed to pay more rent and that the written lease would continue to apply. (Id page 21.)

It appears undisputed that unit 4 has only one entrance, (Id page 22), which the complaint describes as involving steps, a small landing, and no handrail. Ms. Sanders said she talked to Mr. Smith in late 1994 or early 1995, requested a handrail and said the condition "was kind of dangerous." (Id page 26.) The transcript indicates the following:

Q What was Mr. Smith's reply?

A He really didn't say anything.

Id page 27

Ms. Sanders said she slipped and fell, on January 17, 1996, as she descended the stairs. Plaintiffs have pleaded that the accident and injuries sustained as a result thereof “were caused by the negligence of Defendant and were in no way due to any act or failure to act on the part of Plaintiffs.” Complaint ¶10. Further, they say that defendants “were negligent for having been aware of the dangerous condition of the stairs with no hand rail, and failing to take proper steps to remedy the dangerous condition by erecting a hand rail.” ¶11.

The lease contained the following provision:

13. LIABILITY.

Tenant relieves Owner/Agent from liability for any injury or damage to property of Tenant, family, guests and employees on or about premises arising from negligence or intentional acts of Owner/Agent. Owner/Agent will not be liable whatsoever for any injury or damage caused by water that may leak into the premises.

Discussion: It is important to understand that neither party has moved for summary judgment and the court’s authority would seem restricted to making rulings that would apply at trial. We say this because plaintiffs’ counsel appeared at oral argument and stated that it was plaintiffs’ contention that defendants agreed to install a handrail some time after plaintiffs moved into apartment 4. This is a critical point for which the present record lends little support. It is critical because of the state of the law defining a landlord’s limited duty to correct defective conditions in demised property.

A: Possible basis for landlord’s liability: As has been mentioned, liability has been asserted solely on a theory of negligence. Except as it might pertain to negligence, plaintiffs have not pleaded, nor do they suggest, a breach of contract or implied warranty. Negligence and breach of warranty/contract differ. For example, had an implied warranty of habitability been pleaded, plaintiffs would have been required to prove that: (1) a condition existed that made the premises unsafe or unsanitary, (2) notice of the condition was given to the landlord, and (3) the landlord failed to remedy the condition. With adjustments, the same elements would apply to breach of contract. By contrast, negligence requires proof that: (1) Ms. Sanders’ injuries were caused by a breach of statutory or specifically defined duty, (2) defendants failed to correct the condition causing such injuries, and (3) that the condition was known to them or

discoverable through the exercise of reasonable care. *Keck v. Doughman*, 392 Pa. Super. 127, 572 A.2d 724 (1990); alloc. dn. 525 Pa. 664, 583 A.2d 794 (1990). Although it has been observed that tort and contract liability are sometimes difficult to distinguish, *Phico Insurance Co. v. Presbyterian Medical Services Corp.*, 444 Pa. Super. 221, 663 A.2d 753 (1994), negligence involves the breach of a social duty. *Redevelopment Authority of Cambria County v. International Insurance Company*, 454 Pa. Super. 374, 685 A.2d 581 (1996); alloc. dn. 548 Pa. 649, 695 A.2d 787 (1997). The gist of the action must be the wrong ascribed to defendant with the contract being collateral. *Phico*, supra.

We discuss contract principles because it would seem that negligence in the context of this case can only be asserted under Restatement, Torts 2d, §323:

One who undertakes, gratuitously or for consideration to render services to another which he should recognize as necessary for the protection of the other's person or things, is subject to liability to the other for physical harm resulting from his failure to exercise reasonable care to perform his undertaking, if

(a) his failure to exercise such care increases the risk of such harm, or

(b) the harm is suffered because of the other's reliance upon the undertaking.

A caveat to the section states:

The Institute expresses no opinion as to whether:

(1) the making of a contract, or a gratuitous promise, without in any way entering upon performance, is a sufficient undertaking to result in liability under the rule stated in this Section,

However, the Restatement theory has not been specifically advanced by plaintiffs nor addressed by defendants.

B: Duty. Pennsylvania follows the general law that a lessor of land is not liable to a lessee or to others, including business invitees, for physical harm caused by a natural or artificial condition on the land that existed when the land was transferred. The law equates a lease to a sale for the term of the lease. Exceptions to the general rule arise: (1) when the lessor fails to disclose a dangerous condition, (2) where the lease is for inviting the public onto the premises, (3) where

the lessor retains a portion and allows the lessee to use it, (4) where lessor retains a portion that is necessary for the safe maintenance of the leased premises, (5) where lessor negligently makes repairs, and (6) where lessor retains possession and control. *Deeter v. Dull Corp., Inc.* 420 Pa. Super. 576, 617 A.2d 336 (1992), alloc. dn. 535 Pa. 619, 629 A.2d 1380 (1993). Exceptions have also been described as, (1) landlord retains control, (2) premises are so dangerously constructed as to constitute a nuisance per se, (3) landlord knows of the condition at the time of the lease and fails to disclose, (4) the premises are leased for the purpose of admitting the public and landlord fails to inspect and make repairs before transferring the premises, and (5) landlord undertakes to make repairs and does so negligently, and, with respect to hidden defects, fails to make repairs after notice and reasonable opportunity to make such repairs. *Dorsey v. Continental Associates*,¹ 404 Pa. Super. 525, 591 A.2d 716 (1991); alloc. dn. 531 Pa. 646, 612 A.2d 985 (1992). In multi-tenanted buildings, the landlord is also responsible for common approaches. *Schultz by Schultz v. DeVaux*, Pa. Super. , 715 A.2d 479 (1998), appeal withdrawn Pa. January 19, 1999. *Felton by Felton v. Spratley*, 433 Pa. Super. 474, 640 A.2d 1358 (1994); alloc. gr. 540 Pa. 600, 655 A.2d 989 (1995); appeal dismissed and improvidently granted by 542 Pa. 361, 667 A.2d 214 (1995).

We understand Plaintiffs to concede that none of the exceptions apply to the written lease and that defendants initially had no duty to install a handrail. However, as we previously commented, they assert liability on the basis of an alleged oral agreement to install such device.

It might appear that such liability rests upon breach of contract, not negligence, even considering Restatement §323, supra. Since neither counsel has discussed this issue, we decline to rule on the application of the Restatement and the viability of a theory of negligence.

C: Exculpatory clause. Exculpatory clauses are generally valid if, 1) the clause does not contravene public policy, 2) the contract is between persons relating entirely to their own private affairs, and 3) each person must be a free bargaining agent to the agreement so that the contract is not one of adhesion. Even when such clauses are

¹ Judgment N.O.V. in this case was entered against a tenant who fell down stairs slickened by rain. The dangerous condition was not concealed.

determined to be valid, they will not be enforced unless the language is clear that the person is being relieved of liability for his own acts of negligence. When interpreting such clauses, the following guidelines apply: a) such clauses will be strictly construed since exculpatory language is not favored in the law and, b) the clauses must state the intention of the parties with the greatest particularity, beyond doubt by express stipulation, and no inference from words of general import can establish the intent of the parties, c) the language of the contract, in case of ambiguity, must be construed against the person seeking the immunity, and d) the burden of establishing immunity is on the person seeking it. *Topp Copy Products Inc. v. Singletary*, 533 Pa. 468, 626 A.2d 98 (1993)²; alloc. gr. 529 Pa. 651, 602 A.2d 861 (1992); reversed by 533 Pa. 468, 626 A.2d 98 (1993). *Borden Inc. v. Advent Ink Company*, Pa. Super., 701 A.2d 255 (1997); alloc. dn. 555 Pa. 725, 725 A.2d 178 (1998).

If we confine our attention to the factual background of this case and ignore, for the moment, plaintiffs' allegation of an oral promise to install a handrail, the exculpatory clause does no more than reflect the law. There is, therefore, no need to view the clause with disfavor exculpation or to strictly construe it. Even without the clause, there would be no liability on part of defendants without something more than the written lease. If we assume that plaintiffs will be able to prove an oral promise to install, several questions arise: (1) Is non performance a matter of negligence or breach of contract? (2) Is the oral promise an independent undertaking, or should it be construed in connection with the written lease, and its exculpation clause? (3) Is the exculpatory clause ambiguous?

Although it might appear that, (1) the gist of plaintiffs' action involves a breach of contract, and, (2) the oral agreement is an independent³ undertaking, we postpone any ruling until counsel have an opportunity to argue these specific points.

² This case represents an interesting example of how different jurists can apply the standards just expressed. Superior Court reversed summary judgment in favor of a landlord, saying that "all liability" was too general to include acts of landlord's own negligence. 404 Pa. Super. 459, 591 A.2d 298 (1991). Essentially, in reinstating summary judgment, our Supreme Court said that "all" meant "all."

³ The Restatement, *supra*, does not rest upon contract principles since liability may arise when a promise is made and not supported by consideration. One could conclude that plaintiffs may be limited to negligence because of the lack of consideration. The record is quite limited with regard to details of the oral promise.

We can, however, rule upon the enforceability of the exculpatory clause. Plaintiffs argue that the provision is ambiguous and that the jury should be allowed to find that the clause does not apply. Plaintiffs advance two contentions: first, that without an adjective such as “bodily”, *injury* is susceptible of several meanings, and, second, the phrase “injury or damage to property of tenant...” may reasonably be interpreted to mean “injury to property of tenant” (or others.)

Ambiguity exists if a contract is reasonably susceptible of different constructions, is obscure in meaning through indefiniteness of expression or has a double meaning. If a contract is ambiguous, a party is bound to a particular meaning only if he or she had reason to know that meaning. *Ardrey Insurance Agency v. Insurance Company of Decatur*, 441 Pa. Super. 94, 656 A.2d 936 (1995). The threshold determination of ambiguity is with the court. A contract is ambiguous if reasonably intelligent minds would differ regarding its meaning. However, overly subtle or technical interpretations will not defeat the reasonable expectations of the parties. *Ready Food v. Great Northern Insurance*, 417 Pa. Super. 643, 612 A.2d 1385 (1992).

Viewing the provision from a commonsense position, we find it unambiguous. Although other jurisdictions sometimes have technically distinguished “injury” and “damages,”⁴ Pennsylvania has not. *In re City of Pittsburgh*, 243 Pa. 392, 90 A. 329 (1914). Unless the context in which they are used give the words different meanings, they are generally used interchangeably. *Id.* See also *The American Heritage Dictionary of the English Language* (Houghton Mifflin Company). Injury includes personal injury and bodily injury, without those adjectives being used. *Id. Bogutz v. Margolin*, 392 Pa. 151, 139 A.2d 649 (1958)⁵.

Thus, we reject the argument that *injury* is not clearly intended to include bodily or personal injury. We likewise reject the contention that *injury* may reasonably be limited by “property of tenant” (or others), and is therefore ambiguous. Plaintiffs argue that *injury* and

⁴ Plaintiffs do not argue that “injury” refers to the legal wrong which occasions “damages,” which is the point of some cases in this area.

⁵ Although exculpatory lease provisions in that case were more explicit than those under consideration, Supreme Court held that “injury” included personal injury sustained by a tenant in a slip and fall case.

damage may be interpreted to refer only to property, and are meant to distinguish between injury to a pet and damage to property. Although we can find an occasional case referring to injury to a pet, *Price v. Brown*, 545 Pa. 216, 680 A.2d 1149 (1996), animals are still property.⁶ Although Supreme Court reversed Superior Court's decision that liability against a veterinarian could be based on a bailment theory, it did so because of a requirement to prove negligence. In our opinion, plaintiffs' interpretation is overly strained and makes either *injury* or *damage* superfluous. Although the words may be used interchangeably, the parties obviously meant to distinguish between injury to a person and damage to property.

2. Conclusions:

- A. Exculpatory provisions in the lease are valid and enforceable as to all causes of action based upon the written lease.
- B. No decision should be made without input from counsel as to whether plaintiffs' action involves negligence or breach of contract, or whether the alleged oral agreement between the parties incorporated the terms and conditions of the written lease agreement.

ORDER OF COURT

AND NOW, this 16TH day of July, 1999, the court rules that exculpatory provisions in the written lease are valid and enforceable as to all causes of action arising out of the written lease. Counsel shall have ten days to request re-argument on issues not formally decided in the opinion and order.

⁶Like any other suit for property damage, an owner could sue for loss or diminution in value caused by an injury. That is what occurred in the *Price* case. We express no opinion whether an owner might be entitled to recover for the owner's emotional distress suffered because of an animal's suffering.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-770 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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.:

Tax Parcel No. K-11-70

ALL THAT CERTAIN lot, parcel, piece of ground with the improvements thereon erected situate in Oxford Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point in the center of the Lincoln Highway (US Route 30) at the corner of lands now or late of Francis J. Yake Jr.; thence along the land now or late of Francis J. Yake Jr., South Twenty-six (26) degrees Thirty-eight (38) minutes Zero (0) seconds East, Two Hundred Twenty-six and Fifty-six hundredths (226.56) feet to an iron pin; thence along lands now or late of Stewart V. Walker, South Seventy-two (72) degrees Zero (0) minutes Zero (0) seconds West, Two Hundred Thirty and Thirty-seven hundredths (230.37) feet to a point in concrete; thence along lands now or late of Cindy A. Black, North Eighteen (18) degrees Zero (0) minutes Zero (0) seconds West, Two Hundred (200) feet to an iron pin; thence continuing along said lands North Twenty-six (26) degrees Thirty-eight (38) minutes Zero (0) seconds West, Twenty-five and Twenty-seven hundredths (25.27) feet to a point Seventy-two (72) degrees Zero (0) minutes Zero (0) seconds East, Two Hundred (200) feet to the place of BEGINNING.

THIS DESCRIPTION combines Parcels 1 and 2 of a prior deed. The part of the premises (formerly known as Parcel 2) is subject to restrictions as contained in Deed Book 230 page 7.

BEING the same premises which Deborah C.C. Gibbons, a single woman, by her deed dated February 19, 1998 and recorded February 20, 1998 in the Office of the Recorder of Deeds for Adams County in Deed Book 1523 page 319, granted and conveyed to Gary L. Landis, a single man.

ALSO BEING the same premises which Merle C. Weant and Gloria A. Weant his wife by deed dated February 19, 1998 and recorded in the Office of the Recorder of Deeds for Adams County in Deed Book 1634 page 57, confirmed by Order of The Bankruptcy Court, granted and conveyed their undivided two-thirds interest to Gary L. Landis, a single man.

TAX PARCEL No. J6-23

ALL the following described two (2) tracts of land:

TRACT NO. 1: ALL that certain tract of land situate, lying and being in Reading Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a stone and land formerly of David Brown, now of Haines B. Dicks; thence south eighty-eight and one-half (88 1/2) degrees east ninety-six and four-tenths (96.4) perches to a stone; thence due south, fifteen and four-tenths (15.4) perches to a stone; thence by land now or formerly of A. D. Brown and land formerly of Andrew Brown, now of H. D. Brown, south eighty-eight and one-half (88 1/2) degrees east, sixty-four (64) perches to a stone; thence by land now or formerly of George Bell, Esq., north one (1) degree West, twenty-one and eight-tenths (21.8) perches to a stone; thence north by land of the same sixty-six (66) degrees west, twelve (12) perches to a stone; thence north thirteen and one-half (13 1/2) degrees East, sixty (60) perches to a stone and lands of the same; thence north seventy-four (74) degrees west, eighteen and eight-tenths (18.8) perches to a stone; thence north twenty-five (25) degrees east, forty-one and five-tenths (41.5) perches to a stone; thence by same north seventy-six and one-half (76 1/2) degrees west, fifty (50) perches to a stone; thence by land formerly of Elijah Myers, now H. J. Brown, south twenty-five (25) degrees west, sixty-six (66) perches to a stone; thence by lands of the same north forty-five and one-half (45 1/2) degrees west, thirty-seven and five-tenths (37.5) perches to a stone; thence south sixty-five (65) degrees west, sixty-one and seven-tenths (61.7) perches to a stone; thence south one and one-half (1 1/2) degrees west, sixty-three and five-tenths (63.5) perches to a stone, the place of BEGINNING. CONTAINING ninety-three (93) acres and forty-eight (48) perches of land, more or less.

IT BEING the same tract of land which Florence V. Tribit, now Florence V. Stephens and Dean T. Stephens, her husband, by their deed dated October 30, 1954 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Deed Book Vol. 208 at page 193, sold and conveyed unto Eugene C. Lemmon and Irene E. Lemmon, his wife, as tenants by the entireties.

TRACT NO. 2: ALL that farm in Reading Township, Adams County, Pennsylvania, containing approximately 115.831 Acres and consisting of three contiguous parts or parcels, more particularly bounded and described as follows:

Part No. 1: BEGINNING at a stone in the state highway leading from York Springs to East Berlin at corner of land now or formerly of Walter Lemmon; thence in said highway and along said land and land now or formerly of F. Robert Seaman, South 44 1/2 degrees

East 29.9 perches to a point; thence along said last mentioned land North 42 1/2 degrees East 34.5 perches to a post at corner of Part No. 2 hereof; thence along Part No. 2 hereof South 75 degrees East 81.8 perches to a post at corner of Part No. 3 hereof; thence along Part No. 3 hereof South 50 1/2 degrees West 44.85 perches to a post; thence along land formerly of W. Archer Hess South 13 1/2 degrees West 18.5 perches to a point in the aforementioned state highway leading from York Springs to East Berlin; thence in said highway and along said land formerly of W. Archer Hess South 73 1/2 degrees East 16.4 perches, to a point in the highway; thence along lands now or formerly of Joseph Stoner, South 50 1/2 degrees West 43.8 perches to stone in a road; thence in said road and continuing along same South 9 1/2 degrees East 53.3 perches to a stone in the intersection of two roads; thence in another road and along land now or formerly of Allen Schroyer North 74 3/4 degrees West 88.14 perches to a point in the middle of the road; thence along land now or formerly of Roy Brown North 9 1/2 degrees East 23.5 perches to a white oak; thence continuing along same North 89 degrees West 66.7 perches to a stone; thence along land now or formerly of Walter Lemmon North 14 3/4 degrees East 86 perches to a stone; thence continuing along same South 83 3/4 degrees East 20.4 perches to a stone; thence continuing along same North 68 1/2 degrees East 35 perches to the stone in the state highway, the place of BEGINNING. CONTAINING 100 Acres and 128 Perches.

The above description was obtained from a draft of survey prepared by P. S. Orner, County Surveyor, dated October 26, 1951.

Part No. 2: BEGINNING at a point at corner of Part No. 1 hereof; thence along land now or formerly of F. Robert Seaman North 36 degrees East 15.75 perches to an iron pin; thence continuing along same, South 79 degrees 15 minutes 90 perches to an iron pin; thence along land now or formerly of Earl Sponseller South 16 degrees 15 minutes East 16.73 perches to a post; thence along Part No. 3 hereof and Part No. 1 hereof, North 78 degrees 30 minutes West 103.8 perches to a point and place of BEGINNING. CONTAINING 8 Acres and 133 Perches.

The above description was obtained from a draft of survey prepared by LeRoy H. Winebrenner, County Surveyor, dated June 16, 1961.

Part No. 3: BEGINNING at a pin at a corner of Part No. 1 hereof; thence along Part No. 1 hereof North 49 degrees 30 minutes East 728 feet to a point at corner of Part No. 1 hereof and on line of Part No. 2 hereof; thence along Part No. 2 hereof South 75 degrees East 367.12

feet to a point; thence along lands now or formerly of Joseph Stoner South 15 degrees East 99 feet to an existing post; thence continuing along same South 50 degrees 30 minutes West 589 feet to a pin; thence along land now or formerly of W Hess North 79 degrees 7 minutes West 487.4 feet to the point and place of BEGINNING. CONTAINING 6.2 Acres.

The above description was obtained from a draft of survey prepared by George M. Wildasin, dated September 9, 1961.

SEIZED and taken into execution as the property of **E. Matthew Stambaugh & Emily D. Stambaugh** 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 January 8, 2001, 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.

11/3, 10 & 17

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Names Act 1982-295, approved December 16, 1982, of the filing on September 8, 2000, in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, PA, of a certificate for the conduct of a business under the fictitious name of BEHIND THE SCENES, with its principal place of business at 2310 Hanover Road, Gettysburg, Pennsylvania 17325. The name and address of the person owning or interested in said business is Nancy Rider of the same address.

Nancy Rider

11/3

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-403 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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 ground situate in Mt. Pleasant Township, Adams County, Pennsylvania, being more particularly described as Lot No. 861 on a plan of lots of Lake Heritage Subdivision, duly entered and appearing of the Record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Docket 4 at page 778, and subject to all legal highways, easements, rights of way and restrictions of record.

Being known as 861 Heritage Drive, Gettysburg, PA

Property ID No. 7-61

Title to said premises is vested in Loy L. King and Julia C. King, husband and wife, as tenants of an estate by the entirety by deed from Wilmer L. Dutterer and Shirley Dutterer, husband and wife dated 1/13/1983 and recorded 6/13/1983 in Deed Book 368 Page 753.

SEIZED and taken into execution as the property of **Loy L. King & Julia C. King** 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 January 8, 2001, 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.

11/3, 10 & 17

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

NO. 5517-2000
NO. 5491-1999

IN THE MATTER OF KBM AND VRM
MINORS UNDER THE AGE
OF 18 YEARS

NOTICE OF HEARING
TO TERMINATE PARENTAL RIGHTS

TO: Kimberly Morrison, mother of KBM born on April 25, 1985, and VRM, born on February 25, 1992, in Dauphin County, Pennsylvania

A petition has been filed asking the Court to put an end to all rights you have to your children, KBM and VRM. The Court has set a hearing to consider ending your rights to your children. That hearing will be held in Dauphin County Courthouse, Front and Market Streets, Harrisburg, Pennsylvania, in Courtroom #5, Third Floor, on Friday, December 1, 2000, 10:30 a.m. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your children may be ended by the Court without your being present. You have a right to be represented at the hearing by a lawyer. You should take this notice to your lawyer at once. If you do not have a lawyer, go to or telephone the office set forth below to find out where you can get legal help. You are also warned that if you fail to file either an acknowledgement of paternity pursuant to 23 Pa. C.S.A., Section 5103 and fail to either appear at the hearing to object to the termination of your rights or file a written objection to such termination with the Court prior to the hearing, your rights may also be terminated under Pa. C.S.A. Section 2503(d) or Section 2504(c) of the Adoption Act.

Dauphin County Lawyer Referral Service
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

11/3

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 JOHN G. DRAGO, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Joanne R. Higgins, 100 Jefferson Street, Hanover, PA 17331

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Guthrie, & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF ADA S. FREY, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executors: Benjamin E. Frey, Jr., 290 Guernsey Road, Biglerville, PA 17307; Betty V. Wolf, 1120 Barlow-Two Taverns Road, Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF ROBERT N. MARTIN, SR., DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Mr. Robert N. Martin, Jr., 25207 Wastler Avenue, Cascade, MD 21719

Attorney: Matthew R. Battersby, Esq., Battersby & Sheffer, 20 West Main Street, P.O. Box 215, Fairfield, PA 17320

ESTATE OF MILDRED R. SANDOE, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Sereck Sandoe, 476 Benders Church Road, Biglerville, PA 17307

Attorney: Wendy Weikal-Beauchat, Esq., 63 West High Street, Gettysburg, PA 17325

ESTATE OF ANNA J. HARLOW SCOTT, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: Gynn M. Scott, 436 Lake Meade Rd., York Springs, PA 17372

Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF STEVEN P. SHEELY, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania

Administrators: Thomas A. Sheely, 481 Berlin Road, New Oxford, PA 17350; Doris L. Sheely, 481 Berlin Road, New Oxford, PA 17350

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Guthrie, & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF BLANCHE FLAHERTY SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: William B. Flaherty, 3638 Keen Avenue, Mountville, PA 17554; Eugene F. Jones, 213 Lincoln Way East, New Oxford, PA 17350; PNC Bank, N.A., P.O. Box 308, Camp Hill, PA 17001-0308

Attorney: Richard E. Thrasher, Esq., Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325; Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF LENA M. REDDEN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Wayne B. Ogburn, Jr., P.O. Box 388, Biglerville, PA 17037

Attorney: Robert E. Campbell, Esq., Campbell & White, 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CHARLES L. WUEGER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: John I. Mowery, 401-C Peace Circle, New Oxford, PA 17350

Attorney: Leavens & Roberts, 29 East Independence Street, Post Office Box 518, Shamokin, PA 17872

THIRD PUBLICATION

ESTATE OF J. RAYMOND MILLER, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Co-Executors: Frank C. Myers, III and Mary S. Miller, c/o 29 North Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., Countess Gilbert Andrews, 29 North Duke Street, York, PA 17401

ESTATE OF IVA M. MUMPER, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executrix: Delores V. Sheffield, 3291 Horizon Drive, Lancaster, PA 17601

Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF STEPHEN RICHARD REDDING, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Fred Redding, 241 Shivers Corner Road, Gettysburg, PA 17325

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

ESTATE OF BETTYLOU MAYE STERNER, DEC'D

Late of Highland Township, Adams County, Pennsylvania

Oscar Elwood Sterner, Jr., 585 Goldenville Road, Gettysburg, PA 17325; Flora Elizabeth (Sterner) (Gochenauer) Laughman, 72 High Rock Road, Hanover, PA 17331

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

ESTATE OF H. DEAN STOVER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Alfred D. Stover, 5288 W. Paseo De Las Colinas, Tucson, AZ 85745

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-576 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of November, 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 THE FOLLOWING DESCRIBED TWO (2) TRACTS of land situate, lying and being in Latimore Township, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1 - BEGINNING at a steel pin situate on the North side of a thirty-three (33) foot wide right-of-way and at corner of land now or formerly of Donald L. Lehman; thence by said lands now or formerly of Donald L. Lehman, North 25 degrees 51 minutes West, two hundred sixty-three and seventy-hundredths (263.70) feet to a steel pin on line of land now or formerly of Charles Kennedy; thence by land now or formerly of Charles Kennedy, North 50 degrees 34 minutes East, one hundred twenty-four and twenty-hundredths (124.20) feet to a steel pin at corner of lands now or formerly of Virgil S. Mulkey; thence by said Mulkey lands South 8 degrees 41 minutes East, one hundred twenty-five and sixty-nine hundredths (125.69) feet to a steel pin; thence continuing along the same, South 25 degrees 51 minutes East one hundred sixty-seven and seventy-three hundredths (167.73) feet to a steel pin on the North side of said thirty-three (33) feet right-of-way; thence along the North side thirty-three (33) feet right-of-way, South 65 degrees 02 minutes West, eighty-five (85) feet to a steel pin, the place of BEGINNING. CONTAINING 0.5795 Acres.

TRACT NO. 2 - BEGINNING at an iron pin on the North property line of a proposed thirty-three (33) feet wide street at lands now or formerly of Donald L. Lehman; thence by said lands, North 29 degrees 20 minutes West, two hundred fifty-four and sixty-hundredths (254.60) feet to an iron pin at lands now or formerly of Charles Kennedy; thence by lands now or formerly of Charles Kennedy, North 53 degrees 34 minutes East, forty-nine and thirty-three hundredths (49.33) feet to a steel pin at lands now or formerly of John R. Frey; thence by lands now or formerly of John R. Frey, South 25 degrees 51 minutes East, two hundred sixty-three and seventy-hundredths (263.70) feet to a steel pin on the North property line of a proposed thirty-three (33) feet wide street; thence along the North property line of said proposed street, South 65 degrees 02 minutes West, thirty-three (33) feet to an iron pin, the point and place of BEGINNING. CONTAINING 0.24 Acres.

Being known as 179 Harrisburg Street.
Tax I.D. No. 14-31A

SEIZED and taken into execution as the property of **Lee D. Kerstetter & Janet L. Kerstetter** 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 December 11, 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.

10/20, 27 & 11/3

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-697 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of November, 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 ground situate in Mt. Joy Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point on the property line of Burnside Drive in the Lake Heritage Subdivision at corner of Lot No. 795 on the draft of survey hereinafter referred to: thence along the property line of Burnside Drive South 04 degrees 30 minutes West, 60.0 feet to a point at corner of Lot No. 797; thence along Lot No. 797 North 85 degrees 30 minutes 00 seconds West, 286.17 feet to a point in Lake Heritage; thence in Lake Heritage North 21 degrees 40 minutes 00 seconds East, 62.80 feet to a point at corner of Lot No. 795; thence along Lot No. 795 South 85 degrees 30 minutes 00 seconds East, 267.63 feet to a point, the place of BEGINNING.

Designated as Lot No. 796 on a Plan of Lots of Lake Heritage Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Docket 4 at page 778, and SUBJECT TO all legal highways, easements, rights of way and restrictions of record.

BEING the same premises which Kenneth J. Held and Maegyne P. Held, Husband and Wife by Deed dated April 18, 1997 and recorded April 22, 1997 in Adams County, Pennsylvania in Deed Book 1359, Page 97, granted and

conveyed unto Steven M. Hood and Carol L. Hood, Husband and Wife.

PROPERTY ID# 10-37

SEIZED and taken into execution as the property of **Steven M. Hood & Carol L. Hood** 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 December 11, 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.

10/20, 27 & 11/3

Adams County Legal Journal

Vol. 42

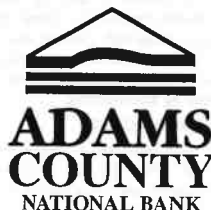
November 10, 2000

No. 24, pp. 134-136

IN THIS ISSUE

GE CAPITAL MORTGAGE VS. GROVE ET AL

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.



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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

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

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

Periodicals postage paid at Gettysburg, PA 17325.

Copyright© 1959 by Wm. W. Gaunt & Sons, Inc., for Adams County Bar Association, Gettysburg, PA 17325.

All rights reserved.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-428 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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 Situated, lying and being in the Borough of Carroll Valley, Fairfield, Adams County, Pennsylvania, being known as Lot No. 108 in Section "H", more particularly bounded and described as follows:

BEGINNING at a point in the center of High Ridge Drive at Lot No. 107; thence by said Lot South 68 degrees 41 minutes East, 125 feet to Lot No. 109; thence by said lot South 21 degrees 19 minutes West, 200 feet to a point in the center of Holiday Drive; thence in said Holiday Drive North 68 degrees 41 minutes West, 125 feet to a point in said Holiday Drive at its intersection with said High Ridge Drive; thence in said High Ridge Drive North 21 degrees 19 minutes East, 200 feet to the place of BEGINNING.

THE above description was taken from a plan of lots labeled "Section H, Charnita, Inc." dated August 7, 1965, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at page 15.

Tax Parcel # 12-65

SEIZED and taken into execution as the property of Gary W. Willard & Carrie A. Willard 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 January 8, 2001, 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.

11/10, 17 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-736 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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 those 2 tracts of land situate in Straban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

Tract No. 1: BEGINNING at a point in the center of the State Highway leading from Gettysburg to Harrisburg at corner of lands now or formerly of William W. Shields; thence in and along the center of said State Highway, North 38 degrees East, 50 feet to a point in center of said State Highway; thence by lands now or formerly of Robert Johnson and through an iron pin set back along the line, South 52 degrees East, 180 feet to an iron pin; thence by lands now or formerly of William W. Shields, South 38 degrees West, 50 feet to an iron pin; thence by lands of same, North 52 degrees West, 180 feet through an iron pin to the point in the center of the aforesaid State Highway, the place of BEGINNING.

Tract No. 2: BEGINNING at an iron pin at corner of lands now or formerly of William A. Bigham and Robert Johnson; thence by lands now or formerly of William W. Shields, South 52 degrees East, 16 feet to a point; thence by lands of same, South 38 degrees West, 50 feet to a point; thence by lands of same, North 52 degrees West, 16 feet to an iron pin at lands now or formerly of William A. Bigham; thence by lands of same, North 38 degrees East, 50 feet to an iron pin, the place of BEGINNING.

BEING THE SAME TWO TRACTS OF LAND WHICH Gary W. Peterson and Dianne S. Peterson, Husband and wife, by their Deed, dated August 21, 1989, and recorded August 22, 1989, in the Office of Recorder of Deeds in and for Adams County, Pennsylvania, at Deed Book Volume 531, Page 688, granted and conveyed unto Bernard J. Kuhn and Alice C. Latray-Kuhn, husband and wife as tenants of an estate by the entireties.

PARCEL MAP # G12-27

SEIZED and taken into execution as the property of Alice C. Latray-Kuhn & Bernard J. Kuhn 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 January 8, 2001, 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.

11/10, 17 & 22

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, Harrisburg, Pennsylvania on the 20th day of October, 2000 for the purpose of obtaining a Certificate of Incorporation for a Domestic Business Corporation organized and existing under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of May 5, 1933, P.L. 364, 15 P.S. §1000, as amended from time to time.

The name of the Corporation is LADY LUCK RV, INC.

The purpose or purposes for which it was organized are: The corporation is organized for the purpose of engaging in a business of recreational vehicle rentals, as well as maintaining the power to engage in all lawful business for which a corporation may be incorporated under the provisions of the business Corporation Law of 1988.

Murrel R. Walters, III, Esq. 54 East Main Street Mechanicsburg, PA 17055

11/10

NOTICE

NOTICE IS HEREBY GIVEN that John Matthew Hartzell intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 20th day of November, 2000, and that he intends to practice law as the Solicitor for the County of Adams, Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania.

Office of the Adams County Solicitor 111-117 Baltimore Street Gettysburg, PA 17325

11/3, 10 & 17

GE CAPITAL MORTGAGE VS. GROVE ET AL

1. Mortgagor's burden of proof can be stated as follows: "In an action on a note or bond secured by a mortgage, a plaintiff presents a prima facie case by showing 'the execution and delivery of the [note] and its nonpayment...'"

2. It is clear that the court was correct in granting summary judgment as to the liability issue. Appellants, in their answer to appellee's complaint, admitted that they were behind in their mortgage payments.

3. In order to properly raise a genuine issue of fact, Borrower had the burden to present 'facts' by counter-affidavits, depositions, admissions, or answers to interrogatories.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 98-S-1243. GE CAPITAL MORTGAGE SERVICES, INC. VS. DENNIS W. GROVE AND DEBORAH E. BECK A/K/A DEBORAH E. BAUGHER.

Mark J. Udren, Esq., for Plaintiff

John James Mooney, III, Esq., for Defendants

Bigham, J., August 6, 1999

OPINION ON PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Plaintiff G.E. Capital Mortgage Services, Inc., ("Mortgagor") has filed a Motion for Summary Judgment against Defendant Deborah E. Beck, a/k/a Deborah E. Baugher ("Borrower"), and has filed a Brief in Support. Borrower has chosen not to file a Brief. Accordingly, Mortgagor's Motion and Brief are before the Court for disposition.

STATEMENT OF FACTS

Mortgagor filed a Complaint in Mortgage Foreclosure on December 22, 1998, seeking *in rem* judgment in the amount of \$59,179.95 plus interest, costs and attorney's fees, and seeking foreclosure and sale of the mortgaged premises. Borrower filed an Answer with New Matter; Borrower denied that the mortgage was in default and asserted that she had "attempted to send the money delinquent payment, however, those payments were refused by an agent of the individual who was attempting to collect the debt because Borrower was unable to send them overnight." Borrower's Answer, Para. 4. However, Borrower also stated that she "did not mail the payments," and "desires to cure the default." Borrower's Answer, Para. 4. Borrower admits to the principal amount and interest due, but denies responsibility for attorney's fees, costs, or the need for a

Sheriff's sale. In *New Matter*, Borrower states that she desires to and has attempted to cure the default, but that such attempts were disregarded by Mortgagor.

LEGAL DISCUSSION

Rule 1035.2 reads as follows:

After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law (1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or (2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

Mortgagor's burden of proof can be stated as follows: "In an action on a note or bond secured by a mortgage, a plaintiff presents a prima facie case by showing 'the execution and delivery of the [note] and its nonpayment....'" *Corestates Bank N.A., v. Cutillo*, ___ Pa.Super. ___, 723 A.2d 1053, 1056 (1999).

In *New York Guardian Mortgage Corp. v. Dietzel*, 362 Pa. Super. 426 (1997), *rearg. den'd* July 6, 1987, the Superior Court affirmed the trial court's grant of summary judgment. The Court wrote "It is clear that the court was correct in granting summary judgment as to the liability issue. Appellants, in their answer to appellee's complaint, admitted that they were behind in their mortgage payments." *Dietzel* at 426.

As in *Dietzel*, Borrower here has admitted to her failure to make payment, and so no material issue of fact exists regarding Borrower's default. Although Borrower suggests that her attempt to cure the default and Mortgagor's alleged requirement that Borrower 'overnight mail' the payment are material to this determination, Borrower fails to cite case law or statutes to this effect, and the Court declines to find a material issue of fact in these allegations.

Furthermore, “[i]n order to properly raise a genuine issue of fact, [Borrower] had the burden to present ‘facts’ by counter-affidavits, depositions, admissions, or answers to interrogatories,” which Borrower has failed to do. *Dietzel* at 426.

Borrower’s Answer and New Matter also presume to assert an issue of fact as to her responsibility for attorney fees, costs of suit or the need for a Sheriff’s sale. Again, Borrower fails to cite case law or statutes to this effect, and the Court declines to find a material issue of fact in these allegations.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 6th day of August, 1999, Plaintiff’s Motion for Summary Judgment is granted. The parties are directed to proceed in accordance with the Pennsylvania Rules of Civil Procedure.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-770 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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.:

Tax Parcel No. K-11-70

ALL THAT CERTAIN lot, parcel, piece of ground with the improvements thereon erected situate in Oxford Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point in the center of the Lincoln Highway (US Route 30) at the corner of lands now or late of Francis J. Yake Jr.; thence along the land now or late of Francis J. Yake Jr., South Twenty-six (26) degrees Thirty-eight (38) minutes Zero (0) seconds East, Two Hundred Twenty-six and Fifty-six hundredths (226.56) feet to an iron pin; thence along lands now or late of Stewart V. Walker, South Seventy-two (72) degrees Zero (0) minutes Zero (0) seconds West, Two Hundred Thirty and Thirty-seven hundredths (230.37) feet to a point in concrete; thence along lands now or late of Cindy A. Black, North Eighteen (18) degrees Zero (0) minutes Zero (0) seconds West, Two Hundred (200) feet to an iron pin; thence continuing along said lands North Twenty-six (26) degrees Thirty-eight (38) minutes Zero (0) seconds West, Twenty-five and Twenty-seven hundredths (25.27) feet to a point Seventy-two (72) degrees Zero (0) minutes Zero (0) seconds East, Two Hundred (200) feet to the place of BEGINNING.

THIS DESCRIPTION combines Parcels 1 and 2 of a prior deed. The part of the premises (formerly known as Parcel 2) is subject to restrictions as contained in Deed Book 230 page 7.

BEING the same premises which Deborah C.C. Gibbons, a single woman, by her deed dated February 19, 1998 and recorded February 20, 1998 in the Office of the Recorder of Deeds for Adams County in Deed Book 1523 page 319, granted and conveyed to Gary L. Landis, a single man.

ALSO BEING the same premises which Merle C. Weant and Gloria A. Weant his wife by deed dated February 19, 1998 and recorded in the Office of the Recorder of Deeds for Adams County in Deed Book 1634 page 57, confirmed by Order of The Bankruptcy Court, granted and conveyed their undivided two-thirds interest to Gary L. Landis, a single man.

TAX PARCEL No. J6-23

ALL the following described two (2) tracts of land:

TRACT NO. 1: ALL that certain tract of land situate, lying and being in Reading Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a stone and land formerly of David Brown, now of Haines B. Dicks; thence south eighty-eight and one-half (88 1/2) degrees east ninety-six and four-tenths (96.4) perches to a stone; thence due south, fifteen and four-tenths (15.4) perches to a stone; thence by land now or formerly of A. D. Brown and land formerly of Andrew Brown, now of H. D. Brown, south eighty-eight and one-half (88 1/2) degrees east, sixty-four (64) perches to a stone; thence by land now or formerly of George Bell, Esq., north one (1) degree West, twenty-one and eight-tenths (21.8) perches to a stone; thence north by land of the same sixty-six (66) degrees west, twelve (12) perches to a stone; thence north thirteen and one-half (13 1/2) degrees East, sixty (60) perches to a stone and lands of the same; thence north seventy-four (74) degrees west, eighteen and eight-tenths (18.8) perches to a stone; thence north twenty-five (25) degrees east, forty-one and five-tenths (41.5) perches to a stone; thence by same north seventy-six and one-half (76 1/2) degrees west, fifty (50) perches to a stone; thence by land formerly of Elijah Myers, now H. J. Brown, south twenty-five (25) degrees west, sixty-six (66) perches to a stone; thence by lands of the same north forty-five and one-half (45 1/2) degrees west, thirty-seven and five-tenths (37.5) perches to a stone; thence south sixty-five (65) degrees west, sixty-one and seven-tenths (61.7) perches to a stone; thence south one and one-half (1 1/2) degrees west, sixty-three and five-tenths (63.5) perches to a stone, the place of BEGINNING. CONTAINING ninety-three (93) acres and forty-eight (48) perches of land, more or less.

IT BEING the same tract of land which Florence V. Tribit, now Florence V. Stephens and Dean T. Stephens, her husband, by their deed dated October 30, 1954 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Deed Book Vol. 208 at page 193, sold and conveyed unto Eugene C. Lemmon and Irene E. Lemmon, his wife, as tenants by the entireties.

TRACT NO. 2: ALL that farm in Reading Township, Adams County, Pennsylvania, containing approximately 115.831 Acres and consisting of three contiguous parts or parcels, more particularly bounded and described as follows:

Part No. 1: BEGINNING at a stone in the state highway leading from York Springs to East Berlin at corner of land now or formerly of Walter Lemmon; thence in said highway and along said land and land now or formerly of F. Robert Seaman, South 44 1/2 degrees

East 29.9 perches to a point; thence along said last mentioned land North 42 1/2 degrees East 34.5 perches to a post at corner of Part No. 2 hereof; thence along Part No. 2 hereof South 75 degrees East 81.8 perches to a post at corner of Part No. 3 hereof; thence along Part No. 3 hereof South 50 1/2 degrees West 44.85 perches to a post; thence along land formerly of W. Archer Hess South 13 1/2 degrees West 18.5 perches to a point in the aforementioned state highway leading from York Springs to East Berlin; thence in said highway and along said land formerly of W. Archer Hess South 73 1/2 degrees East 16.4 perches, to a point in the highway; thence along lands now or formerly of Joseph Stoner, South 50 1/2 degrees West 43.8 perches to stone in a road; thence in said road and continuing along same South 9 1/2 degrees East 53.3 perches to a stone in the intersection of two roads; thence in another road and along land now or formerly of Allen Schroyer North 74 3/4 degrees West 88.14 perches to a point in the middle of the road; thence along land now or formerly of Roy Brown North 9 1/2 degrees East 23.5 perches to a white oak; thence continuing along same North 89 degrees West 66.7 perches to a stone; thence along land now or formerly of Walter Lemmon North 14 3/4 degrees East 86 perches to a stone; thence continuing along same South 83 3/4 degrees East 20.4 perches to a stone; thence continuing along same North 68 1/2 degrees East 35 perches to the stone in the state highway, the place of BEGINNING. CONTAINING 100 Acres and 128 Perches.

The above description was obtained from a draft of survey prepared by P. S. Ormer, County Surveyor, dated October 26, 1951.

Part No. 2: BEGINNING at a point at corner of Part No. 1 hereof; thence along land now or formerly of F. Robert Seaman North 36 degrees East 15.75 perches to an iron pin; thence continuing along same, South 79 degrees 15 minutes 90 perches to an iron pin; thence along land now or formerly of Earl Sponseller South 16 degrees 15 minutes East 16.73 perches to a post; thence along Part No. 3 hereof and Part No. 1 hereof, North 78 degrees 30 minutes West 103.8 perches to a point and place of BEGINNING. CONTAINING 8 Acres and 133 Perches.

The above description was obtained from a draft of survey prepared by LeRoy H. Winebrenner, County Surveyor, dated June 16, 1961.

Part No. 3: BEGINNING at a pin at a corner of Part No. 1 hereof; thence along Part No. 1 hereof North 49 degrees 30 minutes East 728 feet to a point at corner of Part No. 1 hereof and on line of Part No. 2 hereof; thence along Part No. 2 hereof South 75 degrees East 367.12

feet to a point; thence along lands now or formerly of Joseph Stoner South 15 degrees East 99 feet to an existing post; thence continuing along same South 50 degrees 30 minutes West 589 feet to a pin; thence along land now or formerly of W. Hess North 79 degrees 7 minutes West 487.4 feet to the point and place of BEGINNING. CONTAINING 6.2 Acres.

The above description was obtained from a draft of survey prepared by George M. Wildasin, dated September 9, 1961.

SEIZED and taken into execution as the property of **E. Matthew Stambaugh & Emily D. Stambaugh** 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 January 8, 2001, 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.

11/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-403 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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 ground situate in Mt. Pleasant Township, Adams County, Pennsylvania, being more particularly described as Lot No. 861 on a plan of lots of Lake Heritage Subdivision, duly entered and appearing of the Record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Docket 4 at page 778, and subject to all legal highways, easements, rights of way and restrictions of record.

Being known as 861 Heritage Drive, Gettysburg, PA

Property ID No. 7-61

Title to said premises is vested in Loy L. King and Julia C. King, husband and wife, as tenants of an estate by the entirety by deed from Wilmer L. Dutterer and Shirley Dutterer, husband and wife dated 1/13/1983 and recorded 6/13/1983 in Deed Book 368 Page 753.

SEIZED and taken into execution as the property of **Loy L. King & Julia C. King** 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 January 8, 2001, 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.

11/3, 10 & 17

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on October 5, 2000, pursuant to the Fictitious Name Act, setting forth that Cynthia A. Hooper is the only individual and Rooster Cafe, Inc. is the only corporation interested in a business, the character of which is food service to the general public and that the designation under which the business is and will be conducted is ARGYLE ROOSTER CAFE and that the location where said business is and will be conducted is Bldg. H-6, 1863 Gettysburg Village Drive, Gettysburg, PA 17325.

Bernard A. Yannetti, Jr.
Solicitor

11/10

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Name Act, that an Application to conduct business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of 1270 PROFESSIONAL CENTER was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, in Harrisburg, Pennsylvania, on October 19, 2000. The business is located at 1270 Fairfield Road, Gettysburg, Pennsylvania. The name and address of the entity who is party to the registration is Realty Leasing and Management Company, 1270 Fairfield Road, Gettysburg, Pennsylvania.

Henry O. Heiser, III, Esq.
104 Baltimore Street
Gettysburg, PA 17325

11/10

IN THE COURT
OF COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

EMINENT DOMAIN
NO. 00-S-1049

IN RE: CONDEMNATION BY OXFORD TOWNSHIP OF EASEMENTS ACROSS THE LANDS OF DAVID J. SMITH and MARIAN M. SMITH

NOTICE TO CONDEMNNEES

In accordance with the Eminent Domain Code of the Commonwealth of Pennsylvania, Oxford Township, Condemnor, gives written Notice to David J. Smith and Marian M. Smith, Condemnees, as follows:

1. Attached hereto, made part hereof and marked Exhibit "A" is the Declaration of Taking filed by the Condemnor in the above-captioned matter.

2. The aforesaid Declaration of Taking was filed on the 25th day of October, 2000 to the above number in the above-captioned Court.

3. The property condemned are temporary construction easements and permanent sewer easements on land described in Condemnees' respective deeds recorded in the Office of the Recorder of Deeds in and for York County, Pennsylvania in

Deed Book 1536, Page 303.

They are shown on the Adams County Tax Assessment Records as

Map 1, Parcel 14.

4. The purpose of the condemnation is to acquire temporary construction easements and permanent sewer easements across the Property in which the Condemnees have an interest for public use and the construction and maintenance of sanitary sewer lines thereon, such property being as shown on the plan prepared by C.S. Davidson, Inc., as follows:

dated January 29, 2000, attached to the Declaration of Taking as Exhibit "B."

5. If Condemnees wish to challenge the power or right of the Condemnor to appropriate the condemned property, the sufficiency of the security, the procedure followed by the Condemnor or the Declaration of Taking, Preliminary Objections must be filed within thirty (30) days after being served with this Notice of Condemnation.

OXFORD TOWNSHIP
By: /s/Bradley J. Leber, Esq.
Solicitor for Oxford Township
17 East Market Street
York, PA 17401
(717) 845-3674

11/10

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 KENNETH D. BROWN, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executrix: Pamela A. Brown, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

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

ESTATE OF PAUL FULTON HOSHALL, JR., DEC'D

Late of the Borough of Hanover, York County, Pennsylvania

Executrix: Annette K. Hoshall, c/o Gates & Gates, 250 York Street, Hanover, PA 17331

Attorney: Samuel K. Gates, Esq., Gates & Gates, 250 York Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF JOHN G. DRAGO, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Joanne R. Higgins, 100 Jefferson Street, Hanover, PA 17331

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Guthrie, & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF ADA S. FREY, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executors: Benjamin E. Frey, Jr., 290 Guernsey Road, Biglerville, PA 17307; Betty V. Wolf, 1120 Barlow-Two Taverns Road, Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF ROBERT N. MARTIN, SR., DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Mr. Robert N. Martin, Jr., 25207 Wastler Avenue, Cascade, MD 21719

Attorney: Matthew R. Battersby, Esq., Battersby & Sheffer, 20 West Main Street, P.O. Box 215, Fairfield, PA 17320

ESTATE OF MILDRED R. SANDOE, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Sereck Sandoe, 476 Benders Church Road, Biglerville, PA 17307

Attorney: Wendy Weikal-Beauchat, Esq., 63 West High Street, Gettysburg, PA 17325

ESTATE OF ANNA J. HARLOW SCOTT, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: Gynn M. Scott, 436 Lake Meade Rd., York Springs, PA 17372

Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF STEVEN P. SHEELY, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania

Administrators: Thomas A. Sheely, 481 Berlin Road, New Oxford, PA 17350; Doris L. Sheely, 481 Berlin Road, New Oxford, PA 17350

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Guthrie, & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF BLANCHE FLAHERTY SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: William B. Flaherty, 3638 Keen Avenue, Mountville, PA 17554; Eugene F. Jones, 213 Lincoln Way East, New Oxford, PA 17350; PNC Bank, N.A., P.O. Box 308, Camp Hill, PA 17001-0308

Attorney: Richard E. Thrasher, Esq., Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325; Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF LENA M. REDDEN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Wayne B. Ogburn, Jr., P.O. Box 388, Biglerville, PA 17037

Attorney: Robert E. Campbell, Esq., Campbell & White, 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CHARLES L. WUEGER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: John I. Mowery, 401-C Peace Circle, New Oxford, PA 17350

Attorney: Leavens & Roberts, 29 East Independence Street, Post Office Box 518, Shamokin, PA 17872

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-571 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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 those two (2) tracts of land situate, lying and being on the South side of South Street in the Borough of McSherrystown, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1:

BEGINNING at a stake at the curb line on the South side of South Street, said stake being on the East side of a proposed 16 foot alley; thence by said curb line in an Easterly direction for a distance of 50 feet to a stake at other land now or formerly of Sallie L. Klunk; thence by said land and other land now or formerly of John W. Klunk in a Southerly direction for a distance of 150 feet to a stake; thence by land of said John W. Klunk in a Westerly direction for a distance of 50 feet to a stake on the East side of the proposed alley aforesaid; thence by the East side of said alley in a Northerly direction for a distance of 150 feet to a stake, the place of BEGINNING.

TRACT NO. 2:

BEGINNING at an iron pin at the curb line on the South side of South Street at Tract No. 1 herein; thence along said curb line in an Easterly direction 25 feet to an iron pin at land formerly of Sallie L. Klunk and John W. Klunk and now or formerly of B. Truman Lake; thence by said lands in a Southerly direction for a distance of 150 feet to an iron pin at other lands now or formerly of Sallie L. Klunk and John W. Klunk; thence by the same in a Westerly direction for a distance of 35 feet to an iron pin at Tract No. 1 herein; thence by the same in a Northerly direction for a distance of 150 feet to an iron pin, the place of BEGINNING.

Having thereon erected a dwelling known as 306 South Street, McSherrystown, PA 17344. Being Designated as Parcel No. 6-37.

BEING THE SAME premises which Donald L. Swope and Vivian I. Swope by attorney-in-fact Thomas H. Swope, conveyed unto Steven F. Selby and Kelly M. Selby by Deed dated October 28, 1998 and recorded November 12, 1998 in the Recorder of Deeds Office of Adams County in Deed Book 1700, page 259.

SEIZED and taken into execution as the property of **Steven Francis Selby & Kelly M. Selby** 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 January 8,

2001, 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.

11/10, 17 & 22

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 15th day of December, 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

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 January 8, 2001, 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.

11/10, 17 & 22

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County — Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Monday, November 20, 2000, at 9:00 o'clock a.m.

BIRGENSMITH—Orphans' Court Action Number OC-102-00. The First and Final Account of William H. Snyder, Jr. and Gertrude E. Snyder, Executors of the Estate of M. Loretta Birgensmith a/k/a Mary L. Birgensmith, deceased, late of the Borough of McSherrystown, Adams County, Pennsylvania.

MENGES—Orphans' Court Action Number OC-109-00. The First and Final Account of Dolores M. Raubenstine, Nadine C. Starner and Arlene M. McSherry, Executrices of the Estate of Grace A. Menges, deceased, late of Conewago Township, Adams County, Pennsylvania.

DICKENSHEETS—Orphans' Court Action Number OC-110-00. The First and Final Account of Jean Dickensheets, Executrix of the Will of Herman F. Dickensheets, deceased, late of Conewago Township, Adams County, Pennsylvania.

SELL—Orphans' Court Action Number OC-112-00. The First and Final Account of Lucy Breighner and Kandy Zeigler, Co-Executrices of the Estate of Anna Marie Sell, deceased, late of the Borough of Littlestown, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

11/10 & 17

Adams County Legal Journal

Vol. 42

November 17, 2000

No. 25, pp. 137-141

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-N-988 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of December, 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.:

Property of Mick Builders, Inc., situated at 726 Parkway Drive, Littlestown, Lot No. 250, Meadowview Estates, Union Township, Adams County, PA. Tax Map 3, Parcel 110

ALL that certain piece, parcel or tract of land, together with the improvements thereon erected, situate, lying and being in Union Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING for a point along the northeasterly right-of-way line of Park Way Drive and Lot No. 183; thence along said Lot No. 183, North eighty-two (82) degrees thirty (30) minutes twenty-five (25) seconds West, two hundred thirteen and thirty-eight hundredths (213.38) feet to a point at Lot No. 239; thence along said Lot No. 239 and Lot No. 241, North forty-six (46) degrees forty-two (42) minutes forty-five (45) seconds East, two hundred thirty-seven and seventy-seven hundredths (237.77) feet to a point along the southerly right-of-way line of Hickory Lane; thence along the southerly right-of-way line of Hickory Lane, South sixty-one (61) degrees thirty-four (34) minutes thirty-eight (38) seconds East, one hundred eight and seventy-seven hundredths (108.77) feet to a point at the intersection of Hickory Lane and Park Way Drive; thence along the intersection of Hickory Lane and Park Way Drive, South sixteen (16) degrees thirty-four (34) minutes thirty-eight (38) seconds East, thirty-five and zero hundredths (35.00) feet to a point along the northwesterly right-of-way line of Park Way Drive; thence along the northwesterly right-of-way line of Park Way Drive, South twenty-eight (28) degrees twenty-four (24) minutes thirty-eight (38) seconds West, three and twenty-nine hundredths (3.29) feet to a point; thence continuing along same by a curve to the right which has a radius of eight hundred forty and zero hundredths (840.00) feet, an arc distance of one hundred twenty-one and ninety-two hundredths (121.92) feet, the long chord of which is South thirty-two (32) degrees thirty-four (34) minutes fifty-two (52) seconds West, one hundred twenty-one and eighty-two hundredths (121.82) feet

to a point, the place of BEGINNING. (CONTAINING 29,632.20 square feet and being identified as Lot No. 250 on the final subdivision plan of Meadowview Estates, Phase V, which plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 74, page 77.)

UNDER AND SUBJECT, NEVERTHELESS, to Declaration of Restrictions recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1661, page 225.

IT BEING the same premises which Lynn Lee Construction Co., Inc., a Maryland corporation, by its deed dated February 26, 1999, and recorded March 2, 1999, in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1776, page 133, granted and conveyed to Mick Builders, Inc.

SEIZED and taken into execution as the property of **Mick Builders 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 January 22, 2001, 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.

11/17, 22 & 12/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-428 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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 Situated, lying and being in the Borough of Carroll Valley, Fairfield, Adams County, Pennsylvania, being known as Lot No. 108 in Section "H", more particularly bounded and described as follows:

BEGINNING at a point in the center of High Ridge Drive at Lot No. 107; thence by said Lot South 68 degrees 41 minutes East, 125 feet to Lot No. 109; thence by said lot South 21 degrees 19 minutes West, 200 feet to a point in the center of Holiday Drive; thence in said Holiday Drive North 68 degrees 41 minutes West, 125 feet to a point in said Holiday Drive at its intersection with said High Ridge Drive; thence in said High Ridge Drive North 21 degrees 19 minutes East, 200 feet to the place of BEGINNING.

THE above description was taken from a plan of lots labeled "Section H, Charnita, Inc." dated August 7, 1965, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at page 15.

Tax Parcel # 12-65

SEIZED and taken into execution as the property of **Gary W. Willard & Carrie A. Willard** 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 January 8, 2001, 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.

11/10, 17 & 22

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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

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

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

Periodicals postage paid at Gettysburg, PA 17325.

Copyright © 1959 by Wm. W. Gaunt & Sons, Inc., for Adams County Bar Association, Gettysburg, PA 17325.

All rights reserved.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-736 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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 those 2 tracts of land situate in Straban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

Tract No. 1: BEGINNING at a point in the center of the State Highway leading from Gettysburg to Harrisburg at corner of lands now or formerly of William W. Shields; thence in and along the center of said State Highway, North 38 degrees East, 50 feet to a point in center of said State Highway; thence by lands now or formerly of Robert Johnson and through an iron pin set back along the line, South 52 degrees East, 180 feet to an iron pin; thence by lands now or formerly of William W. Shields, South 38 degrees West, 50 feet to an iron pin; thence by lands of same, North 52 degrees West, 180 feet through an iron pin to the point in the center of the aforesaid State Highway, the place of BEGINNING.

Tract No. 2: BEGINNING at an iron pin at corner of lands now or formerly of William A. Bigham and Robert Johnson; thence by lands now or formerly of William W. Shields, South 52 degrees East, 16 feet to a point; thence by lands of same, South 38 degrees West, 50 feet to a point; thence by lands of same, North 52 degrees West, 16 feet to an iron pin at lands now or formerly of William A. Bigham; thence by lands of same, North 38 degrees East, 50 feet to an iron pin, the place of BEGINNING.

BEING THE SAME TWO TRACTS OF LAND WHICH Gary W. Peterson and Dianne S. Peterson, Husband and wife, by their Deed, dated August 21, 1989, and recorded August 22, 1989, in the Office of Recorder of Deeds in and for Adams County, Pennsylvania, at Deed Book Volume 531, Page 688, granted and conveyed unto Bernard J. Kuhn and Alice C. Latray-Kuhn, husband and wife as tenants of an estate by the entireties.

PARCEL MAP # G12-27

SEIZED and taken into execution as the property of **Alice C. Latray-Kuhn & Bernard J. Kuhn** 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 January 8, 2001, 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.

11/10, 17 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-771 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of January, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

16 Summer Drive, Gettysburg, PA 17325

ALL THAT TRACT of land situate, lying and being in the Borough of Bonneauville, Adams County, Pennsylvania, being Lot No. 5 of Springfield Estates, bounded and described as follows:

BEGINNING at an iron pin on the Southerly edge of Summer Drive at Lot No. 4; thence by said Lot South 33 degrees 36 minutes 10 seconds West, 179.63 feet to an iron pin at lands now or formerly of Guy Francis Gebhart; thence by said lands North 56 degrees 20 minutes 46 seconds West, 115 feet to an iron pin at Lot No. 6; thence by said Lot North 33 degrees 36 minutes 10 seconds East, 179.53 feet to an iron pin on the Southerly edge of Summer Drive; thence along the Southerly edge of said Summer Drive South 56 degrees 23 minutes 50 seconds East, 115 feet to the place of BEGINNING.

CONTAINING 20,652 square feet.

The above description was taken from a plan of lots labeled "Springfield Estates", dated June 22, 1977, prepared by Gettysburg Engineering Co., Inc., and recorded in Adams County Plan Book No. 20, Page 29.

TOGETHER WITH a right-of-way and SUBJECT to the restrictions as contained in the above recited Deed.

TITLE TO SAID PREMISES APPEARS TO BE VESTED IN Kathy L. Eckard of Washington, D.C., by Deed from James A. Walker and Dians M. Walker (formerly Diane M. Trone) by Deed dated June 28, 1989 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania on June 29, 1989 in Record Book 526 Page 721.

SEIZED and taken into execution as the property of **Kathy L. Eckard** 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 February 5, 2001, 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.

11/17, 22 & 12/1

NOTICE

NOTICE IS HEREBY GIVEN that John Matthew Hartzell intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 20th day of November, 2000, and that he intends to practice law as the Solicitor for the County of Adams, Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania.

Office of the Adams County Solicitor
111-117 Baltimore Street
Gettysburg, PA 17325

11/3, 10 & 17

COMMONWEALTH VS. COPENHAVER

1. Section 9544 of the PCRA provides that an issue has been previously litigated if the highest appellate court in which defendant could have had review as a matter of right has ruled on the merits of the issue. An issue is waived if defendant could have raised the issue but failed to do so before trial, at trial, during unitary review, or on direct appeal.

2. Pa. R. Crim. P. 1507 authorizes dismissal of a PCRA petition without a hearing if a judge decides, after reviewing the petition, answer and matters of record, that "there are no genuine issues concerning any material fact and that the defendant is not entitled to post-conviction collateral relief, and no purpose would be served by any further proceedings."

3. It is well settled that the sworn statements made during the plea colloquy cannot be contradicted in hopes of advancing a claim for relief under the PCRA.

4. The mere allegation that counsel was ineffective for failing to seek allowance of appeal to the Supreme Court does not demonstrate an injustice occurred unless the appellant establishes that the Supreme Court would have exercised its discretion and reviewed the issue. Appellant cannot prevail on a conflict of interest claim absent a showing of actual prejudice.

5. The remaining allegation is a claim that this Court imposed an illegal sentence upon him. In order to be cognizable under the PCRA the petitioner must plead and prove by a preponderance of the evidence that the sentence resulted from the imposition of a sentence greater than the lawful maximum. Even though the sentence imposed was outside the applicable sentencing guidelines, it was within the statutory range of sentence.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, Nos. CC-102-95 and CC-111-96. COMMONWEALTH OF PENNSYLVANIA VS. DONALD EUGENE COPENHAVER.

Michael A. George, Esq., for Commonwealth

Gregory Hollinger, Esq., for Defendant

Spicer, P.J., September 8, 1999

OPINION ON MOTION TO DISMISS PCRA PETITION

Defendant was arrested and charged with murder in the first, second and third degrees, burglary, conspiracy to commit murder and conspiracy to commit theft. Pursuant to a plea agreement with the Commonwealth, Defendant pleaded guilty to third degree murder and burglary. The plea agreement called for a sentence of twenty (20) to forty (40) years incarceration for third degree murder to run concurrently with ten (10) to twenty (20) years incarceration for burglary in return for Defendant's truthful testimony against two (2) accomplices.

On March 5, 1997, the Defendant appeared with counsel and was sentenced pursuant to the plea agreement with a slight reduction of the sentence to nineteen (19) to thirty-eight (38) years at the request of the Commonwealth since the two accomplices had pleaded guilty and were sentenced prior to defendant's sentencing. The Defendant appealed to the Superior Court alleging the sentencing court abused its discretion in imposing a near maximum sentence and failing to indicate the reasons why the more severe sentence was imposed. The Superior Court affirmed the sentence of the Adams County Court of Common Pleas.

The Defendant filed a petition under the Post-Conviction Collateral Relief Act (PCRA) on March 18, 1999 and amended the same on August 11, 1999, raising the following issues: a conflict of interest on the part of the prosecutor in having represented the Defendant in a prior unrelated criminal proceeding; ineffective assistance of counsel for failure to pursue the conflict of interest issue; ineffective assistance of counsel in the Defendant's trial attorney for failure to advise him of the sentencing guideline range; ineffective assistance of counsel for failure to assist Defendant in filing a petition for allowance of appeal from the Superior Court Order to the Supreme Court; and the plea agreement was unlawfully induced because of an interview by the State Police with the Defendant at the prison without the presence of the Defendant's attorney.

The Commonwealth has moved to dismiss the petition contending that the issues have been previously litigated or do not necessitate a hearing. Oral argument on the motion occurred August 31, 1999.

Section 9544 of the PCRA provides that an issue has been previously litigated if the highest appellate court in which defendant could have had review as a matter of right has ruled on the merits of the issue. An issue is waived if defendant could have raised the issue but failed to do so before trial, at trial, during unitary review, or on direct appeal.

Pa. R. Crim. P. 1507 authorizes dismissal of a PCRA petition without a hearing if a judge decides, after reviewing the petition, answer and matters of record, that "there are no genuine issues concerning any material fact and that the defendant is not entitled to post-conviction collateral relief, and no purpose would be served by any further proceedings." Dismissal is proper if matters raised by the

petition have already been addressed on the record. *Commonwealth v. Brimage*, 398 Pa. Super. 134, 580 A.2d 877 (1990). The rule requires twenty days advance notice of intention to dismiss, with reasons therefore, but an opinion and order entered after argument will satisfy the rule. *Commonwealth v. Hardcastle*, 549 Pa. 450, 701 A.2d 541 (1997), reargument denied 1/2/98; *Commonwealth v. Lark*, 548 Pa. 441, 698 A.2d 43 (1997).

The appellant claims that trial counsel was ineffective for failing to advise him of the sentencing guidelines prior to accepting the plea agreement and that the plea agreement was coerced due to an interview by the State Police at the prison without the appellant's attorney being present. A review of the guilty plea colloquy indicates that the appellant was satisfied with the services and advice of his attorney and that the appellant indicated he had sufficient time to discuss the plea agreement with his attorney. Specifically, the following exchange took place:

THE COURT: Are you satisfied with Mr. Cook's services and his advice in this case?

THE DEFENDANT: Yes.

THE COURT: Have you had enough time to talk to him about your decision to plead to third degree murder and to burglary?

THE DEFENDANT: Yes.

THE COURT: Anybody threatened you with anything or promised you anything other than this plea arrangement to cause you to plead guilty as you have indicated you're going to?

THE DEFENDANT: No.

THE COURT: Again I want to ask you, does that writing, that letter that you have signed represent your entire agreement with the Commonwealth?

THE DEFENDANT: Yes.

+++++

THE COURT: So it is your intention to plead guilty as we have described and explained?

THE DEFENDANT: Yes.

THE COURT: Are you pleading guilty because you did in fact do what the Commonwealth says you have done in this case?

THE DEFENDANT: Yes.

Transcript of the guilty plea colloquy May 8, 1996, at pp. 13-15. It is well settled that the sworn statements made during the plea colloquy cannot be contradicted in hopes of advancing a claim for relief under the PCRA. *Commonwealth v. Harris*, 381 Pa. Super. 206, 553 A.2d 428 (1989).

The appellant claims ineffective assistance of counsel for failure to file a timely petition for allowance of appeal to the Supreme Court from the Superior Court's Order dated July 21, 1998. The appeal in question raised the issue of whether the sentencing court abused its discretion in imposing a near maximum sentence on the appellant. This claim is not appropriate under PCRA since the highest appellate court, that being the Superior Court, which appellant could have had review as a matter of right has ruled on the merits of the issue. Review by the Supreme Court following Superior Court review is not constitutionally guaranteed. It is purely discretionary and will be granted only where there exists both special and important reasons. Therefore, the mere allegation that counsel was ineffective for failing to seek allowance of appeal to the Supreme Court does not demonstrate an injustice occurred unless the appellant establishes that the Supreme Court would have exercised its discretion and reviewed the issue. *Commonwealth v. Gilbert*, 595 A.2d 1254, 1257 (1991), alloc. dn. 529 Pa. 640, 600 A.2d 1258 (1991).

The appellant claims a conflict of interest on the part of the prosecutor having allegedly represented him in a prior criminal matter and that counsel was ineffective for not raising this conflict of interest issue. Appellant cannot prevail on a conflict of interest claim absent a showing of actual prejudice. *Commonwealth v. Karenbauer*, 552 Pa. 420, 432, 715 A.2d 1086, 1094 (1998), *cert. denied*, 119 S. Ct. 1258, 143 L.Ed. 2d 354 (1999) (citing *Commonwealth v. Faulkner*, 528 Pa. 57, 77, 595 A.2d 28, 38 (1991), *cert. denied*, 503 U.S. 989, 112 S. Ct. 1680, 118 L.Ed.2d 397 (1992), Denial of Post-Conviction Relief affirmed by ___ A.2d ___ (1999), reargument denied 8/19/99. Appellant has not alleged any actual prejudice on the part of the prosecutor based on the alleged previous representation. It has

not been alleged that any detrimental information was obtained or used as a result of the alleged prior representation. Again, a review of the plea colloquy indicates that the appellant was not threatened or promised anything in return for his plea and therefore this claim is considered to be without merit.

The remaining allegation is a claim that this Court imposed an illegal sentence upon him. In order to be cognizable under the PCRA the petitioner must plead and prove by a preponderance of the evidence that the sentence resulted from the imposition of a sentence greater than the lawful maximum. 42 Pa.C.S. § 9543(a)(2)(vii). The sentence imposed was the result of a negotiated plea agreement between the Commonwealth and the appellant which resulted in the Commonwealth dropping charges which would mandate a sentence of life imprisonment without parole. Even though the sentence imposed was outside the applicable sentencing guidelines, it was within the statutory range of sentence. 18 Pa.C.S. § 1102(d), 1103(1).

For the above-mentioned reasons the Commonwealth's motion to dismiss the PCRA petition without hearing is granted.

The attached order is entered.

ORDER OF COURT

AND NOW, this 8th day of September, 1999, defendant's PCRA petition is dismissed. This order and opinion shall act as notice, under Pa. R.Crim P. 1507, in accordance with *Commonwealth v. Hardcastle*, 549 Pa. 450, 701 A.2d 541 (1997). Defendant is notified that he may either move to vacate this order within ten days hereof, or appeal to Superior Court within thirty days hereof. The Clerk of Courts is directed to provide a copy of this order to counsel, and to mail a copy to defendant at the state correctional institution where he is housed, by certified mail, return receipt requested.

STATEMENT PURSUANT TO PA. R.A.P. 1925(a)

All issues have been previously addressed in the opinion and order dated September 8, 1999.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-770 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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.:

Tax Parcel No. K-11-70

ALL THAT CERTAIN lot, parcel, piece of ground with the improvements thereon erected situate in Oxford Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point in the center of the Lincoln Highway (US Route 30) at the corner of lands now or late of Francis J. Yake Jr.; thence along the land now or late of Francis J. Yake Jr., South Twenty-six (26) degrees Thirty-eight (38) minutes Zero (0) seconds East, Two Hundred Twenty-six and Fifty-six hundredths (226.56) feet to an iron pin; thence along lands now or late of Stewart V. Walker, South Seventy-two (72) degrees Zero (0) minutes Zero (0) seconds West, Two Hundred Thirty and Thirty-seven hundredths (230.37) feet to a point in concrete; thence along lands now or late of Cindy A. Black, North Eighteen (18) degrees Zero (0) minutes Zero (0) seconds West, Two Hundred (200) feet to an iron pin; thence continuing along said lands North Twenty-six (26) degrees Thirty-eight (38) minutes Zero (0) seconds West, Twenty-five and Twenty-seven hundredths (25.27) feet to a point Seventy-two (72) degrees Zero (0) minutes Zero (0) seconds East, Two Hundred (200) feet to the place of BEGINNING.

THIS DESCRIPTION combines Parcels 1 and 2 of a prior deed. The part of the premises (formerly known as Parcel 2) is subject to restrictions as contained in Deed Book 230 page 7.

BEING the same premises which Deborah C.C. Gibbons, a single woman, by her deed dated February 19, 1998 and recorded February 20, 1998 in the Office of the Recorder of Deeds for Adams County in Deed Book 1523 page 319, granted and conveyed to Gary L. Landis, a single man.

ALSO BEING the same premises which Merle C. Weant and Gloria A. Weant his wife by deed dated February 19, 1998 and recorded in the Office of the Recorder of Deeds for Adams County in Deed Book 1634 page 57, confirmed by Order of The Bankruptcy Court, granted and conveyed their undivided two-thirds interest to Gary L. Landis, a single man.

TAX PARCEL No. J6-23

ALL the following described two (2) tracts of land:

TRACT NO. 1: ALL that certain tract of land situate, lying and being in Reading Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a stone and land formerly of David Brown, now of Haines B. Dicks; thence south eighty-eight and one-half (88 1/2) degrees east ninety-six and four-tenths (96.4) perches to a stone; thence due south, fifteen and four-tenths (15.4) perches to a stone; thence by land now or formerly of A. D. Brown and land formerly of Andrew Brown, now of H. D. Brown, south eighty-eight and one-half (88 1/2) degrees east, sixty-four (64) perches to a stone; thence by land now or formerly of George Bell, Esq., north one (1) degree West, twenty-one and eight-tenths (21.8) perches to a stone; thence north by land of the same sixty-six (66) degrees west, twelve (12) perches to a stone; thence north thirteen and one-half (13 1/2) degrees East, sixty (60) perches to a stone and lands of the same; thence north seventy-four (74) degrees west, eighteen and eight-tenths (18.8) perches to a stone; thence north twenty-five (25) degrees east, forty-one and five-tenths (41.5) perches to a stone; thence by same north seventy-six and one-half (76 1/2) degrees west, fifty (50) perches to a stone; thence by land formerly of Elijah Myers, now H. J. Brown, south twenty-five (25) degrees west, sixty-six (66) perches to a stone; thence by lands of the same north forty-five and one-half (45 1/2) degrees west, thirty-seven and five-tenths (37.5) perches to a stone; thence south sixty-five (65) degrees west, sixty-one and seven-tenths (61.7) perches to a stone; thence south one and one-half (1 1/2) degrees west, sixty-three and five-tenths (63.5) perches to a stone, the place of BEGINNING. CONTAINING ninety-three (93) acres and forty-eight (48) perches of land, more or less.

IT BEING the same tract of land which Florence V. Tribit, now Florence V. Stephens and Dean T. Stephens, her husband, by their deed dated October 30, 1954 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Deed Book Vol. 208 at page 193, sold and conveyed unto Eugene C. Lemmon and Irene E. Lemmon, his wife, as tenants by the entireties.

TRACT NO. 2: ALL that farm in Reading Township, Adams County, Pennsylvania, containing approximately 115.831 Acres and consisting of three contiguous parts or parcels, more particularly bounded and described as follows:

Part No. 1: BEGINNING at a stone in the state highway leading from York Springs to East Berlin at corner of land now or formerly of Walter Lemmon; thence in said highway and along said land and land now or formerly of F. Robert Seaman, South 44 1/2 degrees

East 29.9 perches to a point; thence along said last mentioned land North 42 1/2 degrees East 34.5 perches to a post at corner of Part No. 2 hereof; thence along Part No. 2 hereof South 75 degrees East 81.8 perches to a post at corner of Part No. 3 hereof; thence along Part No. 3 hereof South 50 1/2 degrees West 44.85 perches to a post; thence along land formerly of W. Archer Hess South 13 1/2 degrees West 18.5 perches to a point in the aforementioned state highway leading from York Springs to East Berlin; thence in said highway and along said land formerly of W. Archer Hess South 73 1/2 degrees East 16.4 perches, to a point in the highway; thence along lands now or formerly of Joseph Stoner, South 50 1/2 degrees West 43.8 perches to stone in a road; thence in said road and continuing along same South 9 1/2 degrees East 53.3 perches to a stone in the intersection of two roads; thence in another road and along land now or formerly of Allen Schroyer North 74 3/4 degrees West 88.14 perches to a point in the middle of the road; thence along land now or formerly of Roy Brown North 9 1/2 degrees East 23.5 perches to a white oak; thence continuing along same North 89 degrees West 66.7 perches to a stone; thence along land now or formerly of Walter Lemmon North 14 3/4 degrees East 86 perches to a stone; thence continuing along same South 83 3/4 degrees East 20.4 perches to a stone; thence continuing along same North 68 1/2 degrees East 35 perches to the stone in the state highway, the place of BEGINNING. CONTAINING 100 Acres and 128 Perches.

The above description was obtained from a draft of survey prepared by P. S. Orner, County Surveyor, dated October 26, 1951.

Part No. 2: BEGINNING at a point at corner of Part No. 1 hereof; thence along land now or formerly of F. Robert Seaman North 36 degrees East 15.75 perches to an iron pin; thence continuing along same, South 79 degrees 15 minutes 90 perches to an iron pin; thence along land now or formerly of Earl Sponseller South 16 degrees 15 minutes East 16.73 perches to a post; thence along Part No. 3 hereof and Part No. 1 hereof, North 78 degrees 30 minutes West 103.8 perches to a point and place of BEGINNING. CONTAINING 8 Acres and 133 Perches.

The above description was obtained from a draft of survey prepared by LeRoy H. Winebrenner, County Surveyor, dated June 16, 1961.

Part No. 3: BEGINNING at a pin at corner of Part No. 1 hereof; thence along Part No. 1 hereof North 49 degrees 30 minutes East 728 feet to a point at corner of Part No. 1 hereof and on line of Part No. 2 hereof; thence along Part No. 2 hereof South 75 degrees East 367.12

feet to a point; thence along lands now or formerly of Joseph Stoner South 15 degrees East 99 feet to an existing post; thence continuing along same South 50 degrees 30 minutes West 589 feet to a pin; thence along land now or formerly of W. Hess North 79 degrees 7 minutes West 487.4 feet to the point and place of BEGINNING. CONTAINING 6.2 Acres.

The above description was obtained from a draft of survey prepared by George M. Wildasin, dated September 9, 1961.

SEIZED and taken into execution as the property of **E. Matthew Stambaugh & Emily D. Stambaugh** 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 January 8, 2001, 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.

11/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-403 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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 ground situate in Mt. Pleasant Township, Adams County, Pennsylvania, being more particularly described as Lot No. 861 on a plan of lots of Lake Heritage Subdivision, duly entered and appearing of the Record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Docket 4 at page 778, and subject to all legal highways, easements, rights of way and restrictions of record.

Being known as 861 Heritage Drive, Gettysburg, PA

Property ID No. 7-61

Title to said premises is vested in Loy L. King and Julia C. King, husband and wife, as tenants of an estate by the entirety by deed from Wilmer L. Dutterer and Shirley Dutterer, husband and wife dated 1/13/1983 and recorded 6/13/1983 in Deed Book 368 Page 753.

SEIZED and taken into execution as the property of **Loy L. King & Julia C. King** 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 January 8, 2001, 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.

11/3, 10 & 17

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of this corporation is BALTIMORE STREET INVESTORS, INC. with its principal office or place of business at 224 Baltimore Street, Suite K, Gettysburg, PA 17325. The names and addresses of all persons owning or interested in said business are James R. Schriener of 1440 Highland Avenue Road, Gettysburg, PA 17325 and Kermit E. Singley of 850 Hanover Road, Gettysburg, PA 17325.

11/17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-807 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of January, 2001, 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 South Branch Estates, located in the Township of Oxford, Adams County, Pennsylvania, 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 land development plan dated October 6, 1995, last revised December 14, 1995 and recorded in Book 69 page 23 (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such plan as Unit No. 34 as more fully bounded and described in such plan, together with a proportionate undivided interest in the Common Elements as defined in a Declaration Plan recorded in the Office of the Recorder of Deeds, in and for Adams County, PA in Record Book 1271 page 34.

TOGETHER with the limited common elements appurtenant as more fully shown of Plan 1271 page 34.

Tax Parcel #1-52-034

SEIZED and taken into execution as the property of **Walter S. Stiles a/k/a Walter Scott Stiles & Karen Jean Stiles** 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 February 5, 2001, 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.

11/17, 22 & 12/1

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 ANNA M. KESSLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrices: Jane Marie Bankert, RD#1, Box 1535, Spring Grove, PA 17362; Marian E. Altland, 11 South Water Street, Spring Grove, PA 17362

Attorney: Matthew L. Guthrie, Esq., Guthrie, Nonemaker, Guthrie, & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF FRANCIS GREAM LOW, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executor: Steve Snyder, 5 Sunset Drive, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF KENNETH D. BROWN, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executrix: Pamela A. Brown, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

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

ESTATE OF PAUL FULTON HOSHALL, JR., DEC'D

Late of the Borough of Hanover, York County, Pennsylvania

Executrix: Annette K. Hoshall, c/o Gates & Gates, 250 York Street, Hanover, PA 17331

Attorney: Samuel K. Gates, Esq., Gates & Gates, 250 York Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF JOHN G. DRAGO, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Joanne R. Higgins, 100 Jefferson Street, Hanover, PA 17331

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Guthrie, & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF ADA S. FREY, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executors: Benjamin E. Frey, Jr., 290 Guernsey Road, Biglerville, PA 17307; Betty V. Wolf, 1120 Barlow-Two Taverns Road, Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF ROBERT N. MARTIN, SR., DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Mr. Robert N. Martin, Jr., 25207 Wastler Avenue, Cascade, MD 21719

Attorney: Matthew R. Battersby, Esq., Battersby & Sheffer, 20 West Main Street, P.O. Box 215, Fairfield, PA 17320

ESTATE OF MILDRED R. SANDOE, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Sereck Sandoe, 476 Benders Church Road, Biglerville, PA 17307

Attorney: Wendy Weikal-Beauchat, Esq., 63 West High Street, Gettysburg, PA 17325

ESTATE OF ANNA J. HARLOW SCOTT, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: Gynn M. Scott, 436 Lake Meade Rd., York Springs, PA 17372

Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF STEVEN P. SHEELY, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania

Administrators: Thomas A. Sheely, 481 Berlin Road, New Oxford, PA 17350; Doris L. Sheely, 481 Berlin Road, New Oxford, PA 17350

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Guthrie, & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF BLANCHE FLAHERTY SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: William B. Flaherty, 3638 Keen Avenue, Mountville, PA 17554; Eugene F. Jones, 213 Lincoln Way East, New Oxford, PA 17350; PNC Bank, N.A., P.O. Box 308, Camp Hill, PA 17001-0308

Attorney: Richard E. Thrasher, Esq., Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325; Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-571 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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 those two (2) tracts of land situate, lying and being on the South side of South Street in the Borough of McSherrystown, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1:

BEGINNING at a stake at the curb line on the South side of South Street, said stake being on the East side of a proposed 16 foot alley; thence by said curb line in an Easterly direction for a distance of 50 feet to a stake at other land now or formerly of Sallie L. Klunk; thence by said land and other land now or formerly of John W. Klunk in a Southerly direction for a distance of 150 feet to a stake; thence by land of said John W. Klunk in a Westerly direction for a distance of 50 feet to a stake on the East side of the proposed alley aforesaid; thence by the East side of said alley in a Northerly direction for a distance of 150 feet to a stake, the place of BEGINNING.

TRACT NO. 2:

BEGINNING at an iron pin at the curb line on the South side of South Street at Tract No. 1 herein; thence along said curb line in an Easterly direction 25 feet to an iron pin at land formerly of Sallie L. Klunk and John W. Klunk and now or formerly of B. Truman Lake; thence by said lands in a Southerly direction for a distance of 150 feet to an iron pin at other lands now or formerly of Sallie L. Klunk and John W. Klunk; thence by the same in a Westerly direction for a distance of 35 feet to an iron pin at Tract No. 1 herein; thence by the same in a Northerly direction for a distance of 150 feet to an iron pin, the place of BEGINNING.

Having thereon erected a dwelling known as 306 South Street, McSherrystown, PA 17344. Being Designated as Parcel No. 6-37.

BEING THE SAME premises which Donald L. Swope and Vivian I. Swope by attorney-in-fact Thomas H. Swope, conveyed unto Steven F. Selby and Kelly M. Selby by Deed dated October 28, 1998 and recorded November 12, 1998 in the Recorder of Deeds Office of Adams County in Deed Book 1700, page 259.

SEIZED and taken into execution as the property of **Steven Francis Selby & Kelly M. Selby** 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 January 8,

2001, 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.

11/10, 17 & 22

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 15th day of December, 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 Applier 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

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 January 8, 2001, 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.

11/10, 17 & 22

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County — Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Monday, November 20, 2000, at 9:00 o'clock a.m.

BIRGENSMITH—Orphans' Court Action Number OC-102-00. The First and Final Account of William H. Snyder, Jr. and Gertrude E. Snyder, Executors of the Estate of M. Loretta Birgensmith a/k/a Mary L. Birgensmith, deceased, late of the Borough of McSherrystown, Adams County, Pennsylvania.

MENGES—Orphans' Court Action Number OC-109-00. The First and Final Account of Dolores M. Raubenstine, Nadine C. Starner and Arlene M. McSherry, Executrices of the Estate of Grace A. Menges, deceased, late of Conewago Township, Adams County, Pennsylvania.

DICKENSHEETS—Orphans' Court Action Number OC-110-00. The First and Final Account of Jean Dickensheets, Executrix of the Will of Herman F. Dickensheets, deceased, late of Conewago Township, Adams County, Pennsylvania.

SELL—Orphans' Court Action Number OC-112-00. The First and Final Account of Lucy Breighner and Kandy Zeigler, Co-Executrices of the Estate of Anna Marie Sell, deceased, late of the Borough of Littlestown, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

11/10 & 17

Adams County Legal Journal

Vol. 42

November 22, 2000

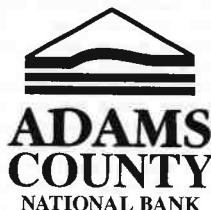
No. 26, pp. 142-145

IN THIS ISSUE

STRAUB VS. STAUFFER

Commitment:

The philosophy upon which
Adams County National Bank is
founded and upon which we are planning
for your future financial needs today.



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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

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

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

Periodicals postage paid at Gettysburg, PA 17325.

Copyright© 1959 by Wm. W. Gaunt & Sons, Inc., for Adams County Bar Association, Gettysburg, PA 17325.

All rights reserved.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-736 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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 those 2 tracts of land situate in Straban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

Tract No. 1: BEGINNING at a point in the center of the State Highway leading from Gettysburg to Harrisburg at corner of lands now or formerly of William W. Shields; thence in and along the center of said State Highway, North 38 degrees East, 50 feet to a point in center of said State Highway; thence by lands now or formerly of Robert Johnson and through an iron pin set back along the line, South 52 degrees East, 180 feet to an iron pin; thence by lands now or formerly of William W. Shields, South 38 degrees West, 50 feet to an iron pin; thence by lands of same, North 52 degrees West, 180 feet through an iron pin to the point in the center of the aforesaid State Highway, the place of BEGINNING.

Tract No. 2: BEGINNING at an iron pin at corner of lands now or formerly of William A. Bigham and Robert Johnson; thence by lands now or formerly of William W. Shields, South 52 degrees East, 16 feet to a point; thence by lands of same, South 38 degrees West, 50 feet to a point; thence by lands of same, North 52 degrees West, 16 feet to an iron pin at lands now or formerly of William A. Bigham; thence by lands of same, North 38 degrees East, 50 feet to an iron pin, the place of BEGINNING.

BEING THE SAME TWO TRACTS OF LAND WHICH Gary W. Peterson and Dianne S. Peterson, Husband and wife, by their Deed, dated August 21, 1989, and recorded August 22, 1989, in the Office of Recorder of Deeds in and for Adams County, Pennsylvania, at Deed Book Volume 531, Page 688, granted and conveyed unto Bernard J. Kuhn and Alice C. Latray-Kuhn, husband and wife as tenants of an estate by the entireties.

PARCEL MAP # G12-27

SEIZED and taken into execution as the property of **Alice C. Latray-Kuhn & Bernard J. Kuhn** 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 January 8, 2001, 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.

11/10, 17 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-485 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of January, 2001, 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 parcel of land lying and situate in Menallen Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1:

BEGINNING at an iron pin at land now or formerly of the Clair W. Arnold Estate, which pin is at the end of the South 53 degrees East, 34.4 perch line (as referenced in the deed dated April 16, 1943 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 161 at Page 610, wherein Roy W. Schriver and Linnie A. Schriver, his wife, granted and conveyed to Howard R. Schriver and Mary M. Schriver, his wife); thence South 57 degrees 22 minutes 46 seconds West, 59.40 feet to an iron pin; thence running along and in Legislative Route 01006 South 44 degrees 24 minutes 01 second West, 365.43 feet to a point, said point being South 65 degrees 13 minutes 15 seconds East, 31.10 feet from the edge of stone building; thence continuing in aforesaid Legislative Route 01006 South 38 degrees 44 minutes 41 seconds West, 249.58 feet to a point; thence by land herein conveyed North 49 degrees 27 minutes 25 seconds West, 252.35 feet to an iron pin, thence by the same North 43 degrees 57 minutes 35 seconds East, 656.96 feet to an iron pin at land now or formerly of the Clair W. Arnold

Estate; thence by same South 52 degrees 57 minutes 28 seconds East, 247.61 feet to an iron pin, the place of BEGINNING.

TRACT NO. 2:

BEGINNING at an iron pin near the northwestern edge of Legislative Route 01006 on line of land now or formerly of Howard R. Schriver; thence by same North 54 degrees 00 minutes West 245.80 feet to an iron pin at corner of lands now or formerly of Ray K. Crum; thence by same North 45 degrees 39 minutes 07 seconds East 210.88 feet to an iron pin at corner of lands now or formerly of Erna Arnold; thence by same South 43 degrees 22 minutes East 51.39 feet to an iron pin; thence by same South 45 degrees 39 minutes 07 seconds West 88.40 feet to an iron pin; thence by same South 41 degrees 50 minutes 35 seconds East 200.38 feet to an iron pin near the northwestern edge of Legislative Route 01006; thence along said Legislative Route South 53 degrees 00 minutes West 72.22 feet to an iron pin, the place of BEGINNING.

Tax Parcel # F-24

SEIZED and taken into execution as the property of **Peter J. Schriver & Vickie L. Schriver** 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 February 5, 2001, 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.

11/22, 12/1 & 8

STRAUB VS. STAUFFER

1. A petition to open judgment is an appeal to the equitable powers of the Court. A petitioner must act promptly, allege a meritorious defense, and "demonstrate the presence of believable evidence in support of meritorious defenses to the confessed judgment."

2. An unliquidated counterclaim or set-off is not a ground for opening a judgment.

3. The dispositive issue in this case is whether (Plaintiff) has demonstrated the presence of believable evidence in support of a meritorious defense to the confessed judgment. In making this determination, the court employs the standard of the directed verdict, "viewing all the evidence in the light of most favorable to the petitioner and accepting as true all evidence and proper inferences therefrom supporting the defense while rejecting adverse allegations of the party obtaining the judgment.

4. The Court has held that the parol evidence rule forbids admission of evidence of prior representations where a written agreement recites that it encompasses all prior representations.

5. In the absence of an integration clause a party may introduce evidence of factual misrepresentations made prior to execution of a written agreement if the party claims that he was induced to enter the agreement by the misrepresentations.

6. The Superior Court has made it clear that in addition to the petition to open, it is proper for the Court to consider depositions, additional testimony, as well as supplemental memoranda in assessing a meritorious defense.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 99-S-252. MATTHEW L. STRAUB AND CINDIE T. STRAUB VS. ROBIN STAUFFER.

Craig R. Milsten, Esq., for Plaintiffs
Matthew L. Guthrie, Esq., for Defendant
Spicer, P.J., September 15, 1999

OPINION ON DEFENDANT'S MOTION TO STRIKE OFF OR OPEN CONFESSED JUDGMENT

On May 29, 1998, Judgment Plaintiffs, Matthew L. Straub and Cindie T. Straub (Straub), entered into an Asset Sale Agreement with Judgment Defendant, Robin Stauffer (Stauffer), for the purchase of certain assets of the Grand Performance Studio, Gettysburg, Pennsylvania. The Asset Sale Agreement contained a confession of judgment clause and was signed by Straub and Stauffer.

Pursuant to the agreement, Stauffer was required to pay \$10,000 upon the signing of the agreement and the balance of the purchase price (\$20,000) in monthly installments of \$645.34 pursuant to the terms of a three-year promissory note. On February 8, 1999, Stauffer filed a complaint in case 99-S-111 seeking rescission and damages

based upon an alleged fraud in the inducement as well as a breach of a covenant not to compete.

On March 25, 1999, Straub filed a complaint in confession of judgment, in accordance with Pa. R.C.P. 2951(b), alleging that Stauffer defaulted on the note by failing to make payments for the months of February and March 1999. Straub claimed the accelerated balance of \$19,130.89.

On March 25, 1999, pursuant to the authority contained in the Warrant of Attorney, the Prothonotary of the Court of Common Pleas of Adams County entered judgment by confession against Stauffer. On April 8, 1999, Stauffer filed a Petition to Strike Off or Open Confessed Judgment, making basically the same allegations as in 99-S-111.

If we view only the record supporting confession, no fatal defect appears and the motion to strike must be rejected. This opinion will, therefore, examine the merits of defendant's motion to open.

A petition to open judgment is an appeal to the equitable powers of the Court. *Crum v. F.L. Shaffer Co.*, ___ Pa. Super. ___, 693 A.2d 984 (1997). A petitioner must act promptly, allege a meritorious defense, and "demonstrate the presence of believable evidence in support of meritorious defenses to the confessed judgment." *Id.* at 986.

The petition to open was promptly filed. Timeliness is measured from the date notice is received of the entry of judgment. Here the motion was filed 14 days after receipt of the notice.

The disagreement in this case focuses on whether allegations by Stauffer amount to meritorious defenses to the Confessed Judgment or are merely unliquidated counterclaims or set-offs relating to the Asset Sale Agreement. Stauffer suggests that the Asset Sale Agreement and the Promissory Note are two separate transactions and must be dealt with separately.

Straub cites *Harrison v. Stoekert*, 369 Pa. 143, 85 A.2d 154 (1952) as authority for the position that Stauffer's allegations represent an unliquidated counterclaim or set-off. The factual situation in *Harrison* is inapposite to this case. A judgment defendant attempted to open confessed judgment on a mortgage by alleging that jewelry had been delivered to plaintiff's father for sale, with the proceeds of the sale applied to the mortgage payment due plaintiff.

Defendant alleged a **misappropriation** or improper sale of the jewelry. The Court applied the well settled rule that an unliquidated counterclaim or set-off is not a ground for opening a judgment and affirmed the lower court's discharge of the rule to open confessed judgment. In the case at bar, the Promissory Note was executed to ensure payment for the sale of the assets. The parties are the same and the Promissory Note would not have been signed but for the Asset Sale Agreement. If the contract is void or invalidated, the note also fails.

Therefore, the dispositive issue in this case is whether Straub has demonstrated the presence of believable evidence in support of a meritorious defense to the confessed judgment. In making this determination, the court employs the standard of the directed verdict, "viewing all the evidence in the light most favorable to the petitioner and accepting as true all evidence and proper inferences therefrom supporting the defense while rejecting adverse allegations of the party obtaining the judgment". *Suburban Mechanical Contractors, Inc. v. Leo*, 348 Pa. Super. 324, 327, 502 A.2d 230, 232 (1985).

In making this determination, we must consider whether evidence of misrepresentation would be admissible. Stated differently, would the parol evidence rule prevent evidence of fraud in the inducement? The parol evidence rule provides that "in the absence of fraud, accident or mistake, ... parol evidence to vary, modify or supersede the written contract is inadmissible in evidence. See *Baker v. Cambridge Chase, Inc.*, ___ Pa. Super. 725 A.2d 757, 771 (1999), reargument denied March 19, 1999, (quoting *LeDonne v. Kessler*, 256 Pa. Super. 280, 389 A.2d 1123 (1978)). The Court has held that the parol evidence rule forbids admission of evidence of prior representations where a written agreement recites that it encompasses all prior representations. *1726 Cherry Street Partnership by 1726 Cherry Street Corp. v. Bell Atlantic Properties, Inc.*, 439 Pa. Super. 141, 653 A.2d 663 (1995); alloc. dn. 544 Pa. 647, 664 A.2d 976 (1995). In this case the Asset Sale Agreement does not contain an integration clause. We do not need to discuss whether such clause would bar evidence of fraudulent misrepresentation. In the absence of an integration clause a party may introduce evidence of factual misrepresentations made prior to execution of a written agreement if the party claims that he was induced to enter the agreement by the misrepresentations.

Stauffer makes such an assertion and we find it sufficient. As the Supreme Court has stated:

It scarcely seems necessary at this late jurisprudential hour in the day of *stare decisis* to cite cases to certify that fraud taints with illegality and invalidity anything its evil shadow darkens. Nor can there be any question of the right of a court to set aside any contract which is founded on fraud. This is as fundamental and solidly established as the foundation of the courthouse.

Iacoponi v. Plisko, 412 Pa. 576, 581, 195 A.2d 362, 365 (1963).

The Superior Court has made it clear that in addition to the petition to open, it is proper for the Court to consider depositions, additional testimony, as well as supplemental memoranda in assessing a meritorious defense. *Homart Development Co. v. Sgreni*, 443 Pa. Super. 538, 543, 662 A.2d 1092,1097 (1995). Stauffer has submitted evidence in the form of depositions and affidavits in support of her assertions of fraudulent and material misrepresentation.

The agreement clearly contains a covenant not to compete. The express terms of the Asset Sale Agreement prohibit Straub from engaging or operating a dance studio or any other activity in the capacity of Performing Arts in competition within a fifty (50) mile radius of the Grand Performance Dance Studio. We do not need to decide whether breach of this provision amounts to grounds for rescission, or if Stauffer is limited to injunctive relief and damages.

Viewing the evidence before the Court in the light most favorable to the Petition, *Crum*, **supra** this Court finds a sufficient basis to require submission of the issues to a jury. Motion to open confessed judgment is granted.

ORDER OF COURT

AND NOW, this 15th day of September, 1999, the judgment entered by confession is opened.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-807 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of January, 2001, 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 South Branch Estates, located in the Township of Oxford, Adams County, Pennsylvania, 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 land development plan dated October 6, 1995, last revised December 14, 1995 and recorded in Book 69 page 23 (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such plan as Unit No. 34 as more fully bounded and described in such plan, together with a proportionate undivided interest in the Common Elements as defined in a Declaration Plan recorded in the Office of the Recorder of Deeds, in and for Adams County, PA in Record Book 1271 page 34.

TOGETHER with the limited common elements appurtenant as more fully shown of Plan 1271 page 34.

Tax Parcel #1-52-034

SEIZED and taken into execution as the property of **Walter S. Stiles a/k/a Walter Scott Stiles & Karen Jean Stiles** 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 February 5, 2001, 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.

11/17, 22 & 12/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-771 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of January, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

16 Summer Drive, Gettysburg, PA 17325

ALL THAT TRACT of land situate, lying and being in the Borough of Bonneauville, Adams County, Pennsylvania, being Lot No. 5 of Springfield Estates, bounded and described as follows:

BEGINNING at an iron pin on the Southerly edge of Summer Drive at Lot No. 4; thence by said Lot South 33 degrees 36 minutes 10 seconds West, 179.63 feet to an iron pin at lands now or formerly of Guy Francis Gebhart; thence by said lands North 56 degrees 20 minutes 46 seconds West, 115 feet to an iron pin at Lot No. 6; thence by said Lot North 33 degrees 36 minutes 10 seconds East, 179.53 feet to an iron pin on the Southerly edge of Summer Drive; thence along the Southerly edge of said Summer Drive South 56 degrees 23 minutes 50 seconds East, 115 feet to the place of BEGINNING.

CONTAINING 20,652 square feet.

The above description was taken from a plan of lots labeled "Springfield Estates", dated June 22, 1977, prepared by Gettysburg Engineering Co., Inc., and recorded in Adams County Plan Book No. 20, Page 29.

TOGETHER WITH a right-of-way and SUBJECT to the restrictions as contained in the above recited Deed.

TITLE TO SAID PREMISES APPEARS TO BE VESTED IN Kathy L. Eckard of Washington, D.C., by Deed from James A. Walker and Diane M. Walker (formerly Diane M. Trone) by Deed dated June 28, 1989 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania on June 29, 1989 in Record Book 526 Page 721.

SEIZED and taken into execution as the property of **Kathy L. Eckard** 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 February 5, 2001, 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.

11/17, 22 & 12/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-428 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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 Situated, lying and being in the Borough of Carroll Valley, Fairfield, Adams County, Pennsylvania, being known as Lot No. 108 in Section "H", more particularly bounded and described as follows:

BEGINNING at a point in the center of High Ridge Drive at Lot No. 107; thence by said Lot South 68 degrees 41 minutes East, 125 feet to Lot No. 109; thence by said lot South 21 degrees 19 minutes West, 200 feet to a point in the center of Holiday Drive; thence in said Holiday Drive North 68 degrees 41 minutes West, 125 feet to a point in said Holiday Drive at its intersection with said High Ridge Drive; thence in said High Ridge Drive North 21 degrees 19 minutes East, 200 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section H, Charmita, Inc." dated August 7, 1965, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at page 15.

Tax Parcel # 12-65

SEIZED and taken into execution as the property of **Gary W. Willard & Carrie A. Willard** 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 January 8, 2001, 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.

11/10, 17 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-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 12th day of January, 2001, 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 or tract of land Situate on the northerly right of way line of Abbotts Drive in the Borough of Abbottstown, County of Adams and State of Pennsylvania known and numbered as Lot No. 38 on a plan of lots for Abbotts Manor Phase II recorded in the Office of the Recorder of Deeds in and for Adams County, PA in subdivision Plot 73, page 43, more fully bounded and described as follows, to wit:

BEGINNING at a point on the northerly right of way line of Abbotts Drive at a corner of Lot No. 37 on a final plan of lots for Abbotts Manor Phase I recorded in the aforesaid Recorder's Office in Plot Book 69, page 95; thence extending along the said Lot No. 37 North 30 degrees 02 minutes 10 seconds West 277.24 feet to a point; thence North 64 degrees 04 minutes 00 seconds East 62.30 feet to a point at a corner of Lot No. 39 on a plan of Lots for Abbotts Manor Phase II recorded in the aforesaid Recorder of Deeds Office in Plot Book 73, page 43; thence extending along the said Lot No. 39 South 35 degrees 47 minutes 14 seconds East 202.48 feet to a point; thence extending along the said right of way of Abbotts Drive on a line curving to the right having a radius of 170 feet, an arc distance of 86.06 feet with a chord bearing South 45 degrees 27 minutes 41 seconds West 85.14 feet to the point and place of BEGINNING. CONTAINING 15,888 Sq. Ft.

Tax Parcel # 5-52

SEIZED and taken into execution as the property of **Troy A. Wolf & Bobbie Jo Spangler** 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 February 5, 2001, 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.

11/22, 12/1 & 8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-N-988 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of December, 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.:

Property of Mick Builders, Inc., situated at 726 Parkway Drive, Littlestown, Lot No. 250, Meadowview Estates, Union Township, Adams County, PA. Tax Map 3, Parcel 110

ALL that certain piece, parcel or tract of land, together with the improvements thereon erected, situate, lying and being in Union Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING for a point along the northeasterly right-of-way line of Park Way Drive and Lot No. 183; thence along said Lot No. 183, North eighty-two (82) degrees thirty (30) minutes twenty-five (25) seconds West, two hundred thirteen and thirty-eight hundredths (213.38) feet to a point at Lot No. 239; thence along said Lot No. 239 and Lot No. 241, North forty-six (46) degrees forty-two (42) minutes forty-five (45) seconds East, two hundred thirty-seven and seventy-seven hundredths (237.77) feet to a point along the southerly right-of-way line of Hickory Lane; thence along the southerly right-of-way line of Hickory Lane, South sixty-one (61) degrees thirty-four (34) minutes thirty-eight (38) seconds East, one hundred eight and seventy-seven hundredths (108.77) feet to a point at the intersection of Hickory Lane and Park Way Drive; thence along the intersection of Hickory Lane and Park Way Drive, South sixteen (16) degrees thirty-four (34) minutes thirty-eight (38) seconds East, thirty-five and zero hundredths (35.00) feet to a point along the northwesterly right-of-way line of Park Way Drive; thence along the northwesterly right-of-way line of Park Way Drive, South twenty-eight (28) degrees twenty-four (24) minutes thirty-eight (38) seconds West, three and twenty-nine hundredths (3.29) feet to a point; thence continuing along same by a curve to the right which has a radius of eight hundred forty and zero hundredths (840.00) feet, an arc distance of one hundred twenty-one and ninety-two hundredths (121.92) feet, the long chord of which is South thirty-two (32) degrees thirty-four (34) minutes fifty-two (52) seconds West, one hundred twenty-one and eighty-two hundredths (121.82) feet to a point, the place of BEGINNING. (CONTAINING 29,632.20 square feet and being identified as Lot No. 250 on the final subdivision plan of Meadowview Estates, Phase V, which plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 74, page 77.)

UNDER AND SUBJECT, NEVERTHELESS, to Declaration of Restrictions

recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1661, page 225.

IT BEING the same premises which Lynn Lee Construction Co., Inc., a Maryland corporation, by its deed dated February 26, 1999, and recorded March 2, 1999, in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1776, page 133, granted and conveyed to Mick Builders, Inc.

SEIZED and taken into execution as the property of **Mick Builders 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 January 22, 2001, 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.

11/17, 22 & 12/1

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 Friday, December 8, 2000, at 9:00 o'clock a.m.

BAUMGARTNER—Orphans' Court Action Number OC-52-99. The Second and Final Account of Charles M. Sanders, Executor of the Estate of George K. Baumgartner, deceased, late of Oxford Township, Adams County, Pennsylvania.

COWAN—Orphans' Court Action Number OC-119-92. The First and Final Account of David J. Cowan, Administrator of the Estate of Christopher Mayroe Cowan, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

11/22 & 12/1

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 NELLIE JANE GLADFELTER, DEC'D

Late of the Borough of East Berlin, Adams County, Pennsylvania

Executor: Marshall H. Gladfelter, c/o 29 North Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., Countess Gilbert Andrews, 29 North Duke Street, York, PA 17401

ESTATE OF CATHRYN I. MYERS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Clyde F. Myers, 669 Grant Drive, Gettysburg, PA 17325; Donna J. Boyer, 77 Wheatland Drive, Gettysburg, PA 17325

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

SECOND PUBLICATION

ESTATE OF ANNA M. KESSLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrices: Jane Marie Bankert, RD#1, Box 1535, Spring Grove, PA 17362; Marian E. Atlland, 11 South Water Street, Spring Grove, PA 17362

Attorney: Matthew L. Guthrie, Esq., Guthrie, Nonemaker, Guthrie, & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF FRANCIS GREAM LOW, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executor: Steve Snyder, 5 Sunset Drive, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF KENNETH D. BROWN, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executrix: Pamela A. Brown, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

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

ESTATE OF PAUL FULTON HOSHALL, JR., DEC'D

Late of the Borough of Hanover, York County, Pennsylvania

Executrix: Annette K. Hoshall, c/o Gates & Gates, 250 York Street, Hanover, PA 17331

Attorney: Samuel K. Gates, Esq., Gates & Gates, 250 York Street, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-571 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 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 those two (2) tracts of land situate, lying and being on the South side of South Street in the Borough of McSherrystown, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1:

BEGINNING at a stake at the curb line on the South side of South Street, said stake being on the East side of a proposed 16 foot alley; thence by said curb line in an Easterly direction for a distance of 50 feet to a stake at other land now or formerly of Sallie L. Klunk; thence by said land and other land now or formerly of John W. Klunk in a Southerly direction for a distance of 150 feet to a stake; thence by land of said John W. Klunk in a Westerly direction for a distance of 50 feet to a stake on the East side of the proposed alley aforesaid; thence by the East side of said alley in a Northerly direction for a distance of 150 feet to a stake, the place of BEGINNING.

TRACT NO. 2:

BEGINNING at an iron pin at the curb line on the South side of South Street at Tract No. 1 herein; thence along said curb line in an Easterly direction 25 feet to an iron pin at land formerly of Sallie L. Klunk and John W. Klunk and now or formerly of B. Truman Lake; thence by said lands in a Southerly direction for a distance of 150 feet to an iron pin at other lands now or formerly of Sallie L. Klunk and John W. Klunk; thence by the same in a Westerly direction for a distance of 35 feet to an iron pin at Tract No. 1 herein; thence by the same in a Northerly direction for a distance of 150 feet to an iron pin, the place of BEGINNING.

Having thereon erected a dwelling known as 306 South Street, McSherrystown, PA 17344. Being Designated as Parcel No. 6-37.

BEING THE SAME premises which Donald L. Swope and Vivian I. Swope by attorney-in-fact Thomas H. Swope, conveyed unto Steven F. Selby and Kelly M. Selby by Deed dated October 28, 1998 and recorded November 12, 1998 in the Recorder of Deeds Office of Adams County in Deed Book 1700, page 259.

SEIZED and taken into execution as the property of **Steven Francis Selby & Kelly M. Selby** 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 January 8, 2001, 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.

11/10, 17 & 22

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 15th day of December, 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

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 January 8, 2001, 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.

11/10, 17 & 22

LEGAL NOTICE

The Annual meeting of the policyholders of the Protection Mutual Insurance Company of Littlestown will be held at the office located at 101 South Queen Street, in Littlestown, PA, between the hours of 1:00 and 2:00 p.m., on January 13, 2001 to elect directors and to transact any other business properly presented.

Attest
Marilyn Q. Butt
Secretary-Treasurer

11/22, 12/1, 8 & 15

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that a petition was filed in the Court of Common Pleas of Adams County, Pennsylvania to No. 00-S-1094 on November 9, 2000, requesting that a decree be entered to change the name of Joseph Martin Kint to Joseph John Martin. The Court has fixed December 8, 2000 at 9:00 A.M. in Courtroom No. 1 or 2 of the Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania, as the time and place for hearing on such request and for any person opposed to the petition to show cause why such request should not be granted.

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

11/22