

Adams County Legal Journal

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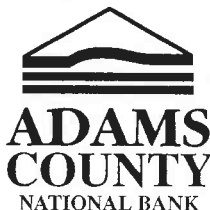
March 5, 2004

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JP MORGAN CHASE BANK VS. EDGE

Helping families achieve
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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1171 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land, situate in the Township of Tyrone, County of Adams and Commonwealth of Pennsylvania, being more particularly bounded and described as follows, to wit:

BEGINNING at a point on the Easternmost edge of the cul-de-sac of Mandy Lane, a fifty (50) foot wide street, said point marking the common point of adjoiner of Lots #9 and #10 on the hereinafter mentioned plan with the cul-de-sac of Mandy Lane, thence departing from the aforementioned cul-de-sac and extending along Lot #10, South eighty-seven (87) degrees fifty-five (55) minutes twenty-five (25) seconds East for a distance of three hundred nine and ninety-three hundredths (309.93) feet to a steel pin; thence South twenty-one (21) degrees four (04) minutes ten (10) seconds East for a distance of one hundred fifty and no hundredths (150.00) feet toward a corner marked by planted stones at lands now or formerly of Vernon J. Franklin; thence extending along lands now or formerly of Vernon J. Franklin for the following two courses and distances: North eighty-two (82) degrees thirteen (13) minutes fifty (50) seconds West for a distance of eighty-six and eight hundredths (86.08) feet to a seventeen (17) inch walnut tree; thence continuing South sixty-four (64) degrees four (04) minutes fifty (50) seconds West, for a distance of three hundred sixty-nine and fifty-one hundredths (369.51) feet to a steel pin at Lot #8; thence extending along Lot #8 North twenty-five (25) degrees fifty-five (55) minutes ten (10) seconds West, for a distance of two hundred fifteen and fifty-three hundredths (215.53) feet to a steel pin on the Southern edge of the cul-de-sac of Mandy Lane, thence extending in and along the Southern edge of the cul-de-sac of Mandy Lane by an arc or curve

to the left having a radius of sixty (60) feet, a chord of sixty-five and sixty-three hundredths (65.63) feet on a bearing North thirty-five (35) degrees fourteen (14) minutes zero (00) seconds East, for an arc distance of sixty-nine and forty-four hundredths (69.44) feet to a point on said cul-de-sac at Lot #10 said point marking the place of BEGINNING.

CONTAINING 1.423 acres and being designated as Lot #9 on a final plan of subdivision of Foxwood Section III prepared for Harmon-Graves Company by Rodney Lee Decker and Associates dated June 2, 1981 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plat Book 36, at page 10.

BEING THE SAME premises which Harry H. Fox, Jr. and Ann G. Fox, his wife by Deed dated 11/6/1998 and recorded 11/18/1998 in the County of Adams in Record Book 1705 page 86 conveyed unto Rodney G. Shaw, III and Kimberly S. Shaw, his wife, in fee.

Map #H6, Parcel 131

Premises being: 75 Mandy Lane, Gettysburg, PA 17325

Tax Parcel No. Map #H6, Parcel 131

SEIZED and taken into execution as the property of **Rodney G. Shaw, III a/k/a Rodney Gerald Shaw & Kimberly S. Shaw a/k/a Kimberly Sue Shaw** 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 May 17, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/27, 3/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-344 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 260 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County at Plan Book 1, Page 1, and subject to all legal highways, easements, rights-of-way, and restrictions of record.

TITLE TO SAID PREMISES IS VESTED IN Jill A. Fissel by Deed from Michael J. Fissel and Jill A. Fissel formerly known as Jill A. Angel, husband and wife dated 12/22/1994 and recorded 12/28/1994 in Record Book 980, Page 165.

Premises being: 85 Schofield Drive, East Berlin, PA 17316

Tax Parcel No. 11-100

SEIZED and taken into execution as the property of **Michael J. Fissel & Jill A. Fissel** 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 May 17, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/20, 27 & 3/5

JP MORGAN CHASE BANK VS. EDGE

1. When it is clear that the pleader must know whether a particular allegation is true or false, a boilerplate allegation that a party is without knowledge does not excuse the failure to admit or deny a factual allegation.
2. Although the moving party clearly has the burden of proving that no genuine issue of material facts exists, the non-moving party bears a clear duty to respond to a motion for summary judgment.
3. The trial court may grant summary judgment on the non-moving party's failure to respond.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 02-S-884, JP MORGAN CHASE BANK, N.A., AS TRUSTEE, SUCCESSOR BY MERGER TO TEXAS COMMERCE BANK, NATIONAL ASSOCIATION, AS CUSTODIAN, VS. JAMES G. EDGE.

Mark J. Udren, Esq., for Plaintiff
Wendy Weikal-Beauchat, Esq., for Defendant
George, J., February 19, 2003

OPINION

This matter comes before the Court on Plaintiff's Motion for Summary Judgment. The Plaintiff, JP Morgan Chase Bank, N.A., (hereinafter referred to as "Plaintiff")¹ filed a Complaint in Mortgage Foreclosure against the Defendant, James Edge (hereinafter referred to as "Defendant"), on August 26, 2002. The Defendant's Answer essentially consists of boilerplate denials alleging either lack of knowledge on his part or claiming that the averments in the Complaint state legal conclusions. On September 23, 2002, the Plaintiff moved for Summary Judgment and has timely filed a brief in support of their Motion. The Defendant has neither filed an Answer to the Motion for Summary Judgment nor has he filed a brief in opposition to the Plaintiff's Motion. For the reasons set forth below, the Plaintiff's Motion for Summary Judgment will be granted.

The Plaintiff correctly points out that the Pennsylvania Rules of Civil Procedure provide that a general denial in a responsive pleading shall have the effect of an admission unless the party, after reasonable investigation, is without sufficient knowledge or information to form

¹The caption designates the Plaintiff as follows: JP Morgan Chase Bank, N.A., as Trustee, Successor by Merger to Texas Commerce Bank, National Association, as Custodian.

an answer. *See* PA. R. CIV. P. 1029. When it is clear that the pleader must know whether a particular allegation is true or false, a boilerplate allegation that a party is without knowledge does not excuse the failure to admit or deny a factual allegation. *See Cercone v. Cercone*, 386 A.2d 1 (Pa. Super. Ct. 1978). Additionally, the mere assertion in a responsive pleading that the other party's allegation is a "conclusion of law" is insufficient and will be deemed an admission when used as a response to factual averments. *See generally First Wisconsin Trust Co. v. Strausser*, 653 A.2d 688 (Pa. Super. Ct. 1995).

The Defendant's Answer to Plaintiff's Complaint contains a number of insufficient responses to Plaintiff's averments. For instance, in paragraph 3 of the Complaint, Plaintiff essentially alleges that a loan to the Defendant was secured by a mortgage on specifically identified property. Defendant, however, in his Answer, claims to be "without knowledge to form a belief as to the accuracy of the allegations contained in paragraph 3." Def.'s Answer at ¶ 3. It is clear that this Answer, and others similar to it in the Defendant's pleading, are a misuse of the provisions of PA. R. CIV. P. 1029. As such, they will be deemed admissions. *See Cercone*, *supra*. Since the Defendant may be deemed to have admitted all of the allegations in the Plaintiff's Complaint, there appears to be no issue in dispute.

In recognition of this lack of a factual dispute, the Plaintiff has moved for summary judgment. Summary judgment may be granted only in those cases in which the record clearly shows that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law. *Rush v. Philadelphia Newspapers, Inc.*, 732 A.2d 648, 650 (Pa. Super. Ct. 1999). Although the moving party clearly has the burden of proving that no genuine issue of material fact exists, *Strausser*, 653 A.2d at 691, under PA. R. CIV. P. 1035.2 and PA. R. CIV. P. 1035.3, the non-moving party bears a clear duty to respond to a motion for summary judgment. *Harber Philadelphia Ctr. City Office Ltd. v. LPCI Ltd. Partnership*, 764 A.2d 1100, 1104 (Pa. Super. Ct. 2000), appeal denied, 782 A.2d 546 (2001). The trial court may grant summary judgment on the non-moving party's failure to respond. *Id.*, *citing* PA. R. CIV. P. 1035.3(d). Thus, under Rule 1035.3(a)(1), the non-moving party must respond to the motion by identifying, *inter alia*, one or more issues of fact arising from the evidence in the record controverting the evidence cited in support of

the motion. A trial court may grant summary judgment where a party violates this duty to respond. *Harber Philadelphia Ctr. City Office Ltd.*, 764 A.2d at 1104.²

Since it appears that there is no issue of material fact, and furthermore since the Defendant has failed to appropriately respond, the attached Order is entered.

ORDER OF COURT

AND NOW, this 19th day of February, 2003, the Plaintiff's Motion for Summary Judgment is granted. Judgment is entered, in rem, in favor of the Plaintiff and against the Defendant in the amount of \$91,760.40 together with per diem interest, late charges, escrow advances and any additional recoverable costs to date of Sheriff's sale. The Plaintiff may proceed with foreclosure and execution of the property located at 210 West Middle Street, Gettysburg, Adams County, Pennsylvania, as more specifically described in Record Book 1398, Page 0005, in the Adams County Recorder of Deeds Office, pursuant to the Pennsylvania Rules of Civil Procedure.

²In 1996, the Pennsylvania Supreme Court promulgated current Rules of Civil Procedure 1035.2 and 1035.3. Prior to the promulgation of those rules, appellate courts admonished trial courts to conduct an independent review of the record prior to granting summary judgment on a basis of an undefended motion. *See Tukovits v. Prudential Ins. Co.*, 672 A.2d 786 (Pa. Super. Ct. 1996); *Kelly v. Ickes*, 629 A.2d 1002 (Pa. Super. Ct. 1993). The promulgation of these rules by the Supreme Court, however, have negated the requirement that the trial court "scour the record for every conceivable ground on which to deny summary judgment". *Harber Philadelphia Ctr. City Office Ltd.*, 764 A.2d at 1105.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-834 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the Southern right-of-way line of Poplar Street, a sixty (60) feet wide right-of-way, at corner of Lot No. 40 on the subdivision plan hereinafter referred to; thence along the Southern right-of-way line of Poplar Street, South fifty-nine (59) degrees, thirty-one (31) minutes, twenty-one (21) seconds East, seventy-nine and ninety-three hundredths (79.93) feet to a point at the intersection of Poplar Street and Dogwood Lane; thence along the right-of-way line of Dogwood Lane, the following three (3) courses and distances: (1) South fourteen (14) degrees, thirty-one (31) minutes, twenty-one (21) seconds East, twenty-one and twenty-one hundredths (21.21) feet to a point; (2) by a curve to the right having a radius of one hundred twenty-five (125) feet, the long chord bearing and distance of which is South forty-seven (47) degrees, forty-two (42) minutes, thirty-five (35) seconds West, seventy-four and six hundredths (74.06) feet for an arc distance of seventy-five and nineteen hundredths (75.19) feet to a point; and (3) by curve to the left having a radius of four hundred twenty-five (425) feet, the long chord bearing and distance of which is South sixty-one (61) degrees, forty-six (46) minutes, forty-two (42) seconds West, forty-six and ninety-one hundredths (46.91) feet to an arc distance of forty-six and ninety-three hundredths (46.93) feet to a point at Lot No. 26 on the subdivision plan hereinafter referred to; thence along Lot No. 26, North fifty-nine (59) degrees, ten (10) minutes, fifty-seven (57) seconds West, forty-eight and sixty-one hundredths (48.61) feet to a point at Lot No. 40 on the subdivision plan hereinafter referred to; thence along Lot No. 40, North thirty (30) degrees, twenty-eight (28) minutes, forty-one (41) seconds East, one hundred twenty-five and fifty-three hundredths (125.53) feet to a point on the Southern right-of-way line of Poplar Street, the point and place of BEGINNING.

(CONTAINING 9,928 square feet and being Lot No. 41 on a final subdivision plan for Diller's Village, Phase Three, prepared by Donald E. Worley, Registered Surveyor, dated August 14, 1987, revised October 8, 1987, designated as File No. G-97 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania; in Plan Book 48, page 44.)

SEIZED and taken into execution as the property of **William L. Blubaugh & Lisa Ann Blubaugh** 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 May 24, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/27, 3/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1312 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

TRACT NO. 1

ALL that certain piece or parcel of real estate situated in the Township of Reading, County of Adams and Commonwealth of Pennsylvania, being known and described as Lot No. 432 on a plan of lots known as "Lake Meade Subdivision," said plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 1, Page 4.

BEING the same interest and premises acquired therein by the Grantor under and by virtue of a certain deed or conveyance dated December 28, 1979, as made and delivered by Bernard V. Miller, Sheriff of Adams County, Pennsylvania, to the Grantor and recorded in the Recorder's Office aforesaid in Deed Book 349, Page 904.

TRACT NO. 2

ALL that certain piece or parcel of real estate situated in the Township of Reading, County of Adams and Commonwealth of Pennsylvania, being known and described as Lot No. 433 on a plan of lots known as "Lake Meade Subdivision," said plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 1, Page 4.

BEING the same interest and premises acquired therein by the Grantor under and by virtue of a certain deed or conveyance dated December 28, 1979, as made and delivered by Bernard V. Miller, Sheriff of Adams County, Pennsylvania, to the Grantor and recorded in the Recorder's Office aforesaid in Deed Book 349, Page 896.

For further reference to title to both Tracts, see proceedings in Action to Quiet Title filed in the Office of the Prothonotary of Adams County, Pennsylvania, to No. 83-S-714, and Order of Court filed therein on February 14, 1984, and recorded in the Recorder's Office aforesaid in Deed Book 376, Page 961.

Premises being: 17 Sherman Drive,
East Berlin, PA 17316

Tax Parcel No. #2-43

SEIZED and taken into execution as the property of **Brian E. Kinard & Michelle R. Kinard a/k/a Michelle R. Murphy** 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 June 1, 2004, 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.

3/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1217 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN unit in the property known, named and identified in the Declaration referred to below as Oxford Commons Condominiums, located in the Borough of New Oxford, Adams County, 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, Pennsylvania, of a Declaration dated September 13, 1996 and recorded October 18, 1996 in Record Book 50 Page 41. (Together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such Declaration as Unit No. 33 as more fully bounded and described in such Declaration, together with a proportionate undivided interest in the Common Elements as defined in such Declaration.

TITLE TO SAID PREMISES IS VESTED IN Jessica L. Myers by Deed from Philip R. Garland t/d/b/a Garland Construction dated 3/17/2000 and recorded 9/21/2000 in Record Book 2129, Page 209.

Premises being: 29 Oxford Court, New Oxford, PA 17350

Tax Parcel No. 184A-33

SEIZED and taken into execution as the property of **Jessica L. Myers** 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 May 24, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/27, 3/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1045 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being known as and located at 42 Prince Street in the Borough of Littlestown, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an Ex. Bolt at the Western edge of the concrete sidewalk along the West side of the right-of-way of Prince Street, at corner of land now or formerly of Carol A. Hippensteel; thence along said land now or formerly of Carol A. Hippensteel, South 60 degrees 03 minutes 00 seconds West, 100.02 feet to an Ex. Steel Pin at or near the Eastern edge of Rebecca Alley, at corner of said land now or formerly of Carol A. Hippensteel; thence by or near the Eastern edge of said Rebecca Alley, North 30 degrees 15 minutes 35 seconds West, 29.68 feet to a R.F. Spike set at or near the Eastern edge of said Rebecca Alley, at corner of land now or formerly of Cynthia S. Payne (Lot 2, known as 44 Prince Street, depicted in and upon the below-mentioned draft of survey and final subdivision plan); thence by said land now or formerly of Cynthia S. Payne, North 59 degrees 30 minutes 00 seconds East, 100.02 feet to a Steel Pin set at the Western edge of the concrete sidewalk along the West side of the right-of-way of Prince Street, at corner of said land now or formerly of Cynthia S. Payne; thence along the Western edge of said concrete sidewalk, South 30 degrees 15 minutes 00 seconds East, 30.64 feet to an Ex. Bolt at the Western edge of the concrete sidewalk along the West side of the right-of-way of Prince Street, the point and place of BEGINNING, CONTAINING 3,016 Square Feet, more or less.

The above description was taken from a draft of survey and final subdivision plan, dated January 5, 1998, by Boyer Surveys, recorded in the Office of Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 73 at Page 32; the above-described tract is labeled as Lot 1 in and upon said draft of survey and final subdivision plan.

BEING A PART OF THE SAME which Dawn F. Fields, now Dawn F. Wertz, Executrix of the Estate of J. Harvey Pettijohn, deceased, by Deed dated

December 12, 1997 and recorded December 31, 1997, in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1498 at Page 268, sold and conveyed unto HIJ Partnership, the GRANTOR herein,

SUBJECT, NEVERTHELESS, to existing public rights-of-way; utility easements; deed covenants, conditions and restrictions, if any; and the NOTES, conditions, requirements and contents of the above-referenced draft of survey and final subdivision plan; SUBJECT, NEVERTHELESS, FURTHER, to the rights and duties pertaining to the party (common) wall within the duplex home in and upon the lot hereby conveyed.

A provision is made for the repair and maintenance of utilities for permanent right of access for the maintenance and repair of utilities (sewer, water, gas and electric).

AND the said Grantor does hereby covenant that it will warrant specially the property hereby conveyed.

HAVING thereon erected a dwelling house known as: 42 Prince Street, Littlestown, Pennsylvania 17340

BEING THE SAME PREMISES WHICH HIJ Partnership, by Deed dated 8/31/98 and recorded 9/2/98 in Adams County Deed Book 1654, Page 115, granted and conveyed unto Robert F. Frye.

SEIZED IN EXECUTION as the property of Robert F. Frye under Adams County Judgment No. 03-S-1045.

Map & Parcel 27-8-109A

SEIZED and taken into execution as the property of **Robert F. Frye** 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 May 10, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/20, 27 & 3/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-949 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE FOLLOWING described real estate lying and being situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the West side of Pecher Road (Township Road T-312) at line of land now or formerly of Michael Sullivan; thence running by Sullivan Land and through an existing reference steel rod set back along the line, South 76° 52' 40" West 179 feet to an existing steel rod; thence continuing by Sullivan Land and by a curve to the left, the radius of which is 242 feet, for an arc distance of 37.99 feet and with a chord bearing of South 72° 20' 40" West for a chord length of 37.95 feet to an existing steel rod; thence continuing by Sullivan, South 21° 56' 00" East 128.13 feet to a steel rod; thence continuing by land of the same, South 11° 14' 40" East 388 feet to an existing bolt; thence continuing by the same, South 31° 59' 40" East 136 feet to an existing bolt; thence continuing by Sullivan, South 62° 54' 40" West 438.78 feet to an existing steel rod; thence continuing by the same, North 79° 37' 10" West 60 feet to a steel rod on line of land of William H. Scott, Jr., et. Al., of which this was formerly a part; thence running by land of William H. Scott, Jr., et. Al., North 07° 35' 40" West 1,149 feet to a steel rod on line of land of Fred Crum, Jr.; thence by the latter, South 74° 20' 33" East 625 feet to an existing spike 5 feet West of the centerline of Pecher Road (T-312); thence running in Pecher Road (T-312) South 07° 17' 25" East 115.29 feet to a point on the West side of Pecher Road, the point and place of BEGINNING. CONTAINING 10.168 acres.

The description was taken from a draft of survey of J. Riley Redding, R.S., dated February 24, 1992, and recorded in Adams County Plat Book 61, Page 29. The tract described is Tract 2 on said plan of lots.

Parcel No. 25-C17-0026

Being Premises: 1005 Pecher Road, Fairfield, PA 17320

SEIZED and taken into execution as the property of **John Hess & Patricia Hess** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 24, 2004, 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.

3/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-798 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Reading Township, County of Adams, Commonwealth of Pennsylvania, known as Lot No. 12 as shown on the Final Subdivision Plan prepared by Adams County Surveyors dated June 30, 1978 revised August 7, 1978 recorded in Plan Book 23, page 6, and more fully described as follows:

BEGINNING at a railroad spike in or near the centerline of Legislative Route 01009, at the Northwestern corner of land now or formerly of Leathery; thence by said land now or formerly of Leathery, and passing through an iron pin set back thirty (30) feet from the last mentioned point, South one (01) degree thirteen (13) minutes fifty (50) seconds East, five hundred seventy-two and ninety-nine one-hundredths (572.99) feet to a pipe at corner of Lot No. 9 on the hereinafter referred to draft of survey; thence by said Lot No. 9, North sixty-seven (67) degrees eleven (11) minutes forty-five (45) seconds West, three hundred sixty-five and thirty one-hundredths (365.30) feet to a pipe on line of Lot No. 11; thence by Lot No. 11 and by land now or formerly of Robert C. Anderson, and passing through a pipe set back one hundred ten (110) feet from the last mentioned point, and also passing through an iron pin set back thirty (30) feet from the next mentioned point, North twenty-four (24) degrees three (03) minutes zero (00) seconds East, five hundred sixty-nine and twenty-four one-hundredths (569.24) feet to a railroad spike on the Western edge of the

paving of Legislative Route 01009, aforesaid; thence in and along said Legislative Route 01009, South forty-six (46) degrees thirty-six (36) minutes ten (10) seconds East, one hundred thirty and twenty-seven one-hundredths (130.27) feet to a point, the place of BEGINNING.

CONTAINING 3.008 acres.

(Together with any improvements thereon)

IT BEING the same premises which Ronald E. Strausbaugh and Nancy R. Strausbaugh, husband and wife, by their Deed dated May 31, 2001, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 2309, Page 24, granted and conveyed unto Mark Furst and Monique Furst, husband and wife.

Property address: 875 Germany Road, East Berlin, PA 17316

Tax Map K6, Parcel 15E

SEIZED and taken into execution as the property of **Mark Furst & Monique Furst** 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 May 24, 2004, 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.

3/5, 12 & 19

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Act of Assembly No. 295 of 1982, of the filing in the Office of the Secretary of Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about January 7, 2004, a certificate for the conduct of business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of 194 SERVICE CENTER with its principal place of business at 850 Hanover Pike, Littlestown, Pennsylvania. The name and address of the persons/entity owning or interested in said business is Bob's Collision Repair Center, Inc.

David K. James, III, Esq.

3/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1018 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN property situated in the Township of Reading in the County of Adams and Commonwealth of Pennsylvania, being more fully described in a deed dated August 15, 1992 and recorded on August 24, 1992 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 638, Page 1059.

IMPROVEMENTS thereon consisting of a residential dwelling.

BEING KNOWN AS 1275 Green Ridge Road, East Berlin, PA 17316.

BEING Tax Parcel No. 36-K08-0002F.

BEING the same premises which Kevin S. Holtzinger and Karen L. Holtzinger, husband and wife, by Deed dated August 19, 1992 and recorded on August 24, 1992 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 638, Page 1059, granted and conveyed unto Guy I. Brown and Lori A. Brown, husband and wife, in fee.

SEIZED AND TAKEN in execution as the property of Guy I. Brown and Lori A. Brown under Judgment No. 03-S-1018.

SEIZED and taken into execution as the property of **Guy I. Brown & Lori A. Brown** 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 May 24, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/27, 3/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1191 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land and improvements thereon erected, all situate in the Township of Reading, County of Adams, and Commonwealth of Pennsylvania being more particularly described as Lot No. 321 on a Plan of lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Miscellaneous Deed Book 1, at Page 1.

TITLE TO SAID PREMISES IS VESTED IN Timothy J. Lemmon and Catherine J. Lemmon formerly known as Catherine J. Miller, husband and wife by Deed from Eugene O. Meyers and Anna M. Meyers, husband and wife, Julie R. Stremmel Costella and Michael Costella, husband and wife dated 10/23/2000 and recorded 11/6/2000 in Record Book 2158, Page 124.

Premises being: 516 Lake Meade Drive, East Berlin, PA 17316

Tax Parcel No. 14-36

SEIZED and taken into execution as the property of **Timothy J. Lemmon & Catherine J. Lemmon f/k/a Catherine J. Miller** 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 May 17, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/20, 27 & 3/5

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, March 16, 2004, at 9:00 o'clock a.m.

STAUB—Orphans' Court Action Number OC-2-04. The First and Final Account of Clair W. Haar and Joan L. Huffman, Personal Representatives of the Will of Mary H. Staub, also known as Mary A. Staub, deceased, late of the Borough of New Oxford, Adams County, Pennsylvania.

FERRARA—Orphans' Court Action Number OC-7-04. The First and Final Account of Leonard J. Ferrara of the Estate of Rose M. Ferrara, deceased, late of Mount Joy Township, Adams County, Pennsylvania.

BIXBY—Orphans' Court Action Number OC-14-04. The First and Final Account of Virginia B. Eltz, now known as Virginia F. Bixby, Charles Andrew Bixby, Sarah E. Bixby, now known as Sarah E. Puckett, and Robert Lewis Bixby, Executors under the Last Will and Testament of Elizabeth F. Bixby, deceased, late of New Oxford Borough, Adams County, Pennsylvania.

Lisa K. Grubbs
Clerk of Courts

3/5 & 12

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 MARY C. BRINKLEY, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: James R. Brinkley, 70 Greenbriar Rd., York Springs, PA 17372

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

ESTATE OF ROBERT Y. BUSH, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Pearl Shuyler, 111 Orrtanna Road, Orrtanna, PA 17353

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

ESTATE OF M. FRANCIS COULSON, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Grace K. Coulson, 1075 Old Harrisburg Road, Gettysburg, PA 17325

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

ESTATE OF PEARL K. HOLLENBAUGH, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrator c.t.a.: Barry E. Kunkel, 193 Longstreet Drive, Gettysburg, PA 17325

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

ESTATE OF JAMES K. NICHOLSON, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: William H. Radcliffe, Jr., 9005 Watkins Road, Laytonsville, MD 20882

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

ESTATE OF REBECCA S. SWATS-WORTH, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Co-Executors: Jayne L. Shoemaker, Mary Jo Shoemaker & Jeffrey R. Swatsworth, c/o Jeffrey R. Swatsworth, 55 Two Taverns Road, Littlestown, PA 17340

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

SECOND PUBLICATION

ESTATE OF FRANCES J. BROOKS, DEC'D

Late of the Borough of Abbottstown, Adams County, Pennsylvania

Executor: Betty Neal deBarbadillo, 1765 Wallace, York, PA 17402

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

ESTATE OF EMMA M. COOLEY, DEC'D

Late of the Borough of York Springs, Adams County, Pennsylvania

Executors: Kevin R. Cooley, 27 Clear Spring Road, Biglerville, PA 17307; Braxton W. Cooley, 2704 Woodspring Drive, York, PA 17402

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

ESTATE OF DORIS L. CRAWFORD, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Susan E. Crawford, 1775 Argyle Drive, York, PA 17402

Attorney: David C. Smith, Esq., 754 Edgegrove Road, Hanover, PA 17331

ESTATE OF MARGARET M. LIVELSBERGER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Kenneth F. Livelsberger, 1008 Lee Jackson Drive, Lothian, MD 20711; Patrick A. Livelsberger, 1510 Indian Valley Trail, Westminster, MD 21158

Attorney: David C. Smith, Esq., 754 Edgegrove Road, Hanover, PA 17331

ESTATE OF MARY R. MILLER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Jennings Brian Martin, 4880 Hamey Road, Taneytown, MD 21787

Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

ESTATE OF FRED C. SENTZ, a/k/a FRED CALVIN SENTZ, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Wanda Louise Goulden, 312 North Queen Street, Littlestown, PA 17340

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF EDWARD A. TOPPER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Rev. Msgr. Vincent J. Topper, 4000 Derry Street, Harrisburg, PA 17111-2237

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

THIRD PUBLICATION

ESTATE OF LEWIS J. KLUNK, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Nadine M. Klunk, 5955 Hanover Road, Hanover, PA 17331

Attorney: Donald W. Dorr, Esq., 846 Broadway, Hanover, PA 17331

ESTATE OF GERALDINE E. LARKIN, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administrators: Dana L. Sauers and Kent L. Sauers, c/o Timothy J. Shultis, Esq., Miller & Shultis, P.C., 249 York Street, Hanover, PA 17331

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

ESTATE OF JEAN E. THOMAS, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Marion T. Harbaugh, c/o Richard W. Stevenson, Esq., McNeese Wallace & Nurick LLC, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108

Attorney: Richard W. Stevenson, Esq., McNeese Wallace & Nurick LLC, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1014 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground and improvements thereon situate in Oxford Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point on the property line of East Locust Lane at corner of Lot No. 16 on the plat hereinafter referred to; thence along the property line of East Locust Lane North thirty-seven (37) degrees fifteen (15) minutes zero (00) seconds East, eighty and fifty-eight hundredths (80.58) feet to a point on said property line at corner of Lot No. 18; thence along Lot No. 18 South fifty-two (52) degrees forty-five (45) minutes zero (00) seconds East, ninety-nine and twenty-eight hundredths (99.28) feet to a point; thence South thirty-seven (37) degrees thirteen (13) minutes forty-nine (49) seconds West, eighty and fifty-eight hundredths (80.58) feet to a point at corner of Lot No. 16; thence along Lot No. 16, North fifty-two (52) degrees forty-five (45) minutes zero (00) seconds West, ninety-nine and thirty (99.30) hundredths feet to a point, the place of BEGINNING. CONTAINING 8,000.720 square feet or 0.184 acre.

THE above description was taken from draft of survey of Oxford Estates prepared by George M. Wildasin, P.E., dated December 4, 1979, subdivided by William E. Sacra, Jr. on the same date, a plat of which is recorded in Adams County Plat Book 34 at page 58, the above lot being designated thereon as Lot No. 17.

Map #9, Parcel 24

SEIZED and taken into execution as the property of **Robert J. Sneringer & Susan C. Sneringer** 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 June 1, 2004, 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.

3/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1133 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Carroll Valley Borough (formerly Hamiltonban Township), Adams County, Pennsylvania, being Lot No. 196, Section J, bounded and described as follows:

BEGINNING at a point in the center of Meadow Trail at Lot No. 195; thence by said lot, North 3 degrees 11 minutes 40 seconds West, 200 feet to Lot No. 193; thence by said lot, South 87 degrees 23 minutes 40 seconds East, 100 feet to Lot No. 197; thence by said Lot, South 3 degrees 11 minutes 40 seconds East, 200 feet to a point in the center of said Meadow Trail; thence in said Meadow Trail, North 87 degrees 23 minutes 40 seconds West, 100 feet to the place of BEGINNING.

Map 2, Parcel 135

SEIZED and taken into execution as the property of **Kenneth D. Brown, Sr. & Jacquelyn B. Brown** 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 June 1, 2004, 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.

3/5, 12 & 19

LEGAL SECRETARY
OFFICE OF THE GENERAL COUNSEL

Gettysburg College is seeking a PT (20 hrs/wk) legal secretary to support the College's General Counsel. Provides a variety of administrative & secretarial duties in a confidential environment. Bachelor's degree is preferred. Must be a highly organized individual & possess 3-5 years of related work experience. Should have a general knowledge of law office practices & procedures, as well as considerable word processing, spreadsheet & data entry experience to include MS Word, Excel and PowerPoint.

Please visit the Gettysburg College Human Resources Office web page for full vacancy announcement (www.gettysburg.edu/jobs)

Review of application materials to begin immediately. Position will remain open until filled. Submit a Gettysburg College application for employment &/or cover letter w/resume to Gettysburg College, Human Resources, PA Hall, Box 2443, Gettysburg, PA 17325. Gettysburg College is committed to creating a more diverse community; as part of that process, the College encourages candidates from historically underrepresented groups to apply. For additional information, please call (717) 337-6202. Individuals w/hearing/speech disabilities are encouraged to use the Human Resource Office TDD (717) 337-6833.

3/5 & 12

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on January 2, 2004 with the Department of State of the Commonwealth of Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed non-profit business corporation to be organized under the provisions of the Pennsylvania Non-Profit Corporation Law statutes at 15 Pa. C.S. § 5301 et seq., as amended.

The name of the non-profit corporation is THE CANNON RIDGE HOMEOWNERS ASSOCIATION, INC., with its principal office or place of business at 501 Rolling Ridge Drive, Suite 200, State College, PA 16801. The names and addresses of all persons owning or interested in said business are: S & A Custom Built Homes, Inc. at 501 Rolling Ridge Drive, Suite 200, State College, PA 16801.

Patrono & Associates, LLC
John J. Murphy, III, Esq.

3/5

Adams County Legal Journal

Vol. 45

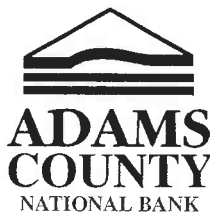
March 12, 2004

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IN THIS ISSUE

COMMONWEALTH VS. McMURRAY

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1171 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land, situate in the Township of Tyrone, County of Adams and Commonwealth of Pennsylvania, being more particularly bounded and described as follows, to wit:

BEGINNING at a point on the Easternmost edge of the cul-de-sac of Mandy Lane, a fifty (50) foot wide street, said point marking the common point of adjoiner of Lots #9 and #10 on the hereinafter mentioned plan with the cul-de-sac of Mandy Lane; thence departing from the aforementioned cul-de-sac and extending along Lot #10, South eighty-seven (87) degrees fifty-five (55) minutes twenty-five (25) seconds East for a distance of three hundred nine and ninety-three hundredths (309.93) feet to a steel pin; thence South twenty-one (21) degrees four (04) minutes ten (10) seconds East for a distance of one hundred fifty and no hundredths (150.00) feet toward a corner marked by planted stones at lands now or formerly of Vernon J. Franklin; thence extending along lands now or formerly of Vernon J. Franklin for the following two courses and distances: North eighty-two (82) degrees thirteen (13) minutes fifty (50) seconds West for a distance of eighty-six and eight hundredths (86.08) feet to a seventeen (17) inch walnut tree; thence continuing South sixty-four (64) degrees four (04) minutes fifty (50) seconds West, for a distance of three hundred sixty-nine and fifty-one hundredths (369.51) feet to a steel pin at Lot #8; thence extending along Lot #8 North twenty-five (25) degrees fifty-five (55) minutes ten (10) seconds West, for a distance of two hundred fifteen and fifty-three hundredths (215.53) feet to a steel pin on the Southern edge of the cul-de-sac of Mandy Lane; thence extending in and along the Southern edge of the cul-de-sac of Mandy Lane by an arc or curve

to the left having a radius of sixty (60) feet, a chord of sixty-five and sixty-three hundredths (65.63) feet on a bearing North thirty-five (35) degrees fourteen (14) minutes zero (00) seconds East, for an arc distance of sixty-nine and forty-four hundredths (69.44) feet to a point on said cul-de-sac at Lot #10 said point marking the place of BEGINNING.

CONTAINING 1.423 acres and being designated as Lot #9 on a final plan of subdivision of Foxwood Section III prepared for Harmon-Graves Company by Rodney Lee Decker and Associates dated June 2, 1981 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plat Book 36, at page 10.

BEING THE SAME premises which Harry H. Fox, Jr. and Ann G. Fox, his wife by Deed dated 11/6/1998 and recorded 11/18/1998 in the County of Adams in Record Book 1705 page 86 conveyed unto Rodney G. Shaw, III and Kimberly S. Shaw, his wife, in fee.

Map #H6, Parcel 131

Premises being: 75 Mandy Lane, Gettysburg, PA 17325

Tax Parcel No, Map #H6, Parcel 131

SEIZED and taken into execution as the property of **Rodney G. Shaw, III a/k/a Rodney Gerald Shaw & Kimberly S. Shaw a/k/a Kimberly Sue Shaw** 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 May 17, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/27, 3/5 & 12

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, March 16, 2004, at 9:00 o'clock a.m.

STAUB—Orphans' Court Action Number OC-2-04. The First and Final Account of Clair W. Haar and Joan L. Huffman, Personal Representatives of the Will of Mary H. Staub, also known as Mary A. Staub, deceased, late of the Borough of New Oxford, Adams County, Pennsylvania.

FERRARA—Orphans' Court Action Number OC-7-04. The First and Final Account of Leonard J. Ferrara of the Estate of Rose M. Ferrara, deceased, late of Mount Joy Township, Adams County, Pennsylvania.

BIXBY—Orphans' Court Action Number OC-14-04. The First and Final Account of Virginia B. Eltz, now known as Virginia F. Bixby, Charles Andrew Bixby, Sarah E. Bixby, now known as Sarah E. Puckett, and Robert Lewis Bixby, Executors under the Last Will and Testament of Elizabeth F. Bixby, deceased, late of New Oxford Borough, Adams County, Pennsylvania.

Lisa K. Grubbs
Clerk of Courts

3/5 & 12

COMMONWEALTH VS. McMURRAY

1. Situations do arise where allegations raised after the one-year time limit are considered extensions of the timely filed (PCRA) petition. However, where an amended raises an entirely new issue after the jurisdictional time frame, that issue is untimely and not before the court.

2. Whenever a PCRA petitioner claims ineffective assistance of counsel, it is presumed that counsel is effective and the burden is placed on the petitioner to prove otherwise. The petitioner's burden is to prove by a preponderance of the evidence that 1) the claim of counsel's ineffectiveness has merit; 2) that counsel had no reasonable strategic basis for his action or inaction; and 3) that the error of counsel prejudiced the petitioner.

3. If the petitioner can prove that the request to file a direct appeal was ignored, he is entitled to PCRA relief without first proving his innocence because such failure is considered prejudiced per se.

4. Trial counsel cannot be found ineffective unless his course of action was so lacking in reason that, in light of all the alternatives available, no competent attorney would have chosen it Counsel cannot be held ineffective for selecting a particular reasonable course, even if other reasonable choices were available.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, Nos. CC-724-94, CC-800-94, CC-801-94, CC-802-94, CC-803-94.

Paul Dean, Esq., District Attorney, for Commonwealth
Katrina Leudtke, Esq., for Defendant

Kuhn, P.J., February 27, 2003

OPINION PURSUANT TO MOTION FOR POST-CONVICTION RELIEF

Before the Court for disposition is a Motion for Post Conviction Relief (PCRA) filed August 28, 1996, and subsequently amended. For the reasons set forth herein, the Motion is denied.

These cases had their genesis in the fall of 1993, when Defendant was employed at Hoffman Homes for Youth, a co-ed juvenile residential facility. On August 22, 1994, criminal complaints were filed alleging that Defendant had engaged in inappropriate sexual relations with five juvenile female residents of the facility. Formal arraignment occurred on December 29, 1994.

On February 6, 1995, Paula M. Lappe, Esquire, entered her appearance on Defendant's behalf. On April 7, 1995, counsel requested discovery from the Commonwealth. Trial was continued five times at Defendant's request. Trial was finally held September

13-15, 1995, with President Judge Oscar F. Spicer (now retired) presiding. Guilty verdicts were returned on the following counts:

CC-724-94

- Count II Indecent Assault – 18 Pa. C.S.A. §3126(a)(5)
- Count III Corruption of Minors – 18 Pa. C.S.A. §6301(a)

CC-800-94

- Count II Rape – 18 Pa. C.S.A. §3121(2)
- Count IV Involuntary Deviate Sexual Intercourse – 18 Pa. C.S.A. §3123(2)
- Count VI Indecent Assault – 18 Pa. C.S.A. §3123(2)
- Count VII Corruption of Minors – 18 Pa. C.S.A. §6301(a)

CC-801-94

- Count II Rape – 18 Pa. C.S.A. §3121(2)
- Count VII Indecent Assault – 18 Pa. C.S.A. 3126(5)
- Count VIII Corruption of Minors – 18 Pa. C.S.A. 6301(a)

CC-802-94

- Count II Indecent Assault – 18 Pa. C.S.A. §3126(5)
- Count III Corruption of Minors – 18 Pa. C.S.A. §6301(a)

CC-803-94

- Count II Indecent Assault – 18 Pa. C.S.A. §3126(5)
- Count III Corruption of Minors – 18 Pa. C.S.A. §6301(a).

Post-trial motions were filed on September 25, 1995, but deferred pending sentencing. Sentencing occurred on December 29, 1995. The aggregate sentence imposed was 10-20 years of incarceration. The post-trial motions were denied February 28, 1996. At that time, trial counsel appeared and conceded that a review of the transcript revealed no substantial basis for post-sentence relief. The Order denying the motions advised Defendant of his right to appeal within 30 days and his right to counsel on appeal, including the right to appointed counsel if indigent. The Order further noted that Defendant had been referred to the Public Defender's Office earlier that day. Bail was continued pending the filing of an appeal.

On April 1, 1996, Defendant filed a pro-se Notice of Appeal. Therein, Defendant incorrectly referred to the date of Judge Spicer's last order as February 29, 1996. On April 25, 1996, Superior Court quashed the appeal as being untimely filed.

Defendant was directed to report to prison on June 5, 1996, to begin serving his sentence.

On August 28, 1996, Defendant filed his first PCRA motion. Therein, he alleged that trial counsel was ineffective for not obtaining unspecified medical records, as requested before trial, which he claimed would have established his innocence. On September 16, 1996, Katrina Leudtke, Esquire, was appointed to represent Defendant. On October 7, 1996, counsel's motion for copies of the transcripts of all proceedings was granted. The transcripts were produced October 18, 1996. At Defendant's request, the hearing on the PCRA motion was continued generally.

Nothing of significance occurred on the record until March 16, 1999, when Attorney Leudtke filed an Amended Motion For Relief Under the Post-Conviction Relief Act. Therein, it was alleged that shortly after sentencing, Defendant hired a private investigator to uncover possible after-discovered exculpatory evidence and that said investigator confirmed the existence of such evidence, the nature of which was not identified in the motion. By Order of March 18, 1999, Judge Spicer continued the PCRA proceedings to "the call of either party."

On April 9, 1999, Defendant, through counsel, filed a motion seeking the appointment of a private investigator and attached thereto an undated affidavit from B.G. (the victim in CC-803-94) who reported that some of the testimony given by herself and the other victims "was not correct." The affidavit further indicated that the investigator forwarded the information to Attorney Lappe. The affidavit did not recite what trial testimony was incorrect.

On November 29, 2001, Defendant's counsel filed another Amended Petition Under Post Conviction Collateral Relief Act. Therein, it was alleged that Attorney Lappe was ineffective for 1) failing to file a Notice of Appeal on Defendant's behalf and 2) failing to explore issues about Defendant's "unusual" physical condition and description.

A PCRA conference was held before Judge Spicer on December 21, 2001, at which the following issues were identified for hearing: 1) Attorney Lappe's alleged ineffectiveness for not filing a timely appeal and for misleading Defendant into believing an appeal would be filed, and 2) Attorney Lappe's alleged ineffectiveness for failing

to elicit evidence “in light of testimony by Doctor Paul H. Smith, Junior.” On April 8, 2002, a hearing was held before the undersigned because Judge Spicer had retired by that time.

Initially, the undersigned must determine whether this Court has jurisdiction to even address the issues identified at the PCRA conference. The Act provides that a petition must be filed within one year of the date the judgment becomes final. 42 Pa. C.S.A. 9545. Here, the judgment became final 30 days after Superior Court quashed Defendant’s appeal. Therefore, the motion had to be filed by May 25, 1997. Defendant’s motion was filed within that time frame, making all issues therein ripe for disposition.

However, the only issue raised within the statutory time frame was counsel’s alleged failure to obtain unspecified medical records. This relates to what the amendment filed on November 29, 2001, referred to as counsel’s failure to explore issues about Defendant’s unusual physical description and the PCRA conference referred to as the testimony of Dr. Smith. Not until the 2001 amendment did Defendant raise counsel’s ineffectiveness for not filing a timely direct appeal from sentencing.

The Act does permit the filing of a PCRA motion beyond the one-year period if the reason for the late filing fits any of the exceptions provided for in the statute. 42 Pa. C.S.A. §9545. Defendant has neither pleaded nor proven any of those enumerated exceptions.

Nevertheless, situations do arise where allegations raised after the one-year time limit are considered extensions of the timely filed original petition. *Commonwealth v. Leasa*, 759 A.2d 941 (Pa. Super. 2000); *Commonwealth v. Peterson*, 756 A.2d 687 (Pa. Super. 2000). Such would be the case with the issue Defendant raised in his original motion and which he described more fully in the 2001 amendment. However, where an amendment raises an entirely new issue after the jurisdictional time frame, that issue is untimely and not before the court. *Commonwealth v. Robinson*, 781 A.2d 152 (Pa. Super. 2001). The alleged ineffectiveness of trial counsel for failing to file an appeal is a new issue raised beyond the time frame. Defendant was well aware when he filed his original PCRA motion that trial counsel had not perfected his appeal and that the appeal was quashed because it was filed late. Why it took another 39 months to raise this issue has not been explained.

Even if the Court is required to address the appeal issue, the result would be no better for Defendant. Whenever a PCRA petitioner claims ineffective assistance of counsel, it is presumed that counsel is effective and the burden is placed on the petitioner to prove otherwise. *Commonwealth v. D'Collanfield*, 805 A.2d 1244, 1246 (Pa. Super. 2002). The petitioner's burden is to prove by a preponderance of the evidence that 1) the claim of counsel's ineffectiveness has merit; 2) that counsel had no reasonable strategic basis for his action or inaction; and 3) that the error of counsel prejudiced the petitioner. *Commonwealth v. Howard*, 749 A.2d 941, 949 (Pa. Super. 2000). As noted in *Commonwealth v. Harmon*, 738 A.2d 1023, 1024 (Pa. Super. 1999),

The right of a criminal defendant to appeal is guaranteed in the Pennsylvania Constitution, Article V §9. However, before a court will find ineffectiveness of trial counsel for failing to file a direct appeal, (the petitioner) must prove that he requested an appeal and that counsel disregarded this request . . . Mere allegation will not suffice, the burden is on (the petitioner) to plead and prove that his request for an appeal was ignored or rejected by trial counsel. (citations omitted.)

If the petitioner can prove that the request to file a direct appeal was ignored, he is entitled to PCRA relief without first proving his innocence because such failure is considered prejudice per se. *Commonwealth v. Lantzy*, 736 A.2d 564 (Pa. 1999).

The instant case is similar to *Commonwealth v. Gonzalez*, 608 A.2d 528 (Pa. Super. 1992) where trial counsel was not found to be ineffective for failing to appeal. Counsel testified at the PCRA hearing that Gonzalez did not ask him to file an appeal on his behalf. Credibility was resolved against Gonzalez. In the matter sub judice, the only witnesses at the PCRA hearing were trial counsel and Defendant. Not surprisingly, their recollection of events differed.

Trial counsel's recollection was hampered by lack of her file on the case which she claims was destroyed several years ago. Counsel acknowledged that after sentencing she may have mentioned to the press that "we're definitely going to appeal." However, counsel also testified that she emphasized to Defendant that she would not file an appeal on his behalf without being paid. She further asserts that she

instructed Defendant to apply for a public defender, which he agreed to do.¹ Finally, counsel reported that in April, 1996, she was contacted by Defendant as a result of which on April 18, 1996, she faxed a letter to Defendant to file with the Prothonotary of the Superior Court. The letter, dated April 16, and to be signed by Defendant, indicated that Defendant believed the Order denying his post-trial motions was dated February 29, 1996, and, therefore, he calculated the 30-day appeal period to expire Saturday, March 30.²

Defendant insisted, however, that trial counsel specifically told him that she would file his appeal, therefore, he did not contact the public defender. He recalled having tried to contact counsel several times during the appeal period without success until she responded on March 29 or 30, asking him the last day to file an appeal.

Frankly, resolving credibility between trial counsel and Defendant was a toss up. Trial counsel's lack of a file to work from and her lack of exactitude, coupled with her failure to withdraw as Defendant's counsel on the record, was not very comforting. Nevertheless, it is curious that Defendant would argue how upset he was that trial counsel did not file his appeal on time yet when he filed his PCRA motion just six months after his appeal was quashed, he never mentioned that issue. With credibility so equally balanced, the burden placed on Defendant, and the presumption that counsel is effective, this Court would find that Defendant has not proven by a preponderance of the evidence that counsel was ineffective for failure to file an appeal.

The only issue which has been properly preserved for resolution is whether trial counsel was ineffective for failing to elicit certain testimony during trial. Defendant claims that Dr. Smith examined his genitalia prior to trial and that he provided a report of those findings to trial counsel. Defendant contends that trial counsel was ineffective for failing to utilize that report in cross-examining witnesses regarding the size, curvature and appearance of his penis. Defendant has not, however, pointed to any particular place in the record where counsel had the opportunity to challenge a witness's credibility with

¹This is somewhat supported by the reference in the Order of February 28, 1996, that Defendant "has, in fact, been referred to the Public Defender's office this morning."

²The year 1996 was a leap year. March 29 fell on Friday.

the alleged report³ and failed to do so. Trial counsel generally responded that there were no opportunities during the trial where cross-examination on the basis of the report would have made a difference to the defense.

This Court has engaged in a cursory review of the record and discovered that Defendant's penis was exposed to only two of the victims. One victim testified that in late January, 1994, Defendant penetrated her from behind in the laundry room of her residence building. When she resisted, Defendant forced her to have oral sex upon him [N.T. 20, 24-5]. On cross-examination, the victim denied noticing anything peculiar about Defendant's physical appearance or anything strange regarding his penis. When asked if Defendant's penis was large or small, she referred to it as being small and approximately 5-6 inches in length (although it was not clarified whether this was its flaccid or erect state) [N.T. 51-2]. The victim also "thought" Defendant was not circumcised [N.T. 68].

Another victim described being raped by Defendant on one occasion during which she did not see his penis [N.T. 210, 237]. She also briefly referenced another occasion when she saw Defendant's penis, which she described as being very small [N.T. 237].

Defendant claims that he requested trial counsel to utilize Dr. Smith's report to cross-examine the victims regarding the curvature of his penis, but she failed to do so. Trial counsel acknowledged that the report indicated that Defendant's penis curved to the left but that Defendant did not specifically request her to explore that issue.

Effectiveness of counsel is not measured, however, by whether the client specifically requests that an issue be explored. Counsel is present for the purpose of assisting the unsophisticated defendant in presenting his case. Counsel's training and expertise is more critical to the question than whether a client initiates discussion of an issue. Nevertheless, in this case, Defendant has failed to establish how exploring the curvature issue would have made a difference in the outcome of the trial.

³The alleged report was not produced during the PCRA hearing, therefore, the Court is unable to determine what information was specifically available to trial counsel. Furthermore, the Court was provided with no explanation why Dr. Smith was not produced.

As noted, the medical report has not been made part of the record. Furthermore, Defendant has not even suggested the extent of the curvature and whether it would have been obvious to a person being forced to engage in non-consensual sexual acts.

Defendant also argues that he is circumcised and that trial counsel should have used the medical report in cross-examining the witness who testified otherwise. Trial counsel responded that Defendant did not make that specific request. Again, the client's request is not the issue when determining whether counsel was ineffective during the examination of a witness. Here, the testimony of the only witness who made mention of whether Defendant was circumcised was equivocal. Without the victim being more definite, it is unclear how her credibility would not have been effectively challenged by use of a report describing Defendant's anatomy.

Finally, Defendant contends that trial counsel should have used the report to challenge the credibility of the two victims who described his penis as being small. Defendant has not, however, provided evidence to this court which contradicts that testimony. Size is relative. One victim described Defendant's penis as being small, even though she also described it as being 5-6 inches in length. We chose not to digress into a discussion as to the appropriateness of the adjective used. Suffice it to say that Defendant has not demonstrated how failure to utilize the report prejudiced him.

Trial counsel testified that she did not use the report because she did not believe it would be helpful to the defense. As stated in *Commonwealth v. Howard*, 749 A.2d 941, 955 (Pa. Super. 2000),

Under the PCRA, when evaluating a claim that trial counsel was ineffective predicated on an allegedly unreasonable tactical choice, Pennsylvania courts must scrupulously follow the presumption that attorneys act in the interests of their clients . . . A petitioner must bear the burden of proving that his attorney could not have possessed any reasonable basis for his action. *Id.* Trial counsel cannot be found ineffective unless his course of action was so lacking in reason that, in light of all the alternatives available, no competent attorney would have chosen it . . . Counsel cannot be held ineffective for

selecting a particular reasonable course, even if other reasonable choices were available. (citations omitted.)

Defendant has not met his burden in this case.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 27th day of February, 2003, Defendant's Motion for Post Conviction Relief, as amended, is denied.

Defendant is advised of the following:

1. He has a right to file an appeal to the Superior Court within 30 days of the date of this Order;
2. He has a right to be represented by counsel in filing and litigating his appeal;
3. If he cannot afford counsel, he is entitled to the appointment of counsel at no cost; and
4. He is entitled to proceed in forma pauperis on appeal if he qualifies and seeks permission from this Court to proceed in that fashion.

A copy of this Order and Opinion shall be forwarded to Defendant's attorney by ordinary mail and to Defendant by certified mail, return receipt requested.

STATEMENT PURSUANT TO

Pa. R.App.P. 1925(a)

All issues which the undersigned believes Appellant is raising on appeal are addressed in Opinion and Order dated February 27, 2003.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-834 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the Southern right-of-way line of Poplar Street, a sixty (60) feet wide right-of-way, at corner of Lot No. 40 on the subdivision plan hereinafter referred to; thence along the Southern right-of-way line of Poplar Street, South fifty-nine (59) degrees, thirty-one (31) minutes, twenty-one (21) seconds East, seventy-nine and ninety-three hundredths (79.93) feet to a point at the intersection of Poplar Street and Dogwood Lane; thence along the right-of-way line of Dogwood Lane, the following three (3) courses and distances: (1) South fourteen (14) degrees, thirty-one (31) minutes, twenty-one (21) seconds East, twenty-one and twenty-one hundredths (21.21) feet to a point; (2) by a curve to the right having a radius of one hundred twenty-five (125) feet, the long chord bearing and distance of which is South forty-seven (47) degrees, forty-two (42) minutes, thirty-five (35) seconds West, seventy-four and six hundredths (74.06) feet for an arc distance of seventy-five and nineteen hundredths (75.19) feet to a point; and (3) by curve to the left having a radius of four hundred twenty-five (425) feet, the long chord bearing and distance of which is South sixty-one (61) degrees, forty-six (46) minutes, forty-two (42) seconds West, forty-six and ninety-one hundredths (46.91) feet to an arc distance of forty-six and ninety-three hundredths (46.93) feet to a point at Lot No. 26 on the subdivision plan hereinafter referred to; thence along Lot No. 26, North fifty-nine (59) degrees, ten (10) minutes, fifty-seven (57) seconds West, forty-eight and sixty-one hundredths (48.61) feet to a point at Lot No. 40 on the subdivision plan hereinafter referred to; thence along Lot No. 40, North thirty (30) degrees, twenty-eight (28) minutes, forty-one (41) seconds East, one hundred twenty-five and fifty-three hundredths (125.53) feet to a point on the Southern right-of-way line of Poplar Street, the point and place of BEGINNING.

(CONTAINING 9,928 square feet and being Lot No. 41 on a final subdivision plan for Diller's Village, Phase Three, prepared by Donald E. Worley, Registered Surveyor, dated August 14, 1987, revised October 8, 1987, designated as File No. G-97 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 48, page 44.)

SEIZED and taken into execution as the property of **William L. Blubaugh & Lisa Ann Blubaugh** 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 May 24, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/27, 3/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-798 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Reading Township, County of Adams, Commonwealth of Pennsylvania, known as Lot No. 12 as shown on the Final Subdivision Plan prepared by Adams County Surveyors dated June 30, 1978 revised August 7, 1978 recorded in Plan Book 23, page 6, and more fully described as follows:

BEGINNING at a railroad spike in or near the centerline of Legislative Route 01009, at the Northwestern corner of land now or formerly of Leathery; thence by said land now or formerly of Leathery, and passing through an iron pin set back thirty (30) feet from the last mentioned point, South one (01) degree thirteen (13) minutes fifty (50) seconds East, five hundred seventy-two and ninety-nine one-hundredths (572.99) feet to a pipe at

corner of Lot No. 9 on the hereinafter referred to draft of survey; thence by said Lot No. 9, North sixty-seven (67) degrees eleven (11) minutes forty-five (45) seconds West, three hundred sixty-five and thirty one-hundredths (365.30) feet to a pipe on line of Lot No. 11; thence by Lot No. 11 and by land now or formerly of Robert C. Anderson, and passing through a pipe set back one hundred ten (110) feet from the last mentioned point, and also passing through an iron pin set back thirty (30) feet from the next mentioned point, North twenty-four (24) degrees three (03) minutes zero (00) seconds East, five hundred sixty-nine and twenty-four one-hundredths (569.24) feet to a railroad spike on the Western edge of the paving of Legislative Route 01009, aforesaid; thence in and along said Legislative Route 01009, South forty-six (46) degrees thirty-six (36) minutes ten (10) seconds East, one hundred thirty and twenty-seven one-hundredths (130.27) feet to a point, the place of BEGINNING.

CONTAINING 3.008 acres.

(Together with any improvements thereon)

IT BEING the same premises which Ronald E. Strausbaugh and Nancy R. Strausbaugh, husband and wife, by their Deed dated May 31, 2001, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 2309, Page 24, granted and conveyed unto Mark Furst and Monique Furst, husband and wife.

Property address: 875 Germany Road, East Berlin, PA 17316

Tax Map K6, Parcel 15E

SEIZED and taken into execution as the property of **Mark Furst & Monique Furst** 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 May 24, 2004, 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.

3/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1217 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN unit in the property known, named and identified in the Declaration referred to below as Oxford Commons Condominiums, located in the Borough of New Oxford, Adams County, 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, Pennsylvania, of a Declaration dated September 13, 1996 and recorded October 18, 1996 in Record Book 50 Page 41. (Together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such Declaration as Unit No. 33 as more fully bounded and described in such Declaration, together with a proportionate undivided interest in the Common Elements as defined in such Declaration.

TITLE TO SAID PREMISES IS VESTED IN Jessica L. Myers by Deed from Philip R. Garland t/d/b/a Garland Construction dated 3/17/2000 and recorded 9/21/2000 in Record Book 2129, Page 209.

Premises being: 29 Oxford Court, New Oxford, PA 17350

Tax Parcel No. 184A-33

SEIZED and taken into execution as the property of **Jessica L. Myers** 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 May 24, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/27, 3/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1018 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN property situated in the Township of Reading in the County of Adams and Commonwealth of Pennsylvania, being more fully described in a deed dated August 15, 1992 and recorded on August 24, 1992 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 638, Page 1059.

IMPROVEMENTS thereon consisting of a residential dwelling.

BEING KNOWN AS 1275 Green Ridge Road, East Berlin, PA 17316.

BEING Tax Parcel No. 36-K08-0002F.

BEING the same premises which Kevin S. Holtzinger and Karen L. Holtzinger, husband and wife, by Deed dated August 19, 1992 and recorded on August 24, 1992 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 638, Page 1059, granted and conveyed unto Guy I. Brown and Lori A. Brown, husband and wife, in fee.

SEIZED AND TAKEN in execution as the property of Guy I. Brown and Lori A. Brown under Judgment No. 03-S-1018.

SEIZED and taken into execution as the property of **Guy I. Brown & Lori A. Brown** 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 May 24, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/27, 3/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1133 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Carroll Valley Borough (formerly Hamiltonpan Township), Adams County, Pennsylvania, being Lot No. 196, Section J, bounded and described as follows:

BEGINNING at a point in the center of Meadow Trail at Lot No. 195; thence by said lot, North 3 degrees 11 minutes 40 seconds West, 200 feet to Lot No. 193; thence by said lot, South 87 degrees 23 minutes 40 seconds East, 100 feet to Lot No. 197; thence by said Lot, South 3 degrees 11 minutes 40 seconds East, 200 feet to a point in the center of said Meadow Trail; thence in said Meadow Trail, North 87 degrees 23 minutes 40 seconds West, 100 feet to the place of BEGINNING.

Map 2, Parcel 135

SEIZED and taken into execution as the property of **Kenneth D. Brown, Sr. & Jacquelyn B. Brown** 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 June 1, 2004, 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.

3/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-949 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE FOLLOWING described real estate lying and being situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the West side of Pecher Road (Township Road T-312) at line of land now or formerly of Michael Sullivan; thence running by Sullivan Land and through an existing reference steel rod set back along the line, South 76° 52' 40" West 179 feet to an existing steel rod; thence continuing by Sullivan Land and by a curve to the left, the radius of which is 242 feet, for an arc distance of 37.99 feet and with a chord bearing of South 72° 20' 40" West for a chord length of 37.95 feet to an existing steel rod; thence continuing by Sullivan, South 21° 56' 00" East 128.13 feet to a steel rod; thence continuing by land of the same, South 11° 14' 40" East 388 feet to an existing bolt; thence continuing by the same, South 31° 59' 40" East 136 feet to an existing bolt; thence continuing by Sullivan, South 62° 54' 40" West 438.78 feet to an existing steel rod; thence continuing by the same, North 79° 37' 10" West 60 feet to a steel rod on line of land of William H. Scott, Jr., et. Al., of which this was formerly a part; thence running by land of William H. Scott, Jr., et. Al., North 07° 35' 40" West 1,149 feet to a steel rod on line of land of Fred Crum, Jr.; thence by the latter, South 74° 20' 33" East 625 feet to an existing spike 5 feet West of the centerline of Pecher Road (T-312); thence running in Pecher Road (T-312) South 07° 17' 25" East 115.29 feet to a point on the West side of Pecher Road, the point and place of BEGINNING. CONTAINING 10.168 acres.

The description was taken from a draft of survey of J. Riley Redding, R.S., dated February 24, 1992, and recorded in Adams County Plat Book 61, Page 29. The tract described is Tract 2 on said plan of lots.

Parcel No. 25-C17-0026

Being Premises: 1005 Pecher Road, Fairfield, PA 17320

SEIZED and taken into execution as the property of **John Hess & Patricia Hess** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 24, 2004, 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.

3/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1014 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground and improvements thereon situate in Oxford Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point on the property line of East Locust Lane at corner of Lot No. 16 on the plat hereinafter referred to; thence along the property line of East Locust Lane North thirty-seven (37) degrees fifteen (15) minutes zero (00) seconds East, eighty and fifty-eight hundredths (80.58) feet to a point on said property line at corner of Lot No. 18; thence along Lot No. 18 South fifty-two (52) degrees forty-five (45) minutes zero (00) seconds East, ninety-nine and twenty-eight hundredths (99.28) feet to a point; thence South thirty-seven (37) degrees thirteen (13) minutes forty-nine (49) seconds West, eighty and fifty-eight hundredths (80.58) feet to a point at corner of Lot No. 16; thence along Lot No. 16, North fifty-two (52) degrees forty-five (45) minutes zero (00) seconds West, ninety-nine and thirty (99.30) hundredths feet to a point, the place of BEGINNING. CONTAINING 8,000.720 square feet or 0.184 acre.

THE above description was taken from draft of survey of Oxford Estates prepared by George M. Wildasin, P.E., dated December 4, 1979, subdivided by William E. Sacra, Jr on the same date, a plat of which is recorded in Adams County Plat Book 34 at page 58, the above lot being designated thereon as Lot No. 17.

Map #9, Parcel 24

SEIZED and taken into execution as the property of **Robert J. Sneiderger & Susan C. Sneiderger** 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 June 1, 2004, 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.

3/5, 12 & 19

LEGAL SECRETARY
OFFICE OF THE GENERAL COUNSEL

Gettysburg College is seeking a PT (20 hrs/wk) legal secretary to support the College's General Counsel. Provides a variety of administrative & secretarial duties in a confidential environment. Bachelor's degree is preferred. Must be a highly organized individual & possess 3-5 years of related work experience. Should have a general knowledge of law office practices & procedures, as well as considerable word processing, spreadsheet & data entry experience to include MS Word, Excel and PowerPoint.

Please visit the Gettysburg College Human Resources Office web page for full vacancy announcement (www.gettysburg.edu/jobs)

Review of application materials to begin immediately. Position will remain open until filled. Submit a Gettysburg College application for employment &/or cover letter w/resume to Gettysburg College, Human Resources, PA Hall, Box 2443, Gettysburg, PA 17325. Gettysburg College is committed to creating a more diverse community; as part of that process, the College encourages candidates from historically underrepresented groups to apply. For additional information, please call (717) 337-6202. Individuals w/hearing/speech disabilities are encouraged to use the Human Resource Office TDD (717) 337-6833.

3/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1006 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate in Union Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in Legislative Route 01030, known as Pine Grove Road, at corner of land of Glenn W. Sterner, thence by land of Glenn W. Sterner, and running through an iron pin located 7.7 feet from the place of Beginning, North 41 degrees 34 minutes 09 seconds East 161.21 feet to an iron pin along land of Harry C. Worley; thence by land of Harry C. Worley, South 52 degrees 46 minutes 30 seconds East 223.14 feet to an iron pin at corner of land of Ivan E. Arentz; thence by land of Ivan E. Arentz, and running through an iron pin located 5.75 feet from the end of this line, South 43 degrees 00 minutes 47 seconds West 188.75 feet to a point in Pine Grove Road; thence in Pine Grove Road, North 45 degrees 39 minutes 00 seconds West 218 feet to an iron pin in said Road at corner of land of Glenn W. Sterner, the place of BEGINNING. CONTAINING 38,502 square feet, or 0.883 acre.

The foregoing description was obtained from a Subdivision Plan prepared by Wilbur L. Plank, Registered Professional Engineer, dated August 16, 1973, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 3 at page 32, the tract above described being designated as Lot No. 2 on said Plan.

The tract of land above described being the same which Ethel M. Sterner, widow, by deed dated March 24, 1995, and intended to be recorded in the Office of the aforesaid Recorder of Deeds, conveyed to Eric J. Sterner, the Mortgagor herein.

SEIZED and taken into execution as the property of Eric J. Sterner 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 June 1, 2004, 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.

3/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1310 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT piece, parcel or tract of land with any improvements thereon erected, situate, lying and being in Hamilton Township, Adams County, Pennsylvania, being more particularly bounded, limited and described as follows:

BEGINNING for a corner at a point in the centerline of Pennsylvania Legislative Route No. 01023 (Dick's Dam Road) at Lot No. 2 on the plan hereinafter mentioned, thence along said Lot No. 2, South forty (40) degrees forty-one (41) minutes thirty-six (36) seconds West, four hundred thirty-eight and thirteen one-hundredths (438.13) feet to a point at Lot No. 15 on said plan; thence along Lot No. 15, North fifty-five (55) degrees fifteen (15) minutes twenty (20) seconds West, one hundred and fifty-four one-hundredths (100.54) feet to a point at Lot No. 4 on said plan; thence along Lot No. 4, North forty (40) forty-one (41) minutes thirty-six (36) seconds East, four hundred thirty-eight and thirteen one-hundredths (438.13) feet to a point in the centerline of Pennsylvania Legislative Route 01023, aforesaid; thence in and along the centerline of Pennsylvania Legislative Route 01023, South fifty-five (55) degrees fifteen (15) minutes twenty (20) seconds East, one hundred and fifty-four one-hundredths (100.54) feet to the point and place of BEGINNING. CONTAINING 1.0058 acres. BEING known as Lot No. 3 on the final plan of Glab View Acres, prepared by Donald E. Worley, Registered Surveyor, on July 3, 1972, which said plan, as approved by the appropriate municipal authorities of Hamilton Township, Adams County, Pennsylvania, has been recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 2, Page 44.

BEING the same premises which Glenn E. Hilbert and Willie Mae Hilbert, his wife, by Deed dated the 30th day of September, 1998, and recorded at

Adams County in the Office of the Recorder of Deeds, in and for the County of Adams, on the 5th day of October, 1998, in Record Book 1673, Page 80, granted and conveyed unto Lisa A. Livelsberger, single woman and James M. Davis, single man.

Tax Map J-9, Parcel 112

BEING KNOWN AS 871 Dicks Dam Road (Hamilton Township), New Oxford, PA 17350

Property ID No: J9-112

TITLE TO SAID PREMISES IS VESTED IN Lisa A. Livelsberger, single woman and James M. Davis, single man by deed from Glenn E. Hilbert and Willie Mae Hilbert, his wife, dated 9/30/1998, recorded 10/5/1998, in Deed Book 1673, Page 80.

SEIZED and taken into execution as the property of James M. Davis & Lisa A. Livelsberger 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 June 14, 2004, 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.

3/12, 19 & 26

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF MILDRED J. BUCHER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Co-Executors: Metha R. Williams, 1203 Old Route 30, P.O. Box 161, Cashtown, PA 17310; Mary B. Ritzman, P.O. Box 2333, McAlisterville, PA 17049

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

ESTATE OF JOHN DONALD DILLON a/k/a J. DONALD DILLON, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executors: Cynthia A. Grove, 1476 Buchanan Valley Rd., Orrtanna, PA 17353; Janet M. Bordwine, 138 Old Forest Circle, Winchester, VA 22602

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

ESTATE OF PHILIP E. PATTERSON, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Susan J. Carscadden, 6 Michele Court, Gaithersburg, MD 20878

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

ESTATE OF EDGAR GLENN RAF-FENSPERGER a/k/a E. GLENN RAF-FENSPERGER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: Robert E. Althoff & Linda L. Althoff, 65 Table Rock Road, Gettysburg, PA 17325

ESTATE OF WILLIAM H. RAF-FENSPERGER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Mary C. Schlosser, 360 Shippensburg Road, Biglerville, PA 17307

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

ESTATE OF FLORENCE S. RAY, DEC'D
Late of Straban Township, Adams County, Pennsylvania

Co-Executors: Richard C. Ray, 430 Sunrise Blvd., Elizabethtown, PA 17022; Gwendolyn Ray, RR 1, Box 175, Starks, ME 04911

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore St., Gettysburg, PA 17325

ESTATE OF EVELYN M. RUMSEY, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Donald E. Rumsey, 140 Cheetah Drive, Hanover, PA 17331

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

ESTATE OF DORCAS I. SIMPSON, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administrators: Michael C. Simpson, 11668 Gumtree Road, Brogue, PA 17309; Ronald H. Simpson, 392 Sutton Road, Abbottstown, PA 17301

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

ESTATE OF BONNIE L. VANDELINDER a/k/a BONNIE LUCILE VANDELINDER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Roy E. VanDelinder, Jr., 28 Menlo Place, Rochester, NY 14620

Attorney: John A. Wolfe, Esq., Wolfe & Rice, LLC, 47 W. High St., Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF MARY C. BRINKLEY, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: James R. Brinkley, 70 Greenbriar Rd., York Springs, PA 17372

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

ESTATE OF ROBERT Y. BUSH, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Pearl Shuyler, 111 Orrtanna Road, Orrtanna, PA 17353

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

ESTATE OF M. FRANCIS COULSON, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Grace K. Coulson, 1075 Old Harrisburg Rd., Gettysburg, PA 17325

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore St., Gettysburg, PA 17325

ESTATE OF PEARL K. HOLLEN-BAUGH, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrator c.t.a.: Barry E. Kunkel, 193 Longstreet Dr., Gettysburg, PA 17325

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

ESTATE OF JAMES K. NICHOLSON, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: William H. Radcliffe, Jr., 9005 Watkins Road, Laytonsville, MD 20882

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

ESTATE OF REBECCA S. SWATS-WORTH, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Co-Executors: Jayne L. Shoemaker, Mary Jo Shoemaker & Jeffrey R. Swatsworth, c/o Jeffrey R. Swatsworth, 55 Two Taverns Road, Littlestown, PA 17340

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

THIRD PUBLICATION

ESTATE OF FRANCES J. BROOKS, DEC'D

Late of the Borough of Abbottstown, Adams County, Pennsylvania

Executor: Betty Neal deBarbadillo, 1765 Wallace, York, PA 17402

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

ESTATE OF EMMA M. COOLEY, DEC'D

Late of the Borough of York Springs, Adams County, Pennsylvania

Executors: Kevin R. Cooley, 27 Clear Spring Road, Biglerville, PA 17307; Braxton W. Cooley, 2704 Wood-spring Drive, York, PA 17402

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

(continued on page 8)

THIRD PUBLICATION (continued)**ESTATE OF DORIS L. CRAWFORD, DEC'D**

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Susan E. Crawford, 1775 Argyle Drive, York, PA 17402

Attorney: David C. Smith, Esq., 754 Edgegrove Road, Hanover, PA 17331

ESTATE OF MARGARET M. LIVELSBERGER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executors: Kenneth F. Livelsberger, 1008 Lee Jackson Drive, Lothian, MD 20711; Patrick A. Livelsberger, 1510 Indian Valley Trail, Westminster, MD 21158

Attorney: David C. Smith, Esq., 754 Edgegrove Road, Hanover, PA 17331

ESTATE OF MARY R. MILLER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Jennings Brian Martin, 4880 Harney Road, Taneytown, MD 21787

Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

ESTATE OF FRED C. SENTZ, a/k/a FRED CALVIN SENTZ, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Wanda Louise Goulden, 312 North Queen Street, Littlestown, PA 17340

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF EDWARD A. TOPPER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Rev. Msgr. Vincent J. Topper, 4000 Derry Street, Harrisburg, PA 17111-2237

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1255 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot, tract of land, parcel, piece of ground with the buildings and improvements thereon erected, situate in Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point on the Southern property line of a proposed 40 foot wide street, at land now or formerly of Lee Dugan; thence by the Southern property line of said proposed street South 82° 45' East, 145.55 feet to an iron pin on the Western property line of another proposed 40 foot wide public street, at the Southwest corner of the intersection of said proposed streets; thence by the Western property line of said last mentioned proposed street, South 2° 1' 20" West, 80 feet to an iron pin at turn in said proposed street; thence continuing by the Western property line of said proposed street South 24° 8' East, 35 feet to an iron pin; thence through the original tract of Melvin M. Bean, et. al., North 89° 16' 30" West, 159.81 feet to land now or formerly of Mrs. Gilbert Blye; thence by said Blye land and by land of Lee Dugan, aforesaid, North 1° 45' East, 128.30 feet to the above described place BEGINNING.

CONTAINING 17,605 square feet

BEING THE SAME PREMISES which Beverly A. Miller and Charles E. Swope, Jr., by Deed dated November 22, 1995 and recorded on December 6, 1995 in the Recorder of Deeds Office in and for Adams County in Deed Book 1118, page 309, granted and conveyed unto Beverly A. Miller and Ronald W. Rosensteel, adult individuals.

Premises being: 111 Orchard View Drive, Bendersville, PA 17306

Tax Parcel No. 001-0063-000

SEIZED and taken into execution as the property of **Beverly A. Miller & Ronald W. Rosensteel a/k/a Ronald W. Rosensteel** 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 June 1, 2004, 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.

3/12, 19 & 26

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, of Act 1982 - 295 (54 Pa. C.S. 311), the undersigned entity(ies) announce their intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania, on approximately February 23, 2004, a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of 7 MILE ROAD, with its principal place of business at 153 Jackson Road, Gettysburg, Pennsylvania 17325. The names and addresses of the persons owning or interested in said business are David E. Conklin, residing at 153 Jackson Road, Gettysburg, PA 17325 and Bruce E. Rowland, residing at 39 Spring Trail, Carroll Valley, PA 17320. The character or nature of the business is a Contemporary Christian band.

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Adams County Legal Journal

Vol. 45

March 19, 2004

No. 43, pp. 267-278

IN THIS ISSUE

COMMONWEALTH VS. MITCHELL

Strong.
Rooted Upon Traditional Values.
Dedicated to Quality.
Customer Service.
Dependable.
Branching Into The Future.
Our Commitment Is You.



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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.

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-949 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE FOLLOWING described real estate lying and being situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the West side of Pecher Road (Township Road T-312) at line of land now or formerly of Michael Sullivan; thence running by Sullivan Land and through an existing reference steel rod set back along the line, South 76° 52' 40" West 179 feet to an existing steel rod; thence continuing by Sullivan Land and by a curve to the left, the radius of which is 242 feet, for an arc distance of 37.99 feet and with a chord bearing of South 72° 20' 40" West for a chord length of 37.95 feet to an existing steel rod; thence continuing by Sullivan, South 21° 56' 00" East 128.13 feet to a steel rod; thence continuing by land of the same, South 11° 14' 40" East 368 feet to an existing bolt; thence continuing by the same, South 31° 59' 40" East 136 feet to an existing bolt; thence continuing by Sullivan, South 62° 54' 40" West 438.78 feet to an existing steel rod; thence continuing by the same, North 79° 37' 10" West 60 feet to a steel rod on line of land of William H. Scott, Jr., et. Al., of which this was formerly a part; thence running by land of William H. Scott, Jr., et. Al., North 07° 35' 40" West 1,149 feet to a steel rod on line of land of Fred Crum, Jr.; thence by the latter, South 74° 20' 33" East 625 feet to an existing spike 5 feet West of the centerline of Pecher Road (T-312); thence running in Pecher Road (T-312) South 07° 17' 25" East 115.29 feet to a point on the West side of Pecher Road, the point and place of BEGINNING. CONTAINING 10.168 acres.

The description was taken from a draft of survey of J. Riley Redding, R.S., dated February 24, 1992, and recorded in Adams County Plat Book 61, Page 29.

The tract described is Tract 2 on said plan of lots.

Parcel No. 25-C17-0026

Being Premises: 1005 Pecher Road, Fairfield, PA 17320

SEIZED and taken into execution as the property of **John Hess & Patricia Hess** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 24, 2004, 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.

3/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1014 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground and improvements thereon situate in Oxford Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point on the property line of East Locust Lane at corner of Lot No. 16 on the plat hereinafter referred to; thence along the property line of East Locust Lane North thirty-seven (37) degrees fifteen (15) minutes zero (00) seconds East, eighty and fifty-eight hundredths (80.58) feet to a point on said property line at corner of Lot No. 18; thence along Lot No. 18 South fifty-two (52) degrees forty-five (45) minutes zero

(00) seconds East, ninety-nine and twenty-eight hundredths (99.28) feet to a point; thence South thirty-seven (37) degrees thirteen (13) minutes forty-nine (49) seconds West, eighty and fifty-eight hundredths (80.58) feet to a point at corner of Lot No. 16; thence along Lot No. 16, North fifty-two (52) degrees forty-five (45) minutes zero (00) seconds West, ninety-nine and thirty (99.30) hundredths feet to a point, the place of BEGINNING, CONTAINING 8,000.720 square feet or 0.184 acre.

THE above description was taken from draft of survey of Oxford Estates prepared by George M. Wildasin, P.E., dated December 4, 1979, subdivided by William E. Sacra, Jr. on the same date, a plat of which is recorded in Adams County Plat Book 34 at page 58, the above lot being designated thereon as Lot No. 17.

Map #9, Parcel 24

SEIZED and taken into execution as the property of **Robert J. Sneideringer & Susan C. Sneideringer** 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 June 1, 2004, 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.

3/5, 12 & 19

COMMONWEALTH VS. MITCHELL

1. The Commonwealth bears the burden of establishing, by a preponderance of the evidence, that a nexus exists between the unlawful activity and the property subject to forfeiture. The burden of proof is reflective of the Court's traditional treatment of forfeiture proceedings as being civil in nature.

2. Forfeiture under the Act (is) subject to analysis under the Eighth Amendment of the United States Constitution and Article I, Section 13 of the Pennsylvania Constitution. These constitutional provisions require a determination as to whether a forfeiture of a particular piece of property constitutes an "excessive fine."

3. The burden is on the Commonwealth to prove that a "significant relationship" exists between the property sought to be forfeited and the criminal offense.

4. If the property which is the subject of the forfeiture is a passive participant in the criminal act, a pattern of conduct related to the property is required prior to forfeiture. However, if the property to be forfeited is an instrumentality in effectuating the criminal act, constitutional scrutiny does not require the showing of a pattern or course of conduct in order to establish a significant relationship between the property and the criminal act.

5. The Commonwealth satisfies its burdens under the "significant relationship test" if they are able to establish by clear and convincing evidence that the property to be forfeited was an instrumentality in the effectuation of the offense, i.e., the property was "actively" used to facilitate the crime rather than property which is "passively" related to the illicit drug activity.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-542-02, COMMONWEALTH OF PENNSYLVANIA VS. MATTHEW MAURICE MITCHELL.

Paul T. Dean, Esq., District Attorney, for Commonwealth
Steve Rice, Esq., Assistant Public Defender, for Defendant
George, J., March 3, 2003

OPINION

The Commonwealth has moved the Court for forfeiture of a 1990 Chevrolet GEO Prizm owned by Matthew Mitchell (hereinafter referred to as "Mitchell").¹ The factual background for this issue has been presented to the Court by stipulation and consists of the following:

¹ The Forfeiture Act, 42 PA. CONS. STAT. ANN. § 6801 (West 2000), details the procedures which must be followed in order for the forfeiture to comport with due process. 42 PA. CONS. STAT. ANN. § 6802(a) (West 2000) requires, among other things, that the petition contain a number of specific averments and that it be verified "by oath or affirmation of an officer or citizen . . ." The Commonwealth's current petition is noticeably lacking in this regard. The Defendant has not raised procedural issues perhaps in recognition of the recent Supreme Court decision in *Commonwealth v. Smith*, 757 A.2d 354 (Pa. 2000). In that decision, the Supreme (footnote 1 continued to next page)

On March 6, 2002, Mitchell drove his 1990 Chevrolet GEO Prizm to the Wal-Mart located at 1270 York Road, Gettysburg, Straban Township, Pennsylvania. While at that location, he sold Adams County Drug Task Force Detective William Hartlaub approximately 1.9 grams of marijuana in exchange for the sum of \$60.00.² Mitchell then left the area in his vehicle. All parties agree that the vehicle was used to transport the controlled substance to the transaction. On March 11, 2002, and March 25, 2002, Detective Hartlaub made additional purchases of marijuana from Mitchell at his apartment located at 721 Chambersburg Road, Cumberland Township, Gettysburg, Pennsylvania. As a result of these purchases, a search warrant was served at that property on March 27, 2002. In addition to an amount of marijuana being found at the residence, two glass pipes and a bowl containing marijuana residue were found in the 1990 Chevrolet GEO Prizm. The parties agreed that the vehicle owned by Mitchell is the only vehicle used or owned by him as of the date of the hearing.

As a result of the above incidents, criminal charges were filed against the defendant. On September 4, 2002, he pled guilty to four charges of violation of PA. STAT. ANN. tit. 35, § 780-113 (a)(30) (West 2002) (possession with intent to deliver).

Although Mitchell concedes that the Commonwealth has carried its initial burden of establishing, by a preponderance of the evidence, that a nexus exists between the unlawful activity and the property

Court instructed that the appropriate inquiry in addressing due process concerns is whether the property owner was given fair notice and an opportunity to be heard. In light of this decision, it is understandable that compliance with the requirements of Section 6802 may be lax where the forfeiture is either uncontested or entered by agreement of the parties. On the other hand, prudence suggests that where there is a possibility that the forfeiture will be contested, the procedural requirements of the Act should be followed. Any other course of action may result in the finding of a due process violation and imposition of appropriate remedies.

² Although the Criminal Complaint alleges that the controlled substance was a mixture of cocaine and marijuana, colloquy at the time of Mitchell's plea indicated that the substance was marijuana without reference to cocaine.

which is the subject of the forfeiture, *see Commonwealth v. Schill*, 643 A.2d 1143, 1145 (Pa. Commw. Ct. 1994), he challenges the forfeiture on the basis that it violates the “excessive fines” provisions of the Eighth Amendment of the United States Constitution and Article 1, Section 13 of the Pennsylvania Constitution.³ Mitchell correctly notes that the Pennsylvania Supreme Court has distinguished the burdens placed upon the Commonwealth in addressing these separate issues. *See Commonwealth v. 4029 Beale Ave.*, 680 A.2d 1128 (Pa. 1996). Despite the specific challenge raised by Mitchell, a review of the general law of forfeiture will offer insight to my analysis.

The legislative authority behind the Commonwealth’s efforts to forfeit Mitchell’s vehicle is found at 42 PA. CONS. STAT. ANN. § 6801 (West 2000). Relevant portions of that section provide as follows:

a) Forfeitures generally.—The following shall be subject to forfeiture to the Commonwealth and no property rights shall exist in them:

. . . (4) All conveyances, including aircraft, vehicle or vessels, which are used or are intended for use to transport, or in any manner to facilitate the transportation, sale, receipt, possession or concealment of [drug paraphernalia and controlled substances]

42 PA. CONS. STAT. ANN. § 6801(a)(4) (West 2000). This Section provides an exception, however, which prohibits forfeiture based upon one’s possession of a small amount of marijuana for personal use or distribution where the marijuana is not sold. *See* 42 PA. CONS. STAT. ANN. § 6801 (a)(4)(iv) (West 2000). Recently, the Commonwealth Court has reasoned that this legislation, by implication, prohibits forfeiture based solely on the possession of drug paraphernalia. *See Commonwealth v. One 1993 Pontiac TransAm*, 809 A.2d 444 (Pa. Commw. Ct. 2002).⁴

³The Eighth Amendment to the United States Constitution provides: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” U.S. CONST. amend. VIII. Article 1, Section 13, of the Pennsylvania Constitution provides: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.” PA. CONST. art. I, § 13.

⁴The *1993 Pontiac TransAm* decision reflects, in part, the admonition of our appellate courts that forfeitures are not favored in the law and the Forfeiture Act must be strictly construed. *Commonwealth v. Two Thousand Five Hundred Twenty-three Dollars and Forty-eight Cents U.S. Currency*, 649 A.2d 658, 660-61 (Pa. 1994).

Pennsylvania law is well settled that in a forfeiture case, the Commonwealth bears the burden of establishing, by a preponderance of the evidence, that a nexus exists between the unlawful activity and the property subject to forfeiture. *4029 Beale Ave.*, 680 A.2d at 1130 n.9; *Schill*, 643 A.2d at 1145; *Commonwealth v. Nineteen Hundred and Twenty Dollars U.S. Currency*, 612 A.2d 614, 618 (Pa. Commw. Ct. 1992). The burden of proof is reflective of the Court's traditional treatment of forfeiture proceedings as being civil in nature. *Commonwealth v. McDermond*, 560 A.2d 901 (Pa. Commw. Ct. 1989). Under this standard, Pennsylvania appellate courts have routinely upheld the forfeiture of automobiles which have been linked to drug trafficking activity. *Commonwealth v. One 1988 Ford Coupe*, 574 A.2d 631 (Pa. Super. Ct. 1990) (Forfeiture of a vehicle affirmed where vehicle used on only one occasion to pick up cocaine sold to a police informant); *Commonwealth v. One 1984 Blue/Silver Oldsmobile*, 566 A.2d 612 (Pa. Super. Ct. 1989) (Upholding seizure of automobile containing 71 milligrams of cocaine and 2.1 grams of marijuana); *Commonwealth v. One 1979 Lincoln, Four Door Sedan*, 496 A.2d 397, 398 (Pa. Super. Ct. 1985) (Upholding forfeiture of a vehicle used only to bring aspirin, vaseline, sandwiches, and coffee for workers engaged in illicit drug manufacture). Indeed, the nexus standard has been broadly interpreted so that the "Commonwealth is not required to show that drugs were actually found on the vehicle, or on the driver of the vehicle, in order for the property to be forfeited". *Strand v. Chester Police Dep't*, 687 A.2d 872, 876 (Pa. Commw. Ct. 1997), citing *Nineteen Hundred and Twenty Dollars U.S. Currency*, 612 A.2d 614.

While case law concerning the forfeiture of vehicles has been relatively stable, Commonwealth efforts to forfeit real estate has led to an evolution in forfeiture jurisprudence. In the seminal case of *In Re King Properties*, 635 A.2d 128 (Pa. 1993), the Pennsylvania Supreme Court held that the Forfeiture Act was punitive in nature and, therefore, forfeiture under the Act was subject to analysis under the Eighth Amendment of the United States Constitution and Article 1, Section 13 of the Pennsylvania Constitution. Importantly, analysis under these constitutional provisions is quite different than the traditional analysis of whether a nexus exists between the property and the criminal act. The Pennsylvania Supreme Court reasoned that these constitutional provisions require a determination as to whether

a forfeiture of a particular piece of property constitutes an “excessive fine”. In reaching this determination, the Court adopted the concurring opinion of Justice Scalia in *Austin v. United States*, 509 U.S. 602 (1993) and instructed that the inquiry does not involve the value of the property forfeited but rather the relationship of the criminal conduct to the property that is forfeited. *In Re King Properties*, 635 A.2d at 133. “If the forfeited property was significantly used in the commission of the offense, the item may be forfeited regardless of its value.” *Id.* The Court further directed that in considering challenges under these constitutional provisions, the burden is on the Commonwealth to prove that a “significant relationship” exists between the property sought to be forfeited and the criminal offense. *4029 Beale Ave.*, 680 A.2d at 1130 n.9.⁵

In addressing the forfeiture of real estate, the *King* Court set forth the following test to determine whether the property was “significantly used” in the commission of an offense:

Where the evidence is that the criminal incident on which the forfeiture is based is not part of a pattern of similar incidents, there is no “significant” relationship between the property sought to be forfeited and the offense. Otherwise, significant property interests might become forfeit based on an unusual and unaccustomed incident.

In Re King Properties, 635 A.2d at 133. The Supreme Court reiterated this test in considering the forfeiture of real property in *4029 Beale Ave.*, *supra*. Other appellate courts analyzing “excessive fine”

⁵The issue as to the exact burden placed upon the Commonwealth appears to be unsettled. Supreme Court Opinions in *In Re King Properties*, *supra*, and *4029 Beale Ave.*, *supra*, clearly indicate that the Commonwealth bears the burden of proof by clear and convincing evidence. However, in the later case of *Commonwealth v. Windgate Farms*, *supra*, the Supreme Court, in considering an “excessive fines” challenge to the forfeiture of real estate, upheld an instruction indicating that the Commonwealth’s burden of proof was a fair preponderance of the evidence. Despite having the opportunity to clarify this issue in *Commonwealth v. 5043 Anderson Rd.*, 728 A.2d 907 (Pa. 1999), the Court referenced that the burden of proof in constitutional challenges rests with the Commonwealth without clarifying the actual burden. *Id.* at 908-09. For purposes of this opinion, I will rely upon the earlier Supreme Court holdings and find that the Commonwealth has a burden of establishing a “significant relationship” between the properties sought to be forfeited and the criminal offense by clear and convincing evidence.

constitutional challenges to the forfeiture of real estate have consistently applied this test. See *Schill*, 643 A.2d at 1145; see generally *5043 Anderson Rd.*, 728 A.2d at 908.

However, this evolution in forfeiture jurisprudence had not yet found its way into litigation involving the forfeiture of property other than real estate. I have been unable to discover any Pennsylvania appellate authority extending the “pattern of similar incidents test” to forfeiture proceedings involving personal property which has been used as an instrumentality in effectuating a violation of the drug act. Mitchell urges this Court to make such an extension and conclude that the “pattern of similar incidents test” is equally applicable to the forfeiture of all property regardless of whether the property was an active tool in the commission of a crime. He argues that under this test, the Commonwealth has failed to carry their burden of proof and, thus, forfeiture of his vehicle is not appropriate. While Mitchell is correct that the Commonwealth has not established by clear and convincing evidence that the vehicle at issue was part of a “pattern of similar incidents”, he misinterprets the test applicable to the current forfeiture proceeding.

Initially, I note that the Forfeiture Act contains different language in the authorization relating to the forfeiture of vehicles from that contained in the authorization relating to the forfeiture of real estate. While the Act allows the forfeiture of real property used “to facilitate” a drug violation, the authorization in regard to vehicles is broader. Specifically, in addition to authorizing forfeiture of vehicles used to facilitate drug violations, the Act specifically authorizes the forfeiture of vehicles used “to transport” controlled substances or drug trafficking paraphernalia. 42 PA. CONS. STAT. ANN. § 6801(a)(iv) (West 2000). Obviously, this distinction does not make the forfeiture of a vehicle immune from Article I, Section 13 constitutional analysis. Rather, it is significant because it provides direct insight into the legislative intent that the “transportation” of controlled substances in a vehicle is, in and of itself, sufficient to establish a “significant relationship” between the vehicle and the illicit drug trafficking. In other words, the legislation recognizes that a vehicle used to transport drugs is an instrument actively used to perpetrate a criminal act. Keeping in mind the admonition of our appellate courts that acts of the General Assembly should be construed in a manner in favor of upholding their constitutionality, see *Snider v.*

Thornburgh, 436 A.2d 593, 596 (Pa. 1981); *Sch. Dists. of Deer Lakes and Allegheny Valley v. Kane*, 345 A.2d 658, 662 (Pa. 1975), I find nothing about this express language of the Forfeiture Act which violates the “excessive fine” provisions of our constitutional charters or the reasoning of *King*.

Although I recognize that *King* requires the Commonwealth to establish a relevant pattern in evaluating whether the real estate is appropriate, the unique considerations of real estate distinguish the *King* line of cases from forfeiture proceedings involving personal property which is actively used in furtherance of illegal drug trafficking. Requiring a relevant pattern of conduct involving personal property actively used in illicit drug trafficking would essentially condemn legislation designed to forfeit this property to failure. A review of the spectrum of property regularly subjected to forfeiture illustrates this point.

At one end of the spectrum is contraband per se. Contraband per se is something that is illegal to possess, such as the actual controlled substance. *Commonwealth v. Crosby*, 568 A.2d 233, 236 (Pa. Super. Ct. 1990). Similarly, since it is illegal to possess drug paraphernalia, see PA. STAT. ANN. tit. 35, § 780-113(a)(32) (West 2002), those items would also fall within this category. Under any test, it cannot be doubted that those items are subject to forfeiture.

As we move down the spectrum away from contraband per se, we begin to examine issues involving derivative contraband. Derivative contraband is defined as property which is not inherently illegal but which is used in the perpetration of an unlawful act. *Commonwealth v. Fassnacht*, 369 A.2d 800, 802 (Pa. Super. Ct. 1977).⁶ It is in examining the forfeiture of derivative property that the unreasonableness of Mitchell’s argument becomes apparent.

Clearly, scales used to measure cocaine are subject to forfeiture even in the event that they may be used **only once** in furtherance of

⁶The Superior Court of Pennsylvania has held that there can be a “common law” forfeiture of derivative contraband. See *Crosby*, supra; *Petition of Maglisco*, 491 A.2d 1381 (Pa. Super. Ct. 1985); *Estate of Peetros v. County Detectives*, 492 A.2d 6 (Pa. Super. Ct. 1985); *Commonwealth v. Coghe*, 439 A.2d 823, 824 (Pa. Super. Ct. 1982); *Commonwealth v. Landy*, 362 A.2d 999, 1001 (Pa. Super. Ct. 1976); but see *Commonwealth v. Schilbe*, 175 A.2d 539 (Pa. Super. Ct. 1961) (Holding that forfeiture of derivative contraband requires statutory authority). Instantly, I need not consider that issue since the General Assembly has specifically legislated authorization in drug cases. See generally 42 PA. CONS. STAT. ANN. § 6801 (West 2000).

the criminal act.⁷ Likewise, it is beyond dispute that currency representing either the proceeds of a drug violation or intended to be used as such is subject to forfeiture. *Commonwealth v. \$23,320.00 U.S. Currency*, 733 A.2d 693 (Pa. Commw. Ct. 1999). It would be nonsensical to require the Commonwealth to establish “a pattern of similar incidents” prior to granting forfeiture of the currency used in a **single** drug transaction. Similarly, a briefcase or luggage used to transport controlled substances on a **single occasion** is subject to forfeiture. The absurdity of applying a “course of conduct test” in these situations is obvious. I believe vehicles used to transport controlled substances fall within this same category, that is, the category of property actively used to effectuate a criminal act.

At the other end of the spectrum is property which is not used as an instrumentality in effectuation of the drug violation but rather is passively connected to the crime. Real estate at which a single drug transaction takes place fits within this category. Absent a “pattern of similar incidents”, courts have been reluctant to forfeit this type of property out of fear that significant property interests would be lost based upon an unusual and unaccustomed incident”. See *In Re King Properties*, supra.

Case law in this area teaches that as we move down the spectrum away from contraband per se and the nexus between the criminal act and the property becomes less clear, the necessity for a significant relationship between the property and the criminal act becomes more critical. Moreover, if the property which is the subject of the forfeiture is a passive participant in the criminal act, a pattern of conduct related to the property is required prior to forfeiture. However, if the property to be forfeited is an instrumentality in effectuating the criminal act, constitutional scrutiny does not require the showing of a pattern or course of conduct in order to establish a significant relationship between the property and the criminal act.

By no means is this opinion concluding that the Commonwealth is relieved of a requirement to prove, by clear and convincing evidence, that there must be a significant relationship between the property to be forfeited and the criminal act in cases concerning the

⁷In *Austin*, Justice Scalia opined: “[s]cales used to measure out unlawful drug sales, for example, are confiscable whether made of the purest gold or the basest metal.” *Id.* at 627 (Scalia, J., concurring).

forfeiture of motor vehicles. To the contrary, it is clear that in order to survive an “excessive fine” constitutional challenge to a forfeiture action, the Commonwealth must show the property was “significantly used in the commission of the offense” regardless of whether the property to be forfeited is money, vehicles or real estate. See *In Re King Properties*, supra. Rather, I find that the Commonwealth satisfies its burdens under the “significant relationship test” if they are able to establish by clear and convincing evidence that the property to be forfeited was an instrumentality in the effectuation of the offense, i.e., the property was “actively” used to facilitate the crime rather than property which is “passively” related to the illicit drug activity. Where the property to be forfeited is an actual instrumentality in effectuation of the crime, there is no danger that a property interest will be lost “based on an unusual and unaccustomed incident”. See *Id.* at 133. This reasoning is consistent with Justice Scalia’s concurring opinion in *Austin*.

Instantly, Mitchell used his 1990 Chevrolet GEO Prizm to transport controlled substances to the location of a drug transaction. At that location, the substances were removed from the vehicle and sold to an undercover officer. Although this is the only transaction to which the Commonwealth can link the vehicle, it is clear that Mitchell’s participation in drug trafficking was not an isolated event. He has been convicted of at least three other delivery of controlled substances related incidents occurring close in time to the incident involving the vehicle. At the time of his arrest, items of drug paraphernalia were found in the vehicle. Under these circumstances, I find that there is a significant relationship between the 1990 Chevrolet GEO Prizm and Mitchell’s involvement in drug trafficking. Accordingly, the forfeiture in this case does not offend the “excessive fines” provisions of Article 1, Section 13.

For similar reasons, I find that the forfeiture in this case does not violate the safeguards of the Eighth Amendment of the United States Constitution. In *Austin*, 509 U.S. at 604, the Court held that the excessive fines provision of the Eighth Amendment applies to drug related forfeitures of property.⁸ In fashioning an “excessive fines

⁸ 21 U.S.C. §§ 881(a)(4) and 881(a)(7) (West 2001) provide statutory authorization for drug related forfeitures. Those provisions of federal law are substantially similar to the provisions in 42 PA. CONS. STAT. ANN. § 6801 (West 2000).

test” under federal law, Justice Scalia, in his concurring opinion in *Austin*, concluded: “The relevant inquiry for an excessive forfeiture under § 881 is the relationship of the property to the offense: Was it close enough to render the property, under traditional standards, “guilty” and hence forfeitable?” *Id.* at 628 (Scalia, J., concurring). Scholars have subsequently interpreted Justice Scalia’s concurring opinion as an “instrumentality test”.⁹ Although, as previously noted, the Pennsylvania Supreme Court in *King* essentially adopted the reasoning of Justice Scalia¹⁰, the Pennsylvania Court went further by defining “significant relationship” as requiring a “pattern of similar incidents”. Justice Scalia’s concurring opinion, however, does not suggest such a definition for purposes of Eighth Amendment scrutiny. Just as importantly, there are no other federal cases placing such a demanding interpretation on the term “significant relationship”. Simply put, such a requirement is non-existent in federal jurisprudence. I do not accept, nor do I have authority to accept, Mitchell’s invitation to create federal law.

Interestingly, in *Austin*, the majority opinion declined the opportunity to set forth a test for determining whether a forfeiture is constitutionally “excessive”. Rather, the majority deferred to the “lower courts to consider that question in the first instance.” *Id.* at 622-23. The Third Circuit Court of Appeals considered this issue in *United States v. Premises Known as RR#1, Box 224*, 14 F.3d 864 (3d Cir. 1994). In that case, the Third Circuit declined to adopt the test espoused by Justice Scalia in his concurring opinion in *Austin*. Rather, they suggested that other considerations, including the proportionality of the proposed seizure, were appropriate.

It appears that a majority of other federal jurisdictions considering the issue have also declined to adopt Justice Scalia’s “instrumentality

⁹Barry L. Johnson, *Purging the Cruel and Unusual: The Autonomous Excessive Fines Clause and Desert-Based Constitutional Limits on Forfeiture After United States v. Bajakajian*, 2000 U. ILL. L. REV. 461, 475 (2000) (The origins of the instrumentality test are in Justice Scalia’s concurring opinion in *Austin*); Kathi A. Drew and R.K. Weaver, *Disproportionate or Excessive Punishments: Is There a Method for Successful Constitutional Challenges*, 2 TEX. WESLEYAN L. REV. 1, n.14 (1995) (Justice Scalia’s concurring opinion in *Austin* is essentially an instrumentality or nexus test).

¹⁰The Pennsylvania Superior Court noted that the Pennsylvania Supreme Court adopted Justice Scalia’s concurring opinion in *Austin*. *Commonwealth v. Trayer*, 680 A.2d 1166, 1168 (Pa. Super. Ct. 1996).

test”.¹¹ Rather, a number of federal circuits have developed a two-part “proportionality test”: 1) whether there was substantial connection between the property and the drug trafficking; and, if so, 2) whether forfeiture of the property is grossly disproportionate in light of the nature of the drug trafficking involved. See *United States v. Premises Known as 6040 Wentworth Ave.*, 123 F.3d 685, 690 (9th Cir. 1997); *United States v. Milbrand*, 58 F.3d 841, 847-48 (2d Cir. 1995); *United States v. Certain Real Property Located at 2408 Parliament*, 859 F. Supp. 1075, 1078 (E.D. Mich. 1994); *United States v. One Parcel Property Located at 427 and 429 Hall Street*, 853 F. Supp. 1389, 1399 (M.D. Ala. 1994). Only the Fourth circuit has aligned itself with the instrumentality test suggested in Justice Scalia’s concurrence in *Austin*. *United States v. Chandler*, 36 F.3d 358 (4th Cir. 1994).

Regardless of which Eighth Amendment analysis we rely upon in considering Mitchell’s challenge, the end result is the same. As mentioned above, the Commonwealth has clearly established that the vehicle was used as an “instrument” in Mitchell’s drug trafficking and, therefore, has satisfied the “instrumentality test” suggested by Justice Scalia in his concurring opinion. Similarly, under the “proportionality test” suggested by a number of federal courts, the forfeiture is appropriate. See *United States v. 1985 BMW, 635 CSI, VIN: WBAE8407F0611137*, 677 F. Supp. 1039, 1042 (C.D. Cal. 1987) (Forfeiture of a \$35,000 car used to transport 6.23 grams of cocaine

¹¹ *United States v. One Parcel of Real Property*, 4 F. Supp. 2d 65 (D.R.I. 1998), provides a summary of the position of the federal circuits on this issue. The opinion concludes that “[t]he Second, Third, Seventh, Ninth and Tenth circuits have employed a hybrid instrumentality-proportionality test.” *Id.* at 68. “The Eighth and Eleventh circuits review only proportionality.” *Id.* The Fourth circuit is the sole circuit to have adopted the instrumentality test. *Id.* Finally, the Fifth Circuit and the District of Columbia Circuit have yet to consider the issue. *Id.* at 69 n.3. The *One Parcel of Real Property* Court ultimately adopted the hybrid instrumentality-proportionality test for the First Circuit. *Id.* at 69.

and 2.78 grams of cannabis on one occasion is not grossly disproportionate for Eighth Amendment purposes).¹²

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 3rd day of March, 2003, the Commonwealth's Motion for Forfeiture of a 1990 silver Chevrolet GEO Prizm bearing VIN: 1Y1SK5165LZ077428 is granted. The vehicle is forfeited to the County of Adams, specifically the Adams County Drug Task Force.

ERRATA SHEET

AND NOW, this 25th day of March, 2003, the Opinion filed on March 3, 2003, is amended as follows:

Page 4, Line 13 – In the seminal case of *In Re King Properties*,...

¹²The record is absent any information concerning the value of the 1990 Chevrolet GEO Prizm. Mitchell, apparently advocating that Justice Scalia's "instrumentality test" is the applicable test, has argued that the vehicle's value is not a consideration. Accordingly, issues concerning the proportionality of the seizure have not been raised nor considered by this Court. To the extent that Mitchell has not argued or briefed that issue, it is waived. Incidentally, Mitchell's failure to properly raise the issue may be motivated, in part, by the recognition that the Kelley Blue Book places the value of a 1990 Chevrolet GEO Prizm in mint condition at \$1,980. See Kelley Blue Book, <<http://www.kbb.com>>.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1255 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot, tract of land, parcel, piece of ground with the buildings and improvements thereon erected, situate in Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point on the Southern property line of a proposed 40 foot wide street, at land now or formerly of Lee Dugan; thence by the Southern property line of said proposed street South 82° 45' East, 145.55 feet to an iron pin on the Western property line of another proposed 40 foot wide public street, at the Southwest corner of the intersection of said proposed streets; thence by the Western property line of said last mentioned proposed street, South 2° 1' 20" West, 80 feet to an iron pin at turn in said proposed street; thence continuing by the Western property line of said proposed street South 24° 8' East, 35 feet to an iron pin; thence through the original tract of Melvin M. Bean, et. al., North 89° 16' 30" West, 159.81 feet to land now or formerly of Mrs. Gilbert Blye; thence by said Blye land and by land of Lee Dugan, aforesaid, North 1° 45' East, 128.30 feet to the above described place BEGINNING.

CONTAINING 17,605 square feet

BEING THE SAME PREMISES which Beverly A. Miller and Charles E. Swope, Jr., by Deed dated November 22, 1995 and recorded on December 6, 1995 in the Recorder of Deeds Office in and for Adams County in Deed Book 1118, page 309, granted and conveyed unto Beverly A. Miller and Ronald W. Rosensteel, adult individuals.

Premises being: 111 Orchard View Drive, Bendersville, PA 17306

Tax Parcel No. 001-0063-000

SEIZED and taken into execution as the property of **Beverly A. Miller & Ronald W. Rosensteel a/k/a Ronald W. Rosensteel** 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 June 1, 2004, 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.

3/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-798 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of April, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Reading Township, County of Adams, Commonwealth of Pennsylvania, known as Lot No. 12 as shown on the Final Subdivision Plan prepared by Adams County Surveyors dated June 30, 1978 revised August 7, 1978 recorded in Plan Book 23, page 6, and more fully described as follows:

BEGINNING at a railroad spike in or near the centerline of Legislative Route 01009, at the Northwestern corner of land now or formerly of Leathery; thence by said land now or formerly of Leathery, and passing through an iron pin set back thirty (30) feet from the last mentioned point, South one (01) degree thirteen (13) minutes fifty (50) seconds East, five hundred seventy-two and ninety-nine one-hundredths (572.99) feet to a pipe at corner of Lot No. 9 on the hereinafter referred to draft of survey; thence by said Lot No. 9, North sixty-seven (67) degrees eleven (11) minutes forty-five (45) seconds West, three hundred sixty-five and thirty one-hundredths (365.30) feet to a pipe on line of Lot No. 11; thence by Lot No. 11 and by land now or formerly of Robert C. Anderson, and passing through a pipe set back one hundred ten (110) feet from the last mentioned point, and also passing through an iron pin set back thirty (30) feet from the next mentioned point, North twenty-four (24) degrees three (03) minutes zero (00) seconds East, five hundred sixty-nine and twenty-four one-hundredths (569.24) feet to a railroad spike on the Western edge of the paving of Legislative Route 01009, aforesaid; thence in and along said Legislative Route 01009, South forty-six (46) degrees thirty-six (36) minutes ten (10) seconds East, one hundred thirty and twenty-seven one-hundredths (130.27) feet to a point, the place of BEGINNING.

CONTAINING 3.008 acres.

(Together with any improvements thereon)

IT BEING the same premises which Ronald E. Strausbaugh and Nancy R. Strausbaugh, husband and wife, by their Deed dated May 31, 2001, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 2309, Page 24, granted and conveyed unto Mark Furst and Monique Furst, husband and wife.

Property address: 875 Germany Road, East Berlin, PA 17316

Tax Map K6, Parcel 15E

SEIZED and taken into execution as the property of **Mark Furst & Monique Furst** 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 May 24, 2004, 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.

3/5, 12 & 19

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of a Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania in Harrisburg, Pennsylvania, on or about March 9, 2004, pursuant to the Fictitious Name Act, Act No. 1982-295, setting forth that Joseph A. Lawrence, of 9 Long Street, East Berlin, Adams County, Pennsylvania 17316, is the only individual engaged or interested in a business, the character of which is for the purpose of providing plumbing, heating and electrical services, and that the name, style and designation under which said business is and will be conducted is LAWRENCE MECHANICAL, and the principal office or place of business is 9 Long Street, East Berlin, Adams County, Pennsylvania 17316.

Miller & Shuttis, P.C.
Thomas E. Miller, Esq.
Solicitor

3/19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1006 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate in Union Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in Legislative Route 01030, known as Pine Grove Road, at corner of land of Glenn W. Sterner; thence by land of Glenn W. Sterner, and running through an iron pin located 7.7 feet from the place of Beginning, North 41 degrees 34 minutes 09 seconds East 161.21 feet to an iron pin along land of Harry C. Worley; thence by land of Harry C. Worley, South 52 degrees 46 minutes 30 seconds East 223.14 feet to an iron pin at corner of land of Ivan E. Arentz; thence by land of Ivan E. Arentz, and running through an iron pin located 5.75 feet from the end of this line, South 43 degrees 00 minutes 47 seconds West 188.75 feet to a point in Pine Grove Road; thence in Pine Grove Road, North 45 degrees 39 minutes 00 seconds West 218 feet to an iron pin in said Road at corner of land of Glenn W. Sterner, the place of BEGINNING. CONTAINING 38,502 square feet, or 0.883 acre.

The foregoing description was obtained from a Subdivision Plan prepared by Wilbur L. Plank, Registered Professional Engineer, dated August 16, 1973, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 3 at page 32, the tract above described being designated as Lot No. 2 on said Plan.

The tract of land above described being the same which Ethel M. Sterner, widow, by deed dated March 24, 1995, and intended to be recorded in the Office of the aforesaid Recorder of Deeds, conveyed to Eric J. Sterner, the Mortgagor herein.

SEIZED and taken into execution as the property of **Eric J. Sterner** 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 June 1, 2004, 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.

3/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1310 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT piece, parcel or tract of land with any improvements thereon erected, situate, lying and being in Hamilton Township, Adams County, Pennsylvania, being more particularly bounded, limited and described as follows:

BEGINNING for a corner at a point in the centerline of Pennsylvania Legislative Route No. 01023 (Dick's Dam Road) at Lot No. 2 on the plan hereinafter mentioned; thence along said Lot No. 2, South forty (40) degrees forty-one (41) minutes thirty-six (36) seconds West, four hundred thirty-eight and thirteen one-hundredths (438.13) feet to a point at Lot No. 15 on said plan; thence along Lot No. 15, North fifty-five (55) degrees fifteen (15) minutes twenty (20) seconds West, one hundred and fifty-four one-hundredths (100.54) feet to a point at Lot No. 4 on said plan; thence along Lot No. 4, North forty (40) forty-one (41) minutes thirty-six (36) seconds East, four hundred thirty-eight and thirteen one-hundredths (438.13) feet to a point in the centerline of Pennsylvania Legislative Route 01023, aforesaid; thence in and along the centerline of Pennsylvania Legislative Route 01023, South fifty-five (55) degrees fifteen (15) minutes twenty (20) seconds East, one hundred and fifty-four one-hundredths (100.54) feet to the point and place of BEGINNING. CONTAINING 1.0058 acres. BEING known as Lot No. 3 on the final plan of Glab View Acres, prepared by Donald E. Worley, Registered Surveyor, on July 3, 1972, which said plan, as approved by the appropriate municipal authorities of Hamilton Township, Adams County, Pennsylvania, has been recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 2, Page 44.

BEING the same premises which Glenn E. Hilbert and Willie Mae Hilbert, his wife, by Deed dated the 30th day of September, 1998, and recorded at

Adams County in the Office of the Recorder of Deeds, in and for the County of Adams, on the 5th day of October, 1998, in Record Book 1673, Page 80, granted and conveyed unto Lisa A. Livelsberger, single woman and James M. Davis, single man.

Tax Map J-9, Parcel 112

BEING KNOWN AS 871 Dicks Dam Road (Hamilton Township), New Oxford, PA 17350

Property ID No. J9-112

TITLE TO SAID PREMISES IS VESTED IN Lisa A. Livelsberger, single woman and James M. Davis, single man by deed from Glenn E. Hilbert and Willie Mae Hilbert, his wife, dated 9/30/1998, recorded 10/5/1998, in Deed Book 1673, Page 80.

SEIZED and taken into execution as the property of **James M. Davis & Lisa A. Livelsberger** 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 June 14, 2004, 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.

3/12, 19 & 26

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 LINDA L. RHINEHART, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administratrix: Gladys Mary Knouse, c/o 3015 Eastern Boulevard, York, PA 17402

Attorney: Karen L. Saxton, Esq., Donald L. Reihart, Esq., Law Office of Donald L. Reihart, 3015 Eastern Boulevard, York, PA 17402

SECOND PUBLICATION

ESTATE OF MILDRED J. BUCHER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Co-Executors: Metha R. Williams, 1203 Old Route 30, P.O. Box 161, Cashtown, PA 17310; Mary B. Ritzman, P.O. Box 2333, McAlisterville, PA 17049

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

ESTATE OF JOHN DONALD DILLON a/k/a J. DONALD DILLON, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executors: Cynthia A. Grove, 1476 Buchanan Valley Rd., Orttanna, PA 17353; Janet M. Bordwine, 138 Old Forest Circle, Winchester, VA 22602

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

ESTATE OF PHILIP E. PATTERSON, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Susan J. Carscadden, 6 Michele Court, Gaithersburg, MD 20878

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

ESTATE OF EDGAR GLENN RAF-FENSPERGER a/k/a E. GLENN RAF-FENSPERGER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: Robert E. Althoff & Linda L. Althoff, 65 Table Rock Road, Gettysburg, PA 17325

ESTATE OF WILLIAM H. RAF-FENSPERGER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Mary C. Schlosser, 360 Shippensburg Road, Biglerville, PA 17307

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

ESTATE OF FLORENCE S. RAY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: Richard C. Ray, 430 Sunrise Blvd., Elizabethtown, PA 17022; Gwendolyn Ray, RR 1, Box 175, Starks, ME 04911

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore St., Gettysburg, PA 17325

ESTATE OF EVELYN M. RUMSEY, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Donald E. Rumsey, 140 Cheetah Drive, Hanover, PA 17331

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

ESTATE OF DORCAS I. SIMPSON, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administrators: Michael C. Simpson, 11668 Gumtree Road, Brogue, PA 17309; Ronald H. Simpson, 392 Sutton Road, Abbottstown, PA 17301

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

ESTATE OF BONNIE L. VANDELINDER a/k/a BONNIE LUCILE VANDELINDER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Roy E. VanDelinder, Jr., 28 Menlo Place, Rochester, NY 14620

Attorney: John A. Wolfe, Esq., Wolfe & Rice, LLC, 47 W. High St., Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF MARY C. BRINKLEY, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: James R. Brinkley, 70 Greenbriar Rd., York Springs, PA 17372

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

ESTATE OF ROBERT Y. BUSH, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Pearl Shuyler, 111 Orttanna Road, Orttanna, PA 17353

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

ESTATE OF M. FRANCIS COULSON, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Grace K. Coulson, 1075 Old Harrisburg Rd., Gettysburg, PA 17325

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore St., Gettysburg, PA 17325

ESTATE OF PEARL K. HOLLEN-BAUGH, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrator c.t.a.: Barry E. Kunkel, 193 Longstreet Dr., Gettysburg, PA 17325

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

ESTATE OF JAMES K. NICHOLSON, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: William H. Radcliffe, Jr., 9005 Watkins Road, Laytonsville, MD 20882

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

ESTATE OF REBECCA S. SWATS-WORTH, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Co-Executors: Jayne L. Shoemaker, Mary Jo Shoemaker & Jeffrey R. Swatsworth, c/o Jeffrey R. Swatsworth, 55 Two Taverns Road, Littlestown, PA 17340

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1133 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Carroll Valley Borough (formerly Hamiltonban Township), Adams County, Pennsylvania, being Lot No. 196, Section J, bounded and described as follows:

BEGINNING at a point in the center of Meadow Trail at Lot No. 195; thence by said lot, North 3 degrees 11 minutes 40 seconds West, 200 feet to Lot No. 193; thence by said lot, South 87 degrees 23 minutes 40 seconds East, 100 feet to Lot No. 197; thence by said Lot, South 3 degrees 11 minutes 40 seconds East, 200 feet to a point in the center of said Meadow Trail; thence in said Meadow Trail, North 87 degrees 23 minutes 40 seconds West, 100 feet to the place of BEGINNING.

Map 2, Parcel 135

SEIZED and taken into execution as the property of **Kenneth D. Brown, Sr. & Jacquelyn B. Brown** 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 June 1, 2004, 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.

3/5, 12 & 19

Adams County Legal Journal

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March 26, 2004

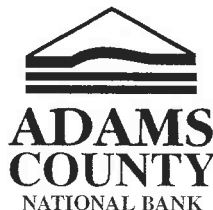
No. 44, pp. 279-285

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COMMONWEALTH VS. MYERS

This opinion continues to next issue (4/2/2004)

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



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1255 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot, tract of land, parcel, piece of ground with the buildings and improvements thereon erected, situate in Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point on the Southern property line of a proposed 40 foot wide street, at land now or formerly of Lee Dugan, thence by the Southern property line of said proposed street South 82° 45' East, 145.55 feet to an iron pin on the Western property line of another proposed 40 foot wide public street, at the Southwest corner of the intersection of said proposed streets; thence by the Western property line of said last mentioned proposed street, South 2° 1' 20" West, 80 feet to an iron pin at turn in said proposed street; thence continuing by the Western property line of said proposed street South 24° 8' East, 35 feet to an iron pin; thence through the original tract of Melvin M. Bean, et. al., North 89° 16' 30" West, 159.81 feet to land now or formerly of Mrs. Gilbert Blye; thence by said Blye land and by land of Lee Dugan, aforesaid, North 1° 45' East, 128.30 feet to the above described place BEGINNING.

CONTAINING 17,605 square feet

BEING THE SAME PREMISES which Beverly A. Miller and Charles E. Swope, Jr., by Deed dated November 22, 1995 and recorded on December 6, 1995 in the Recorder of Deeds Office in and for Adams County in Deed Book 1118, page 309, granted and conveyed unto Beverly A. Miller and Ronald W. Rosensteel, adult individuals.

Premises being: 111 Orchard View Drive, Bendersville, PA 17306

Tax Parcel No. 001-0063-000

SEIZED and taken into execution as the property of **Beverly A. Miller &**

Ronald W. Rosensteel a/k/a Ronald W. Rosensteel 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 June 1, 2004, 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.

3/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-565 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land, with any improvements thereon erected, situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a mark in the concrete on the inside edge of the sidewalk at the Southeastern corner of West Middle Street and South Washington Street; thence along the South edge of the sidewalk along West Middle Street, South 84 degrees 40 minutes East, 60.4 feet to a point on the Southern edge of the sidewalk at corner of buildings at lands now or formerly of George Lower; thence by said lands, South 5 degrees West, 105 feet to a point; thence through the original tract and by lands now or formerly of A.E. Hutchinson, et al, North 84 degrees 40 minutes West, 60.4 feet to a mark in the concrete on the Eastern edge of the sidewalk along South Washington

Street; thence along the Eastern edge of the sidewalk on South Washington Street, North 5 degrees East, 105 feet to the place of BEGINNING.

The above description was taken from a draft of survey dated February 5, 1974 prepared by Leroy H. Winebrenner, R.S.

TITLE TO SAID PREMISES IS VESTED IN James G. Edge by deed from Paula D. Olinger, Executrix of the Estate of Mae E. Olinger dated 10/5/95 recorded 10/5/95 in the County of Adams in Deed Book 1092 page 182.

SEIZED and taken into execution as the property of **James G. Edge** 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 June 14, 2004, 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.

3/26, 4/2 & 9

COMMONWEALTH VS. LEHMAN COMMONWEALTH VS. MYERS

1. The “essence” of probation is contained in the conditions imposed by the court on the probationer’s activities. The purpose of those conditions is to ensure the rehabilitation of the offender and the protection of the community. These goals require and justify the exercise of supervision to assure that the restrictions are in fact observed.

2. State-compelled collection and testing of urine constitutes a “search” subject to the demands of the Fourth Amendment. The ultimate measure of the constitutionality of a government search is “reasonableness,” and only those searches that are unreasonable violate constitutional provisions.

3. A search unsupported by probable cause may be reasonable when special needs, beyond the normal need for law enforcement, made the warrant and probable cause requirement impracticable. The supervision of a probationer is one area where a “special needs” analysis is appropriate.

4. There are three factors to consider in assessing the reasonableness of a search where “special needs” exist: 1) the nature of the privacy interest on which the search intrudes, 2) the character of the intrusion complained of, and 3) the nature and immediacy of the governmental concern at issue, and the efficacy of the means for meeting it.

5. The administration of a breath test does not implicate significant privacy concerns. Urine tests present a more difficult question because the collection of samples for urinalysis intrudes upon “an excretory function traditionally shielded by great privacy.”

6. A drug testing monitor’s presence in the same room with an individual during the collection of that individual’s urine does not, by itself, constitute an unreasonable search under the Fourth Amendment. Direct observation is not only reasonable, but also necessary for chain of custody purposes.

7. The special needs analysis is a proper methodology to utilize when considering issues related to probationary searches.

8. Article I, Section 8 (of the Pennsylvania Constitution) does not provide greater protection to parolees than that afforded by the Fourth Amendment.

9. Random, suspicionless blood, breath, and urine tests of either a parolee or probationer do not violate the Fourth Amendment of the United States Constitution or Article I, Section 8 of the Pennsylvania Constitution.

In the Court of Common Pleas of Adams County, Pennsylvania,
Criminal, Nos. CC-318-00 and CC-319-00, COMMONWEALTH
VS. TRAVIS ALAN LEHMAN; No. CC-439-00, COMMON-
WEALTH VS. LONNIE ALBERT MYERS.

Brian T. Coffey, Esq., Assistant District Attorney, for Commonwealth
Steve Rice, Esq., Assistant Public Defender, for Defendants
Kuhn, P.J.; Bigham, J.; George, J.

OPINION PURSUANT TO DEFENDANTS'
MOTIONS TO SUPPRESS

I. Procedural Background

Before the Court are Defendants' motions seeking suppression of the breath or urine sample results taken while each was subject to an intermediate punishment sentence. For the reasons set forth herein, those motions are denied.

II. Factual Background

A. Travis A. Lehman

On September 7, 2000, Lehman entered a guilty plea to Recklessly Endangering, 18 Pa.C.S.A. § 2705 (Misdemeanor 2), in CC-318-00 and to a first offense D.U.I., 75 Pa.C.S.A. § 3731(a)(1) (Misdemeanor 2), in CC-319-00. Both incidents occurred on February 20, 2000. On October 17, 2000, Lehman was sentenced on both cases pursuant to a plea agreement. In CC-319-00 Lehman was sentenced to 24 months of intermediate punishment (hereinafter referred to as "I.P.P.") with 60 days Phase I, 90 days Phase II, and the balance in Phases III – V.¹ He was to report to prison to begin the Phase I portion of the sentence on October 23, 2000. In CC-318-00 he was sentenced to 24 months I.P.P. with all of the sentence being served in Phases III – V. This sentence was to be served consecutive to the sentence in CC-319-00. After sentencing on that same date, Lehman signed the Standard Rules of I.P.P. in both cases.

On April 23, 2002, while in Phase IV of his I.P.P. sentence, Lehman submitted a urine test upon request of a probation officer. Lehman's urine tested positive for cocaine, and he was placed under arrest. While being placed under arrest, Lehman admitted that he had used marijuana and cocaine in violation of Condition 1(a) of the program. As a result, a revocation petition was filed alleging the 1(a) violation as well as violations of conditions 4(c) (becoming unemployed and not notifying the Probation Office); 4(b) (being terminated from his employment for cause on March 29, 2002); and 3(e) (failing to notify the Probation Office of his release from prison within 24 hours of posting bail).

¹ Under the provisions of the Adams County Intermediate Punishment Program, Phase I is partial confinement with work release availability, and Phase II is house arrest. Phases III-V are decreasing levels of probationary supervision.

A revocation hearing commenced on May 10, 2002. At that time, Lehman orally moved to suppress the results of the urine test conducted on April 23, 2002 as well as his admission that he used marijuana and cocaine while in Phase IV of his I.P.P. sentence. Counsel were directed to submit a written stipulation as to the factual circumstances surrounding Lehman's production of the urine sample. Testimony was received on the other alleged violations and disposition deferred.

B. Lonnie A. Myers

On September 7, 2000, Myers was placed in the Accelerated Rehabilitative Disposition (hereinafter referred to as "A.R.D.") program for a D.U.I. incident occurring on April 7, 2000. He was revoked on March 16, 2001 after failing to appear at an A.R.D. Review Hearing. The Commonwealth sought revocation based upon violations of various A.R.D. program conditions.

After revocation from A.R.D., Myers entered a guilty plea to a first offense D.U.I., 75 Pa.C.S.A. § 3731, on May 21, 2001, and was sentenced pursuant to a plea agreement to 24 months of I.P.P. with 48 hours in Phase I and the balance in Phases III – V. Myers signed the Standard Rules of I.P.P. immediately following sentencing.

The Adult Probation Office filed a violation report on September 17, 2001 alleging that Myers violated various probation conditions.

Robert Bennett, Intensive Supervision Officer for the Adams County Adult Probation Office, was responsible for supervising Myers' probation. At a hearing on November 26, 2001, Bennett testified that on August 3, 2001 he and Officer Jayme Taylor made a random visit to Myers' residence in the early evening hours. As a matter of routine, they asked Myers to submit to a breathalyzer test, which produced a Blood Alcohol Content of 0.024 B.A.C. When asked if he had been drinking, Myers admitted taking Nyquil. When asked to produce the Nyquil, Myers retrieved a bottle of Dayquil, which contained no alcohol. Myers then admitted drinking from a glass which contained vodka and lemonade.

Both defendants argue that they were subjected to suspicionless testing in violation of their right to be free from unreasonable searches

and seizures² under the Fourth Amendment of the United States Constitution and under Article I, Section 8 of the Pennsylvania Constitution.³

III. Issue

At issue is the extent to which a probationer or parolee may be required to submit to random blood, breath or urine tests, regardless of whether there is reasonable suspicion that alcohol or drugs have been consumed in violation of a probation or parole condition, and regardless of the nature of the offense for which that sentence was imposed.

IV. Discussion

The United States Court of Appeals for the Third Circuit has stated, “the ‘essence’ of probation is contained in the conditions imposed by the court on the probationer’s activities.” *United States v. Stine*, 646 F.2d 839, 842 (3d Cir. 1981). The purpose of those conditions is to ensure the rehabilitation of the offender and the protection of the

²The Defendants testified that they made their respective admissions because of the positive test results. **The Commonwealth concedes that those admissions would be fruits of the poisonous tree if this Court were to find the tests unconstitutional.** We note however, that the exclusionary rule generally does not apply to parole and probation revocation proceedings. *Pa. Bd. of Probation & Parole v. Scott*, 524 U.S. 357 (1998). *Cromartie v. Pa. Bd. of Probation and Parole*, 680 A.2d 1191 (Pa.Cmwlth. 1996). *Kyte v. Pa. Bd. of Probation and Parole*, 680 A.2d 14, 16 (Pa.Cmwlth. 1996). Therefore, even an unreasonable search would not necessarily lead to the exclusion of the test results in this case. However, we believe that it would be distasteful for a court to sanction or ignore generally recognized constitutional violations committed by probation officers pursuant to policy approved by the court authorizing such acts. Since probation officers, and their policy, are under the supervision of the courts, condoning policy which violated constitutional protections on the basis that the evidence is not subjected to the exclusionary rule would diminish the public’s confidence in the integrity of the court.

³The Fourth Amendment provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article I, Section 8 of the Pennsylvania Constitution provides:

The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant.

community. See *Griffin v. Wisconsin*, 483 U.S. 868, 875 (1987). These goals “require and justify the exercise of supervision to assure that the restrictions are in fact observed.” *Id.*

A. Statutory and Regulatory Authority

1. Pennsylvania Statutory Authority

Pennsylvania legislative provisions, 61 P.S. § 331.27b, echo the Supreme Court’s holding in *Griffin* by providing that:

(a) County probation and parole officers are in a supervisory relationship with their offenders. The purpose of this supervision is to assist the offenders in their rehabilitation and reassimilation into the community and to protect the public.

(b) County probation and parole officers and, where they are responsible for the supervision of county offenders, State parole agents are authorized to search the person and property of county offenders in accordance with the provisions of this section...

Section 331.27b(d)(1)(i) further provides that a personal search of an offender may be conducted by any officer “if there is **reasonable suspicion** to believe that the offender possesses contraband or other evidence of violations of the conditions of supervision.” (emphasis added). The existence of reasonable suspicion to search:

shall be determined in accordance with constitutional search and seizure provisions as applied by judicial decision. In accordance with such case law, the following factors, where applicable, may be taken into account:...

- (i) The observations of officers.
- (ii) Information provided by others.
- (iii) The activities of the offender.
- (iv) Information provided by the offender.
- (v) The experience of the officers with the offender.
- (vi) The experience of officers in similar circumstances.
- (vii) The prior criminal and supervisory history of the offender.

(viii) The need to verify compliance with the conditions of supervision.⁴

61 P.S. 331.27b(d)(6)(I)-(viii).

As noted, Defendants were subject to I.P.P. 42 Pa.C.S.A. § 9763 sets forth several conditions that a court may attach to a sentence of intermediate punishment. Specifically, that section provides:

(b) Conditions generally.—The court may attach any of the following conditions upon the defendant as it deems necessary:...

(14) To participate in drug or alcohol screening and treatment programs, including outpatient and inpatient programs.

2. Adams County Authority

Additionally, the standard rules of the Adams County Intermediate Punishment Program, which are set forth in Rule 705.1 of the Rules of Criminal Procedure for the Adams County Court of Common Pleas, provide that all persons sentenced to I.P.P. are subject to random urinalysis testing. The rules expressly state:

You must agree to have your blood, breath, or urine tested as directed by the Probation Office or Prison Officials to determine if you are alcohol and/or drug free.

In this case, both defendants signed, and therefore acknowledged, the above condition.

The Intermediate Punishment Sentencing Plan for Adams County, first approved in 1993⁵ by the Honorable Oscar F. Spicer, then President Judge of the Adams County Court of Common Pleas (since retired), requires an offender to submit to drug testing according to the following schedule. An offender in Phase 1 must submit to drug testing as mandated by the prison. An offender in Phase 2, Phase 3, or Phase 4 is required to submit to one random drug test per week. An offender in Phase 5 is required to submit to drug testing “as needed.”

⁴“Conditions of supervision” are defined as: “Any terms or conditions of the offender’s supervision, whether imposed by the court or an officer, including compliance with all requirements of Federal, State, and local law.”
61 P.S. § 331.27b(g).

⁵The Schedule has been re-approved each year since 1993.

The following is the “Adult Probation Department Drug Testing Policy” for Adams County⁶:

1. Adams County Adult Probation office will conduct random drug-testing on all persons sentenced through the Court of Common Pleas placed under its jurisdiction.
2. Adams County officers will only test witnessed urine samples.
3. Adams County officers will be trained in the administration and screening of all current drug testing devices.
4. Positive urine tests will result in official documentation which may be used in future Court proceedings against the defendant and will be at the cost of the defendant.
5. Negative urine tests will be at the cost of the department.
6. Samples will be identified by file number.
7. Adams County Adult Probation officers will document through chain of command everyone who handles the urine samples in question.
8. Urine samples will be maintained in the Adams County Adult Probation Department until final Court disposition.
9. Refusal of an offender to submit to a urine screen or provide a sample will count against the defendant as a positive urine result and presented in Court as such.

Continued to next issue (4/2/2004)

⁶ This policy was drafted by the Chief Adult Probation Officer of the Adams County Department of Adult Probation and Parole, and was reviewed and accepted by both the former and current President Judges of this Court.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1006 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate in Union Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in Legislative Route 01030, known as Pine Grove Road, at corner of land of Glenn W. Sterner; thence by land of Glenn W. Sterner, and running through an iron pin located 7.7 feet from the place of Beginning, North 41 degrees 34 minutes 09 seconds East 161.21 feet to an iron pin along land of Harry C. Worley; thence by land of Harry C. Worley, South 52 degrees 46 minutes 30 seconds East 223.14 feet to an iron pin at corner of land of Ivan E. Arentz; thence by land of Ivan E. Arentz, and running through an iron pin located 5.75 feet from the end of this line, South 43 degrees 00 minutes 47 seconds West 188.75 feet to a point in Pine Grove Road; thence in Pine Grove Road, North 45 degrees 39 minutes 00 seconds West 218 feet to an iron pin in said Road at corner of land of Glenn W. Sterner, the place of BEGINNING. CONTAINING 38,502 square feet, or 0.883 acre.

The foregoing description was obtained from a Subdivision Plan prepared by Wilbur L. Plank, Registered Professional Engineer, dated August 16, 1973, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 3 at page 32, the tract above described being designated as Lot No. 2 on said Plan.

The tract of land above described being the same which Ethel M. Sterner, widow, by deed dated March 24, 1995, and intended to be recorded in the Office of the aforesaid Recorder of Deeds, conveyed to Eric J. Sterner, the Mortgagor herein.

SEIZED and taken into execution as the property of **Eric J. Sterner** 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 June 1, 2004, 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.

3/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1310 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT piece, parcel or tract of land with any improvements thereon erected, situate, lying and being in Hamilton Township, Adams County, Pennsylvania, being more particularly bounded, limited and described as follows:

BEGINNING for a corner at a point in the centerline of Pennsylvania Legislative Route No. 01023 (Dick's Dam Road) at Lot No. 2 on the plan hereinafter mentioned; thence along said Lot No. 2, South forty (40) degrees forty-one (41) minutes thirty-six (36) seconds West, four hundred thirty-eight and thirteen one-hundredths (438.13) feet to a point at Lot No. 15 on said plan; thence along Lot No. 15, North fifty-five (55) degrees fifteen (15) minutes twenty (20) seconds West, one hundred and fifty-four one-hundredths (100.54) feet to a point at Lot No. 4 on said plan; thence along Lot No. 4, North forty (40) forty-one (41) minutes thirty-six (36) seconds East, four hundred thirty-eight and thirteen one-hundredths (438.13) feet to a point in the centerline of Pennsylvania Legislative Route 01023, aforesaid; thence in and along the centerline of Pennsylvania Legislative Route 01023, South fifty-five (55) degrees fifteen (15) minutes twenty (20) seconds East, one hundred and fifty-four one-hundredths (100.54) feet to the point and place of BEGINNING. CONTAINING 1.0058 acres. BEING known as Lot No. 3 on the final plan of Glab View Acres, prepared by Donald E. Worley, Registered Surveyor, on July 3, 1972, which said plan, as approved by the appropriate municipal authorities of Hamilton Township, Adams County, Pennsylvania, has been recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 2, Page 44.

BEING the same premises which Glenn E. Hilbert and Willie Mae Hilbert, his wife, by Deed dated the 30th day of September, 1998, and recorded at

Adams County in the Office of the Recorder of Deeds, in and for the County of Adams, on the 5th day of October, 1998, in Record Book 1673, Page 80, granted and conveyed unto Lisa A. Livelsberger, single woman and James M. Davis, single man.

Tax Map J-9, Parcel 112

BEING KNOWN AS 871 Dicks Dam Road (Hamilton Township), New Oxford, PA 17350

Property ID No. J9-112

TITLE TO SAID PREMISES IS VESTED IN Lisa A. Livelsberger, single woman and James M. Davis, single man by deed from Glenn E. Hilbert and Willie Mae Hilbert, his wife, dated 9/30/1998, recorded 10/5/1998, in Deed Book 1673, Page 80.

SEIZED and taken into execution as the property of **James M. Davis & Lisa A. Livelsberger** 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 June 14, 2004, 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.

3/12, 19 & 26

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Commonwealth of Pennsylvania.

The name of the corporation is C.D.H. CONSULTING, INC.

The corporation has been incorporated under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania Act of December 22, 1988.

C.D.H. Consulting, Inc.
448 Kohler Mill Road
New Oxford, PA 17350

3/26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1244 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE TWO CERTAIN tracts of land situate in the Village of Mummasburg, Franklin Township, Adams County, Pennsylvania, as follows:

TRACT NO. 1

BEGINNING at a point in the State Highway leading from Gettysburg to Mummasburg at a corner of land of Guy R. Fidler, which point of beginning is 25.3 feet from a post located along the first course of the within description; thence leaving State Highway and running by land now or formerly of Guy R. Fidler South 58 degrees 57 minutes West, 263 feet to a post along an alley; thence along said alley North 30 degrees 30 minutes West 136 feet to a stake; thence by Tract No. 2 North 58 degrees 57 minutes East, 263 feet to a spike in the aforesaid State Highway; thence in said State Highway South 30 degrees 30 minutes East, 136 feet to a point, the place of BEGINNING, CONTAINING 131 perches.

TRACT NO. 2

BEGINNING at a spike in the State Highway leading from Gettysburg to Mummasburg, which spike is located 24.7 feet from a post long the fourth course within description; thence in the center of said State Highway South 30 degrees 30 minutes East, 115.5 feet to a spike; thence leaving said State Highway and running by Tract No. 1, South 58 degrees 57 minutes West, 263 feet to a stake along an alley; thence along said alley North 30 degrees 30 minutes West 115.5 feet to a stake at a corner of land now or formerly of Daniel E. Martz; thence by land now or formerly of the said Daniel E. Martz, North 58 degrees 57 minutes East, 263 feet to a spike in the aforementioned State Highway, the place of BEGINNING, CONTAINING 111 perches.

THE foregoing descriptions were obtained from a draft of survey made by LeRoy H. Winebrenner, Registered Surveyor, on October 26, 1954.

TRACT NO. 1 is hereby conveyed subject to any rights, which any third person or persons may have to use a strip of land located along the third course of the above-description of Tract No. 1 at an

Being Parcel No. (12)-E10, Parcel 30 SEIZED and taken into execution as the property of **Donald E. Shafer & Michelle A. Shafer** 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 June 14, 2004, 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.

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1313 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Tyrone Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a steel rod at corner of Lot along the right-of-way of PA 234 and along a 20-foot alley (open), as shown on the hereinafter boundary survey; thence along said alley North 29 degrees 30 minutes 55 seconds East, 260.00 feet to a steel rod at corner of Lot along said alley and along a 20-foot alley (not open), thence along said alley (not open) South 65 degrees 58 minutes 30 seconds East, 220.00 feet to a steel rod at corner of said Lot and along the right-of-way of Old Harrisburg Road (S.R. 3001); thence along said right-of-way of Old Harrisburg Road South 29 degrees 30 minutes 55 seconds West, 195.00 feet to a steel rod; thence North 65 degrees 58 minutes 30 seconds West, 65.00 feet to a steel rod; thence South 29 degrees 30 minutes 55 seconds West, 65.00 feet to a steel rod at corner of said Lot and along the right-of-way of PA 234; thence along the right-of-way of PA 234 North 65 degrees 58 minutes 30 seconds West, 155.00 feet to a steel rod at corner of Lot

along the right-of-way of PA 234 and along a 20-foot alley (open), the point and place of BEGINNING, CONTAINING 1.211 acre.

The above description was taken from a boundary survey prepared by Adams County Surveyors dated August 8, 1998. Said Lot is identified as Lots 68, 69, 70 and 71 on said survey.

TITLE TO SAID PREMISES IS VESTED IN Thomas P. Hunt by Deed from Shirley P. Heltridge, widow dated 08/14/1998 and recorded 08/14/1998 in Record Book 1642 Page 31.

Premises being: 2796 Heidlersburg Road, Gettysburg, PA 17325

Tax Parcel No. 1-30

SEIZED and taken into execution as the property of **Thomas P. Hunt** 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 June 14, 2004, 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.

3/26, 4/2 & 9

INCORPORATION NOTICE

THE PLACE 4 JOBS, INC., an Internet-based physician placement firm, has initiated business operations at 788 Burnside Drive, Gettysburg, PA 17325. The Place 4 Jobs, Inc. has been organized under the provisions of the Business Corporation Law of 1988, 15 Pa. C.S. § 1101 et seq.

3/26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1300 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece or parcel of land, situate, lying and being in Oxford Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING for a point on the property line of the cul-de-sac of Cherry Court at corner of Lot No. 106 of the hereinafter referenced plan of lots; thence along Lot No. 106, South 42 degrees 02 minutes 49 seconds West 92.07 feet to a point at other lands now or formerly of Oxford Estates; thence along same, North 34 degrees 52 minutes 51 seconds West 143 feet to a point at Lot No. 104 on said plan; thence along Lot No. 104, South 85 degrees 06 minutes 59 seconds East 129 feet to a point on the property line of the cul-de-sac of Cherry Court; thence along same, by a curve to the left, the radius of which is 50 feet, for an arc length of 42 feet and having a long chord bearing and distance of South 21 degrees 26 minutes 29 seconds East 40.78 feet to a point at Lot No. 106, the point and place of BEGINNING. CONTAINING 8,650 square feet and being Lot No. 105 on a plan of lots of Oxford Estates, Phase IV, dated May 23, 1985, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 42, page 5.

BEING the same premises which, by her Deed dated September 30, 1993 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, at Deed Book 787, page 33, Anna Marie Cox granted and conveyed unto Betty J. Topper, Grantor herein.

Under and subject to any and all covenants, conditions, reservations, restrictions, limitations, right-of-ways, objections, easements, agreements, etc., as they appear of record.

With the appurtenances: TO HAVE AND TO HOLD the same unto and for the use of Grantees, their heirs and assigns forever.

HAVING thereon erected a dwelling house known as: 3 Cherry Court, New Oxford, Pennsylvania 17350

BEING THE SAME PREMISES WHICH Betty J. Topper, by Deed dated 12/3/99 and recorded 12/8/99 in Adams County Deed Book 1966, Page 167, granted and conveyed unto Rodney A. Carey and Teresa M. Carey.

SEIZED IN EXECUTION AS THE PROPERTY OF RODNEY A. CAREY AND TERESA M. CAREY UNDER ADAMS COUNTY JUDGMENT NO. 02-S-1300

Map & Parcel (35) 8-114

SEIZED and taken into execution as the property of **Rodney A. Carey & Teresa M. Carey** 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 June 21, 2004, 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.

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1163 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece, parcel or tract of land situate, lying and being in the Borough of Bonneauville, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a point along the right-of-way line of Bonnie Field Circle, a fifty (50) feet wide right-of-way, and corner of Lot No. 42-A on subdivision plan hereinafter referred to; thence continuing along Lot No. 42-A, South twenty-six (26) degrees thirty-four (34) minutes forty-five (45) seconds East, one hundred thirty-two and six hundredths (132.06) feet to a point along other lands now or formerly of Ronald L. Carter and Meyer & Meyer Partnership; thence continuing along said last mentioned lands, South sixty-three (63) degrees twenty-eight (28) minutes forty-eight (48) seconds West, twenty-five and seventy-five hundredths (25.75) feet to a point at corner of Lot No. 43-A on subdivision plan hereinafter referred to; thence continuing along Lot No. 43-A, North thirty-seven

(37) degrees forty-seven (47) minutes thirty-seven (37) seconds West, one hundred twenty-seven and seventy-nine hundredths (127.79) feet to a point along the right-of-way line of Bonnie Field Circle, aforesaid; thence continuing along the right-of-way line of Bonnie Field Circle, by a curve to the right, having a radius of two hundred thirty-eight and ninety-seven hundredths (238.97) feet, an arc length of fifty-one and fourteen hundredths (51.14) feet, and a long chord bearing and distance of North, fifty-five (55) degrees fifty-three (53) minutes fifty-eight (58) seconds East, fifty-one and four hundredths (51.04) feet to a point along the right-of-way line of Bonnie Field Circle, the point and place of BEGINNING.

CONTAINING 5,001 square feet and being Lot No. 42-B on Final Plan of Bonnie Field, prepared by Worley Surveying, dated April 3, 1995, File No. C-1488, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 67, page 11.

HAVING erected thereon a dwelling known as 7 B Bonniefield Circle, Gettysburg, PA 17325-7800.

PARCEL NO. 9-56B

BEING the same premises which Thomas F. Spanger, single, by deed dated 06/28/1996 and recorded on 07/12/1996 in Adams County, Pennsylvania, Recorder of Deeds Office in Deed Book Volume 1225, page 23, granted and conveyed unto Mark A. Stapleton, single, and Sharon L. Wiltrout, single.

SEIZED and taken into execution as the property of **Mark A. Stapleton & Sharon L. Stapleton** 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 June 21, 2004, 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.

3/26, 4/2 & 9

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 04-S-152
Action to Quiet Title

NORA EDNA STARRY, widow a/k/a
NORA E. STARRY, by her Attorneys-in-
Fact, STANLEY L. STARRY and BETTY
F. WARNER, Plaintiff
vs.

GEORGE E. DEARDORFF and his heirs
at law, JOHN W. DEARDORFF,
GRAYSON O. DEARDORFF, and G.
WILMER DEARDORFF, their respective
heirs, executors, administrators, succes-
sors, and assigns, Defendants

TO: George E. Deardorff and his heirs at
law, John W. Deardorff, Grayson O.
Deardorff, and G. Wilmer Deardorff, their
respective heirs, executors, administra-
tors, successors, and assigns

TAKE NOTICE that on February 13,
2004, Nora Edna Starry, widow, a/k/a
Nora E. Starry, by her Attorneys-in-Fact,
Stanley L. Starry and Betty F. Warner,
filed a Complaint initiating an Action to
Quiet Title against George E. Deardorff
and his heirs at law, John W. Deardorff,
Grayson O. Deardorff, and G. Wilmer
Deardorff, their respective heirs, execu-
tors, administrators, successors, and
assigns, averring that Nora Edna Starry,
a/k/a Nora E. Starry, is the owner of cer-
tain real property described herein. The
Complaint requests the Court to extin-
guish any possible interest you may
have in said real property. The real prop-
erty which is the subject of this Action to
Quiet Title consists of an improved tract
of land situate in Butler Township, Adams
County, Pennsylvania, bounded and
described as follows:

BEGINNING at a point in the center-
line of Township Route T-530 leading
from Center Mills to Route 234 at corner
of land now or formerly of the Biglerville
Grange; thence running in the centerline
of Township Route T-530 North 6
degrees 55 minutes 0 seconds West,
296.03 feet to a railroad spike; thence by
land now or formerly of Roy D. Guise
South 89 degrees 0 minutes 20 seconds
East, 528.53 feet to an iron pin; thence
South 2 degrees 28 minutes 20 seconds
West, 324.54 feet to the center of a 14
inch concrete post at the cemetery;
thence by said cemetery South 8
degrees 59 minutes 40 seconds East,
169.73 feet to the center of a 14 inch
concrete post; thence South 82 degrees
52 minutes 0 seconds West, 268.59 feet
to an iron pin; thence by land now or
formerly of the Biglerville Grange North 9
degrees 31 minutes 10 seconds West,
272.90 feet to an iron pin; thence by the
same South 81 degrees 36 minutes 0

seconds West, 195.80 feet to a point in
the centerline of Township Road T-530,
the point and place of BEGINNING,
CONTAINING 4.690 Acres.

The description is taken from a draft of
survey by Penn Forestry Company,
Richard W. Boyer, R.S., dated June 28,
1971.

The Court of Common Pleas of Adams
County, Pennsylvania, has ordered that
service of the Complaint be made on the
above Defendant and his heirs at law
and their respective heirs, executors,
administrators, successors, and assigns,
by publication. Plaintiff will request the
Court to enter a final judgment ordering
that any possible legal interest the
Defendant might have had in the real
property described herein be extin-
guished.

NOTICE TO DEFEND

You have been sued in court. If you
wish to defend against the claims set
forth in the Complaint filed in the Adams
County Court of Common Pleas at No.
04-S-152 and described hereinabove,
you must take action within **twenty (20)**
days after this publication by entering a
written appearance personally or by
attorney and filing in writing with the
Court your defenses or objections to the
claims set forth against you. You are
warned that if you fail to do so the case
may proceed without you and a judg-
ment may be entered against you by the
Court without further notice for the relief
requested by the Plaintiff. You may lose
money or property or other rights impor-
tant to you.

**YOU SHOULD TAKE THIS PAPER TO
YOUR LAWYER AT ONCE. IF YOU DO
NOT HAVE A LAWYER, GO TO OR
TELEPHONE THE OFFICE SET
FORTH BELOW. THIS OFFICE CAN
PROVIDE YOU WITH INFORMATION
ABOUT HIRING A LAWYER.**

**IF YOU CANNOT AFFORD TO HIRE
A LAWYER, THIS OFFICE MAY BE
ABLE TO PROVIDE YOU WITH INFOR-
MATION ABOUT AGENCIES THAT MAY
OFFER LEGAL SERVICES TO ELIGI-
BLE PERSONS AT A REDUCED FEE
OR NO FEE.**

Court Administrator
Adams County Courthouse
Gettysburg, PA 17325
Telephone Number: 717-337-9846
Toll Free: 1-888-337-9846

Puhl, Eastman & Thrasher
Harold A. Eastman, Jr., Esq.
220 Baltimore Street
Gettysburg, PA 17325
(717) 334-2159
Attorneys for Plaintiff

3/26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execu-
tion, Judgment No. 03-S-317 issuing out
of the Court of Common Pleas of Adams
County, and to me directed, will be ex-
posed to Public Sale on Friday, the 28th
day of May, 2004, at 10:00 o'clock in the
forenoon at the Sheriff's Office located in
the Courthouse, Borough of Gettysburg,
Adams County, PA, the following Real
Estate, viz.:

ALL THAT CERTAIN tract of land situ-
ated, lying and being in the Borough of
Carroll Valley, formerly Liberty Township,
Adams County, Pennsylvania, being Lot
#128 in Section A, bounded and
described as follows:

BEGINNING at a point in the center of
High Trail, formerly known as High Ridge
Trail, at Lot #127; thence by said lot,
North 62 degrees, 13 minutes West, 200
feet to a point; thence North 27 degrees,
47 minutes East, 90 feet to other lands,
now or formerly of Charnita, Inc.; thence
by said lands, South 62 degrees, 13 min-
utes East, 200 feet to a point in the center
of said High Trail, formerly known as
High Ridge Trail; thence in said High
Trail, formerly known as High Ridge Trail,
South 27 degrees, 47 minutes West, 90
feet to the place of BEGINNING. The
above description was taken from a plan
of lots labeled "Section A, Charnita" and
dated March 1, 1965, prepared by
Gordon L. Brown, R.S., recorded in
Adams County Miscellaneous Docket 3,
page 733.

Map 13 Parcel 16

SEIZED and taken into execution as
the property of **Michael K. Burke & The
United States of America** 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 June 21, 2004, 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 prop-
erty 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.

3/26, 4/2 & 9

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF BURNELLA A. DUBS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Dawn M. Sager, 217 West Hanover Street, Hanover, PA 17331

Attorney: Judith Koper Morris, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF LUTHER BENJAMIN HUMBERT, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Alan L. DeGroft, 1009 Bollinger Road, Littlestown, PA 17340

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

ESTATE OF MARY M. SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrices: Barbara J. Smith & Lucinda C. Glassmoyer, c/o Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403

Attorney: Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403

SECOND PUBLICATION

ESTATE OF LINDA L. RHINEHART, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administratrix: Gladys Mary Knouse, c/o 3015 Eastern Boulevard, York, PA 17402

Attorney: Karen L. Saxton, Esq., Donald L. Reihart, Esq., Law Office of Donald L. Reihart, 3015 Eastern Boulevard, York, PA 17402

THIRD PUBLICATION

ESTATE OF MILDRED J. BUCHER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Co-Executors: Metha R. Williams, 1203 Old Route 30, P.O. Box 161, Cashtown, PA 17310; Mary B. Ritzman, P.O. Box 2333, McAlisterville, PA 17049

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

ESTATE OF JOHN DONALD DILLON a/k/a J. DONALD DILLON, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executors: Cynthia A. Grove, 1476 Buchanan Valley Rd., Orrtanna, PA 17353; Janet M. Bordwine, 138 Old Forest Circle, Winchester, VA 22602

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

ESTATE OF PHILIP E. PATTERSON, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Susan J. Carscadden, 6 Michele Court, Gaithersburg, MD 20878

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

ESTATE OF EDGAR GLENN RAF-FENSPERGER a/k/a E. GLENN RAF-FENSPERGER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: Robert E. Althoff & Linda L. Althoff, 65 Table Rock Road, Gettysburg, PA 17325

ESTATE OF WILLIAM H. RAF-FENSPERGER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Mary C. Schlosser, 360 Shippensburg Road, Biglerville, PA 17307

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

ESTATE OF FLORENCE S. RAY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: Richard C. Ray, 430 Sunrise Blvd., Elizabethtown, PA 17022; Gwendolyn Ray, RR 1, Box 175, Starks, ME 04911

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore St., Gettysburg, PA 17325

ESTATE OF EVELYN M. RUMSEY, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Donald E. Rumsey, 140 Cheetah Drive, Hanover, PA 17331

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

ESTATE OF DORCAS I. SIMPSON, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administrators: Michael C. Simpson, 11668 Gumtree Road, Brogue, PA 17309; Ronald H. Simpson, 392 Sutton Road, Abbottstown, PA 17301

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

ESTATE OF BONNIE L. VANDELINDER a/k/a BONNIE LUCILE VANDELINDER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Roy E. VanDelinder, Jr., 28 Menlo Place, Rochester, NY 14620

Attorney: John A. Wolfe, Esq., Wolfe & Rice, LLC, 47 W. High St., Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-1232 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land, situate, lying and being in Highland Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to-wit:

TRACT NO. 1

BEGINNING at a point for a corner, in the center of the State Highway leading from Gettysburg to Fairfield marked by an iron pin set on the North side of said highway; thence running by land now or formerly of J.J. Spence, North eight and three-fourths (8-3/4) degrees West, two hundred and fourteen (214) feet to an iron pin; thence running by land of the same, North eighty-one and one-fourth (81-1/4) degrees East, one hundred and fifty-four (154) feet to an iron pin; thence running by land of the same, South eight and three-fourths (8-3/4) degrees East, two hundred and fourteen (214) feet to a point in the center of the above mentioned highway marked by an iron pin set on the North side of said highway; thence running in the center of said highway, South eighty-one and one-fourth (81-1/4) degrees West, one hundred fifty-four (154) feet to a point in the center of said highway, the place of BEGINNING. CONTAINING one hundred and twenty-one perches and fourteen square feet.

TRACT NO. 2

BEGINNING at spike in the center of Pennsylvania Route #116 leading from Gettysburg to Fairfield at Southwest corner of land of the Estate of Allen L. Mallow, said spike being South 8 degrees 45 minutes East from an iron pin set back 21.1 feet along the line; thence in the center of said road, South 81 degrees 15 minutes West, 10 feet to a spike in the center of said road; thence along other land now or formerly of J.J. Spence and Ruth J. Spence, husband and wife, through an iron pin set back 21.1 feet along the line, North 8 degrees 45 minutes West, 214 feet through a small stream to an iron pin, thence along other land now or formerly of J.J. Spence, husband and wife, North 81 degrees 15 minutes East, 10 feet to an iron pin; thence by other land of Estate of Allen L. Mallow, back across the small stream, South 8 degrees 45 minutes East, 214 feet through an iron pin set

back 21.1 feet to a spike in the center of the highway, the place of BEGINNING. CONTAINING 7 perches and 204.11 square feet.

TRACT NO. 3

BEGINNING at a point in the center of Pennsylvania Route #116 leading from Gettysburg to Fairfield at Southeast corner of lot of the Estate of Allen L. Mallow; thence by other land of the Estate of Allen L. Mallow through an iron pin set back along the line, North 8 degrees 45 minutes West, 214 feet across small stream to an iron pin; thence by other land now or formerly of J.J. Spence and Ruth J. Spence, husband and wife, North 81 degrees 15 minutes East, 60 feet to an iron pin; thence by other land now or formerly of J.J. Spence and Ruth J. Spence, husband and wife, to be conveyed to John E. and Mary V. McDannell, South 8 degrees 45 minutes East, 214 feet through an iron pin set back 21.1 feet along the line to a point in the center of said State Highway; thence along the center of said State Highway, South 82 degrees 15 minutes West, 60 feet to a point, the place of BEGINNING. CONTAINING 47 perches and 44.25 square feet.

The description of Tract Nos. 2 and 3 were taken from draft of survey made June 7th, 1958, by Wilbur V. Redding, Registered Surveyor.

TITLE TO SAID PREMISES IS VESTED IN Michael L. Glynn by Deed from Dennis J. Baldwin and Roxann M. Baldwin, husband and wife dated 11/6/96, recorded 11/20/96, in Deed Book Volume 1291, page 224.

Tax Parcel: D-14-22

Premises Being: 3115 Fairfield Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of Michael L. Glynn 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 June 21, 2004, 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.

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-967 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 260 on a plan of lots of Lake Meade Subdivision duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County at Plan Book 1, Page 1, and subject to all legal highways, easements, rights-of-way, and restrictions of record.

UNDER AND SUBJECT to any and all restrictions, objections, etc., as they appear of record.

BEING KNOWN AS: 85 Schofield Drive, East Berlin, PA 17316

PROPERTY ID NO. 11-100

TITLE TO SAID PREMISES IS VESTED IN Jill A. Fissel by deed from Michael J. Fissel and Jill A. Fissel formerly known as Jill A. Angel, husband and wife dated 12/22/94 recorded 12/28/94 in Deed Book 980 Page 165.

SEIZED and taken into execution as the property of Jill A. Fissel and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, 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.

3/26, 4/2 & 9