

# *Adams County* Legal Journal

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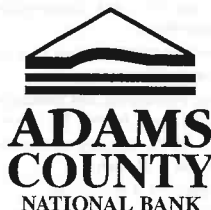
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## **IN THIS ISSUE**

**CHASE MANHATTAN ET AL VS. GINDLESPERGER**

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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## CONTINUING LEGAL EDUCATION PROGRAM

### *A Practical Approach to Liens on Real Estate*

March 15, 2001 – 9:00 a.m. - 1:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

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

### SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-988 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of February, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated, lying and being in Menallen Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point on line of land now or formerly of Menallen Township Election house and at corner of land now or formerly of Percy R. Beamer; thence by said land now or formerly of Percy R. Beamer and crossing Legislative Route 01010 South 53 degrees 00 minutes West 217.8 feet to a point; thence continuing by said land now or formerly of Percy R. Beamer South 49 degrees East 13.9 feet to a point at corner of land now or formerly of Craig E. Manning thence by said land now or formerly of Craig E. Manning South 56 degrees 46 minutes 00 seconds West 250.5 feet to a point at a corner of land now or formerly of James R. Kitchum, thence by said land now or formerly of James R. Kitchum and by land now or formerly of Alex S. Cicheskis and crossing a 33 foot wide private right of way North 55 degrees 56 minutes 10 seconds West 391.5 feet to a point on line of land now or formerly of John V. Lutz; thence by said land now or formerly of John V. Lutz North 52 degrees 52 minutes 00 seconds East 105.0 feet to a pipe found at corner of Lot No. 1 on the hereinafter referred to draft of survey; thence by said Lot No. 1 and re-entering said 33 foot wide right of way; South 33 degrees 43 minutes 45 seconds East 35.38 feet to a pin set in the center line of said right of way; thence in said right of way and

continuing by said Lot No. 1 North 62 degrees 12 minutes 40 seconds East 201.19 feet to a pin set; thence continuing in and by same North 19 degrees 30 minutes 20 seconds East 109.39 feet to a point in said Legislative Route 01010 aforesaid; thence crossing said Legislative Route 01010 and by Lot No. 1 aforesaid North 43 degrees 59 minutes East 50.69 feet to a point on line of land now or formerly of Donald J. Thomas; thence by said land now or formerly of Donald J. Thomas; thence by said land now or formerly of Donald J. Thomas South 58 degrees 50 minutes East 35 feet to a point at corner of land now or formerly of Menallen Township Election House; thence by said land now or formerly of Menallen Township Election House and re-entering said Legislative Route 01010 South 28 degrees 40 minutes West 35 feet to a point in said Legislative Route 01010; thence in said Legislative Route 01010 South 58 degrees 50 minutes East 135 feet to a point; thence leaving said road North 28 degrees 40 minutes East 35 feet to a point at corner of land now or formerly of Menallen Township Election House; thence continuing by same South 58 degrees 50 minutes East 234.5 feet to a point, the place of BEGINNING. CONTAINING 3.30 Acres more or less.

The above description was taken from a draft of survey prepared by George W. Joiner, Sr., dated December 1, 1981.

THE improvements thereon being known as No. 564 Bendersville - Wensville Road.

IMPROVEMENTS consist of a single family residential dwelling.

BEING PREMISES: 564 Bendersville - Wensville Road, Aspers, PA 17304.

SOLD as the property of Charles D. and Virginia A. Riebling.

TAX PARCEL # E05-00-39.

SEIZED and taken into execution as the property of **Charles D. Riebling &**

**Virginia A. Riebling** 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 March 19, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/26, 2/2 & 9

### CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that a petition was filed in the Court of Common Pleas of Adams County, Pennsylvania, to No. 01-S-59 on January 17, 2001, requesting that a decree be entered to change the name of Jonathan Foster Cooper to Jonathan Foster Frankenburger. The Court has fixed March 5, 2001, at 9:00 A.M. in Courtroom No. 1, 2 or 3 of the Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania, as the time and place for hearing on such request and for any person opposed to the petition to show cause why such request should not be granted.

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

2/2

## CHASE MANHATTAN ET AL VS. GINDLESBERGER

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

2. In order to properly raise a genuine issue of fact, [Borrower] had the burden to present 'facts' by counter-affidavits, depositions, admissions, or answers to interrogatories. Mortgagee is correct in stating that attorney's fees of five percent of the loan principal have been found reasonable.

3. Attorney's fees of ten percent of the principal owed were found to be reasonable.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 99-S-555. CHASE MANHATTAN MORTGAGE CORPORATION, INC., f/k/a CHEMICAL RESIDENTIAL MORTGAGE CORPORATION, VS. BARBARA L. GINDLESBERGER.

Joshua B. Sears, Esq., for Plaintiff

Matthew R. Battersby, Esq., for Defendant

Bigham, J., December 3, 1999.

### OPINION ON PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Plaintiff Chase Manhattan Mortgage Corporation, Inc., f/k/a Chemical Residential Mortgage Corporation, ("Mortgagee") has filed a Motion for Summary Judgment against Defendant Barbara L. Gindlesperger ("Borrower"), and has filed a Brief in Support. Borrower has chosen not to file a Brief. The Court notes that, although Borrower has chosen not to file a brief on this Motion, the issues raised are **not** decided pursuant to Local Rule 210, which includes the remedy of waiver for failure to file a brief. The issues raised in Mortgagee's Motion are decided on their merits.

### STATEMENT OF FACTS

Mortgagee filed a Complaint in Mortgage Foreclosure on June 18, 1999, seeking *in rem* judgment in the amount of \$85,556.66 plus interest from June 1, 1999, costs and attorney's fees, and seeking foreclosure and sale of the mortgaged premises. Borrower filed an Answer denying that the mortgage was in default since February 1, 1999, as she had made a \$1,000.00 payment that was received and cashed. Borrower also denied that \$3,876.00 constitutes "reasonable

attorney's fees" in Adams County. Borrower requested a hearing on the issue of default and the amount due.

Mortgagee does not dispute the \$1,000.00 payment; Mortgagee states that the payment was applied on April 22, 1999 to the January 1999 payment owed. Mortgagee also notes that the attorney's fee claimed is five percent of the principal balance due on the loan.

### LEGAL DISCUSSION

Pennsylvania Rule of Civil Procedure 1035.2 reads as follows:

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

The standard of proof to be applied by the Court for motions for summary judgment and motions for judgment on the pleadings is very similar. "A motion for judgment on the pleadings admits the truth of averments in the pleadings of the non-moving party and the untruth of any of its own averments which are denied. On motions for summary judgment, the pleadings are reviewed in the light most favorable to the non-moving party, and any doubts as to the existence of a genuine issue of material fact are resolved against the party seeking the judgment." *Weissman v. City of Philadelphia*, 99 Pa. Cmwlth. 403, 405 fn.2, (1986), *citations omitted*.

Mortgagee's burden of proof can be stated as follows: "In an action on a note or bond secured by a mortgage, a plaintiff presents a prima facie case by showing 'the execution and delivery of the [note] and its nonpayment...'" *Corestates Bank N.A., v. Cutillo*, \_\_\_ Pa.Super. \_\_\_, 723 A.2d 1053, 1056 (1999). In *New York Guardian Mortgage Corp. v. Dietzel*, 362 Pa. Super. 426 (1997), *rearg. den'd*

July 6, 1987, the Superior Court affirmed the trial court's grant of summary judgment. The Court wrote "[i]t is clear that the court was correct in granting summary judgment as to the liability issue. Appellants, in their answer to appellee's complaint, admitted that they were behind in their mortgage payments." *Dietzel* at 426.

As in *Dietzel*, Borrower here has admitted to her failure to make payment, and so no material issue of fact exists regarding Borrower's default. Although Borrower raises issues regarding the \$1,000 payment and the reasonability of attorney's fees, the Court declines to find a material issue of fact in these allegations. "In order to properly raise a genuine issue of fact, [Borrower] had the burden to present 'facts' by counter-affidavits, depositions, admissions, or answers to interrogatories," which Borrower has failed to do. *Dietzel* at 426. Additionally, Mortgagee is correct in stating that attorney's fees of five percent of the loan principal have been found reasonable. In *Citicorp Mortgage, Inc. v. Morrisville Hampton Village Realty, LP, Inc.*, 443 Pa. Super. 535 (1995), attorney's fees of ten percent of the principal owed were found to be reasonable, and the mortgagee's motion for summary judgment was granted. Because the fees requested in the case at bar are only five percent of the principal and this case is also before the Court on a Motion for Summary Judgment, the Court finds the fees to be reasonable.

Accordingly, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 3rd day of December, 1999, Plaintiff's Motion for Summary Judgment is granted.

**SHERIFF'S SALE**

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-851 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 February, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate on the Northeast side of Main Street in the Borough of York Springs, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a mark in concrete which said mark is situate on the East curb line of Main Street in the Borough aforesaid at lands N/F of Robert C. Hartley and Barbara A. Hartley, said mark in concrete being South 42 Degrees East, 44 feet from another mark in concrete which is situate at the intersection of the South property line of North "B" Street and the eastern curb line of Main Street; thence along lands N/F of Robert C. Hartley and Barbara A. Hartley, North 48 degrees East 153.75 feet to a steel pin on the Western side of a public alley; thence along the western side of said public alley, South 42 degrees East, 23 feet to a steel pin at lands N/F of Irene Kathryn Hursh; thence by lands of Irene Kathryn Hursh, South 48 degrees West 153.75 feet to a mark in concrete on the East curb line of Main Street; thence along the east curb line of Main Street North 42 degrees West, 23 feet to a mark in concrete at lands N/F of Robert C. Hartley and Barbara A. Hartley aforesaid, the point and Place of BEGINNING.

CONTAINING 3,536 square feet, neat measure.

UNDER AND SUBJECT, NEVERTHELESS, to all restrictions, easements, rights of way and conditions of record.

THE foregoing description was taken from a draft of survey prepared for William D. Hoffman by J. H. Rife, R.E. dated January 13, 1975.

HAVING THEREON ERECTED A DWELLING KNOWN AS 126 Main Street, York Springs, Pennsylvania 17372.

BEING THE SAME PREMISES WHICH Patricia A. Golden, single person, by her Deed dated September 23, 1991 and recorded in Adams County Recorder of Deeds Office on October 3, 1991, in Deed Book 601, page 781, granted and conveyed unto Donald M. Delpopolo and Dianna L. Delpopolo.

Tax Map # 5-49

SEIZED and taken into execution as the property of **Donald & Dianna Delpopolo** 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 March 12, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/19, 26 & 2/2

**SHERIFF'S SALE**

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-260 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 February, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the Eastern edge of Drummer Drive at Lot No. 81 of the hereinafter referenced subdivision plan; thence along said Eastern edge of Drummer Drive by a curve to the right whose radius is two hundred thirty-two and sixteen hundredths (232.16) feet and whose long chord bearing is North thirty (30) degrees twenty-six (26) minutes fifty-six (56) seconds East, two hundred twenty-four and thirty-two hundredths (224.32) feet for an arc distance of two hundred thirty-four and eleven hundredths (234.11) feet to a point at Lot No. 83 of said plan; thence along same South thirty (30) degrees thirty-nine (39) minutes forty-five (45) seconds East, one hundred twenty-eight and thirty-six hundredths (128.36) feet to a point at Lot No. 80 of said plan; thence along same and Lot No. 81 South sixty-five (65) degrees eight (08) minutes fifty-seven (57) seconds West, one hundred ninety-seven and forty-two hundredths (197.42) feet to a point at on the Eastern edge of Drummer Drive, the point and place of BEGINNING. CONTAINING 16,982 square feet.

THE above described lot being designated as Lot No. 82 on the Subdivision Plan of "South Branch Estates", dated February 3, 1993, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 63, page 93.

TAX PARCEL # 1-112

BEING KNOWN AS: 225 DRUMMER DRIVE, NEW OXFORD, PA 17350

SEIZED and taken into execution as the property of **Jody Livingston** 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 March 19, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/19, 26 & 2/2

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

In re: First and Final Account of PNC Bank, National Association Trustee of the Marian H. Carey Living Trust dated June 24, 1997.

NO. OC-6-01

Accounting from July 6, 1999 to  
December 13, 2000

TO ALL PERSONS CONCERNED:

NOTICE IS HEREBY GIVEN that the First and Final Account of PNC Bank, NA, Trustee of the Marian H. Carey Living Trust dated June 24, 1997, has been filed in the Office of the Clerk of the Orphans' Court and will be presented to the Court of Common Pleas of Adams County, Pennsylvania, at Gettysburg, Pennsylvania, for confirmation and approval on March 5, 2001, at 9:00 a.m.

Peggy J. Breighner, Clerk  
Hartman & Yannetti, Attorneys

1/26 & 2/2

**NOTICE**

NOTICE IS HEREBY GIVEN that Thomas R. Nell intends to apply in open Court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania on the 5th day of March, 2001, and that he intends to establish legal practice at his law office located at 340 Nell Road, East Berlin, Pennsylvania 17316.

1/19, 26 & 2/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-774 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 February, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Butter Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a stone in the public road known as the Stone Jug Road (running westwardly from U.S. Highway Route No. 15), at corner of land now or formerly of Lizzie Guise and land now or formerly of Melvin L. Cool; thence by land now or formerly of Melvin L. Cool South 69-1/2 degrees West, 48.4 perches to a post at corner of land now or formerly of Melvin L. Cool and land now or formerly of John A. Maus; thence by land now or formerly of John A. Maus North 28-1/4 degrees West 8.2 perches to a post; thence by same South 51 degrees West, 64 perches to a stone at corner of land now or formerly of John A. Maus and land now or formerly of R. Landon Plank; thence by land now or formerly of R. Landon Plank North 63-1/2 degrees West, 55.3 perches to a point; thence by same North 54-1/2 degrees West, 1.7 perches to a point at corner of land now or formerly of R. Landon Plank and land now or formerly of Rex L. Rice North 64-1/4 degrees East, 124.1 perches to a point in the aforesaid public road; thence in said public road and by land now or formerly of Deatrick-Gardner Heirs South 49-3/4 degrees East, 6.1 perches to a point; thence in said public road and by land now or formerly of Lizzie Guise South 51-3/4 degrees East, 41.9 perches to a stone, the place of BEGINNING, CONTAINING 29 acres and 58 perches, more or less. (Sometimes erroneously said to be 39 A and 58 P, more or less).

The foregoing description of the tract of land hereby conveyed was obtained from draft of survey made by Leroy H. Winebrenner, R.S. on March 16, 1950.

Less, however, that 25.2310 acre tract previously conveyed to Weldon V. Lane and A. Frances Lane by deed dated December 14, 1973, and recorded in the Adams County, Pennsylvania, Recorder of Deeds Office in Deed Book 311 page 4.

TAX PARCEL # G-8-36

SEIZED and taken into execution as the property of **Clarence B. McCurry** 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 March 19, 2001, and distribution will be made in

accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/26, 2/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-990 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 February, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described lot of ground, situate, lying and being in Conewago Township, County of Adams, and Commonwealth of Pennsylvania, known on a plat or general plan of a series of lots, streets, avenues, etc., of lands of the Hanover Improvement Company, as Lot No. 11, adjoining Lot No. 12 on the East, a public alley on the North, Garfield Street on the West, and Linden Avenue on the South.

BEING known as 19 Linden Avenue, Hanover, PA 17331

Property ID No. 8-125

TITLE TO SAID PREMISES IS VESTED IN **Linda L. Starnier**, widow and **Thomas E. Kessel**, single by deed from **Linda L. King** now known as **Linda L. Starnier**, widow dated 6/3/1999 and recorded r/a in Deed Book 1866 page 281.

SEIZED and taken into execution as the property of **Linda L. Starnier & Thomas E. Kessel** 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 March 19, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/19, 26 & 2/2

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, February 13, 2001, at 9:00 o'clock a.m.

**BOWLING**—Orphans' Court Action Number OC-4-01. The First and Final Account of Adams County National Bank, by Nancy Reichart, Trust Officer, Executor of the Estate of Lillian J. Bowling, deceased, late of Straban Township, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

2/2 & 9

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Fictitious Names Act of 1982-295, as amended, (54 Pa. C.S. Sec. 301, et seq.) of the filing in the Office of the Secretary of the Commonwealth at Harrisburg, Pennsylvania, on the 17th of January, 2001, an application for registration for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name of: TRAINING VENTURES, with its principal place of business at 2225 Cranberry Road, York Springs, Adams County, Pennsylvania 17372.

The name and address of the only person owning or interested in the said business is: **Barbara A. Black**, 2225 Cranberry Road, York Springs, PA 17372.

Harry M. Baturin, Esq.  
Baturin & Baturin  
717 N. Second Street  
Harrisburg, PA 17102-3202

2/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-385 issuing out of the Court of Common Pleas of Adams County, and to me directed, (DECEMBER 8, 2000 SALE CONTINUED TO:) will be exposed to Public Sale on Friday, the 9th day of March, 2001 at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land situate on the southerly right of way line of Abbott's Drive in the Borough of Abbottstown County of Adams and State of Pennsylvania known and numbered as Lot No. 23 on a plan of lots for Abbott's Manor Phase II recorded in the office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plot 73, page 43, more fully bounded and described as follows to wit;

BEGINNING at a point on the southerly right of way line at a corner of Lot No. 24 on said plan; thence extending along the said southerly right of way line of Abbott's Drive north thirty (30) degrees, fifty-seven (57) minutes, thirty-three seconds East, eighty-six and forty-three one-hundredths (86.43) feet to a point; thence continuing along the said right of way line of Abbott's Drive on a line curving to the right leaving a radius of two hundred seventy-five (275) feet an arc distance of sixty-three and ninety-nine one hundredths (63.99) feet with a chord bearing North thirty-seven (37) degrees thirty-seven (37) minutes thirty (30) seconds East, sixty-three and eighty-four one hundredths (63.84) feet to a point, at a corner of Lot No. 22 on said plan; thence extending along the said Lot No. 22 on said plan South twelve (12) degrees three (03) minutes, thirty-three seconds one hundred seventy-seven and fifteen one hundredths (177.15) feet East to a point; thence south sixty-four (64) degrees thirty (30) minutes zero (00) seconds West fifty (50) feet to a point, at a corner of Lot No. 24 on said plan; thence extending along the said Lot No. 24, North forty-seven (47) degrees three (03) minutes forty-five (45) seconds West one-hundred two and eighty-eight one-hundredths (102.88) feet to the point and place of BEGINNING. CONTAINING 12,326 Sq. Ft.

UNDER AND SUBJECT TO part of a 50 foot wide gas transmission right of way crossing the subject premises as shown on said plan.

TOGETHER, with all buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments, and appurtenances, to the same belonging, or in any wise appertaining, and any reversions, remainders, rents, issues and profits thereof, and of every part and parcel thereof, including any interests specifically set forth, if any. And also, all the estate, right, title, interest, property, possession, claim, and demand whatsoever,

both in law and equity, of the Grantor of, in and to the same.

TO HAVE AND TO HOLD the same premises, and the appurtenances, hereby granted to Grantee and Grantee's heirs, successors and assigns forever, under and subject to the conditions set forth, if any.

AND THE SAID Grantor hereby covenants and agrees that Grantor will warrant specially the property hereby conveyed.

UNDER AND SUBJECT, nevertheless to the same condition, restrictions, exceptions and reservations as exist by virtue of prior recorded instruments, deeds and conveyances.

IT BEING THE SAME PREMISES which Hadley Holdings Corporation, by their deed dated May 30, 1996, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in record book 1218, page 136, granted and conveyed unto Garland Construction, Inc., Grantors herein.

Premises being known as 158 Abbott's Drive, Abbottstown, PA 17301.

SEIZED and taken into execution as the property of **Chad M. Surdich** 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 April 2, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/2, 9 & 16

NOTICE OF ACTION IN MORTGAGE FORECLOSURE

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW NO. 00-S-727 Mortgage Foreclosure

HOMESIDE LENDING INC., Plaintiff

vs.

JAMES R. WOODIE AND JAIME S. WOODIE, Defendants.

TO: James R. Woodie and Jaime S. Woodie

YOU ARE HEREBY NOTIFIED that on July 18, 2000, Plaintiff, HOMESIDE LENDING, INC., filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend against the above Defendants, in the Court of Common Pleas of Adams County, Pennsylvania, docketed to No. 00-S-727 wherein Plaintiff seeks to foreclose its mortgage securing the property located at 59 NORTH GALA, LITTLESTOWN, PA 17340 whereupon the property would be sold by the Sheriff of Adams County.

You are hereby notified to plead to the above referenced Complaint on or before 20 DAYS from the date of this publication or a Judgment will be entered against you.

NOTICE

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

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

Name: Court Administrator  
Address: Adams County Courthouse  
111-117 Baltimore Street  
Gettysburg, Pennsylvania  
17325

Telephone number: (717) 337-9846

Leon P. Haller, Esq.  
1719 North Front Street  
Harrisburg, PA 17102  
717-234-4178

2/2



## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-1131 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 March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

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

The above description was taken from a draft survey prepared by Adams County Surveyors, dated April 26, 1979, as recorded in Adams County Plat Book 28 at page 35.

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

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 23, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/2, 9 & 16

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-928 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 February, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situate, lying and being in Oxford Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING for a point on the right-of-way line of Curtis Drive at Lot No. 161 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 161, South twenty-seven (27) degrees fifty (50) minutes forty-four (44) seconds East, one hundred thirty (130.00) feet to a point at Lot No. 147 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 147, South sixty-two (62) degrees nine (09) minutes sixteen (16) seconds West, one hundred nine and seventy-seven hundredths (109.77) feet to a point on the right-of-way line of Matthew Drive as shown on the hereinafter referenced subdivision plan; thence along said right-of-way line of Matthew Drive, by a curve to the right, having a radius of two hundred twenty-five (225.00) feet, an arc length of forty-eight and sixty-three hundredths (48.63) feet and a long chord bearing and distance of North thirty-four (34) degrees two (02) minutes twelve (12) seconds West, forty-eight and fifty-three hundredths (48.53) feet to a point on the right-of-way line of Matthew Drive; thence further along the said right-of-way line of Matthew Drive, North twenty-seven (27) degrees fifty (50) minutes forty-four (44) seconds West, fifty-six and seventy-five hundredths (56.75) feet to a point at the intersection of Matthew Drive and Curtis Drive; thence along the intersection of Matthew Drive and Curtis Drive, by a curve to the right, having a radius of twenty-five (25.00) feet, an arc length of thirty-nine and twenty-seven hundredths (39.27) feet to a point and a long chord bearing and distance of North seventeen (17) degrees nine (09) minutes sixteen (16) seconds East, thirty-five and thirty-six hundredths (35.36) feet to a point on the right-of-way line of Curtis Drive; thence along the said right-of-way line of Curtis Drive, North sixty-two (62) degrees nine (09) minutes sixteen (16) seconds East, ninety (90.00) feet to a point, the point and place of BEGINNING. CONTAINING 14,732 square feet.

The above description being Lot No. 162 on the Final Subdivision Plan for Delbert Piper "Colonial Acres - Section I", prepared by Mort, Brown and Associates, dated April 1, 1993, which

said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 64 at page 93.

Tax Parcel #13-136

SEIZED and taken into execution as the property of **Michael J. Rice & Laurreta Ann Burgoon** 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 March 19, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/26, 2/2 & 9

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on January 16, 2001, for the purposes of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is B & L ENTERPRISE, INC.

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

2/2

## ESTATE NOTICES

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

## FIRST PUBLICATION

## ESTATE OF WALTER S. RAUBENSTINE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Evelyn M. Spotts, General Delivery, New Bloomfield, PA 17068; Gerald B. Raubenstein, 100 Keagy Avenue, Hanover, PA 17331; Harold W. Raubenstein, 600 Shorbs Hill Road, Hanover, PA 17331; Nevin E. Raubenstein, 869 Fairview Drive, Hanover, PA 17331

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

## ESTATE OF LILLIE M. SHANK, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Ronald L. Shank, 5036 Baltimore Pike, Littlestown, PA 17340

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

## ESTATE OF KERMIT E. SINGLEY, SR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Kermit E. Singley, Jr., 850 Hanover Road, Gettysburg, PA 17325

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

## ESTATE OF MARY R. SMITH a/k/a MARY P. SMITH, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executor: B. Guy Smith, 170 Kuhn Road, Littlestown, PA 17340

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

## ESTATE OF DORSEY EUGENE WEST, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Susan Rogers Cheek, 55 West High Street, Apartment No. 1, Gettysburg, PA 17325

Attorney: John R. White, Campbell & White, 112 Baltimore Street, Gettysburg, PA 17325

## SECOND PUBLICATION

## ESTATE OF ALICE E. ANDREW, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Administratrix: Ms. Betty J. Weatherly, 2761 Pumping Station Road, Fairfield, PA 17320

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

## ESTATE OF BERNADETTE M. FLICKINGER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Robert B. Flickinger, 6408 Lincoln Highway W., Thomasville, PA 17364; Larry F. Flickinger, 17 Taney Court, Taneytown, MD 21787

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

## ESTATE OF M. JANE GANTZ, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: Frederick A. Gantz, 29 E. Stevens Street, Gettysburg, PA 17325; Donald A. Gantz, 166 Sachs Road, Gettysburg, PA 17325

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

## ESTATE OF RUBY M. HESS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Personal Representative: Thurman M. Hess, 26 Mt. Vernon Terrace, Waynesboro, PA 17268

Attorney: J. L. Doyle, Esq., 114 Walnut St., P.O. Box 512, Waynesboro, PA 17268

## ESTATE OF JOEL M. HILL, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Wayne D. Hill, 10 White Oak Trail, Gettysburg, PA 17325; Bruce G. Hill, 84 Twin Lakes Drive, Gettysburg, PA 17325

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

## ESTATE OF HAROLD L. PLATZER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Kathleen G. Platzer, 309 Oak Lane, Gettysburg, PA 17325

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

## ESTATE OF ALVIN H. RUBY, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Co-Executors: Glenn A. Ruby, Carol Demiray and Gail McClain, c/o 29 North Duke Street, York, PA 17401

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

## ESTATE OF OLIVE O. SLAYBAUGH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: PNC Bank, N.A., Attn: Linda J. Lundberg, Asst. V.P., P.O. Box 308, Camp Hill, PA 17001-0308

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

## ESTATE OF MARY KATHRYN STARNER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Co-Executors: Sandra E. Boyer, William G. Inskip, Janet McMaster and Sarah Starnier, c/o 29 North Duke Street, York, PA 17401

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

## THIRD PUBLICATION

## ESTATE OF FRANCIS B. HARTMAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Administrators C.T.A.: Meriel E. Heldt, 31 Twin Lakes Drive, Gettysburg, PA 17325; Rena Susan Rebert, 702 Wright Avenue, Gettysburg, PA 17325

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

## ESTATE OF MUSETTA U. HOUCK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator: N. T. Washburn, 106 Lincolnway West, New Oxford, PA 17350

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

## ESTATE OF MARLIN W. KUHN, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executrix: Renee B. Kuhn, 2954 Carlisle Road, Gardners, PA 17324

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

## ESTATE OF MARY LOUISE NULL, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

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

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-930 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 February, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot, parcel or piece of land situate in the Borough of Carroll Valley (formerly Hamiltonban Township), County of Adams, and Commonwealth of Pennsylvania, being Lot 90, Section J, bounded and described as follows:

BEGINNING at a point in the center of Main Trail at Lot No. 89; thence by said lot North 87 degrees 23 minutes 40 seconds West, 200 feet to Lot No. 82; thence by said Lot North 3 degrees 11 minutes 40 seconds West, 100 feet to Lot No. 91; thence by said lot South 87 degrees 23 minutes 40 seconds East, 200 feet to a point in the center of said Main Trail; thence in said Main Trail South 3 degrees 11 minutes 40 seconds East, 100 feet to the place of BEGINNING.

THE ABOVE description was taken from a plan of lots labeled "Section J, Chamita Ski Area, Inc.", dated March 20, 1968, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1, at Page 24.

BEING THE SAME PREMISES which Oscar A. Hollingsworth and Mildred O. Hollingsworth, H/W, by Deed dated 9/29/89 and recorded 9/29/89 in the Office for the Recorder of Deeds in and for the County of Adams, and Commonwealth of Pennsylvania in Record Book Volume 534, Page 1119, granted and conveyed unto James P. Sites and Josephine E. Sites, H/W, mortgagors herein.

HAVING thereon erected a residential property known as 9 Main Trail, Fairfield, PA.

SEIZED and taken into execution as the property of **James P. Sites & Josephine E. Sites** 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 March 19, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/19, 26 & 2/2

# Adams County Legal Journal

Vol. 42

February 9, 2001

No. 37, pp. 203-210

## CONTINUING LEGAL EDUCATION PROGRAM

### *Dealing with a Client's Diminishing Mental Capacity-The Lawyer's Role*

February 26, 2001 – 8:30 a.m. - 10:00 a.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 1, Ethics – 1

### *Counseling Small Businesses*

March 9, 2001 – 8:30 a.m. - 2:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

### *2000 Amendments to the Federal Rules of Civil Procedure and Evidence*

March 13, 2001 – 8:30 a.m. - 11:30 a.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 3, Ethics – 0

### *Fundamentals of Mortgage Foreclosures*

March 23, 2001 – 8:30 a.m. - 1:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

### *Social Security Disability Practice-Advanced*

March 30, 2001 – 8:30 a.m. - 2:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 5, Ethics – 1

### *Ethical Pitfalls in Compromise & Release*

April 5, 2001 – 8:30 a.m. - 9:30 a.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 0, Ethics – 1

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

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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#### SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-988 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of February, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated, lying and being in Menallen Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point on line of land now or formerly of Menallen Township Election house and at corner of land now or formerly of Pearcy R. Beamer; thence by said land now or formerly of Pearcy R. Beamer and crossing Legislative Route 01010 South 53 degrees 00 minutes West 217.8 feet to a point; thence continuing by said land now or formerly of Pearcy R. Beamer South 49 degrees East 13.9 feet to a point at corner of land now or formerly of Craig E. Manning thence by said land now or formerly of Craig E. Manning South 56 degrees 46 minutes 00 seconds West 250.5 feet to a point at a corner of land now or formerly of James R. Kitchum, thence by said land now or formerly of James R. Kitchum and by land now or formerly of Alex S. Cicheskie and crossing a 33 foot wide private right of way North 55 degrees 56 minutes 10 seconds West 391.5 feet to a point on line of land now or formerly of John V. Lutz; thence by said land now or formerly of John V. Lutz North 52 degrees 52 minutes 00 seconds East 105.0 feet to a pipe found at corner of Lot No. 1 on the hereinafter referred to draft of survey; thence by said Lot No. 1 and re-entering said 33 foot wide right of way; South 33 degrees 43 minutes 45 seconds East 35.38 feet to a pin set in the center line of said right of way; thence in said right of way and continuing by said Lot No. 1 North 62 degrees 12 minutes 40 seconds East 201.19 feet to a pin set; thence continuing in and by same North 19 degrees 30 minutes 20 seconds East 109.39 feet to a point in said Legislative Route 01010 aforesaid; thence; thence crossing said Legislative Route 01010 and by Lot No. 1 aforesaid North 43 degrees 59 minutes East 50.69 feet to a point on line of land now or formerly of Donald J. Thomas; thence by said land now or formerly of Donald J. Thomas

South 58 degrees 50 minutes East 35 feet to a point at corner of land now or formerly of Menallen Township Election House; thence by said land now or formerly of Menallen Township Election House and re-entering said Legislative Route 01010 South 28 degrees 40 minutes West 35 feet to a point in said Legislative Route 01010; thence in said Legislative Route 01010 South 58 degrees 50 minutes East 135 feet to a point; thence leaving said road North 28 degrees 40 minutes East 35 feet to a point at corner of land now or formerly of Menallen Township Election House; thence continuing by same South 58 degrees 50 minutes East 234.5 feet to a point, the place of BEGINNING. CONTAINING 3.30 Acres more or less.

The above description was taken from a draft of survey prepared by George W. Joiner, Sr., dated December 1, 1981.

THE improvements thereon being known as No. 564 Bendersville - Wenksville Road.

IMPROVEMENTS consist of a single family residential dwelling.

BEING PREMISES: 564 Bendersville - Wenksville Road, Aspers, PA 17304.

SOLD as the property of Charles D. and Virginia A. Riebling.

TAX PARCEL # E05-00-39.

SEIZED and taken into execution as the property of **Charles D. Riebling & Virginia A. Riebling** 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 March 19, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/26, 2/2 & 9

#### NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, February 13, 2001, at 9:00 o'clock a.m.

**BOWLING**—Orphans' Court Action Number OC-4-01. The First and Final Account of Adams County National Bank, by Nancy Reichart, Trust Officer, Executor of the Estate of Lillian J. Bowling, deceased, late of Straban Township, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

2/2 & 9

#### INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for WHEELHORSE COLLECTORS CLUB, INC., were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, PA, for the purpose of obtaining a Certificate of Incorporation pursuant to the provisions of the Nonprofit Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988 (P.L. 1444, No. 177). The filing took place on or about February 5, 2001. The purposes of the corporation are to extol and enjoy the virtues of vintage wheelhorse products and all other activities authorized by law. The registered address is 551 Nawakwa Road, Biglerville, Pennsylvania, 17307.

Wilcox and James  
Solicitor

2/9

#### INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed in the Department of State of the Commonwealth for DESIGNER FLOORS INC., on January 5, 2001.

This Corporation is Incorporated under the Provisions of the Pennsylvania Business Corporation Law of 1988, as amended.

2/9

## COMMONWEALTH VS. DAVIS

1. There is some authority that constitutionality must be judged in light of defendant's conduct if no First Amendment rights of expression are involved.

2. First amendment protection may extend to expressive conduct, as well as language.

3. Speech may be subjected to criminal sanctions if the appropriate mens rea standard is required.

4. Even if only conduct is at issue, a statute that plainly and palpably violates constitutional provisions may be stricken before trial.

5. While penal statutes are to be strictly construed, courts are not required to give words their narrowest meaning or disregard evident legislative intent. A statute will be struck down only if it clearly, palpably and plainly violates the constitution.

6. A statute is void for vagueness if it fails to give fair notice to a person of ordinary intelligence that contemplated conduct is forbidden.

7. If a statute reaches constitutionally protected activity as well as illegal activity it is overbroad. A statute that sweeps too broadly, in the guise of regulating an activity, may be invalidated.

8. To comport with due process, a statute must provide fair warning of what is prohibited and sufficient definiteness so that it is not susceptible to arbitrary and discriminatory enforcement. One who engages in conduct clearly proscribed by the statute cannot complain of the vagueness of the law as applied to the conduct of others.

9. The legal standard in establishing selective prosecution is: 1) other similarly situated were not prosecuted for similar conduct, and 2) the Commonwealth's discriminatory selection of them for prosecution was based on impermissible grounds such as race, religion, the exercise of some constitutional right, or any other such arbitrary classification. It is Defendant's burden to establish his claim of selective prosecution.

10. The unlawful administration by state officers of a state statute fair on its face, resulting in its unequal application to those who are entitled to be treated alike, is not a denial of equal protection unless there is shown to be present in it an element of intentional or purposeful discrimination, which may appear on the face of the action taken with respect to a particular class of persons, or may be shown by extrinsic evidence establishing a discriminatory design to favor one individual or class over another.

In the Court of Common Pleas of Adams County, Pennsylvania,  
Criminal, No. CC-627-99. **COMMONWEALTH OF PENNSYLVANIA VS. CLIFTON EZIKIEL DAVIS.**

Michael A. George, District Attorney, for Commonwealth

Daniel F. Wolfson, Esq., for Defendant

Spicer, P.J., December 29, 1999

OPINION ON MOTION TO DECLARE 18 PA. C.S.A. § 4119  
UNCONSTITUTIONAL AND MOTION TO SUPPRESS

We deal with an omnibus pre-trial motion, by which defendant seeks to suppress evidence and invalidate 18 Pa. C.S.A. § 4119 on constitutional grounds.<sup>1</sup>

On March 30, 1999, Detective Walter Gliem of the Gettysburg Police obtained a search warrant from District Justice Carr for the business premises known as "City Styles," in the borough. The affidavit of probable cause indicates that Defendant reported a burglary of his business on January 30, 1999. The items Defendant reported

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<sup>1</sup> Section 4119 states in full:

- (a) **Offense defined.**- Any person who knowingly manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses with intent to sell or distribute any items or services bearing or identified by a counterfeit mark shall be guilty of the crime of trademark counterfeiting.
- (b) **Presumption.**- A person having possession, custody or control of more than 25 items bearing a counterfeit mark may be presumed to possess said items with intent to sell or distribute.
- (c) **Penalties.**-
  - (1) Except as provided in paragraphs (2) and (3), a violation of this section constitutes a misdemeanor of the first degree.
  - (2) A violation of this section constitutes a felony of the third degree if:
    - (i) the defendant has previously been convicted under this section; or
    - (ii) the violation involves more than 100 but less than 1,000 items bearing a counterfeit mark or the total retail value of all items or services bearing or identified by a counterfeit mark is more than \$2,000, but less than \$10,000.
  - (3) A violation of this section constitutes a felony of the second degree if:
    - (i) the defendant has been previously convicted of two or more offenses under this section;
    - (ii) the violation involves the manufacture or production of items bearing counterfeit marks; or
    - (iii) the violation involves 1,000 or more items bearing a counterfeit mark or the total retail value of all items or services bearing or identified by a counterfeit mark is more than \$10,000.
- (d) **Quantity or retail value.**- The quantity or retail value of items or services shall include the aggregate quantity or retail value of all items or services bearing or identified by every counterfeit mark the defendant manufactures, uses, displays, advertise, distributes, offers for sale, sells or possesses.

stolen included brand name designer clothing, watches, hats and sunglasses. The resulting investigation and recovery of property, coupled with complaints from local merchants concerning Defendant's ability to undersell them on designer merchandise led Detective Gleim to contact Stumar Investigations and Detective Agency.

As a result of Gleim's phone consultation with Stumar, arrangements were made for a controlled buy from "City Styles". On March

---

(e) **Fine.-** Any person convicted under this section shall be fined in accordance with existing law or an amount up to three times the retail value of the items or services bearing or identified by a counterfeit mark, whichever is greater, unless extenuating circumstances are shown by the defendant.

(f) **Seizure, forfeiture and disposition.-**

(1) Any items bearing a counterfeit mark and all personal property, including, but not limited to, any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, knowingly employed or used in connection with a violation of this section may be seized by any law enforcement officer.

(2) All seized personal property referenced in paragraph (1) shall be forfeited in accordance with applicable law unless the prosecuting attorney responsible for the charges and the intellectual property owner consent in writing to another disposition.

(g) **Evidence.-** Any Federal or State certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.

(h) **Remedies cumulative.-** The remedies provided for in this section shall be cumulative to the other civil and criminal remedies provided by law.

(i) **Definitions.-** As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

**"Counterfeit mark."** Any of the following:

(1) Any unauthorized reproduction or copy of intellectual property.

(2) Intellectual property affixed to any item knowingly sold, offered for sale, manufactured or distributed or identifying services offered or rendered, without the authority of the owner of the intellectual property.

**"Intellectual property."** Any trademark, service mark, trade name, label, term, device, design or word adopted or used by a person to identify that person's goods or services.

**"Retail value."** The counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.



30, 1999, Jeffrey Allen, an investigator with Stumar, went to the business premises and purchased a sweatshirt represented to be manufactured by Tommy Hilfiger. Police determined that the sweatshirt and items previously recovered from the burglary incident were not the designer merchandise they purported to be.

The search warrant obtained was executed and police seized in excess of four bags of clothing items with various manufacturing inconsistencies. Police also seized other property, including bank records, business records, mail and an automobile, and charged Defendant with violating the act, *supra*.

Defendant's suppression motion presents a "four corners" issue. We find facts clearly support a finding of probability that illegal activity or evidence of a crime was located in the premises to be searched. This is enough. *Commonwealth v. Gray*, 509 Pa. 476, 503 A.2d 921 (1985). *Commonwealth v. Petroll*, Pa. , 738 A.2d 993 (1999). The motion to suppress is denied.

Defendant's challenge to the statute raises several questions about the scope of review, and tests to be applied. Initially, we must first determine whether defendant is entitled to facially challenge the law. There is some authority that constitutionality must be judged in light of defendant's conduct if no First Amendment rights of expression are involved. *Commonwealth v. Adamo*, 431 Pa. Super. 529, 637 A.2d 302 (1994), *alloc. denied* 538 Pa. 631, 647 A.2d 507, *cert. denied* 513 U.S. 1022, 115 S.Ct. 590, 130 L.Ed. 503 (1994). This would normally mean that factual issues relating to defendant's conduct be determined at trial.

First amendment protection may extend to expressive conduct, as well as language. *Pap's A.M. v. City of Erie*, 553 Pa. 348, 719 A.2d 273 (1998) (nude dancing). We hear a great deal about people making a "statement" about the clothes they wear, and this case could involve an inquiry about why some consumers are willing to pay more money for "designer clothes" than off brand merchandise. Certainly, parts of the statute affects expression. "Displays," is an example, "advertises" is not. Defendant may not assert First Amendment rights in misleading commercial communications. *Commonwealth v. State Board of Physical Therapy*, 556 Pa. 268, 728 A.2d 340 (1999).

Speech may be subjected to criminal sanctions if the appropriate mens rea standard is required. Supreme Court upheld harassment provisions of the Crimes Code, 18 Pa. C.S.A. § 5504, because the legislature required proof of an intent to harass. *Commonwealth v. Hendrickson*, 555 Pa. 277, 724 A.2d 315 (1999).

Even if only conduct is at issue, a statute that plainly and palpably violates constitutional provisions may be stricken before trial. *Commonwealth v. Barud*, 545 Pa. 297, 681 A.2d 162 (1996) (driving under the influence).

Although defendant raises what appears to be a discrete challenge based upon selective prosecution, we view the attack as relating to vagueness. Furthermore, we see no equal protection issues in the case at this point. Rather, defendant's arguments may be judged under principles relating to vagueness and overbreadth.

Supreme Court has frequently stated that there is strong presumption that legislative enactments do not violate the constitution. One challenging the validity of a law on constitutional grounds bears a heavy burden of persuasion. While penal statutes are to be strictly construed, courts are not required to give words their narrowest meaning or disregard evident legislative intent. A statute will be struck down only if it clearly, palpably and plainly violates the constitution. *Id.*

*Barud* requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement. A statute is void for vagueness if it fails to give fair notice to a person of ordinary intelligence that contemplated conduct is forbidden. Reasonable standards must be provided by which persons may gauge their future conduct. *Id.*

If a statute reaches constitutionally protected activity as well as illegal activity it is overbroad. A statute that sweeps too broadly, in the guise of regulating an activity, may be invalidated. *Id.*

The statute is not a model of clarity. Although the general rule allows states to regulate and protect trademarks under their police powers, subject to constitutional restraints, 87 C.J.S. *Trade-marks, Etc.* § 128, Pennsylvania's definition of "Counterfeit mark," and

“intellectual property”, § 4119 (i) covers a great deal more than trademarks.<sup>2</sup>

If the statute is not internally inconsistent, it is at least puzzling. Although § 4119(a) defines an offense in a variety of ways, the definition of counterfeit mark (i) (2) makes much of the definition meaningless. If our inquiry were to end here, and ignoring “services offered or rendered,” we would (a) restrict the statute’s coverage to commercial transactions, and (b) hold that requiring that defendant be aware that his conduct is the type proscribed by statute. 18 Pa. C.S.A. §302, is sufficient to save the statute.<sup>3</sup>

However, the criminal implications of all provisions depend upon the definition of “intellectual property.” The phrase poses some interesting questions, and is broad enough to encompass virtually any term or word used by anyone to identify “that person’s goods.” If someone places his or her initials on an item that end up in a flea market, it would seem covered by the definition. There is no requirement that “goods” have any connection with the identifying mark except to denote ownership.

On the other hand, the provisions clearly apply to conduct charged in this case. This is not a situation such as was involved in *Barud*, where it can clearly be said that the statute makes unlawful clearly lawful conduct. Thus, while we have no hesitancy in labeling this legislative effort as confusing, we cannot say that it clearly and palpably violates the constitution.

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<sup>2</sup> In contrast to Pennsylvania’s approach, the federal government has treated the subject by (1) providing for the registration of trademarks, the Lanham Act, 15 USCS §1051-1127, and (2) affording protection to registered trademarks through criminal sanctions. 18 USCS § 2391A.

<sup>3</sup> At least with respect to a misdemeanor of the first degree, reckless or criminally negligent conduct is sufficient. *Commonwealth v. Heck*, 517 Pa. 192, 535 A.2d 578 (1987).

Likewise, we cannot sustain Defendant's facial challenges regarding permissible inference<sup>4</sup> and forfeiture.<sup>5</sup>

In short, we find that defendant's arguments, as appealing as they are, do not carry his burden to overcome the strong presumption of validity that duly enacted legislation carries with it. *Commonwealth v. Savich*, Pa. Super. , 716 A.2d 1251 (1998), *alloc. denied* 738 A.2d 457(1999). To comport with due process, a statute must provide fair warning of what is prohibited and sufficient definiteness so that it is not susceptible to arbitrary and discriminatory enforcement. *Id.* Due process does not require that every statute that could have been drafted with greater precision be invalidated. One who engages in conduct clearly proscribed by the statute cannot complain of the vagueness of the law as applied to the conduct of others. 16 Am. Jur. 2d § 147.

Although we fail to see equal protection ramifications, we will briefly address defendant's contention that the statute violates principles of equal protection by encouraging arbitrary and discriminatory enforcement which ultimately results in selective prosecution. The Fourteenth Amendment of the United States Constitution grants individuals the right to equal protection of the laws by the States. Defendant's equal protection challenge is not based on the express terms of the statute, but on improper execution of the law through the State's agents. The legal standard in establishing selective prosecution is: 1) others similarly situated were not prosecuted for similar conduct, and 2) the Commonwealth's discriminatory selection of

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<sup>4</sup>The Supreme Court has upheld permissible inferences when there is a rational basis for doing so. *See Commonwealth v. McCurdy*, Pa. , 735 A.2d 681 (1999) discussing BAC levels as related to driving under the influence. We could view the statutory provision as little more than a restatement of the rule on circumstantial evidence.

<sup>5</sup>Supreme Court's decision in *In re King Properties*, 535 Pa. 321, 635 A.2d. 128 (1993) requiring that the property be significantly utilized in the criminal enterprise, would seem controlling as to the general issue of forfeiture. Nobody has addressed whether partial forfeiture is permissible, *Commonwealth v. 5043 Anderson Road*, 556 Pa. 335, 728 A.2d 907 (1999), but it would seem so since the basis of the rule is that forfeitures must be viewed as a form of fine. We note that the federal statute requires forfeiture of the counterfeit material, and authorizes forfeiture of other property in the discretion of the court. Obviously, the statute as written requires the intellectual property owner's consent to the return of property seized. It may be argued that the requirement for such consent should apply only to property to which counterfeit marks are affixed. That issue is not presently before us.

them for prosecution was based on impermissible grounds such as race, religion, the exercise of some constitutional right, or any other such arbitrary classification. *Commonwealth v. Mulholland*, 549 Pa. 634, 640, 702 A.2d 1027, 1034 (1997). It is Defendant's burden to establish his claim of selective prosecution. *Commonwealth v. Wells*, 441 Pa. Super. 272, 657 A.2d 507 (1995), *alloc. denied* 542 Pa. 668, 668 A.2d 1131 (1995). The Supreme Court has stated that the unlawful administration by state officers of a state statute fair on its face, resulting in its unequal application to those who are entitled to be treated alike, is not a denial of equal protection unless there is shown to be present in it an element of intentional or purposeful discrimination, which may appear on the face of the action taken with respect to a particular class of persons, or may be shown by extrinsic evidence establishing a discriminatory design to favor one individual or class over another, not to be rehearing denied, 321 U.S. 804, 64 S.Ct. 778, 88 L.Ed. 1090 (1944). Defendant has made no effort to show that he was singled out while others walked free.<sup>6</sup>

We are constrained to conclude, at this stage of the case, that the statute under which Defendant has been charged is constitutional.

The attached order is entered.

#### ORDER OF COURT

AND NOW, this 29th day of December, 1999, defendant's omnibus motions are denied.

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<sup>6</sup> Interestingly, however, at a hearing on defendant's petition for return of property, a Commonwealth witness said that Wal-Mart had been found to have sold counterfeit merchandise. Whether any was sold within Pennsylvania was not developed. We can attest that Wal-Mart is still in business.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-774 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 February, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Butler Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a stone in the public road known as the Stone Jug Road (running westwardly from U.S. Highway Route No. 15), at corner of land now or formerly of Lizzie Guise and land now or formerly of Melvin L. Cool; thence by land now or formerly of Melvin L. Cool South 69-1/2 degrees West, 48.4 perches to a post at corner of land now or formerly of Melvin L. Cool and land now or formerly of John A. Maus; thence by land now or formerly of John A. Maus North 28-1/4 degrees West 8.2 perches to a post; thence by same South 51 degrees West, 64 perches to a stone at corner of land now or formerly of John A. Maus and land now or formerly of R. Landon Plank; thence by land now or formerly of R. Landon Plank North 63-1/2 degrees West, 55.3 perches to a point; thence by same North 54-1/2 degrees West, 1.7 perches to a point at corner of land now or formerly of R. Landon Plank and land now or formerly of Rex L. Rice North 64-1/4 degrees East, 124.1 perches to a point in the aforesaid public road; thence in said public road and by land now or formerly of Deatrack-Gardner Heirs South 49-3/4 degrees East, 6.1 perches to a point; thence in said public road and by land now or formerly of Lizzie Guise South 51-3/4 degrees East, 41.9 perches to a stone, the place of BEGINNING. CONTAINING 29 acres and 58 perches, more or less. (Sometimes erroneously said to be 39 A and 58 P, more or less).

The foregoing description of the tract of land hereby conveyed was obtained from draft of survey made by Leroy H. Winebrenner, R.S. on March 16, 1950.

Less, however, that 25.2310 acre tract previously conveyed to Weldon V. Lane and A. Frances Lane by deed dated December 14, 1973, and recorded in the Adams County, Pennsylvania, Recorder of Deeds Office in Deed Book 311 page 4.

TAX PARCEL # G-8-36

SEIZED and taken into execution as the property of **Clarence B. McCurry** 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 March 19, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/26, 2/2 & 9

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-385 issuing out of the Court of Common Pleas of Adams County, and to me directed, (DECEMBER 8, 2000 SALE CONTINUED TO:) will be exposed to Public Sale on Friday, the 9th day of March, 2001 at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land situate on the southerly right of way line of Abbott's Drive in the Borough of Abbottstown County of Adams and State of Pennsylvania known and numbered as Lot No. 23 on a plan of lots for Abbott's Manor Phase II recorded in the office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plot 73, page 43, more fully bounded and described as follows to wit;

BEGINNING at a point on the southerly right of way line at a corner of Lot No. 24 on said plan; thence extending along the said southerly right of way line of Abbott's Drive north thirty (30) degrees, fifty-seven (57) minutes, thirty-three seconds East, eighty-six and forty-three one-hundredths (86.43) feet to a point; thence continuing along the said right of way line of Abbott's Drive on a line curving to the right leaving a radius of two hundred seventy-five (275) feet an arc distance of sixty-three and ninety-nine one hundredths (63.99) feet with a chord bearing North thirty-seven (37) degrees thirty-seven (37) minutes thirty (30) seconds East, sixty-three and eighty-four one hundredths (63.84) feet to a point, at a corner of Lot No. 22 on said plan; thence extending along the said Lot No. 22 on said plan South twelve (12) degrees three (03) minutes, thirty-three seconds one hundred seventy-seven and fifteen one hundredths (177.15) feet East to a point; thence south sixty-four (64) degrees thirty (30) minutes zero (00) seconds West fifty (50) feet to a point, at a corner of Lot No. 24 on said plan; thence extending along the said Lot No. 24, North forty-seven (47) degrees three (03) minutes forty-five (45) seconds West one-hundred two and eighty-eight

one-hundredths (102.88) feet to the point and place of BEGINNING. CONTAINING 12,326 Sq. Ft.

UNDER AND SUBJECT TO part of a 50 foot wide gas transmission right of way crossing the subject premises as shown on said plan.

TOGETHER, with all buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments, and appurtenances, to the same belonging, or in any wise appertaining, and any reversions, remainders, rents, issues and profits thereof, and of every part and parcel thereof, including any interests specifically set forth, if any. And also, all the estate, right, title, interest, property, possession, claim, and demand whatsoever, both in law and equity, of the Grantor of, in and to the same.

TO HAVE AND TO HOLD the same premises, and the appurtenances, hereby granted to Grantee and Grantee's heirs, successors and assigns forever, under and subject to the conditions set forth, if any.

AND THE SAID Grantor hereby warrants and agrees that Grantor will warrant specially the property hereby conveyed.

UNDER AND SUBJECT, nevertheless to the same condition, restrictions, exceptions and reservations as exist by virtue of prior recorded instruments, deeds and conveyances.

IT BEING THE SAME PREMISES which Hadley Holdings Corporation, by their deed dated May 30, 1996, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in record book 1218, page 136, granted and conveyed unto Garland Construction, Inc., Grantors herein.

Premises being known as 158 Abbott's Drive, Abbottstown, PA 17301.

SEIZED and taken into execution as the property of **Chad M. Surdich** 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 April 2, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-928 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 February, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situate, lying and being in Oxford Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING for a point on the right-of-way line of Curtis Drive at Lot No. 161 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 161, South twenty-seven (27) degrees fifty (50) minutes forty-four (44) seconds East, one hundred thirty (130.00) feet to a point at Lot No. 147 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 147, South sixty-two (62) degrees nine (09) minutes sixteen (16) seconds West, one hundred nine and seventy-seven hundredths (109.77) feet to a point on the right-of-way line of Matthew Drive as shown on the hereinafter referenced subdivision plan; thence along said right-of-way line of Matthew Drive, by a curve to the right, having a radius of two hundred twenty-five (225.00) feet, an arc length of forty-eight and sixty-three hundredths (48.63) feet and a long chord bearing and distance of North thirty-four (34) degrees two (02) minutes twelve (12) seconds West, forty-eight and fifty-three hundredths (48.53) feet to a point on the right-of-way line of Matthew Drive; thence further along the said right-of-way line of Matthew Drive, North twenty-seven (27) degrees fifty (50) minutes forty-four (44) seconds West, fifty-six and seventy-five hundredths (56.75) feet to a point at the intersection of Matthew Drive and Curtis Drive; thence along the intersection of Matthew Drive and Curtis Drive, by a curve to the right, having a radius of twenty-five (25.00) feet, an arc length of thirty-nine and twenty-seven hundredths (39.27) feet to a point and a long chord bearing and distance of North seventeen (17) degrees nine (09) minutes sixteen (16) seconds East, thirty-five and thirty-six hundredths (35.36) feet to a point on the right-of-way line of Curtis Drive; thence along the said right-of-way line of Curtis Drive, North sixty-two (62) degrees nine (09) minutes sixteen (16) seconds East, ninety (90.00) feet to a point, the point and place of BEGINNING. CONTAINING 14,732 square feet.

The above description being Lot No. 162 on the Final Subdivision Plan for Delbert Piper "Colonial Acres - Section I", prepared by Mort, Brown and Associates, dated April 1, 1993, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and

for Adams County, Pennsylvania, in Plat Book 64 at page 93.

Tax Parcel #13-136

SEIZED and taken into execution as the property of **Michael J. Rice & Lauretta Ann Burgoon** 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 March 19, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/26, 2/2 & 9

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL DIVISION  
NO. 00-S-1138

CHASE MANHATTAN MORTGAGE  
CORPORATION, Plaintiff

vs.

CRISTI L. GASS and SCOTT W.  
MILLER, Defendants.

NOTICE

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

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

Court Administrator  
Adams County Courthouse  
Gettysburg, PA 17325  
(717) 337-9846

2/9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-N-622 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 March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate in the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point located on the East side of South Main Street at the Northwest corner of land of Eugene L. Lupp; thence along said East side of South Main Street, North 30 degrees 15 minutes West, 82.5 feet, more or less, to a point located on the South side of a 10 foot public alley; thence along said South side of a 10 foot public alley, North 59 degrees 45 minutes East, 132 feet, more or less to a point located on the West side of a 20 foot public alley; thence along said West side of a 20 foot public alley, South 30 degrees 15 minutes East, 82.5 feet, more or less, to a point located at the Northeast corner of land of Eugene L. Lupp; thence by said land of Eugene L. Lupp, South 59 degrees 45 minutes West, 132 feet, more or less, to a point located on the East side of South Main Street, the place of BEGINNING.

The description herein is taken from records found in the Adams County Mapping Office, Bendersville, Map No. 4, Parcel No. 56.

Being the same which Edward C. Wallen and Darlene K. Wallen, husband and wife, by their deed dated December 28, 1990, which said deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 576 at page 1057, sold and conveyed unto Jeffrey L. Stoops.

SEIZED and taken into execution as the property of **Jeffrey L. Stoops** 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 April 9, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/9, 16 & 23

## ESTATE NOTICES

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

## FIRST PUBLICATION

ESTATE OF KATHERINE E. EBERHART, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Doris M. Lawver, 1384 Hunterstown Road, Gettysburg, PA 17325

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

ESTATE OF PHYLLIS M. FISSEL a/k/a PHYLLIS L. FISSEL, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrices: Karin R. F. Guise, 50 Van Cleve Road, New Oxford, PA 17350; Kristen K. Gabel, 8320 Orchard Road, Thomasville, PA 17364

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

ESTATE OF GEORGE R. GITTINS, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: Emily M. Gittins, 130 Slate Rock Road, Biglerville, PA 17310

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

ESTATE OF MAHLON P. HARTZELL, JR. a/k/a JIM HARTZELL, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: John M. Hartzell, 174 Gordon Ave., Gettysburg, PA 17325; J. Jerome Hartzell, 232 E. Park Drive, Raleigh, NC 27605

Attorney: John M. Hartzell, Esq., 174 Gordon Ave., Gettysburg, PA 17325

ESTATE OF STEVEN MILLER, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Mary L. Miller, 100 Pheasant Meadow Drive, Smithville, NJ 08201

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

ESTATE OF RUTH N. SIRMACK, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Charles Himmelreich, P.O. Box 37, Harrison City, PA 15636

Attorney: Charles I. Himmelreich, Box 37, Harrison City, PA 15636

## SECOND PUBLICATION

ESTATE OF WALTER S. RAUBENSTINE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Evelyn M. Spotts, General Delivery, New Bloomfield, PA 17068; Gerald B. Raubenstein, 100 Keagy Avenue, Hanover, PA 17331; Harold W. Raubenstein, 600 Shorbs Hill Road, Hanover, PA 17331; Nevin E. Raubenstein, 869 Fairview Drive, Hanover, PA 17331

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

ESTATE OF LILLIE M. SHANK, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Ronald L. Shank, 5036 Baltimore Pike, Littlestown, PA 17340

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

ESTATE OF KERMIT E. SINGLEY, SR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Kermit E. Singley, Jr., 850 Hanover Road, Gettysburg, PA 17325

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

ESTATE OF MARY R. SMITH a/k/a MARY P. SMITH, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executor: B. Guy Smith, 170 Kuhn Road, Littlestown, PA 17340

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

ESTATE OF DORSEY EUGENE WEST, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Susan Rogers Cheek, 55 West High Street, Apartment No. 1, Gettysburg, PA 17325

Attorney: John R. White, Campbell & White, 112 Baltimore Street, Gettysburg, PA 17325

## THIRD PUBLICATION

ESTATE OF ALICE E. ANDREW, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Administratrix: Ms. Betty J. Weatherly, 2761 Pumping Station Road, Fairfield, PA 17320

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

ESTATE OF BERNADETTE M. FLICKINGER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Robert B. Flickinger, 6408 Lincoln Highway W., Thomasville, PA 17364; Larry F. Flickinger, 17

Taney Court, Taneytown, MD 21787

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

ESTATE OF M. JANE GANTZ, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: Frederick A. Gantz, 29 E. Stevens Street, Gettysburg, PA 17325; Donald A. Gantz, 166 Sachs Road, Gettysburg, PA 17325

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

ESTATE OF RUBY M. HESS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Personal Representative: Thurman M. Hess, 26 Mt. Vernon Terrace, Waynesboro, PA 17268

Attorney: J. L. Doyle, Esq., 114 Walnut St., P.O. Box 512, Waynesboro, PA 17268

ESTATE OF JOEL M. HILL, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Wayne D. Hill, 10 White Oak Trail, Gettysburg, PA 17325; Bruce G. Hill, 84 Twin Lakes Drive, Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

ESTATE OF HAROLD L. PLATZER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Kathleen G. Platzer, 309 Oak Lane, Gettysburg, PA 17325

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

ESTATE OF ALVIN H. RUBY, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Co-Executors: Glenn A. Ruby, Carol Demiry and Gail McClain, c/o 29 North Duke Street, York, PA 17401

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

ESTATE OF OLIVE O. SLAYBAUGH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: PNC Bank, N.A., Attn: Linda J. Lundberg, Asst. V.P., P.O. Box 308, Camp Hill, PA 17001-0308

Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

ESTATE OF MARY KATHRYN STARNER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Co-Executors: Sandra E. Boyer, William G. Inskip, Janet McMaster and Sarah Starner, c/o 29 North Duke Street, York, PA 17401

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



IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW  
NO. 01-S-83  
Action to Quiet Title

VERNON L. JUDY, SR., and PATRICIA  
A. JUDY, husband and wife, Plaintiffs

vs.

WILLIAM MILLER and MARGARET  
MILLER, husband and wife; the heirs,  
assigns and devisees of WILLIAM  
MILLER and MARGARET MILLER,  
Defendants.

TO: William Miller and Margaret Miller,  
husband and wife, the heirs, assigns and  
devisees of William Miller and Margaret  
Miller.

A Complaint has been filed by the  
Plaintiffs to discharge ground rent  
against an improved tract of land situate  
in Fairfield, Adams County, Pennsylvania,  
commonly known as 12 East Main  
Street, Fairfield, Pennsylvania, more  
particularly bounded and described as  
follows:

All the hereafter described lot of  
ground situate, lying and being in the  
Town of Fairfield (otherwise called  
Millerstown), in the Township of Highland,  
in the County of Adams and State of  
Pennsylvania aforesaid and known on  
the general plan of said Town by the  
number three, Northeasterly containing  
sixty feet front on East Main Street (for-  
merly York Street) and extending thence  
by lot number two, two hundred and forty  
feet to a twelve foot alley; thence by said  
alley sixty feet to lot number four; thence  
by same, two hundred and forty feet to  
East Main Street (formerly York Street)  
and thence by said street sixty feet to lot  
number two aforesaid.

BEING the same premises which The  
Most Reverend Nicholas C. Dattilo,  
Bishop of the Roman Catholic Diocese of  
Harrisburg, Trustee, by his deed dated  
April 13, 2000, and recorded in the Office  
of the Recorder of Deeds of Adams  
County, Pennsylvania, in Record Book  
2033 at page 133, granted and conveyed  
unto Vernon L. Judy, Sr., and Patricia A.  
Judy, husband and wife, Grantees,  
Plaintiffs herein.

NOTICE

If you wish to defend, you must enter a  
written appearance personally or by  
attorney and file your defenses or objec-  
tions in writing with the Court. 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 with-  
out further notice for the relief requested  
by the Plaintiffs. You may lose money or  
property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO  
YOUR LAWYER AT ONCE. IF YOU DO  
NOT HAVE A LAWYER OR CANNOT  
AFFORD ONE, GO TO OR TELE-

PHONE THE OFFICE SET FORTH  
BELOW TO FIND OUT WHERE YOU  
CAN GET LEGAL HELP:

Court Administrator  
Adams County Courthouse  
Gettysburg, PA 17325  
Phone: (717) 337-9846 or  
1-888-337-9846

David K. James, Esq.  
Attorney for Plaintiffs  
234 Baltimore Street  
Gettysburg, PA 17325  
(717) 334-6718

2/9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution,  
Judgment No. 00-S-104 issuing out of  
the Court of Common Pleas of Adams  
County, and to me directed, (DECEM-  
BER 8, 2000 SALE CONTINUED TO:)  
will be exposed to Public Sale on Friday,  
the 9th day of March, 2001, at 10:00  
o'clock in the forenoon at the Courthouse  
in the Borough of Gettysburg, Adams  
County, PA, the following Real Estate,  
viz.:

ALL THAT CERTAIN parcel of land si-  
tuate in York Springs, Adams County,  
Pennsylvania, being Lot No. 1 in the  
Richard P. Lambert Final Subdivision  
Plan as recorded in Plan Book Volume  
50 at Page 94, as follows, to wit:

BEGINNING at a mark on the curb line  
along Pennsylvania Route 94 at the  
Southwest corner of lands now or former-  
ly of the Holy Trinity Lutheran Church;  
thence along the curb line of  
Pennsylvania Route 94 North 36 degrees  
30 minutes 00 seconds West 60 feet to a  
mark on said curb line at the Southeast  
corner of lands now or formerly of the  
Episcopal Church; thence along the last  
mentioned lands North 52 degrees 21  
minutes 36 degrees 30 minutes 00 sec-  
onds West 36.58 feet to a nail set on the  
southern border of North "D" Street 12  
foot right of way on the aforesaid plan;  
thence along North "D" Street, North 53  
degrees 45 minutes 00 seconds East  
55.77 feet to a steel pin at the southeast  
corner of lands now or formerly of  
Sheldon C. Lehman on the aforesaid  
plan; thence along the last mentioned  
lands South 36 degrees 44 minutes 00  
seconds East 73.96 feet to a steel pin at  
the corner of lands of the aforesaid Holy  
Trinity Lutheran Church; thence along the  
last mentioned lands South 50 degrees  
52 minutes 30 seconds West 26.39 feet  
to a pipe on the aforesaid plan; thence  
continuing South 36 degrees 30 minutes  
00 seconds East 20.56 feet to a pipe on  
the aforesaid plan; thence continuing  
South 52 degrees 21 minutes 00 seconds  
West 151.71 feet to a mark on the curb  
line of Pennsylvania Route 94 and place  
of BEGINNING.

BEING Tract Nos. 1A, 1B and 2 on the  
aforesaid Plan and containing 12,131  
square feet, more or less.

BEING known as 218 Main Street,  
York Springs, PA.

SEIZED and taken into execution as  
the property of **Richard M. Topper &  
Florence D. Herring** 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 April 2, 2001,  
and distribution will be made in accord-  
ance with said schedule, unless excep-  
tions 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 pur-  
chase price or all of the cost, whichever  
may be the higher, shall be paid forthwith  
to the Sheriff.

2/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution,  
Judgment No. 00-S-143 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 2nd  
day of March, 2001, at 10:00 o'clock in  
the forenoon at the Courthouse in the  
Borough of Gettysburg, Adams County,  
PA, the following Real Estate, viz.:

ALL the right, title, interest and claim of  
Terry L. Mallette and Brenda M. Mallette  
of, in and to:

ALL the following described real estate  
situated in the Township of Conewago,  
County of Adams, Commonwealth of  
Pennsylvania. Having erected thereon a  
dwelling known and numbered as 137  
Conewago Drive, Hanover, PA 17331.  
Deed Book Volume 793, Page 220,  
Parcel ID No. K-14-236.

CIVIL ACTION NO: 00-S-143

SEIZED and taken into execution as  
the property of **Terry L. Mallette &  
Brenda M. Mallette** 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 March 26,  
2001, and distribution will be made in  
accordance with said schedule, unless  
exceptions are filed thereto within 10  
days after the filing thereof. Purchaser  
must settle for property on or before filing  
date.

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

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

2/9, 16 & 23

# Adams County Legal Journal

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Vol. 42

February 16, 2001

No. 38, pp. 211-215

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## CONTINUING LEGAL EDUCATION PROGRAM

### *Dealing with a Client's Diminishing Mental Capacity-The Lawyer's Role*

February 26, 2001 – 8:30 a.m. - 10:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law – 1, Ethics – 1

### *Counseling Small Businesses*

March 9, 2001 – 8:30 a.m. - 2:00 p.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law – 5, Ethics – 1

### *2000 Amendments to the Federal Rules of Civil Procedure and Evidence*

March 13, 2001 – 8:30 a.m. - 11:30 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law – 3, Ethics – 0

### *Fundamentals of Mortgage Foreclosures*

March 23, 2001 – 8:30 a.m. - 1:00 p.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law – 4, Ethics – 0

### *Social Security Disability Practice-Advanced*

March 30, 2001 – 8:30 a.m. - 2:00 p.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law – 5, Ethics – 1

### *Ethical Pitfalls in Compromise & Release*

April 5, 2001 – 8:30 a.m. - 9:30 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law – 0, Ethics – 1

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

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#### SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-385 issuing out of the Court of Common Pleas of Adams County, and to me directed, (DECEMBER 8, 2000 SALE CONTINUED TO:) will be exposed to Public Sale on Friday, the 9th day of March, 2001 at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land situate on the southerly right of way line of Abbott's Drive in the Borough of Abbottstown County of Adams and State of Pennsylvania known and numbered as Lot No. 23 on a plan of lots for Abbott's Manor Phase II recorded in the office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plot 73, page 43, more fully bounded and described as follows to wit;

BEGINNING at a point on the southerly right of way line at a corner of Lot No. 24 on said plan; thence extending along the said southerly right of way line of Abbott's Drive north thirty (30) degrees, fifty-seven (57) minutes, thirty-three seconds East, eighty-six and forty-three one-hundredths (86.43) feet to a point; thence continuing along the said right of way line of Abbott's Drive on a line curving to the right leaving a radius of two hundred seventy-five (275) feet an arc distance of sixty-three and ninety-nine one hundredths (63.99) feet with a chord bearing North thirty-seven (37) degrees thirty-seven (37) minutes thirty (30) seconds East, sixty-three and eighty-four one hundredths (63.84) feet to a point, at a corner of Lot No. 22 on said plan; thence extending along the said Lot No. 22 on said plan South twelve (12) degrees three (03) minutes, thirty-three seconds one hundred seventy-seven and fifteen one hundredths (177.15) feet East to a point; thence south sixty-four (64) degrees thirty (30) minutes zero (00) seconds West fifty (50) feet to a point, at a corner of Lot No. 24 on said plan; thence extending along the said Lot No. 24, North forty-seven (47) degrees three (03) minutes forty-five (45) seconds West one-hundred two and eighty-eight one-hundredths (102.88) feet to the point and place of BEGINNING. CONTAINING 12,326 Sq. Ft.

UNDER AND SUBJECT TO part of a 50 foot wide gas transmission right of way crossing the subject premises as shown on said plan.

TOGETHER, with all buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments, and appurtenances, to the same belonging, or in any wise appertaining, and any reversions, remainders, rents, issues and profits thereof, and of every part and parcel thereof, including any interests specifically set forth, if any. And also, all the estate, right, title, interest, property, possession, claim, and demand whatsoever, both in law and equity, of the Grantor of, in and to the same.

TO HAVE AND TO HOLD the same premises, and the appurtenances, hereby granted to Grantee and Grantee's heirs, successors and assigns forever, under and subject to the conditions set forth, if any.

AND THE SAID Grantor hereby covenants and agrees that Grantor will warrant specially the property hereby conveyed.

UNDER AND SUBJECT, nevertheless to the same condition, restrictions, exceptions and reservations as exist by virtue of prior recorded instruments, deeds and conveyances.

IT BEING THE SAME PREMISES which Hadley Holdings Corporation, by their deed dated May 30, 1996, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in record book 1218, page 136, granted and conveyed unto Garland Construction, Inc., Grantors herein.

Premises being known as 158 Abbott's Drive, Abbottstown, PA 17301.

SEIZED and taken into execution as the property of **Chad M. Surdich** 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 April 2, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/2, 9 & 16

#### SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-143 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the right, title, interest and claim of Terry L. Mallette and Brenda M. Mallette of, in and to:

ALL the following described real estate situated in the Township of Conewago, County of Adams, Commonwealth of Pennsylvania. Having erected thereon a dwelling known and numbered as 137 Conewago Drive, Hanover, PA 17331. Deed Book Volume 793, Page 220, Parcel ID No. K-14-236.

CIVIL ACTION NO: 00-S-143

SEIZED and taken into execution as the property of **Terry L. Mallette & Brenda M. Mallette** 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 March 26, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/9, 16 & 23

## CONDEMNATION OF HERITAGE DRIVE

1. The Court is limited in its review of a municipality's decision to condemn property to the question of whether the municipality is guilty of fraud, bad faith or abuse of discretion. There is a strong presumption that the municipality has acted properly and thus a heavy burden on a party attempting to show an abuse of discretion.
2. The presence of a private agreement does not transform the condemnation into a private taking. It does not lose its public character simply because there may exist in the operation some feature of private gain.
3. Generally, the power of taxation is deemed to be sufficient security for the taking.
4. An agreement between a municipality and a developer by which the developer agrees to assume all expenses incident to condemnation does not render the condemnation a private taking.
5. We hold....that the additional lot owners did not have to be named as condemnees. The term "condemnee" is defined in the Eminent Domain Code as "the owner of a property interest taken, injured or destroyed....the easements of the additional lot owners will continue to exist over the opened road, just as they existed over the unopened road. The additional lot owners therefore do not have a property interest which has been taken, injured or destroyed.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 99-S-874. CONDEMNATION OF HERITAGE DRIVE, TOWNSHIP OF MOUNT JOY, PENNSYLVANIA.

Walton V. Davis, Esq., Solicitor for Township of Mt. Joy  
James T. Yingst, Esq., for Lake Heritage Property Owners  
Association, Inc.

Spicer, P.J., January 4, 2000

## OPINION ON PRELIMINARY OBJECTIONS

Lake Heritage Property Owners Association, Inc., record owner of a private road in Mount Joy Township, has filed preliminary objections to a declaration of taking by of the township. Objections have been filed pursuant to 26 P.S. § 1-406, which provides, inter alia, in (a): Preliminary objections shall be limited to and shall be the exclusive method of challenging (1) the power or right of the condemnor to appropriate the condemned property unless the same has been previously adjudicated; (2) the sufficiency of the security; (3) any other procedure followed by the condemnor; or (4) the declaration of taking. Failure to raise these matters by preliminary objections shall constitute a waiver thereof.

Many of the circumstances of this case are public knowledge. It has provoked, a great deal of interest in the community. Condemnee is a corporation organized not-for-profit that owns, among other things, roads and a lake in a private residential development. The development itself does not abut on a public road. Instead, a corridor road (Heritage Drive) provides access from State Highway 97. We treat the state highway as running east and west, and U.S. 15 to proceed north and south, although that may not be precisely accurate. It will make description easier.

Several years ago, an auction house relocated on lands abutting the condemnee to the west. Owners of that property acquired an occupancy permit and built an access road fairly close to Heritage Drive and also fairly close to the interchange for Route 97 and U.S. 15.

A private developer proposed to build and operate a mall south of 97, more or less directly across the road from Heritage Drive. We understand that Mt. Joy Township has approved those plans.

Reciting considerations of traffic control and public safety, condemnor adopted a resolution of condemnation on September 16, 1999, then filed its declaration of taking on September 24, 1999. A portion of Heritage Drive was taken, by subjecting it to a public easement, so that access to the auction property would be provided by the condemned portion of Heritage Drive. After being served October 19, 1999, condemnee filed preliminary objections November 15, 1999.

Condemnee argues that each property owner in its development owns a property interest in Heritage Drive and should be joined as parties. It has raised: 1) the nature of the title acquired in and to the property; 2) the sufficiency of the security for the taking; and 3) the sufficiency of service of notice of the declaration of the taking. Under Local Civ. Rule 211, condemnee was required to file a brief within ten (10) days of the filing of its Preliminary Objections. When it failed to do so, condemnor moved to dismiss the objections on December 1, 1999.

What followed procedurally was the following: a rule to show cause why objections should not be dismissed was issued December 2, 1999. Condemnee filed its answer to the rule on December 6, 1999. Both parties then filed briefs relating to preliminary objections

(condemnee, on December 16, 1999; condemnor on December 7, 1999). On condemnor's motion for expedited resolution, the matter was listed for December 28, 1999.

In light of the present posture of this case, we choose not to impose sanctions on condemnee.

By its terms, the Eminent Domain Code is intended to provide a complete and exclusive procedure and law to govern all condemnations of property for public purposes. 26 P.S. § 1-303. Section 1-406(a), *supra*, disposes of condemnor's argument that the objections should be litigated before a board of view. The issues must be raised by preliminary objections or be considered waived.

Unfortunately for condemnee, as discussion will indicate, appellate courts have ruled adversely to its position as to all issues.

**Scope of review:** The Court is limited in its review of a municipality's decision to condemn property to the question of whether the municipality is guilty of fraud, bad faith or abuse of discretion. *Appeal of Heim*, 151 Pa. Cmwith. Ct. 438, 617 A.2d 74, 76 (1992), *alloc. denied* 535 Pa. 625, 629 A.2d 1385 (1993). There is a strong presumption that the municipality has acted properly and thus a heavy burden on a party attempting to show an abuse of discretion. *Id.*

Although condemnee complained that it needed certain documents, such as an agreement between the developer and condemnor, it limited its argument to inferences it urged the court to draw. Citing an agreement by the developer to bear the costs of the condemnation, it argues that the developer is the real condemnor, and that the present proceedings are a sham.

We address these arguments by considering discrete objections.

**1. Condemnor's power or right to appropriate the property; the purpose for which Heritage Drive was taken:** Condemnee argues that condemnor lacks the power to appropriate Heritage Drive for the private benefit of the auction property owners, and the taking is arbitrary and capricious. Generally, where preliminary objections raise an issue of fact, an evidentiary hearing is required. 26 P.S. § 1-406 (e). Since no evidence was presented at the scheduled hearing, we can assume that this argument rests solely on the existence of an agreement between the developer and condemnor. The condemnor's resolution recites proper concern for public health, safety and

welfare posed by traffic conditions in the vicinity of Heritage Drive. The presence of a private agreement does not transform the condemnation into a private taking. It does not lose its public character simply because there may exist in the operation some feature of private gain. *Appeal of Heim*, supra.

The factual situation in *Heim*, supra, is virtually identical with the one at bar.

**2. The adequacy and sufficiency of the security provided; a private agreement by developer to bear the costs:** The Eminent Domain Code clearly states that “where a condemnor has the power of taxation, it shall not be required to file a bond with the declaration of taking.” Generally, the power of taxation is deemed to be sufficient security for the taking. As in *Heim*, supra, condemnee has not argued that the power of taxation is insufficient, nor do we think that such an argument could be seriously advanced. We are not talking about a property interest so valuable that condemnee cannot afford to acquire it. Rather, we are urged to conclude that the developer is the real party in interest and its net worth must be proven or deemed insufficient.

An agreement between a municipality and a developer by which the developer agrees to assume all expenses incident to condemnation does not render the condemnation a private taking. *Id.* The condemnor is a township with taxing powers and the security is adequate. *Id.* We repeat that condemnee has not proven the inadequacy of the security and has chosen to present no evidence of insufficiency. See *Swartz v. Pittsburgh Public Parking Authority*, 63 Pa. Cmwlth. 434, 439 A.2d 1254 (1981).

**3. Service of notice of the Declaration of Taking; are property owners entitled?:** Condemnee argues that notice should have been served on each individual Lake Heritage property owner. The Code defines “condemnee” as the “owner of a property interest taken, injured or destroyed, but does not include a mortgagee, judgment creditor or other lienholder.” 26 P.S. § 1-201. Condemnee argues that an easement is a property interest, as opposed to a lien, and that lot owners should have been made parties to the condemnation. The Commonwealth Court, in *Heim*, supra, said:

Condemnees argue that those additional lot owners should therefore have been named as condemnees

because they have a protectable property interest in the strip of land condemned.

We hold that the trial court did not err in concluding that the additional lot owners did not have to be named as condemnees. The term “condemnee” is defined in the Eminent Domain Code as “the owner of a property interest taken, injured or destroyed...” (footnote omitted) In this case, the easements of the additional lot owners will continue to exist over the opened road, just as they existed over the unopened road. The additional lot owners therefore do not have a property interest which has been taken, injured or destroyed.

617 A.2d at 77

Although lot owners may prefer that their easements be used in common only with other lot owners, the condemnation will not deprive them of or injure or destroy the easements.

The attached order is entered.

#### ORDER

AND NOW, this 4th day of January, 2000, preliminary objections are dismissed.



## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-N-622 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 March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate in the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point located on the East side of South Main Street at the Northwest corner of land of Eugene L. Lupp; thence along said East side of South Main Street, North 30 degrees 15 minutes West, 82.5 feet, more or less, to a point located on the South side of a 10 foot public alley; thence along said South side of a 10 foot public alley, North 59 degrees 45 minutes East, 132 feet, more or less to a point located on the West side of a 20 foot public alley; thence along said West side of a 20 foot public alley, South 30 degrees 15 minutes East, 132 feet, more or less, to a point located at the Northeast corner of land of Eugene L. Lupp; thence by said land of Eugene L. Lupp, South 59 degrees 45 minutes West, 132 feet, more or less, to a point located on the East side of South Main Street, the place of BEGINNING.

The description herein is taken from records found in the Adams County Mapping Office, Bendersville, Map No. 4, Parcel No. 56.

Being the same which Edward C. Wallen and Darlene K. Wallen, husband and wife, by their deed dated December 28, 1990, which said deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 576 at page 1057, sold and conveyed unto Jeffrey L. Stoops.

SEIZED and taken into execution as the property of **Jeffrey L. Stoops** 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 April 9, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/9, 16 & 23

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-104 issuing out of the Court of Common Pleas of Adams County, and to me directed, (DECEMBER 8, 2000 SALE CONTINUED TO:) will be exposed to Public Sale on Friday, the 9th day of March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN parcel of land situate in York Springs, Adams County, Pennsylvania, being Lot No. 1 in the Richard P. Lambert Final Subdivision Plan as recorded in Plan Book Volume 50 at Page 94, as follows, to wit:

BEGINNING at a mark on the curb line along Pennsylvania Route 94 at the Southwest corner of lands now or formerly of the Holy Trinity Lutheran Church; thence along the curb line of Pennsylvania Route 94 North 36 degrees 30 minutes 00 seconds West 60 feet to a mark on said curb line at the Southeast corner of lands now or formerly of the Episcopal Church; thence along the last mentioned lands North 52 degrees 21 minutes 36 degrees 30 minutes 00 seconds West 36.58 feet to a nail set on the southern border of North "D" Street 12 foot right of way on the aforesaid plan; thence along North "D" Street, North 53 degrees 45 minutes 00 seconds East 55.77 feet to a steel pin at the southeast corner of lands now or formerly of Sheldon C. Lehman on the aforesaid plan; thence along the last mentioned lands South 36 degrees 44 minutes 00 seconds East 73.96 feet to a steel pin at the corner of lands of the aforesaid Holy Trinity Lutheran Church; thence along the last mentioned lands South 50 degrees 52 minutes 30 seconds West 26.39 feet to a pipe on the aforesaid plan; thence continuing South 36 degrees 30 minutes 00 seconds East 20.56 feet to a pipe on the aforesaid plan; thence continuing South 52 degrees 21 minutes 00 seconds West 151.71 feet to a mark on the curb line of Pennsylvania Route 94 and place of BEGINNING.

BEING Tract Nos. 1A, 1B and 2 on the aforesaid Plan and containing 12,131 square feet, more or less.

BEING known as 218 Main Street, York Springs, PA.

SEIZED and taken into execution as the property of **Richard M. Topper & Florence D. Herring** 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 April 2, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after

the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/9, 16 & 23

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on or about January 12, 2001 for the incorporation of OLDE MILL WOOD-N-CRAFTS, INC. under the Pennsylvania Business Corporation Law of 1988. The corporation shall engage in the business of the retail sale of craft items, together with any legal function of a corporation under PA law. The initial registered office of the corporation 71 Guernsey Road, Biglerville, Pennsylvania 17307.

Bernard A. Yannetti, Jr., Esq.  
Hartman & Yannetti  
Solicitor

2/16

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for ACTION SPORTS CAMS, INC. were filed under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

Barley, Snyder, Sent & Cohen, LLC  
Solicitors

2/16

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1074 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 March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the center line of State Route 2014, known as Harney Road, and lands now or formerly of Douglas J. Mummet; thence along the center line of said Harney Road, North seventy-eight (78) degrees thirty-seven (37) minutes fifty (50) seconds West, thirty-five and one hundredth (35.01) feet to a point at Lot No. 7 of the hereinafter referenced subdivision plan; thence along same, the following three courses and distances: 1) North eleven (11) degrees fifty-six (56) minutes fifty (50) seconds East, three hundred two and seventy-nine hundredths (302.79) feet to a steel pin; thence 2) North twenty-three (23) degrees ten (10) minutes twenty-one (21) seconds East, one hundred thirty-four and forty hundredths (134.40) feet to a steel pin; thence 3) and continuing along Lots 6 and 5 of said plan, North fifty-eight (58) degrees one (01) minute eight (08) seconds West, four hundred eleven and ninety-nine hundredths (411.99) feet to lands now or formerly of Neal D. Krichten; thence along same, the following three courses and distances: 1) North thirty-one (31) degrees fifty-eight (58) minutes fifty-two (52) seconds East, six hundred sixteen and twenty-seven hundredths (616.27) feet to a point; thence 2) North fifty-two (52) degrees two (02) minutes ten (10) seconds East, one hundred sixty-one and sixty-six hundredths (161.66) feet to a steel pin; thence 3) South nineteen (19) degrees five (05) minutes thirty-four (34) seconds East, three hundred eighty-six and eighteen hundredths (386.18) feet to a steel pin at Lot No. 1 of said plan; thence along same, the following two courses and distances: 1) South twenty-three (23) degrees ten (10) minutes twenty-one (21) seconds West, six hundred fifty-nine and forty-one hundredths (659.41) feet to an iron pipe; thence 2) South ten (10) degrees three (03) minutes nineteen (19) seconds West, three hundred and fifty-five hundredths (300.55) feet to a point on the center line of Harney Road, the point and place of BEGINNING.

CONTAINING 6.1161 acres and identified as Lot No. 8 on a plan of lots prepared by Worley Surveying on April 19, 1996, as revised on May 31, 1996, July 2, 1996, July 10, 1996, and August 13, 1996. Said plan is recorded in the Recorder of Deeds' Office in and for

Adams County, Pennsylvania, in Map Book 69, page 66.

Tax Parcel #H18-87

SEIZED and taken into execution as the property of **Michael L. Brune, Sr. & Shirley E. Brune a/k/a Shirley Ellen Brune a/k/a Shirley E. Cole** 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 April 23, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/16, 23 & 3/2

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-978 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 March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of ground together with improvements thereon, in Reading Township, Adams County, Pennsylvania, bounded and described in a plan of lots prepared by John Lazarowicz dated June 30, 1966 and recorded in the Recorder of Deeds Office of Adams County, Pennsylvania, in Miscellaneous Book 1, Page 7, as follows, to wit:

BEGINNING at a point at the common boundary line of Lots 621 and 620 on the said plan at the edge of Curtis Drive North 59 degrees 31 minutes 37 seconds East 212.85 feet to a point at the line of lands now or formerly of Anderson; thence South 43 degrees 13 minutes 30 seconds East 67.69 feet to a point; thence South 03 degrees 40 minutes 36 seconds East 141.70 feet to a point at the common boundary between Lots 619 and 618; thence along the last said boundary line South 81 degrees 42 minutes 43 seconds West 201.65 feet to a point along Curtis Drive; thence along a curve to the left on Curtis Drive having a chord length of 60.62 feet an arc distance of 60.72 feet to a point and then along another curve to the left having a chord length of 68.44 feet an arc distance of 68.50 feet to a point and first mentioned place of BEGINNING.

PREVIOUSLY KNOWN as Lots 619 and 620 on aforesaid plan.

PARCEL #2-121

TITLE TO SAID PREMISES IS VESTED IN Jennings E. O'Dell and Minerva Mae O'Dell, husband and wife by Deed from Mary E. Becker Myers and Timothy A. Myers, husband and wife, dated 6/27/86, recorded 6/27/86, in Deed Book 430, Page 382.

AND THE SAID Jennings E. O'Dell has since departed this life on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, whereas title to said premises became vested in Minerva Mae O'Dell by right of survivorship.

BEING KNOWN AS: 47 CURTIS DRIVE, EAST BERLIN, PA 17316

SEIZED and taken into execution as the property of **Minerva M. O'Dell a/k/a Minerva Mae O'Dell** 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 April 23, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/16, 23 & 3/2

**ESTATE NOTICES**

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

**FIRST PUBLICATION**

**ESTATE OF WILLIAM E. CAREY, a/k/a WILLIAM EUGENE CAREY, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

Executrix: Shirley Y. Claar, now by marriage Shirley Y. Carey, 1350 Coon Road, Aspers, PA 17304

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

**ESTATE OF FLORA A. KIPE, DEC'D**

Late of Liberty Township, Adams County, Pennsylvania

Personal Representatives: Betty J. Kauffman, Lola M. Baker, Raymond P. Kipe, Clifton A. Kipe, c/o Patterson & Kiersz, PC, 239-B East Main Street, Waynesboro, PA 17268-1681

Attorney: Patterson & Kiersz, P.C., 239-B East Main Street, Waynesboro, PA 17268-1681

**SECOND PUBLICATION**

**ESTATE OF KATHERINE E. EBERHART, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Doris M. Lawver, 1384 Hunterstown Road, Gettysburg, PA 17325

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

**ESTATE OF PHYLLIS M. FISSEL a/k/a PHYLLIS L. FISSEL, DEC'D**

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrices: Karin R. F. Guise, 50 Van Cleve Road, New Oxford, PA 17350; Kristen K. Gabel, 8320 Orchard Road, Thomasville, PA 17364

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

**ESTATE OF GEORGE R. GITTINS, DEC'D**

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: Emily M. Gittins, 130 Slate Rock Road, Biglerville, PA 17310

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

**ESTATE OF MAHLON P. HARTZELL, JR. a/k/a JIM HARTZELL, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: John M. Hartzell, 174 Gordon Ave., Gettysburg, PA 17325; J. Jerome Hartzell, 232 E. Park Drive, Raleigh, NC 27605

Attorney: John M. Hartzell, Esq., 174 Gordon Ave., Gettysburg, PA 17325

**ESTATE OF STEVEN MILLER, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

Mary L. Miller, 100 Pheasant Meadow Drive, Smithville, NJ 08201

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

**ESTATE OF RUTH N. SIRMACK, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Charles Himmelreich, P.O. Box 37, Harrison City, PA 15636

Attorney: Charles I. Himmelreich, Box 37, Harrison City, PA 15636

**THIRD PUBLICATION**

**ESTATE OF WALTER S. RAUBENSTINE, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executors: Evelyn M. Spotts, General Delivery, New Bloomfield, PA 17068; Gerald B. Raubenstine, 100 Keagy Avenue, Hanover, PA 17331; Harold W. Raubenstine, 600 Shorbs Hill Road, Hanover, PA 17331; Nevin E. Raubenstine, 869 Fairview Drive, Hanover, PA 17331

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

**ESTATE OF LILLIE M. SHANK, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Ronald L. Shank, 5036 Baltimore Pike, Littlestown, PA 17340

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

**ESTATE OF KERMIT E. SINGLEY, SR., DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executor: Kermit E. Singley, Jr., 850 Hanover Road, Gettysburg, PA 17325

Attorney: Ronald J. Hagaman, Esq., 110 Baltimore St., Gettysburg, PA 17325

**ESTATE OF MARY R. SMITH a/k/a MARY P. SMITH, DEC'D**

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executor: B. Guy Smith, 170 Kuhn Road, Littlestown, PA 17340

Attorney: Ronald J. Hagaman, Esq., 110 Baltimore St., Gettysburg, PA 17325

**ESTATE OF DORSEY EUGENE WEST, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Susan Rogers Cheek, 55 West High Street, Apartment No. 1, Gettysburg, PA 17325

Attorney: John R. White, Campbell & White, 112 Baltimore Street, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1055 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 March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract or parcel of land situate within the Borough of Gettysburg, Adams County, Pennsylvania, shown as Lot 6 on that certain "Corrective As-Built Subdivision Plat" prepared by Robert A. Sharrah, PLS, for Frederick Douglass Townhouses, dated June 29, 1996, bearing Drawing Number E-293 (the "Corrective Plat"), and recorded on or about July 16, 1996 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 69 at Page 54, which Corrective Plat is herein incorporated by reference, and more particularly bounded and described as follows:

FROM a steel rod in the northern line of a certain twelve foot (12') wide paved

alley known as Pape Alley and located at or near the northeast corner of the intersection of Pape Alley and South Franklin Street, continue North 05° 45' 00" East along the eastern line of South Franklin Street, a distance of 149.99 feet to a point at the dividing line between Lot 6 and Lot 5 as shown on said Corrective Plat, and being the place of beginning; thence along the said eastern line of South Franklin Street, North 05° 45' 00" East a distance of 20.33 feet to a point being a 5/8" rebar reset by Robert A. Sharrah, PLS in the concrete walk at the southeast corner of the intersection of South Franklin Street with West High Street; thence along the southern line of West High Street, South 84° 31' 00" East, a distance of 65.50 feet to a point at the dividing line between Lot 6 and Lot 7 on said Corrective Plat; thence along said dividing line between Lot 6 and Lot 7, South 05° 44' 58" West, a distance of 20.63 feet to a point at the dividing line between Lot 6 and Lot 5 as shown on the Corrective Plat; thence along said dividing line between Lot 6 and Lot 5, North 84° 15' 00" West, a distance of 65.50 feet to a point, the place of BEGINNING.

Tax Parcel #10-217F

SEIZED and taken into execution as the property of **Gildardo Espinoza a/k/a Giraldo Espinoza & Loretta Espinoza a/k/a Loretta S. Garland** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

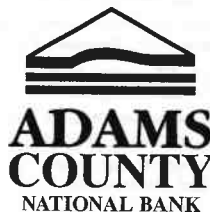
TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 23, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/16, 23 & 3/2

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



Member FDIC

# Adams County Legal Journal

Vol. 42

February 23, 2001

No. 39, pp. 216-218

## CONTINUING LEGAL EDUCATION PROGRAM

### *Counseling Small Businesses*

March 9, 2001 – 8:30 a.m. - 2:00 p.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law – 5, Ethics – 1

### *2000 Amendments to the Federal Rules of Civil Procedure and Evidence*

March 13, 2001 – 8:30 a.m. - 11:30 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law – 3, Ethics – 0

### *Fundamentals of Mortgage Foreclosures*

March 23, 2001 – 8:30 a.m. - 1:00 p.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law – 4, Ethics – 0

### *Social Security Disability Practice-Advanced*

March 30, 2001 – 8:30 a.m. - 2:00 p.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law – 5, Ethics – 1

### *Ethical Pitfalls in Compromise & Release*

April 5, 2001 – 8:30 a.m. - 9:30 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law – 0, Ethics – 1

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

### SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-143 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the right, title, interest and claim of Terry L. Mallette and Brenda M. Mallette of, in and to:

ALL the following described real estate situated in the Township of Conewago, County of Adams, Commonwealth of

Pennsylvania. Having erected thereon a dwelling known and numbered as 137 Conewago Drive, Hanover, PA 17331. Deed Book Volume 793, Page 220, Parcel ID No. K-14-236.

CIVIL ACTION NO: 00-S-143

SEIZED and taken into execution as the property of **Terry L. Mallette & Brenda M. Mallette** 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 March 26,

2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/9, 16 & 23

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-754 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the Township Road T-539 also known as Bull Valley Road and at the Northwestern corner of Lot No. 2; thence along said Lot No. 2 now or formerly of Donald E. Scott South 22 degrees, 32 minutes, 10 seconds East 756.98 feet to an iron pin at land now or formerly of Glenn E. Smith; thence along land now or formerly of Glenn E. Smith South 79 degrees, 03 minutes, 25 seconds West 150.00 feet to an iron pin at the Southeast corner of Lot No. 4 now or formerly of Doris M. Sherman and Mervin R. Spangler, Jr.; thence along said Lot No. 4 North 20 degrees, 23 minutes, 25 seconds West 722.36 feet to a point in the center of Township Road T-539 also known as Bull Valley Road; thence along and through said Township Road T-539 North 65 degrees, 04 minutes, 55 seconds East 120.00 feet to a point in Township Road T-539, also known as Bull Valley Road the place of BEGINNING. CONTAINING 2.267 acres. Being Lot No. 3 prepared by Boyer Surveys.

The foregoing description was taken from a plot plan of Raymond D. Carter, Jr. and Faye E. Carter as prepared by Richard W. Boyer dated August 26, 1977 and having been approved by the various municipal subdivisions of Adams County and duly recorded in Adams County Plat Book 17 page 22 and identified thereon as Lot No. 3.

## TAX PARCEL #G-6-77

BEING KNOWN AS 373 BULL VALLEY ROAD, ASPERS, PA 17304

SEIZED and taken into execution as the property of **Steven G. Livesay, Sr. & Carol R. Livesay** 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 14, 2001, and distribution will be made in

accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/23, 3/2 & 9

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Pennsylvania's "Fictitious Names Act", 54 Pa. C.S.A. §§ 301 et seq., of the filing of an Application for Registration of Fictitious Name under the said Act. The fictitious name is CLASSICLUX. The address of the principal office or place of business to be carried on under or through the fictitious name is 69 South High Street, P.O. Box 45, Arendtsville, Adams County, Pennsylvania 17303. The name and address of the person who is a party to the registration is Mark E. Redding of 69 South High Street, P.O. Box 45, Arendtsville, Adams County, Pennsylvania 17303. An application for registration under the Fictitious Names Act of the said fictitious name was filed in the Office of the Secretary of the Commonwealth of Pennsylvania on February 1, 2001.

Campbell & White  
112 Baltimore Street  
Gettysburg, PA 17325  
Attorneys for Applicant

2/23

NOTICE OF CONFIRMATION OF ACCOUNT  
EVERGREEN CEMETERY ASSOCIATION

NOTICE IS HEREBY GIVEN that the account filed on January 31, 2001 pursuant to 9 Pa. C.S.A. Section 308(b) will be called for confirmation on the 9th day of April, 2001 in Courtroom 1 of the Adams County Court of Common Pleas at 9:00 a.m. The account filed is available for inspection by members of the Association at the office of Evergreen Cemetery, 799 Baltimore Street, Gettysburg, PA 17325, during regular business hours.

Attorney: Kristin L. Rice, Esq.  
Wolfe & Rice, LLC  
47 West High Street  
Gettysburg, PA 17325

2/23

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-136 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN Unit in the property known, named and identified in the Declaration referred to below as Oxford Commons Condominiums, located in the Borough of New Oxford, Adams County, PA which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101 et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, PA of a declaration dated September 13, 1996 and recorded October 18, 1996 in Record Book 58 page 41 (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such Declaration as Unit No. 4D as more fully bounded and described in such Declaration, together with a proportionate undivided interest in the Common Elements as defined in such Declaration.

Tax Parcel # 5-184A

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

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 14, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/23, 3/2 & 9

## EMIG VS. LAWYER

1. The purpose of jury instructions is to keep jurors focused on resolving factual disputes based on the governing law, rather than on their own ideas of how best to balance the equities. Error will be found where the jury was probably misled by the charge. Jury instructions must be viewed in their entirety.

In the Court of Common Pleas of Adams County, Pennsylvania,  
Civil, No. 97-S-1166. BRIAN K. EMIG VS. DONALD R.  
LAWYER, III.

William C. A. Boyle, Esq., for Plaintiff  
Matthew R. Gover, Esq., for Defendant  
Spicer, P.J., January 14, 2000

### OPINION ON POST-TRIAL MOTIONS

Defendant's post verdict motions seek to overturn a jury's award of \$30,307.50<sup>1</sup> in a personal injury case. The verdict was entered September 14, 1999, following a two day trial. Defendant has ordered only a transcript of jury instructions. Other than testimony of certain medical witnesses that was presented via deposition, no testimony appears of record. Oral argument occurred December 31, 1999.

A pretrial conference was conducted by Judge John D. Kuhn May 26, 1999. Included in the pretrial order was:

Narrative: On May 3, 1997 on SR 94, Defendant's vehicle collided with the rear end of Plaintiff's vehicle.

The only issue is the extent of Plaintiff's injuries.

The extent of those injuries was hotly disputed. Plaintiff complained of headaches, low back pain, stiffness and pain in his shoulders and neck. There were indications of a pre-existing low back problem. Dr. Perry Eagle, testifying for Defendant, said that none of Plaintiff's symptoms were causally related to the accident. Plaintiff's doctors were of a contrary opinion.

Defendant argues that he is entitled to a new trial because of this court's refusal to give his version of Pennsylvania Standard Jury

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<sup>1</sup>The award could be described as generous. Defendant appealed an arbitration award of \$15,307.50. The case involved soft tissue injuries and a wage loss of \$307.50.

Instruction 6.30. The charge the Defendant requested was:

The plaintiff is entitled to recover damages for all injuries which the Defendant's negligence was a substantial factor in producing. The Defendant's negligence need not be the sole cause of the injuries; other causes may have contributed to producing the final result. The fact that some other factor may have been a contributing cause of an injury does not relieve a defendant of liability, unless you find that such other cause would have produced the injury complained of independently of his negligence.

The request omitted the following in the standard instruction:

Even though prior conditions or concurrent causes may have contributed to an injury, if defendant's negligence was a substantial factor in producing the injury, defendant is liable for the full amount of damages sustained, without any apportionment or diminution for other conditions or causes.

After rejecting the abbreviated version, the court told the jury that Defendant would be liable for any aggravation of a pre-existing condition caused by the accident.<sup>2</sup>

Even if this was wrong<sup>3</sup>, it could not have possibly prejudiced Defendant. Standard Instruction 6.30 is obviously a plaintiff's instruction. The case cited by Defendant involved a trial court's refusal of plaintiff's request for 6.30, *Collins v. Cement Express, Inc.*, 301 Pa. Super. 319, 447 A.2d 987 (1982), as did the *Gustison* case cited in footnote 3.

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<sup>2</sup> Defendant's post verdict motion complained that the court did not instruct on legal cause. This has not been argued. The transcript clearly shows the instruction was given. N.T. 31.

<sup>3</sup> We do not find it to be wrong. The approach taken by the court was approved in *Gustison v. Ted Smith Floor Products, Inc.*, 451 Pa. Super. 442, 679 A.2d 1304 (1996). Superior Court said, "The trial court clearly explained the substantial factor concept and clearly stated that even though Mrs. Gustison has a pre-existing condition, an aggravation of that condition by Appellees would be compensable. We hold that the trial court did not err in its instruction on prior conditions." 679 A.2d at 1311. Prejudicial error is required before relief may be granted on the basis of jury instructions.



The “purpose of jury instructions is to keep jurors focused on resolving factual disputes based on the governing law, rather than on their own ideas of how best to balance the equities.” *Price v. Guy*, Pa., 735 A.2d 668 (1999). Error will be found where the jury was probably misled by the charge. *Id.* at 671. Jury instructions must be viewed in their entirety.

We are convinced that Defendant was not prejudiced, that the instructions given were proper and deny Defendant’s motions.

Defendant has not opposed Plaintiff’s motion for delay damages, we conclude he is clearly entitled to such damages. Plaintiff’s computations, required by Pa. R.C.P. Rule 238(c), have not been disputed and are correct.

The attached order is entered.

#### ORDER

AND NOW, this 14th day of January, 2000, the Court denies Defendant’s post verdict motions for a new trial. Judgment is entered upon the verdict of the jury in favor of the Plaintiff in the amount of \$30,307.50. Delay damages are awarded in the amount of \$1,970.96.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-N-622 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 March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate in the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point located on the East side of South Main Street at the Northwest corner of land of Eugene L. Lupp; thence along said East side of South Main Street, North 30 degrees 15 minutes West, 82.5 feet, more or less, to a point located on the South side of a 10 foot public alley; thence along said South side of a 10 foot public alley, North 59 degrees 45 minutes East, 132 feet, more or less to a point located on the West side of a 20 foot public alley; thence along said West side of a 20 foot public alley, South 30 degrees 15 minutes East, 82.5 feet, more or less, to a point located at the Northeast corner of land of Eugene L. Lupp; thence by said land of Eugene L. Lupp, South 59 degrees 45 minutes West, 132 feet, more or less, to a point located on the East side of South Main Street, the place of BEGINNING.

The description herein is taken from records found in the Adams County Mapping Office, Bendersville, Map No. 4, Parcel No. 56.

Being the same which Edward C. Wallen and Darlene K. Wallen, husband and wife, by their deed dated December 28, 1990, which said deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 576 at page 1057, sold and conveyed unto Jeffrey L. Stoops.

SEIZED and taken into execution as the property of **Jeffrey L. Stoops** 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 April 9, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/9, 16 & 23

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-104 issuing out of the Court of Common Pleas of Adams County, and to me directed, (DECEMBER 8, 2000 SALE CONTINUED TO:) will be exposed to Public Sale on Friday, the 9th day of March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN parcel of land situate in York Springs, Adams County, Pennsylvania, being Lot No. 1 in the Richard P. Lambert Final Subdivision Plan as recorded in Plan Book Volume 50 at Page 94, as follows, to wit:

BEGINNING at a mark on the curb line along Pennsylvania Route 94 at the Southwest corner of lands now or formerly of the Holy Trinity Lutheran Church; thence along the curb line of Pennsylvania Route 94 North 36 degrees 30 minutes 00 seconds West 60 feet to a mark on said curb line at the Southeast corner of lands now or formerly of the Episcopal Church; thence along the last mentioned lands North 52 degrees 21 minutes 36 degrees 30 minutes 00 seconds West 36.58 feet to a nail set on the southern border of North "D" Street 12 foot right of way on the aforesaid plan; thence along North "D" Street, North 53 degrees 45 minutes 00 seconds East 55.77 feet to a steel pin at the southeast corner of lands now or formerly of Sheldon C. Lehman on the aforesaid plan; thence along the last mentioned lands South 36 degrees 44 minutes 00 seconds East 73.96 feet to a steel pin at the corner of lands of the aforesaid Holy Trinity Lutheran Church; thence along the last mentioned lands South 50 degrees 52 minutes 30 seconds West 26.39 feet to a pipe on the aforesaid plan; thence continuing South 36 degrees 30 minutes 00 seconds East 20.56 feet to a pipe on the aforesaid plan; thence continuing South 52 degrees 21 minutes 00 seconds West 151.71 feet to a mark on the curb line of Pennsylvania Route 94 and place of BEGINNING.

BEING Tract Nos. 1A, 1B and 2 on the aforesaid Plan and containing 12,131 square feet, more or less.

BEING known as 218 Main Street, York Springs, PA.

SEIZED and taken into execution as the property of **Richard M. Topper & Florence D. Herring** 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 April 2, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after

the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/9, 16 & 23

NOTICE BY THE ADAMS COUNTY  
CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County--Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Monday, March 5, 2001, at 9:00 o'clock a.m.

**CROSS**--Orphans' Court Action Number OC-63-99. The First and Final Account of Sharon E. Pierce a/k/a Sharon E. Pierce-Cross, Executrix under the Last Will and Testament of Thomas E. Cross, deceased, late of Franklin Township, Adams County, Pennsylvania.

**WAYBRIGHT**--Orphans' Court Action Number OC-2-01. The First and Final Account of Gamette Reeve Grimes and John Martin Frock, Executors of the Estate of Beatrice Irene Waybright, deceased, late of Straban Township, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

2/23 & 3/2

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on January 18, 2001, for the purpose of obtaining a Certificate of Incorporation of a Domestic Business Corporation organized under the provisions of the Pennsylvania Business Corporation Law, approved December 21, 1988, P.L. 1444, as amended. The name of the corporation is CHROME GARDENS, INC. The purpose or purposes for which the corporation is incorporated is that the corporation shall have unlimited power to engage in and do any lawful act concerning any or all lawful business for which corporations may be incorporated under said Business Corporation Law.

Pyle and Entwistle  
Attorneys for the Corporation

2/23

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1074 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 March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the center line of State Route 2014, known as Harney Road, and lands now or formerly of Douglas J. Mummert; thence along the center line of said Harney Road, North seventy-eight (78) degrees thirty-seven (37) minutes fifty (50) seconds West, thirty-five and one hundredth (35.01) feet to a point at Lot No. 7 of the hereinafter referenced subdivision plan; thence along same, the following three courses and distances: 1) North eleven (11) degrees fifty-six (56) minutes fifty (50) seconds East, three hundred two and seventy-nine hundredths (302.79) feet to a steel pin; thence 2) North twenty-three (23) degrees ten (10) minutes twenty-one (21) seconds East, one hundred thirty-four and forty hundredths (134.40) feet to a steel pin; thence 3) and continuing along Lots 6 and 5 of said plan, North fifty-eight (58) degrees one (01) minute eight (08) seconds West, four hundred eleven and ninety-nine hundredths (411.99) feet to lands now or formerly of Neal D. Krichter; thence along same, the following three courses and distances: 1) North thirty-one (31) degrees fifty-eight (58) minutes fifty-two (52) seconds East, six hundred sixteen and twenty-seven hundredths (616.27) feet to a point; thence 2) North fifty-two (52) degrees two (02) minutes ten (10) seconds East, one hundred sixty-one and sixty-six hundredths (161.66) feet to a steel pin; thence 3) South nineteen (19) degrees five (05) minutes thirty-four (34) seconds East, three hundred eighty-six and eighteen hundredths (386.18) feet to a steel pin at Lot No. 1 of said plan; thence along same, the following two courses and distances: 1) South twenty-three (23) degrees ten (10) minutes twenty-one (21) seconds West, six hundred fifty-nine and forty-one hundredths (659.41) feet to an iron pipe; thence 2) South ten (10) degrees three (03) minutes nineteen (19) seconds West, three hundred and fifty-five hundredths (300.55) feet to a point on the center line of Harney Road, the point and place of BEGINNING.

CONTAINING 6.1161 acres and identified as Lot No. 8 on a plan of lots prepared by Worley Surveying on April 19, 1996, as revised on May 31, 1996, July 2, 1996, July 10, 1996, and August 13, 1996. Said plan is recorded in the Recorder of Deeds' Office in and for

Adams County, Pennsylvania, in Map Book 69, page 66.

Tax Parcel #H18-87

SEIZED and taken into execution as the property of **Michael L. Brune, Sr. & Shirley E. Brune a/k/a Shirley Ellen Brune a/k/a Shirley E. Cole** 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 April 23, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/16, 23 & 3/2

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-978 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 March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of ground together with improvements thereon, in Reading Township, Adams County, Pennsylvania, bounded and described in a plan of lots prepared by John Lazarowicz dated June 30, 1966 and recorded in the Recorder of Deeds Office of Adams County, Pennsylvania, in Miscellaneous Book 1, Page 7, as follows, to wit:

BEGINNING at a point at the common boundary line of Lots 621 and 620 on the said plan at the edge of Curtis Drive North 59 degrees 31 minutes 37 seconds East 212.85 feet to a point at the line of lands now or formerly of Anderson; thence South 43 degrees 13 minutes 30 seconds East 67.69 feet to a point; thence South 03 degrees 40 minutes 36 seconds East 141.70 feet to a point at the common boundary between Lots 619 and 618; thence along the last said boundary line South 81 degrees 42 minutes 43 seconds West 201.65 feet to a point along Curtis Drive; thence along a curve to the left on Curtis Drive having a chord length of 60.62 feet an arc distance of 60.72 feet to a point and then along another curve to the left having a chord length of 68.44 feet an arc distance of 68.50 feet to a point and first mentioned place of BEGINNING.

PREVIOUSLY KNOWN as Lots 619 and 620 on aforesaid plan.

PARCEL #2-121

TITLE TO SAID PREMISES IS VESTED IN Jennings E. O'Dell and Minerva Mae O'Dell, husband and wife by Deed from Mary E. Becker Myers and Timothy A. Myers, husband and wife, dated 6/27/86, recorded 6/27/86, in Deed Book 430, Page 382.

AND THE SAID Jennings E. O'Dell has since departed this life on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, whereas title to said premises became vested in Minerva Mae O'Dell by right of survivorship.

BEING KNOWN AS: 47 CURTIS DRIVE, EAST BERLIN, PA 17316

SEIZED and taken into execution as the property of **Minerva M. O'Dell a/k/a Minerva Mae O'Dell** 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 April 23, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/16, 23 & 3/2

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on the 10th day of January, 2001, for the purpose of obtaining a Certificate of Incorporation of a business corporation organized under the Business Corporation Law of 1988, Act of December 21, 1988, P.L. 1444.

The name of the corporation is: KRANIAS, INC.

The purposes for which it is organized are: To operate a restaurant/tavern and to do all things lawful for which corporations may be incorporated under Pennsylvania law.

William C. Kollas, Esq.  
Kollas and Kennedy  
1104 Fernwood Avenue  
Camp Hill, PA 17011

2/23

**ESTATE NOTICES**

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

**FIRST PUBLICATION****ESTATE OF JEAN ALWINE, DEC'D**

Late of the Borough of Abbotstown, Adams County, Pennsylvania

Executor: Alan B. Extence, c/o Joel O. Sechrist, Esq., 568 Old York Road, Eters, PA 17319

Attorney: Joel O. Sechrist, Esq., 568 Old York Road, Eters, PA 17319

**ESTATE OF ROMAIN ELIZABETH DECKER, DEC'D**

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executor: William Gary Decker, 94420 Aniani Place, Waipahu, HI 96797

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

**ESTATE OF EVELYN M. EPLEY, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Virginia D. Epley, 2422 York Road, Gettysburg, PA 17325; Arlene I. Heintzelman, 1454 Granite Station Road, Gettysburg, PA 17325; Charles A. Heintzelman, 1454 Granite Station Road, Gettysburg, PA 17325

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

**ESTATE OF LOIS M. WILSON, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

Executor: William B. Wilson, 625 Quaker Valley Road, Biglerville, PA 17307

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

**SECOND PUBLICATION****ESTATE OF WILLIAM E. CAREY, a/k/a WILLIAM EUGENE CAREY, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

Executrix: Shirley Y. Claar, now by marriage Shirley Y. Carey, 1350 Coon Road, Aspers, PA 17304

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

**ESTATE OF FLORA A. KIPE, DEC'D**

Late of Liberty Township, Adams County, Pennsylvania

Personal Representatives: Betty J. Kauffman, Lola M. Baker, Raymond P. Kipe, Clifton A. Kipe, c/o Patterson & Kiersz, PC, 239-B East Main Street, Waynesboro, PA 17268-1681

Attorney: Patterson & Kiersz, P.C., 239-B East Main Street, Waynesboro, PA 17268-1681

**THIRD PUBLICATION****ESTATE OF KATHERINE E. EBERHART, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Doris M. Lawver, 1384 Hunterstown Road, Gettysburg, PA 17325

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

**ESTATE OF PHYLLIS M. FISSEL a/k/a PHYLLIS L. FISSEL, DEC'D**

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrices: Karin R. F. Guise, 50 Van Cleve Road, New Oxford, PA 17350; Kristen K. Gabel, 8320 Orchard Road, Thomasville, PA 17364

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

**ESTATE OF GEORGE R. GITTINS, DEC'D**

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: Emily M. Gittins, 130 Slate Rock Road, Biglerville, PA 17310

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

**ESTATE OF MAHLON P. HARTZELL, JR. a/k/a JIM HARTZELL, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: John M. Hartzell, 174 Gordon Ave., Gettysburg, PA 17325; J. Jerome Hartzell, 232 E. Park Drive, Raleigh, NC 27605

Attorney: John M. Hartzell, Esq., 174 Gordon Ave., Gettysburg, PA 17325

**ESTATE OF STEVEN MILLER, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

Mary L. Miller, 100 Pheasant Meadow Drive, Smithville, NJ 08201

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

**ESTATE OF RUTH N. SIRMACK, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Charles Himmelmreich, P.O. Box 37, Harrison City, PA 15636

Attorney: Charles I. Himmelmreich, Box 37, Harrison City, PA 15636

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1055 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 March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract or parcel of land situate within the Borough of Gettysburg, Adams County, Pennsylvania, shown as Lot 6 on that certain "Corrective As-Built Subdivision Plat" prepared by Robert A. Sharrah, PLS, for Frederick Douglass Townhouses, dated June 29, 1996, bearing Drawing Number E-293 (the "Corrective Plat"), and recorded on or about July 16, 1996 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 69 at Page 54, which Corrective Plat is herein incorporated by reference, and more particularly bounded and described as follows:

FROM a steel rod in the northern line of a certain twelve foot (12') wide paved alley known as Pape Alley and located at or near the northeast corner of the intersection of Pape Alley and South Franklin Street, continue North 05° 45' 00" East along the eastern line of South Franklin Street, a distance of 149.99 feet to a point at the dividing line between Lot 6 and Lot 5 as shown on said Corrective Plat, and being the place of beginning; thence along the said eastern line of South Franklin Street, North 05° 45' 00" East a distance of 20.33 feet to a point being a 5/8" rebar reset by Robert A. Sharrah, PLS in the concrete walk at the southeast corner of the intersection of South Franklin Street with West High Street; thence along the southern line of West High Street, South 84° 31' 00" East, a distance of 65.50 feet to a point at the dividing line between Lot 6 and Lot 7 on said Corrective Plat; thence along said dividing line between Lot 6 and Lot 7, South 05° 44' 58" West, a distance of 20.63 feet to a point at the dividing line between Lot 6 and Lot 5 as shown on the Corrective Plat; thence along said dividing line between Lot 6 and Lot 5, North 84° 15' 00" West, a distance of 65.50 feet to a point, the place of BEGINNING.

Tax Parcel #10-217F

SEIZED and taken into execution as the property of **Gildardo Espinoza a/k/a Giraldo Espinoza & Loretta Espinoza a/k/a Loretta S. Garland** 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 April 23, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after

the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/16, 23 & 3/2

## 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 30th day of March, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN 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.

BEING Tax Parcel # D-14-22. BEING KNOWN AS: 3115 FAIRFIELD ROAD, GETTYSBURG, PA 17325

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.

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 April 23, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/23, 3/2 & 9