

Adams County Legal Journal

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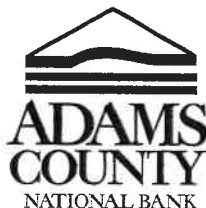
NEW ADVERTISING RATES EFFECTIVE 9/1/05

Decedent's Estate Notice	\$42.00
Corporation Notice	42.00
Fictitious Name	42.00
Change of Name	42.00
Guardianship Account	42.00
Trust Account	42.00

THE ABOVE FIXED PRICE LEGAL ADVERTISING RATES INCLUDE ONE PROOF OF PUBLICATION AND **MUST BE PAID FOR IN ADVANCE**. ALL OTHER LEGAL ADVERTISING WILL BE BILLED IN THE SAME AMOUNT CHARGED BY THE GETTYSBURG TIMES PLUS \$3.00 FOR PROOF OF PUBLICATION.

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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.



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-667 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 September, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stone for a corner in a line of property formerly of George Cashman; thence by the same, North 21 degrees West (appears as North 22 degrees West on some other deeds), 27.6 perches to a stone; thence by land formerly of John Goulden and John Yeagy, North 62-1/4 degrees East 60.9 perches to a stone; 32.8 perches to a stone; thence by same South 67-1/4 degrees West 62.6 perches to the place of BEGINNING, CONTAINING 11 acres, 2 rods and 20 perches.

Address: 130 Cashman Rd., Gettysburg, PA 17325

Tax Map or Parcel ID No.: (38)H09-10

SEIZED and taken into execution as the property of **John J. Calloway, Mary Francis Calloway & Bonnie Michele Still-Hammond** 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 October 24, 2005, 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.

8/19, 26 & 9/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-99 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 September, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an iron pin in the intersection of the state highway running from Arendtsville to the Lincoln Highway and the state highway running to Camp Nawakwa; thence in the state highway running to Camp Nawakwa and by land now or formerly of The C.H. Musselman Company South 84 degrees 8 minutes East 404.2 feet to an iron pin; thence leaving said last mentioned highway and running along land now or formerly of Elmer H. Heller South 13 degrees 46 minutes East 197.7 feet to a black oak stump; thence by the same South 39 degrees 37 minutes West 602 feet to an iron pin and stones at or near the Western edge of the state highway running from Arendtsville to the Lincoln Highway; thence in said last mentioned state highway and by land now or formerly of The C.H. Musselman Company North 5 degrees 16 minutes West 700 feet to an iron pin, the place of BEGINNING, CONTAINING 4 acres and 41 Perches, more or less.

THE description of the tract of land hereby conveyed was obtained from a draft of survey made on April 13, 1956 by Leroy R. Winebrenner, County Surveyor.

Vested by: Special Warranty Deed dated 8/5/99, given by Glenn R. Heller and Marie A. Heller, husband and wife to Nora L. Bachman recorded 8/5/99 in Book: 1890 Page 16.

Premises being: 475 Nawakwa Road, Biglerville, PA 17307

Tax Parcel No. D6-27

SEIZED and taken into execution as the property of **Nora L. Bachman a/k/a Nora L. Patterson** 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 October 24, 2005, 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.

8/19, 26 & 9/2

NOTICE OF TRANSFER OF ATTORNEY TO INACTIVE STATUS

NOTICE IS HEREBY GIVEN that Paul T. Dean of Adams County has been transferred to Inactive Status by Order of the Supreme Court of Pennsylvania dated July 26, 2005, pursuant to Rule 111(b), Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective August 25, 2005 for Compliance Group 3 due December 31, 2004.

Elaine M. Bixler
Secretary of the Board
The Disciplinary Board of the
Supreme Court of Pennsylvania

9/2

JP MORGAN CHASE BANK VS. WEVERINK

1. The party moving for summary judgment has the burden of proving that there is no genuine issue of material fact.
2. The non-moving party may not rest upon the averments contained in their pleadings; instead, they are required to show, by depositions, answers to interrogatories, admissions or affidavits, that there is a genuine issue for trial. If the non-moving party does not respond, the court may grant summary judgment on that basis.
3. Pennsylvania courts have held that because the mortgagor is the only party, apart from the mortgagee, who would have sufficient knowledge upon which to base a specific denial as to the amount due on the mortgage, a general denial with respect to this amount constitutes an admission.
4. A mortgagee's promise to a mortgagor to forbear from foreclosing on the defaulting mortgagor's property involves surrendering an interest in land. Such an agreement is enforceable if it satisfies the Statute of Frauds, that is, the agreement is in writing and signed by the mortgagee.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 03-S-787, JP MORGAN CHASE BANK, AS TRUSTEE FOR EQUITY ONE ABS, INC. MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2000-1 VS. HEINZ WEVERINK AND DEBRA WEVERINK.

Pina S. Wertzberger, Esq., for Plaintiff
Catherine J. Gault, Esq., for Defendants
Kuhn, P.J., March 1, 2005

OPINION PURSUANT TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Before this Court is Plaintiff's Motion for Summary Judgment. For the reasons set forth herein, said Motion is denied.

The case involves a dispute with regard to the alleged default of Defendants, Heinz and Debra Weverink (collectively "Defendants"), on mortgage payments to JP Morgan Chase Bank, as trustee for Equity One ABS, Inc. Mortgage Pass-Through Certificates, Series 2000-1. The factual background has been gathered from the pleadings, affidavit, and exhibits.

FACTUAL AND PROCEDURAL BACKGROUNDS

On April 28, 1999, Defendants executed and delivered a mortgage to Equity One, Inc. for the principal sum of \$84,490.00 on real estate located at 404 Shivers Corner Road, Gettysburg, Adams County, Pennsylvania. The mortgage was recorded on May 10, 1999 in the Recorder of Deeds Office in Adams County in Bk. 1828, P. 21, *et seq.*

Plaintiff filed a “Complaint In Mortgage Foreclosure” on July 29, 2003, in which it alleges that Defendants are in default as a result of failing to pay the installments of the principal and interest due on July 3, 2002 and each month thereafter.¹ Plaintiff alleges that it was assigned the mortgage note, and that assignment was recorded on November 14, 2001 in Bk. 2463, P. 42.

The Complaint alleges that the principal balance due on the mortgage is \$83,167.47 and that other fees and charges bring the balance owed to \$98,973.16, as of July 15, 2003, plus \$25.04 per diem and \$40.20 per month thereafter.

Plaintiff further alleges that it fully complied with Act No. 91, 35 P.S. 1680.401(c) of the 1983 Session of the General Assembly of the Commonwealth of Pennsylvania (“Act 91”), by mailing to Defendants a notice, dated November 14, 2002, in accordance with Section 403-C of Act 91. It avers that the applicable time periods therein have expired.

Defendants filed their Answer and New Matter to Plaintiff’s Complaint on September 5, 2003, in which they deny that the subject mortgage is in default and the amounts due as set forth by Plaintiff. They also aver that they do not have sufficient knowledge to affirm or deny that Plaintiff complied with Act 91.

In their New Matter, Defendants allege that on or about June 20, 2003, Quentin Cochran, acting in his capacity as representative of Equity One, ABS, Inc., proposed a payment plan but Defendants have yet to receive the details of such plan. They also aver that on or about July 29, 2003, Plaintiff received from Defendants a mortgage payment in the amount of \$7,000.00.

Plaintiff filed its Answer to New Matter on December 8, 2004, wherein it admitted that it entered into a forbearance agreement with Defendants but went on to allege that Defendants failed to adhere to the terms of the agreement. It avers that it is also without information sufficient to form a belief as to whether Defendants made a \$7,000.00 payment on the subject mortgage and therefore denied the averment. Plaintiff further alleges that Defendants have received credit for any payments made on the mortgage.

¹Plaintiff filed its “Affidavit Regarding Lost Note” on August 25, 2003, wherein Joseph M. Pery, Vice President, Equity One, Inc., attested that although the original executed mortgage note was presumed to be lost, Plaintiff is the owner, holder and possessor of the note and mortgage.

On January 14, 2005, Plaintiff filed its Motion For Summary Judgment along with its brief in support thereof. Defendants failed to file an answer, responsive brief or other documentation within thirty (30) days, in accordance with Pennsylvania Rule of Civil Procedure 1035.3.

DISCUSSION

Summary judgment is granted whenever the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. *Ertel v. The Patriot News Company*, 674 A.2d 1038, 1040-1041 (Pa. 1996); Pa. R.C.P. 1035.2. The party moving for summary judgment has the burden of proving that there is no genuine issue of material fact. *Citicorp Mortgage, Inc. v. Morrisville Hampton Village Realty Limited Partnership*, 662 A.2d 1120, 1122 (Pa. Super. 1995). This Court must resolve all doubts against Plaintiff, as the moving party, and examine the record in a light most favorable to Defendants, as the non-moving party. See *Id.*

Pursuant to Rule 1035.3, the non-moving party bears a clear duty to respond to a motion for summary judgment. Pa. R.C.P. 1035.3(a)(1), (2); *Harber Philadelphia Center City Office Limited v. LPCI, Limited Partnership*, 764 A.2d 1100, 1104 (Pa. Super. 2000). The non-moving party may not rest upon the averments contained in their pleadings; instead, they are required to show, by depositions, answers to interrogatories, admissions or affidavits, that there is a genuine issue for trial. *Buckno v. Penn Linen and Uniform Service, Inc.*, 631 A.2d 674, 676 (Pa. Super. 1993). If the non-moving party does not respond, the court may grant summary judgment on that basis. Pa. R.C.P. 1035(d); 764 A.2d at 1105. Accordingly, though Defendants did not file a response to the present Motion, this Court must still analyze Plaintiff's averments to determine if it, indeed, has established that there exists no genuine issue of material fact and that it is entitled to judgment as a matter of law.

Plaintiff argues that Defendants, through their averments in their Answer and New Matter, effectively admitted every allegation of the Complaint. With regard to Defendant's averment that they do not have sufficient knowledge to affirm or deny whether Plaintiff complied with the Act 91 notice requirements, I find that such averment

does not comport with the Rules of Civil Procedure. Rule 1029(c) requires the answering party to perform a reasonable investigation in order to assert a proper denial based on insufficient information or knowledge. Pa.R.C.P. 1029(c). The Note to this rule provides, "Reliance on subdivision (c) does not excuse a failure to admit or deny a factual allegation when it is clear that the pleader must know whether a particular allegation is true or false." Defendants' response fails to properly comply with Rule 1029(c), as there is no allegation that they have made a reasonable investigation, which is required for such a denial. Also, a reasonable investigation by Defendants would have certainly revealed whether they received the notices. Therefore, Defendants' averment constitutes an admission.

Moreover, Plaintiff's supporting documentation establishes the accuracy of its averment. Plaintiff attached copies of the Act 91 notices, dated November 14, 2002, sent to Defendants, individually. Clearly, no genuine issue of material fact exists on this issue.

Plaintiff also contends that Defendants' averments, regarding their default and the amount due on the mortgage, constitute general denials and, therefore, are not sufficient to overcome summary judgment.

Pennsylvania Rules of Civil Procedure 1029(b) provides:

Averments in a pleading to which a responsive pleading is required are admitted when not denied specifically or by necessary implication. A general denial or a demand for proof, except as provided by subdivision (c) and (e) of this rule, shall have the effect of an admission.

Pa. R.C.P. Rule 1029(b). Also, Pennsylvania courts have held that because the mortgagor is the only party, apart from the mortgagee, who would have sufficient knowledge upon which to base a specific denial as to the amount due on the mortgage, a general denial with respect to this amount constitutes an admission. *First Wisconsin Trust Company v. Strausser*, 653 A.2d 688, 692 (Pa. Super. 1995); *New York Guardian Mortgage Corp. v. Dietzel*, 524 A.2d 951, 952 (Pa. Super. 1987).

Here, Defendants simply deny Paragraphs 7 and 8 of Plaintiff's Complaint alleging that they are in default on the mortgage as well as the amount due. They do not propose what they claim is the correct amount due on the mortgage or that they have not failed to

tender their monthly payments from July 3, 2002 and each month thereafter. Their denials are general in nature and, as a result, constitute admissions.

Nevertheless, in their New Matter, Defendants aver that Quentin Cochran, a representative of Equity One, ABS, Inc., proposed a payment plan on approximately June 20, 2003.² In fact, Plaintiff “admitted that the Defendants entered into a forbearance agreement with Plaintiff.” Defendants (seemingly in reliance upon this alleged agreement) purportedly tendered a mortgage payment of \$7,000.00 to Plaintiff on or about July 29, 2003.³ However, Plaintiff contends that Defendants did not adhere to the terms of that agreement.

A mortgagee’s promise to a mortgagor to forbear from foreclosing on the defaulting mortgagor’s property involves surrendering an interest in land. *Atlantic Financial Federal v. Orianna Historic Associates*, 594 A.2d 356, 357 (Pa.Super. 1991). Such an agreement is enforceable if it satisfies the Statute of Frauds, that is, the agreement is in writing and signed by the mortgagee. *Id.*; 33 P.S. §1; see also *Eastgate Enterprise, Inc. v. Bank & Trust Co.*, 345 A.2d 279 (Pa.Super. 1975).

In the present case, questions of fact exists as to (1) whether the forbearance agreement is a written agreement signed by Plaintiff; (2) the terms of the agreement (if the agreement satisfies the Statute of Frauds); and (3) whether Defendants failed to adhere to those terms. As noted, Plaintiff admitted the existence of the forbearance agreement. As previously stated, the burden is on Plaintiff to prove that no genuine issue of material fact exists. See *Citicorp Mortgage, Inc.*, *supra*. Reviewing this matter in a light most favorable to Defendants, as the non-moving party, and because Plaintiff failed to produce any tangible evidence contradicting the existence of the agreement and documenting Defendant’s breach of that agreement, summary judgment is not appropriate.

²When a claim or defense is based on an agreement, the pleading must state if the agreement is oral or written, and if written, the agreement must be attached to the pleading. Pa.R.C.P. 1019(h) and corresponding Note. I recognize that Defendants did not explicitly indicate in their New Matter whether this agreement was written or oral. However, Plaintiff did not object to the averments in the New Matter as not conforming to the rules of court or as not being pled with sufficient specificity in accordance with Pa.R.C.P. 1028.

³On the same day, Plaintiff filed the instant Complaint.

I note that a question of fact also arises as to whether Defendants' alleged \$7,000.00 payment was actually tendered and accepted thus changing the amount due on the mortgage. Documentation, such as Defendants' loan payment history, could have proved dispositive on this issue.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 1st day of March, 2005, Plaintiff's Motion for Summary Judgment, filed January 14, 2005, is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1069 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point in a public right-of-way known as Boy Scout Road and lands now or formerly of Richard Stegman; thence along and through said Boy Scout Road South fifty-five (55) degrees forty-five (45) minutes thirty-five (35) seconds West, two hundred and twenty hundredths (200.20) feet to a point at lands now or formerly of James Busbey; thence along said last mentioned lands North twenty-two (22) degrees eleven (11) minutes forty (40) seconds West, one hundred and fifty-six hundredths (150.56) feet to a point at a twenty (20) foot private right-of-way; thence along said private right-of-way North sixty-three (63) degrees twenty-five (25) minutes fifty (50) seconds East, one hundred thirty-five and zero hundredths (135.00) feet to a point; thence continuing along the same North thirty-nine (39) degrees thirty-eight (38) minutes thirty-five (35) seconds West, twenty and thirty hundredths (20.30) feet to a point; thence continuing along the same South sixty-three (63) degrees twenty-five (25) minutes fifty (50) seconds West, one hundred and zero hundredths (100.00) feet to a point at lands now or formerly of James Busbey; thence along said last mentioned lands North thirty-four (34) degrees thirty-six (36) minutes five (05) seconds West, one hundred seventy-five and forty-nine hundredths (175.49) feet to a point in the Conewago Creek; thence in and through said Conewago Creek North fifty-seven (57) degrees twenty-four (24) minutes zero (00) seconds East, one hundred six and ninety-three hundredths (106.93) feet to a point at the edge of Conewago Creek and lands now or formerly of Richard Stegman; thence along said last mentioned lands South forty-three (43) degrees thirty-seven (37) minutes forty-five (45) seconds East, one hundred eighty-nine and eighty-five hundredths (189.85) feet to a point; thence continuing along same South thirty-nine (39) degrees forty-nine (49) minutes forty-five (45) seconds East, ninety-nine and forty-seven hundredths (99.47) feet to the point and place of BEGINNING. CONTAINING 39,170 square feet. The above

description being taken from a Boundary Survey prepared by Adams County Surveyors, dated November 11, 1991 and designated as Drawing B-673.

HAVING ERECTED THEREON a dwelling known as 217 Boy Scout Road, New Oxford, Pennsylvania.

BEING THE SAME PREMISES WHICH Eric J. Carbaugh and Elucia Carbaugh, by their Attorney-in-fact Edward Francis Powers, by their Deed dated September 30, 1999 and recorded October 6, 1999 in Adams County Deed Book 1928, Page 233, granted and conveyed unto Shawn Gladfelter and Michelle Gladfelter.

TOGETHER WITH all and singular ways, waters, watercourses, rights, liberties, privileges, hereditaments and appurtenances, whatsoever thereunto belonging, or in anywise appertaining, and the reversions, and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, claim and demand whatsoever, of Grantors in law, equity, or otherwise howsoever, of, in and to the same and every part thereof.

TO HAVE AND TO HOLD the said tract of land, together with the hereditaments and premises hereby granted or mentioned and intended so to be with the appurtenances unto the said Grantees, their heirs and assigns, to and for the only proper use and behoof of the said Grantees, their heirs and assigns forever.

SEIZED IN EXECUTION AS THE PROPERTY OF SHAWN GLADFELTER AND MICHELLE GLADFELTER UNDER ADAMS COUNTY JUDGMENT NO. 02-S-1069.

Map & Parcel #J10-23B

SEIZED and taken into execution as the property of **Michelle Gladfelter & Shawn Gladfelter** 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 November 14, 2005, 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.

8/19, 26 & 9/2

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, September 6, 2005, at 9:00 a.m.

RAFFENSPERGER—Orphans' Court Action Number OC-131-01. The First and Final Account of Karen B. Arthur, Executrix of the Estate of Harold E. Raffensperger, deceased, late of Cumberland Township, Adams County, Pennsylvania.

MUMMERT—Orphans' Court Action Number OC-98-03. The First and Final Account of Cheryl L. Yingling, Administratrix dbnca for the Estate of Charles J. Mummert, deceased, late of Oxford Township, Adams County, Pennsylvania.

GURRY—Orphans' Court Action Number OC-78-05. The First and Final Account of James M. Thomas, Administrator, c.t.a., of the Estate of Carolyn M. Gurry, deceased, late of Mt. Pleasant Township, Adams County, Pennsylvania.

KESSEL—Orphans' Court Action Number OC-16-05. The First and Final Account of Karen Rabine and Clyde Kepner, Executors of the Will of Margaret S. Kessel, deceased, late of Fairfield Borough, Adams County, Pennsylvania.

Lisa K. Grubbs
Clerk of Courts

8/26 & 9/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1203 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 September, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an iron pin located 11 feet North of the center line of Township Road T-430, known as Plunkert Road, at corner of land now or formerly of Nicholas N. Boccabella and wife, thence by land of the said Nicholas N. Boccabella and wife, and running through an iron pin located 20 feet from the place of beginning, North 4 degrees 47 minutes 2 seconds West, 225 feet to an iron pin; thence by land now or formerly of Raymond G. Boccabella, North 35 degrees 12 minutes 58 seconds East, 141.67 feet to an iron pin; thence by the same and running through an iron pin located 20 feet from the end of this line South 55 degrees 26 minutes 9 seconds East, 377.66 feet to a point located 2 feet West of the center line of Plunkert Road; thence in Plunkert Road, South 46 degrees 34 minutes 12 seconds West, 87.47 feet to a point in said road located 1 foot North of the center line thereof; thence continuing in Plunkert Road, South 89 degrees 48 minutes 2 seconds West, 265.88 feet to an iron pin, the place of BEGINNING. The above description was taken from a draft of survey made by Gettysburg Engineering Company, Inc., dated March 9, 1976 and recorded in Plat Book 10 at Page 17, designating the above as Lot No. 2.

TITLE TO SAID PREMISES IS VESTED IN Neil James Crouse, an unmarried man and Michele L. Rorrer, an unmarried woman, their heirs and assigns by Deed from Neil James Crouse, an unmarried man dated 10/24/2002 and recorded 11/6/2002 in Record Book 2867 Page 173.

Tax Parcel: 7C Map 1-16
Premises Being: 202 Plunkert Road, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Neil James Crouse & Michele L. Rorrer** 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 October 24, 2005,

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.

8/19, 26 & 9/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-99 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 September, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground situate in Reading Township, Adams County, Pennsylvania, designated as (Lot Number 32) on subdivision plat of Hampton Plains, Inc., which plat is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 19, at Page 30.

Map #J8, Parcel #73

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN John T. Hauf by Deed from Richard L. Krill, etal, dated 5/21/1996 recorded 5/22/1996 in Record Book 1198 Page 210.

Premises being: 19 Ray Court, New Oxford, PA 17350

SEIZED and taken into execution as the property of **John Theodore Hauf** 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 October 24, 2005, 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.

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8/19, 26 & 9/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-906 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 September, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being on the South side of Linden Avenue in the Village of Midway, Conewago Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING on the North by Linden Avenue; on the South by a public alley; on the East by Lot No. 5 on the plat of lots hereinafter referred to, and on the West by lands now or formerly of Bernard L. Schuchart and wife. Having a frontage on Linden Avenue of thirty (30) feet and extending in depth of equal width throughout one hundred sixty-five (165) feet to the public alley. Said tract is known as Lot No. 4, in Block 3 on the plat of lots of Hanover Improvement Company, which plat is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book WW, at page 600.

TITLE TO SAID PREMISES IS VESTED IN Albert T. Crigger II and Sonya R. Zito as joint tenants with Right of Survivorship by Deed from Dennis Mundell and Rebecca J. Mundell, his wife dated 4/30/1999 and recorded 4/30/1999, in Record Book 1822 Page 169.

Tax Parcel: 141A Map #8

Premises Being: 330 Linden Avenue, Hanover, PA 17331

SEIZED and taken into execution as the property of **Albert T. Crigger II & Sonya R. Zito** 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 October 24, 2005, 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.

8/19, 26 & 9/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-646 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Union Township, Adams County, Pennsylvania, being Lot No. 4 on the draft of survey hereinafter identified, bounded and described as follows:

BEGINNING at a railroad spike in Barts Church Road, Township Road T-459, at Lot No. 3; thence by said lot South 63 degrees 5 minutes 37 seconds West, 260 feet to an iron pin at other lands of Paul J. and Mary E. Foltz; thence by said lands North 26 degrees 54 minutes 23 seconds West, 217.13 feet to an iron pin at lands of Albert Roshelli; thence by said lands North 73 degrees 53 minutes 23 seconds East, 264.68 feet to a railroad spike in said Barts Church Road, Township Road T-459; thence in said Barts Church Road, Township Road T-459, South 26 degrees 54 minutes 23 seconds East, 167.55 feet to the place of BEGINNING. CONTAINING 1.148 Acres.

Tax Parcel Number: K17-54F.

BEING known as 319 Barts Church Road, Hanover, Pennsylvania 17331.

BEING the same property which Michael L. Rebert and Sara L. Rebert, his wife, by Deed dated June 26, 1989 and recorded June 27, 1989, in the Recorder of Deeds Office, Adams County, Pennsylvania in Deed Book Volume 526, Page 541 granted and conveyed unto Delores K. Whisler.

Grenen & Birsic, P.C.
By: Kristine M. Anthou, Esq.
Pa. I.D. #77991
Attorneys for Plaintiff
One Gateway Center, Ninth Floor
Pittsburgh, PA 15222
(412) 281-7650

SEIZED and taken into execution as the property of **Delores K. Whisler** 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 November 14, 2005, 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.

8/26, 9/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1200 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situated, lying and being in Germany Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of Gettysburg Road at corner of Lot No. 1; thence in said road South 04 degrees 28 minutes 48 seconds East, 300.28 feet to a point at corner of land now or formerly of Maurice B. Miller; thence along lands of Miller North 87 degrees 43 minutes 55 seconds West, 139.70 feet to an iron pipe; thence along same North 77 degrees 53 minutes 26 seconds West, 327.22 feet to an iron pipe at corner of lands now or formerly of Clarence H. Williams; thence by lands of Williams North 13 degrees 06 minutes 50 seconds East, 186.34 feet to a point at Lot No. 1; thence by Lot No. 1 North 83 degrees 40 minutes 00 seconds East, 396.22 feet to a point in the center of Gettysburg Road the place of BEGINNING.

THE ABOVE DESCRIPTION was taken from a final Subdivision Plan dated October 21, 1998 by Worley Surveying and recorded December 4, 1998 in the Office of the Recorder of Deeds for Adams County, Pennsylvania and designated as Lot No. 2.

UNDER AND SUBJECT, NEVERTHELESS, that the hereby granted piece of land shall be and remain subject to the following condition: That no mobile homes or trailers may by used for residential purposes.

TITLE TO SAID PREMISES IS VESTED IN Kimberly Bayne by Deed from Lennie F. Smith, widow, dated 11/30/1999 and recorded 12/7/1999 in Record Book 1966 Page 24.

Premises being: 725 Gettysburg Road, Littlestown, PA 17340

Tax Parcel No. 108B Map 1-17

SEIZED and taken into execution as the property of **Kimberly Bayne a/k/a Kimberly J. King** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 14, 2005, 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.

8/26, 9/2 & 9

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation - Domestic Non-Profit Corporation were filed with the Department of State, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on July 19, 2005, for TALL GRASS MEADOWS HOMEOWNERS' ASSOCIATION, INC., under the provisions of the Pennsylvania Non-Profit Corporation Law of 1988.

Barley Snyder LLC
Solicitors
14 Center Square
Hanover, PA 17331

9/2

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation - Domestic Non-Profit Corporation were filed with the Department of State, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on July 19, 2005, for CAMBRIAN HILLS HOMEOWNERS' ASSOCIATION, INC., under the provisions of the Pennsylvania Non-Profit Corporation Law of 1988.

Barley Snyder LLC
Solicitors
14 Center Square
Hanover, PA 17331

9/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-620 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a railroad spike in the center line of New Road T-364 at corner of Lot No. 2 on the draft of survey hereinafter referred to; thence in the center line of such road North 13 degrees 05 minutes 00 seconds West, 168.00 feet to a bolt in the center line of such road at land now or formerly of Eugene McDannell; thence by same North 68 degrees 23 minutes 18 seconds East, passing through an iron pin 9.15 feet from the East edge of paving and a reference pipe 21.65 feet from the beginning of the course, 579.02 feet to an existing iron pin and stones at land now or formerly of Thomas Reeve; thence by same South 32 degrees 30 minutes 50 seconds East, 200 feet to a pipe at corner of Lot No. 2; thence along Lot No. 2 South 71 degrees 05 minutes 10 seconds West, 642.47 feet to a railroad spike, the place of BEGINNING.

CONTAINING 2.537 acres.

The above description was taken from draft of survey prepared by Adams County Surveyors on March 5, 1980, a plat of which was recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 34, at Page 61, the above described parcel being designated as Lot No. 1 thereon.

DWELLING KNOWN AS 855 New Road, Orrtanna, PA 17353

TAX/PARCEL ID: 12 C9-27A

SEIZED and taken into execution as the property of **Cindy L. Shriner & James D. Shriner** 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 November 14, 2005, 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.

8/26, 9/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-644 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Hamiltonban Township, (previously cited as Orrtanna) Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the Fairfield Road, running thence in center of said road, North sixty-three and one-half (63-1/2) degrees East, two and four-tenths (2.4) perches; thence by Lot No. 4, South twenty-six (26) degrees East, six and five-tenths (6.5) perches to a stake; thence by lands now or formerly of Peter Kready, South fifty-four (54) degrees West, two and five-tenths (2.5) perches to center of Mill race; thence by Lot No. 2, North twenty-five and one-quarter (25-1/4) degrees West, seven (7) perches to the place of BEGINNING, CONTAINING sixteen (16) perches of land, neat measure.

BEING the same tract of land which Edith B. Stonesifer and Alvah L. Stonesifer, her husband, by their Deed dated May 28, 1955 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book 210 at page 218, granted and conveyed unto Alvah L. Stonesifer and Edith B. Stonesifer, husband and wife, and the said Alvah L. Stonesifer died June 10, 1973, thereby vesting the entire title in Edith B. Stonesifer, surviving tenant of a tenancy by the entireties, the decedent herein.

Premises being: 1855 Carroll Tract Road, Orrtanna, PA 17353

Tax Parcel No. 18-C12-0042

SEIZED and taken into execution as the property of **Glenn A. Hendrickson** 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 November 14, 2005, 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.

8/26, 9/2 & 9

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Act of Assembly, No. 295, effective March 16, 1983, of the filing in the office of the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on June 15, 2005, an Application for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of **SANDOE, SANDOE & ASSOCIATES**, a Financial Advisory Practice of Ameriprise Financial Services, with its principal place of business at 1105 Shrivvers Corner Road, Gettysburg, PA 17325-8369.

The name and address of the individual interested in the business is Mark E. Sandoe, 1105 Shrivvers Corner Road, Gettysburg, PA 17325-8369.

9/2

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation - Domestic Non-Profit Corporation were filed with the Department of State, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on July 19, 2005, for **HICKORY RIDGE, SECTION 3, PLANNED COMMUNITY ASSOCIATION, INC.**, under the provisions of the Pennsylvania Non-Profit Corporation Law of 1988.

Barley Snyder LLC
Solicitors
14 Center Square
Hanover, PA 17331

9/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-602 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 September, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land situate on the Northerly right of way line of Abbotts Drive in the Borough of Abbotstown, County of Adams and State of Pennsylvania known and numbered as Lot No. 42 on a plan of lots for Abbotts Manor Phase II recorded in the Office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plat 73, Page 43, more fully bounded and described as follows, to wit:

BEGINNING at a point on the Northerly right of way line of Abbotts Drive, at a corner of Lot No. 41 on said plan; thence extending along the said Lot No. 41 North 30 degrees 14 minutes 00 seconds West 290.66 feet to a point, at a corner of Lot No. 55D on said plan; thence extending along the said Lot No. 55D North 30 degrees 34 minutes 40 seconds East 97.36 feet; thence on said plan; South 30° 14' 00" East 338.14'; thence extending along the Northerly right of way line of Abbotts Drive South, 59 degrees 46 minutes 00 seconds West 85 feet to the point and place of BEGINNING.

CONTAINING 26,724 square feet.

TITLE TO SAID PREMISES IS VESTED IN Donald L. Plank, Jr. and Elizabeth A. Martz, their heirs, successors and assigns by Deed from Philip R. Garland t/d/b/a Garland Construction dated 7/23/1999 and recorded 2/4/2000, in Record Book 1997, Page 138.

Premises being: 131 Abbotts Drive, Abbotstown, PA 17301

Tax Parcel No. 5-48

SEIZED and taken into execution as the property of **Donald L. Plank, Jr. & Elizabeth A. Martz** 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 October 24, 2005, 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.

8/19, 26 & 9/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-400 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL of that piece, parcel or tract of land, with the improvements thereon erected, situate in Mt. Joy Township, Adams County, Pennsylvania, more particularly described as follows, to-wit:

BEGINNING for a point in the center of Long Road (T-425) a fifty (50.00) feet wide right-of-way at corner of Lot No. 1 as shown on the hereinafter referred to plan of lots; thence along said Lot No. 1 South twenty-seven (27) degrees thirty-eight (38) minutes five (05) seconds West, five hundred forty-nine and twenty-three hundredths (549.23) feet to a point at Lot No. 3 on the hereinafter referred to plan of lots; thence along Lot No. 3 North sixty-two (62) degrees twenty-one (21) minutes fifty-five (55) seconds West, seven hundred seventy-nine and seventeen hundredths (779.17) feet to a point at lands now or formerly of Hoffman Orphanage Farm; thence along said lands North forty (40) degrees ten (10) minutes thirty-five (35) seconds East, two hundred seventy-two and eighty hundredths (272.80) feet to a point at lands now or formerly of Esther Hess; thence along said lands South fifty-seven (57) degrees fifty-four (54) minutes forty (40) seconds East, three hundred fifty-four and thirty hundredths (354.30) feet to a point at lands now or formerly of Esther Hess; thence along said lands North twenty-nine (29) degrees forty (40) minutes forty (40) seconds East, three hundred sixty-eight and seventy-four hundredths feet to a point in the center of Long Road, aforesaid; thence along Long Road South fifty-three (53) degrees two (02) minutes twenty-five (25) seconds East, three hundred fifty-eight and twenty-nine hundredths (358.29) feet to a point in the center of Long Road, the point and place of BEGINNING. CONTAINING 7.050 acres and being shown on a plan of lots prepared by Adams County Surveyors dated March 16, 1999 and recorded in

the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 76, page 39, and designated as Lot No. 2 thereon.

IT BEING part of the same tract of land which Harold R. Beebe and Mary Rose Beebe, husband and wife, by their deed dated December 11, 2002, and intended to be recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, granted and conveyed unto James M. Hurley, single person, MORTGAGOR HEREIN.

Premises Being: 30 Long Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **James M. Hurley** 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 November 21, 2005, 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.

9/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-590 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner at a point in the center of Township Road T-497 (commonly referred to as Red Hill Road) along lands of Trimen Industries, Inc.; thence along said last mentioned lands of Trimen Industries, Inc., North thirty-six (36) degrees forty-two (42) minutes nine (09) seconds West, through a steel pin set twenty-five (25) feet from the beginning of this course and a steel pin set ninety-one and nine hundredths (91.09) feet from the terminus of this course, five hundred sixty-eight and seventy-one hundredths (568.71) feet to a steel pin (found) at lands formerly of Earl B. Bittinger, now Hershey, as shown on the hereinafter referred to subdivision plan; thence along said last mentioned lands, North forty-nine (49) degrees fifty-two (52) minutes sixteen (16) seconds East, three hundred seventy-five and fifty-three hundredths (375.53) feet to a steel pin (set) at corner of Lot No. 2 on the subdivision plan hereinafter referred to; thence along said Lot No. 2, South thirty-six (36) degrees forty-two (42) minutes nine (09) seconds East (erroneously stated in prior deed as West), through a steel pin set twenty-five and forty-three hundredths (25.43) feet from the terminus of this course, six hundred fifty-six and eighty-six hundredths (656.86) feet to a pin in the center of Township Road T-497 (Red Hill Road); thence in and along the centerline of said Township Road T-497 the following four (4) courses and distances: (1) South sixty-six (66) degrees thirty-eight (38) minutes forty-nine (49) seconds West, one hundred eighteen and two hundredths (118.02) feet to a point; (2) South sixty-three (63) degrees nine (09) minutes thirty-five (35) seconds West, eighty-two and fifty-two hundredths (82.52) feet to a point; (3) South sixty-one (61) degrees fifty-five (55) minutes twenty-nine (29) seconds West seventy-one and seven hundredths (71.07) feet to a point; and (4) South sixty (60) degrees twenty-eight (28) minutes thirty-eight (38) seconds West, one hundred nine and thirty-three

hundredths (109.33) feet to a point in the center of Township Road T-497, the point and place of BEGINNING. (CONTAINING 5.2342 acres of land.) (Being Lot No. 1 on subdivision plan prepared for Bi-Win Corporation by Donald E. Worley, bearing date August 9, 1982, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book #37, page 40. Being Map #K11, Parcel #103B.

TITLE TO SAID PREMISES IS VESTED IN Anita A. Crebs by Deed from Garland Construction, Inc. dated 12/11/1998, recorded 5/3/1999, in Record Book 1822 Page 104.

Notice: Conveys title to Lot #1 only.

Tax Parcel: 35-K11-103B

Premises Being: 1310 Red Hill Road, New Oxford, PA 17350

SEIZED and taken into execution as the property of **Anita A. Crebs** 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 November 21, 2005, 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.

9/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-692 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land located in Reading Township, Adams County, Pennsylvania, shown as Tract No. 2 on the final subdivision plan prepared for Edward C. Wallen, Sr. dated December 29, 1998 and about to be recorded in the Adams County, Pennsylvania, Recorder of Deeds Office and shown as Lot No. 2, on said plan, more particularly bounded and described as follows:

BEGINNING at a steel pin set located at the Eastern corner of Lot No. 1 as shown on said plan; thence along Lot No. 1 South 40 degrees 19 minutes 42 seconds West 160.00 feet to a steel pin set located at lands now or formerly of Gene H. Shenberger; thence by said lands of Shenberger South 49 degrees 40 minutes 18 seconds West 306.54 feet to an existing iron pipe at lands now or formerly of David W. Diehl; thence by lands of David W. Diehl North 22 degrees 54 minutes 02 seconds East 167.70 feet to an existing iron pipe at other lands of the grantors herein; thence by same North 49 degrees 40 minutes 18 seconds West 256.31 feet to a steel pin set; the point and place of BEGINNING.

CONTAINING 1.034 Acres.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Edward C. Wallen, Jr. and Lori Sue Wallen, husband and wife, by Deed from Edward C. Wallen, Sr. and Darlene K. Wallen, husband and wife, dated 4-22-99 and recorded 6-9-99 in Deed Book 1849, page 20.

Premises being: 22 Miller Road, New Oxford, PA 17350

Tax Parcel No. 36-J07-0069

SEIZED and taken into execution as the property of **Lori S. Wallen** 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 November 21, 2005, 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.

9/2, 9 & 16

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 ROY E. BREIGHNER, JR., DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Executors: Shirley E. Pannell, 2005 Walnut Lane, Lancaster, PA 17603; Barbara A. MacDonald, 2669 Beech Lane, Lancaster, PA 17601; Robert O. Breighner, 4000 Oxford Road, York Springs, PA 17372

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

ESTATE OF NANCY A. STEPHENS, DEC'D

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

Administrator: Cheryl A. Simpson, c/o Daley, Zucker & Gingrich, LLC, 1029 Scenery Drive, Harrisburg, PA 17109-5322

Attorney: Lindsay Gingrich Maclay, Esq., Daley, Zucker & Gingrich, LLC, 1029 Scenery Drive, Harrisburg, PA 17109-5322

ESTATE OF KATHY A. STRAUSBAUGH, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Administrators: Thomas L. Strausbaugh, 1931 Centennial Road, Hanover, PA 17331; Beatrice B. Strausbaugh, 1931 Centennial Road, Hanover, PA 17331

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

ESTATE OF ROBERT F. WAGNER, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executrix: Shirley A. Wagner, 1310 Goldenville Road, Gettysburg, PA 17325

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

SECOND PUBLICATION

(No Estates Notices Submitted)

THIRD PUBLICATION

ESTATE OF MICHELLE RENEE DONNELLY, DEC'D

Late of Liberty Township, Adams County, Pennsylvania

Administrator: Lawrence P. Donnelly, 27 Pine Tree Hill, Fairfield, PA 17320

Attorney: Sheryl L. Jackson, Esq., P.O. Box 3504, Gettysburg, PA 17325

ESTATE OF KEITH A. FORSYTHE, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Administratrix: Rosalie Stouter, 5235 Chambersburg Road, Orttanna, PA 17353

Attorney: J. Edward Beck, Jr., Esq., Keller, Keller, Frey and Beck LLC, 1035 Wayne Avenue, Chambersburg, PA 17201

ESTATE OF ROMAINE T. GROFT, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Geneva C. Baugher, 4958 Howard Street, Fort Myers, FL 33905

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

ESTATE OF DOROTHY P. MILLER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: Barbara Webb, c/o Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, PC, 135 North George Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, PC, 135 North George Street, York, PA 17401

ESTATE OF MARK J. SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Mark J. Smith, Jr., 7 Woodstone Court, York, PA 17402

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

ESTATE OF RUTH M. STITELY, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Wanda Bankert, 650 East Middle Street, Hanover, PA 17331; Diane Beasley, P.O. Box 108, McKnightstown, PA 17343

Attorney: Walton V. Davis, Esq., 63 W. High St., Gettysburg, PA 17325

ESTATE OF ROBERT G. WEAVER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Francis X. Weaver, 338 Larkin Drive, Red Lion, PA 17356

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-634 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an existing railroad spike in the center line of Cranberry Road (S.R. #1014) at the Southeast corner of land now or formerly of Maxine Calaman; thence by said Calaman land North eighteen (18) degrees eighteen (18) minutes twenty (20) seconds East, one hundred seventy-one and six one-hundredths (171.06) feet to an existing steel rod; thence continuing by the same North six (06) degrees thirty-six (36) minutes five (05) seconds East, one hundred twenty-four and ninety one-hundredths (124.90) feet to a steel rod at the Southwest corner of Lot No. 2 on a Plan of Lots mentioned hereinafter; thence by said Lot No. 2 and through a concrete monument set twenty-six and zero tenths (26.0) feet from the end of this course North sixty-six (66) degrees thirty-eight (38) minutes twenty-five (25) seconds East, four hundred seventy-three and ninety-one one-hundredths (473.91) feet to a magnetic spike in the center line of Upper Bermudian Road (S.R. #1016); thence running in said Upper Bermudian Road South twenty-three (23) degrees forty-seven (47) minutes thirty-five (35) seconds East, three hundred fifteen and forty-one one-hundredths (315.41) feet to an existing railroad spike 4 feet East of the center line of said road and at the common intersection of Upper Bermudian Road, Cranberry Road and Bull Valley Road (T-539); thence running in said intersection South thirty-one (31) degrees fifty-one (51) minutes fifty-five (55) seconds West, twenty-three and twenty-nine one-hundredths (23.29) feet to a magnetic spike near the center line of Cranberry Road; thence running in said Cranberry Road South sixty-one (61) degrees fifty-four (54) minutes thirty-five (35) seconds West, one hundred six and sixty-three one-hundredths (106.63) feet to a magnetic spike at the center line; thence continuing in said road South sixty-eight (68) degrees twenty-five (25) minutes thirty (30) seconds West, one hundred seventy-two and seventy-four one-hundredths

(172.74) feet to a magnetic spike two (2) feet North of the center line; thence continuing in said road South seventy-eight (78) degrees twenty-one (21) minutes thirty-five (35) seconds West, one hundred seventy-two and seventy-four one-hundredths (172.74) feet to a magnetic spike in the center line; thence continuing in said road South eighty-four (84) degrees fifty-two (52) minutes twenty-five (25) seconds West, one hundred ninety-four and ninety-nine one-hundredths (194.99) feet to an existing railroad spike in the center line of Cranberry Road, the place of BEGINNING.

CONTAINING 4.100 acres.

THE above description was taken from a Final Plan prepared by Adams County Surveyors, J. Riley Redding, R.P.L.S., dated October 27, 1996 and recorded in Adams County Plat Book 70 Page 17, being designated as Lot No. 1, thereon.

Map #H5, Parcel 29

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Michael T. Laughman and Caroline S. Laughman, his wife by Deed from Michael L. Laughman, a/k/a Michael T. Laughman and Caroline S. Feesser, now known as Caroline S. Laughman, husband and wife, dated 9/22/2000 and recorded 10/2/2000 in Record Book 2136 Page 321.

Premises being: 828 Cranberry Road, Aspers, PA 17304

SEIZED and taken into execution as the property of **Michael T. Laughman & Caroline S. Laughman** 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 November 21, 2005, 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.

9/2, 9 & 16

NOTICE

To: the heirs, assigns and devisees of Ruth Weaver aka Ruth A. Weaver and the heirs, assigns and devisees of Paul Weaver aka Paul S. Weaver: You are being sued in an action to quiet title to real estate sold as the property of Thomas A. Miller and Diane R. Miller, husband and wife, as described in the deed dated September 24, 2004, and recorded in the Office of the Recorder of Deeds, Adams County, Pennsylvania in Deed Book 3722 at Page 93. 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 within 30 days of the posting or publication of this notice. 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 GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
(717) 334-6781 or 888-337-9846

9/2

Adams County Legal Journal

Vol. 47

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No. 16, pp. 100-104

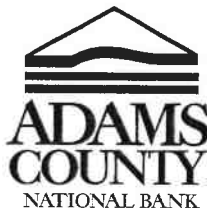
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Corporation Notice	42.00
Fictitious Name	42.00
Change of Name	42.00
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Trust Account	42.00

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-646 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Union Township, Adams County, Pennsylvania, being Lot No. 4 on the draft of survey hereinafter identified, bounded and described as follows:

BEGINNING at a railroad spike in Barts Church Road, Township Road T-459, at Lot No. 3; thence by said Lot South 63 degrees 5 minutes 37 seconds West, 260 feet to an iron pin at other lands of Paul J. and Mary E. Foltz; thence by said lands North 26 degrees 54 minutes 23 seconds West, 217.13 feet to an iron pin at lands of Albert Roshelli; thence by said lands North 73 degrees 53 minutes 23 seconds East, 264.68 feet to a railroad spike in said Barts Church Road, Township Road T-459; thence in said Barts Church Road, Township Road T-459, South 26 degrees 54 minutes 23 seconds East, 167.55 feet to the place of BEGINNING. CONTAINING 1.148 Acres.

Tax Parcel Number: K17-54F

BEING known as 319 Barts Church Road, Hanover, Pennsylvania 17331.

BEING the same property which Michael L. Rebert and Sara L. Rebert, his wife, by Deed dated June 26, 1989 and recorded June 27, 1989, in the Recorder of Deeds Office, Adams County, Pennsylvania in Deed Book Volume 526, Page 541 granted and conveyed unto Delores K. Whisler,

Grenen & Birsic, P.C.

By: Kristine M. Anthon, Esq.

Pa. I.D. #77991

Attorneys for Plaintiff

One Gateway Center, Ninth Floor

Pittsburgh, PA 15222

(412) 281-7650

SEIZED and taken into execution as the property of Delores K. Whisler 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 November 14, 2005, 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.

8/26, 9/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1200 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situated, lying and being in Germany Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of Gettysburg Road at corner of Lot No. 1; thence in said road South 04 degrees 28 minutes 48 seconds East, 300.28 feet to a point at corner of land now or formerly of Maurice B. Miller; thence along lands of Miller North 87 degrees 43 minutes 55 seconds West, 139.70 feet to an iron pipe; thence along same North 77 degrees 53 minutes 26 seconds West, 327.22 feet to an iron pipe at corner of lands now or formerly of Clarence H. Williams; thence by lands of Williams North 13 degrees 06 minutes 50 seconds East, 186.34 feet to a point at Lot No. 1; thence by Lot No. 1 North 83 degrees 40 minutes 00 seconds East, 396.22 feet to a point in the center of Gettysburg Road the place of BEGINNING.

THE ABOVE DESCRIPTION was taken from a final Subdivision Plan dated

October 21, 1998 by Worley Surveying and recorded December 4, 1998 in the Office of the Recorder of Deeds for Adams County, Pennsylvania and designated as Lot No. 2.

UNDER AND SUBJECT, NEVERTHELESS, that the hereby granted piece of land shall be and remain subject to the following condition: That no mobile homes or trailers may be used for residential purposes.

TITLE TO SAID PREMISES IS VESTED IN Kimberly Bayne by Deed from Lennie F. Smith, widow, dated 11/30/1999 and recorded 12/7/1999 in Record Book 1966 Page 24.

Premises being: 725 Gettysburg Road, Littlestown, PA 17340

Tax Parcel No. 108B Map I-17

SEIZED and taken into execution as the property of Kimberly Bayne a/k/a Kimberly J. King and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 14, 2005, 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.

8/26, 9/2 & 9

GOCHENOUR VS. EICHOLTZ

1. The purpose of equitable rescission is to return the parties as nearly as possible to their original positions where the remedy is warranted by the circumstances of the transaction.

2. Although the Supreme Court of Pennsylvania has recognized that improper verification of a complaint may not be brushed aside as a mere legal technicality and may result in the waiver of rights by the pleader, it is also noted that the rules of civil procedure shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable.

3. Courts should not be astute in enforcing technicalities to defeat apparently meritorious claims.

4. An indispensable party is a party whose rights are so directly connected with and affected by litigation that he must be a party of record to protect such rights, and his absence renders any order or decree of court null and void for want of jurisdiction. The test for determining whether a party is indispensable is as follows:

Do absent parties have a right or interest related to the claim?

If so, what is the nature of that right or interest?

Is that right or interest essential to the merits of the issue?

Can justice be afforded without violating the due process rights of the absent parties?

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 04-S-521, JOHN D. GOCHENOUR VS. STEVEN D.
EICHOLTZ AND ROSALIND K. EICHOLTZ.

Wendy Weikal-Bauchat, Esq., for Plaintiff

Patrick W. Quinn, Esq., for Defendants

George, J., February 24, 2005

OPINION

This cause of action arises out of a real estate transaction between John D. Gochenour ("Plaintiff") and Steven and Rosalind Eicholtz ("Defendants"). The Plaintiff and the Defendants entered into an agreement ("Agreement") for the purchase and sale of an undeveloped lot located at 1230 Bull Valley Road, Tyrone Township, Adams County, Pennsylvania. The Plaintiff filed a Complaint claiming that the Defendants breached the terms of the Agreement by misrepresenting that the lot was suitable for building and had been approved for the installation of a septic system. The Plaintiff further alleges that the misrepresentations were knowingly and fraudulently made. The Plaintiff's initial Complaint was met by Preliminary Objections on the part of the Defendants. In response, the Plaintiff filed an Amended Complaint. The Amended Complaint was once again met with Preliminary Objections. The Plaintiff thereafter filed a Second

Amended Complaint which, once again, prompted Preliminary Objections. It is those Preliminary Objections which are currently before the Court for disposition.

The Defendants' Preliminary Objections are numerous and include: 1) A claim that the Plaintiff's Complaint failed to conform to the law by requesting the equitable relief of rescission without alleging failure of an adequate remedy at law; 2) A demurrer to the Plaintiff's breach of contract based upon legal insufficiency of the allegations; 3) A demurrer to the Plaintiff's claim of fraud based upon legal insufficiency of the pleadings; 4) Failure of the Plaintiff to comply with the parties' Agreement for submission of the dispute to alternative dispute resolution; 5) A request to strike the Complaint based upon the Plaintiff's failure to attach proper verification; and 6) The Plaintiff's failure to join the Defendant's real estate agent. Because preliminary objection 4 is dispositive of the issues currently before the Court, I will address that preliminary objection first.

The Defendants' Preliminary Objection based upon the Plaintiff's failure to comply with a term of the Sales Agreement mandating alternative dispute resolution is currently a popular issue in Adams County. Although statewide case law is sparse with regard to issues related to agreements to mediate, over the past several months, preliminary objections similar to those raised by the Defendants have been filed in at least four other cases in Adams County.¹ Based upon the Opinions written in *Bell v. Land Games*, No. 04-S-898 (C.P. Adams County February 11, 2005) and *Molloy v. Martin*, No. 04-S-346 (C.P. Adams County February 23, 2005), further proceedings in this matter will be stayed.

In order to separate the wheat from the chaff, however, I will briefly address a number of the Defendants' remaining Preliminary Objections. The Defendants initially argue that the Plaintiff failed to plead or make a showing that the remedy at law is inadequate thereby requiring dismissal of the Plaintiff's request for rescission in his

¹ See *Dutton v. Nielson*, 04-S-993 (Adams County); *Molloy and Rowe v. Martin v. Brown*, No. 04-S-346 (C.P. Adams County February 23, 2005); *Bell v. Land Games*, cited above; and *Kolson v. Elger*, No. 04-S-303 (C.P. Adams County February 24, 2005).

breach of contract cause of action.² Addressing this Preliminary Objection, I note that the Complaint contains an allegation that an adequate remedy at law is lacking. Moreover, if the factual background alleged in Plaintiff's Complaint is found true, the Plaintiff cannot be adequately compensated except through rescission. It is well known that the purpose of equitable rescission is to return the parties as nearly as possible to their original positions where the remedy is warranted by the circumstances of the transaction. *Gilmore v. Northeast Dodge Co., Inc.*, 420 A.2d 504, 507 (Pa.Super. 1980) (citing *Fichera v. Gording*, 227 A.2d 642 (Pa.Super. 1967)). If there is a finding of breach of contract as alleged by the Plaintiff in the first count of his Complaint, it clearly appears that the Plaintiff would have a right to obtain a rescission of the transaction based upon the circumstances as alleged by the Plaintiff. Since the rules of pleading require only that a complaint set forth enough material facts to "adequately inform the defendants of the charges against them," the Defendants' Preliminary Objection on this basis is denied. *Tucker v. Phila. Daily News*, 848 A.2d 113, 135 (Pa. 2004)

Similarly, the Defendants' Preliminary Objection raising the insufficiency of the verification is denied. Although the Supreme Court of Pennsylvania has recognized that "[i]mproper verification of a complaint may not be brushed aside as a mere 'legal technicality' and may result in the waiver of rights by the pleader," it is also noted that we must also be cognizant of the admonition in Pa.R.C.P. 126 that "the rules of civil procedure shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable." *Rupel v. Bluestein*, 421 A.2d 406, 411 (Pa.Super. 1980). Furthermore, the court stated, "[t]he court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties...courts should not be astute in enforcing technicalities to defeat apparently meritorious claims." *Id.*

While I agree with the Defendants that the Plaintiff's Second Amended Complaint is improperly verified, I find this error to be inconsequential. Proper verification, executed by the Plaintiff, was

² The Defendants raise this argument under two separate Preliminary Objections. I find the arguments under each Preliminary Objection to be similar. Accordingly, they will be dealt with collectively although raised individually as Preliminary Objections I and II in the Defendants' pleading.

attached to the initial Complaint in this matter. Both the First Amended Complaint and the Second Amended Complaint are virtual “twins” of the original Complaint. Certainly, under these circumstances, the Defendants cannot claim prejudice in the instant case. See *Safeguard Investment Co. v. Davis*, 361 A.2d 893 (Pa.Super. 1976). However, in order for this litigation to move forward, the Plaintiff must bring his Second Amended Complaint into compliance with the Pennsylvania Rules of Civil Procedure. Accordingly, the Plaintiff will be directed to file substituted verification to the Second Amended Complaint executed in compliance with the Pennsylvania Rules of Civil Procedure within twenty (20) days of the date of this Order. Failure to do so will result in the Complaint being stricken.

The Defendants also raise as a Preliminary Objection Plaintiff’s failure to join an indispensable party. Specifically, the Defendants argue that the Defendants’ realtor must be joined as a Defendant in this action. I disagree. An indispensable party is a party “whose rights are so directly connected with and affected by litigation that he must be a party of record to protect such rights, and his absence renders any order or decree of court null and void for want of jurisdiction.” *Cry, Inc. v. Mill Service, Inc.*, 640 A.2d 372, 375 (Pa. 1994). The test for determining whether a party is indispensable is as follows:

1. Do absent parties have a right or interest related to the claim?
2. If so, what is the nature of that right or interest?
3. Is that right or interest essential to the merits of the issue?
4. Can justice be afforded without violating the due process rights of the absent parties?

Id. In light of this test as outlined by the Pennsylvania Supreme Court, I find this Preliminary Objection meritless. The Complaint alleges breach of contract and fraud based on representations made by the Defendants. Although the Complaint is not specific as to whether the representations were made by the Defendants directly or through their agent, that distinction is immaterial to the inquiry since representations made by a party’s agent are binding on the party. *Basile v. H & R Block Eastern Tax Serv., Inc.*, 761 A.2d 115, 1121 (Pa. 2000). The absent realtor neither has a right nor interest to the claim nor is essential to a determination of the merits of the issue. Of course, if the facts justify joinder of the real estate agent as an additional Defendant, the Defendants may elect to do so.

The Defendants' remaining Preliminary Objections are demurrers which have a possibility of resulting in the disposition of the disputes raised in the Plaintiff's Second Amended Complaint. As recognized in *Molloy v. Martin*, cited above, demurrers might ultimately result in frustration of the parties' agreement to mediate disputes relative to the Sales Agreement. Accordingly, further ruling on the demurrers will be reserved pending submission of this matter to the mediation process.

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 24th day of February, 2005, the Defendants' Preliminary Objections I, II, VI and VII are denied. The Defendants' Preliminary Objection V is denied to the extent that it seeks dismissal of the Plaintiff's Complaint. However, except as set forth below, further proceedings in this matter are stayed for a period of 120 days. After the expiration of the 120 days from the date of this Order, if the claims against the Defendants have not been settled, the Court will rule upon their demurrers to the Plaintiffs' Complaint without the need for further briefing or argument. The Plaintiff's counsel is directed to advise the Court as to the status of this litigation following the parties' submission of the matter to mediation. If the mediation process is unable to be completed within the 120 days set forth hereinabove, any party may request an extension of the stay granted herein. Ruling on the Defendants' Objections III and IV is reserved pending submission of this matter to the mediation process.

The Plaintiff is directed to file a substitute verification to the allegations in the Complaint in compliance with the Pennsylvania Rules of Civil Procedure within fourteen (14) days of the date of this Order. Failure to do so will, upon praecipe of the Defendants, result in dismissal of the Complaint. The Plaintiff's duty to file a verification is not delayed by the stay entered hereinabove but rather, the stay set forth hereinabove shall not apply to the Defendants' obligation to file verification.

The Adams County Prothonotary's Office shall provide copies of this Court's February 11, 2005 Opinion in *Bell v. Land Games*, No. 04-S-898, and February 23, 2005 Opinion in *Molloy v. Martin*, No. 04-S-346, to each of the parties with a copy of this Order and Opinion.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-644 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Hamiltonban Township, (previously cited as Orrtanna) Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the Fairfield Road, running thence in center of said road, North sixty-three and one-half (63-1/2) degrees East, two and four-tenths (2.4) perches; thence by Lot No. 4, South twenty-six (26) degrees East, six and five-tenths (6.5) perches to a stake; thence by lands now or formerly of Peter Kready, South fifty-four (54) degrees West, two and five-tenths (2.5) perches to center of Mill race; thence by Lot No. 2, North twenty-five and one-quarter (25-1/4) degrees West, seven (7) perches to the place of BEGINNING. CONTAINING sixteen (16) perches of land, neat measure.

BEING the same tract of land which Edith B. Stonesifer and Alvah L. Stonesifer, her husband, by their Deed dated May 28, 1955 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book 210 at page 218, granted and conveyed unto Alvah L. Stonesifer and Edith B. Stonesifer, husband and wife, and the said Alvah L. Stonesifer died June 10, 1973, thereby vesting the entire title in Edith B. Stonesifer, surviving tenant of a tenancy by the entireties, the decedent herein.

Premises being: 1855 Carroll Tract Road, Orrtanna, PA 17353

Tax Parcel No. 18-C12-0042

SEIZED and taken into execution as the property of **Glenn A. Hendrickson** 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 November 14, 2005, 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.

8/26, 9/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-634 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an existing railroad spike in the center line of Cranberry Road (S.R. #1014) at the Southeast corner of land now or formerly of Maxine Calaman; thence by said Calaman land North eighteen (18) degrees eighteen (18) minutes twenty (20) seconds East, one hundred seventy-one and six one-hundredths (171.06) feet to an existing steel rod; thence continuing by the same North six (06) degrees thirty-six (36) minutes five (05) seconds East, one hundred twenty-four and ninety one-hundredths (124.90) feet to a steel rod at the Southwest corner of Lot No. 2 on a Plan of Lots mentioned hereinafter; thence by said Lot No. 2 and through a concrete monument set twenty-six and zero tenths (26.0) feet from the end of this course North sixty-six (66) degrees thirty-eight (38) minutes twenty-five (25) seconds East, four hundred seventy-three and ninety-one one-hundredths (473.91) feet to a magnetic spike in the center line of Upper Bermudian Road (S.R. #1016); thence running in said Upper Bermudian Road South twenty-three (23) degrees forty-seven (47) minutes thirty-five (35) seconds East, three hundred fifteen and forty-one one-hundredths (315.41) feet to an existing railroad spike 4 feet East of the center line of said road and at the common intersection of Upper Bermudian Road, Cranberry Road and Bull Valley Road (T-539); thence running in said intersection South thirty-one (31) degrees fifty-one (51) minutes fifty-five (55) seconds West, twenty-three and twenty-nine one-hundredths (23.29) feet to a magnetic spike near the center line of Cranberry Road; thence running in said Cranberry Road South sixty-one (61) degrees fifty-four (54) minutes thirty-five (35) seconds West, one hundred six and sixty-three one-hundredths (106.63) feet to a magnetic spike at the center line; thence

continuing in said road South sixty-eight (68) degrees twenty-five (25) minutes thirty (30) seconds West, one hundred seventy-two and seventy-four one-hundredths (172.74) feet to a magnetic spike two (2) feet North of the center line; thence continuing in said road South seventy-eight (78) degrees twenty-one (21) minutes thirty-five (35) seconds West, one hundred seventy-two and seventy-four one-hundredths (172.74) feet to a magnetic spike in the center line; thence continuing in said road South eighty-four (84) degrees fifty-two (52) minutes twenty-five (25) seconds West, one hundred ninety-four and ninety-nine one-hundredths (194.99) feet to an existing railroad spike in the center line of Cranberry Road, the place of BEGINNING.

CONTAINING 4 100 acres.

THE above description was taken from a Final Plan prepared by Adams County Surveyors, J. Riley Redding, R.P.L.S., dated October 27, 1996 and recorded in Adams County Plat Book 70 Page 17, being designated as Lot No. 1, thereon.

Map #H5, Parcel 29

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Michael T. Laughman and Caroline S. Laughman, his wife by Deed from Michael L. Laughman, a/k/a Michael T. Laughman and Caroline S. Feeser, now known as Caroline S. Laughman, husband and wife, dated 9/22/2000 and recorded 10/2/2000 in Record Book 2136 Page 321.

Premises being: 828 Cranberry Road, Aspers, PA 17304

SEIZED and taken into execution as the property of **Michael T. Laughman & Caroline S. Laughman** 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 November 21, 2005, 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.

9/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-400 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL of that piece, parcel or tract of land, with the improvements thereon erected, situate in Mt. Joy Township, Adams County, Pennsylvania, more particularly described as follows, to-wit:

BEGINNING for a point in the center of Long Road (T-425) a fifty (50.00) feet wide right-of-way at corner of Lot No. 1 as shown on the hereinafter referred to plan of lots; thence along said Lot No. 1 South twenty-seven (27) degrees thirty-eight (38) minutes five (05) seconds West, five hundred forty-nine and twenty-three hundredths (549.23) feet to a point at Lot No. 3 on the hereinafter referred to plan of lots; thence along Lot No. 3 North sixty-two (62) degrees twenty-one (21) minutes fifty-five (55) seconds West, seven hundred seventy-nine and seven-hundredths (779.17) feet to a point at lands now or formerly of Hoffman Orphanage Farm; thence along said lands North forty (40) degrees ten (10) minutes thirty-five (35) seconds East, two hundred seventy-two and eighty hundredths (272.80) feet to a point at lands now or formerly of Esther Hess; thence along said lands South fifty-seven (57) degrees fifty-four (54) minutes forty (40) seconds East, three hundred fifty-four and thirty hundredths (354.30) feet to a point at lands now or formerly of Esther Hess; thence along said lands North twenty-nine (29) degrees forty (40) minutes forty (40) seconds East, three hundred sixty-eight and seventy-four hundredths feet to a point in the center of Long Road, aforesaid; thence along Long Road South fifty-three (53) degrees two (02) minutes twenty-five (25) seconds East, three hundred fifty-eight and twenty-nine hundredths (358.29) feet to a point in the center of Long Road, the point and place of BEGINNING. CONTAINING 7.050 acres and being shown on a plan of lots prepared by Adams County Surveyors dated March 16, 1999 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 76, page 39, and designated as Lot No. 2 thereon.

IT BEING part of the same tract of land which Harold R. Beebe and Mary Rose Beebe, husband and wife, by their deed dated December 11, 2002, and intended to be recorded in the Office of the Recorder of Deeds of Adams County,

Pennsylvania, granted and conveyed unto James M. Hurley, single person. MORTGAGOR HEREIN.

Premises Being: 30 Long Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **James M. Hurley** 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 November 21, 2005, 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.

9/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-620 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a railroad spike in the center line of New Road T-364 at corner of Lot No. 2 on the draft of survey hereinafter referred to; thence in the center line of such road North 13 degrees 05 minutes 00 seconds West, 168.00 feet to a bolt in the center line of such road at land now or formerly of Eugene McDannell; thence by same North 68 degrees 23 minutes 18 seconds East, passing through an iron pin 9.15 feet from the East edge of paving and a reference pipe 21.65 feet from the beginning of the course, 579.02 feet to an existing iron pin and stones at land now or formerly of Thomas Reeve; thence by same South 32 degrees 30 minutes 50 seconds East, 200 feet to a pipe at corner of Lot No. 2; thence along Lot No. 2 South 71 degrees 05 minutes 10 seconds West, 642.47 feet to a railroad spike, the place of BEGINNING.

CONTAINING 2.537 acres.

The above description was taken from draft of survey prepared by Adams County Surveyors on March 5, 1980, a plat of which was recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 34, at Page 61, the above described parcel being designated as Lot No. 1 thereon.

DWELLING KNOWN AS 855 New Road, Orrtanna, PA 17353

TAX/PARCEL ID: 12 C9-27A

SEIZED and taken into execution as the property of **Cindy L. Shriner & James D. Shriner** 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 November 14, 2005, 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.

8/26, 9/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-590 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner at a point in the center of Township Road T-497 (commonly referred to as Red Hill Road) along lands of Trimen Industries, Inc.; thence along said last mentioned lands of Trimen Industries, Inc., North thirty-six (36) degrees forty-two (42) minutes nine (09) seconds West, through a steel pin set twenty-five (25) feet from the beginning of this course and a steel pin set ninety-one and nine hundredths (91.09) feet from the terminus of this course, five hundred sixty-eight and seventy-one hundredths (568.71) feet to a steel pin (found) at lands formerly of Earl B. Bittinger, now Hershey, as shown on the hereinafter referred to subdivision plan; thence along said last mentioned lands, North forty-nine (49) degrees fifty-two (52) minutes sixteen (16) seconds East, three hundred seventy-five and fifty-three hundredths (375.53) feet to a steel pin (set) at corner of Lot No. 2 on the subdivision plan hereinafter referred to; thence along said Lot No. 2, South thirty-six (36) degrees forty-two (42) minutes nine (09) seconds East (erroneously stated in prior deed as West), through a steel pin set twenty-five and forty-three hundredths (25.43) feet from the terminus of this course, six hundred fifty-six and eighty-six hundredths (656.86) feet to a pin in the center of Township Road T-497 (Red Hill Road); thence in and along the centerline of said Township Road T-497 the following four (4) courses and distances: (1) South sixty-six (66) degrees thirty-eight (38) minutes forty-nine (49) seconds West, one hundred eighteen and two hundredths (118.02) feet to a point; (2) South sixty-three (63) degrees nine (09) minutes thirty-five (35) seconds West, eighty-two and fifty-two hundredths (82.52) feet to a point; (3) South sixty-one (61) degrees fifty-five (55) minutes twenty-nine (29) seconds West seventy-one and seven hundredths (71.07) feet to a point; and (4) South sixty (60) degrees twenty-eight (28) minutes thirty-eight (38) seconds West, one hundred nine and thirty-three

hundredths (109.33) feet to a point in the center of Township Road T-497, the point and place of BEGINNING. (CONTAINING 5.2342 acres of land.) (Being Lot No. 1 on subdivision plan prepared for Bi-Win Corporation by Donald E. Worley, bearing date August 9, 1982, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 37, page 40. Being Map #K11, Parcel #103B.

TITLE TO SAID PREMISES IS VESTED IN Anita A. Crebs by Deed from Garland Construction, Inc. dated 12/11/1998, recorded 5/3/1999, in Record Book 1822 Page 104.

Notice: Conveys title to Lot #1 only.

Tax Parcel: 35-K11-103B

Premises Being: 1310 Red Hill Road, New Oxford, PA 17350

SEIZED and taken into execution as the property of **Anita A. Crebs** 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 November 21, 2005, 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.

9/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-692 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land located in Reading Township, Adams County, Pennsylvania, shown as Tract No. 2 on the final subdivision plan prepared for Edward C. Wallen, Sr. dated December 29, 1998 and about to be recorded in the Adams County, Pennsylvania, Recorder of Deeds Office and shown as Lot No. 2, on said plan, more particularly bounded and described as follows:

BEGINNING at a steel pin set located at the Eastern corner of Lot No. 1 as shown on said plan; thence along Lot No. 1 South 40 degrees 19 minutes 42 seconds West 160.00 feet to a steel pin set located at lands now or formerly of Gene H. Shenberger; thence by said lands of Shenberger South 49 degrees 40 minutes 18 seconds West 306.54 feet to an existing iron pipe at lands now or formerly of David W. Diehl; thence by lands of David W. Diehl North 22 degrees 54 minutes 02 seconds East 167.70 feet to an existing iron pipe at other lands of the grantors herein; thence by same North 49 degrees 40 minutes 18 seconds West 256.31 feet to a steel pin set; the point and place of BEGINNING.

CONTAINING 1.034 Acres.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Edward C. Wallen, Jr. and Lori Sue Wallen, husband and wife, by Deed from Edward C. Wallen, Sr. and Darlene K. Wallen, husband and wife, dated 4-22-99 and recorded 6-9-99 in Deed Book 1849, page 20.

Premises being: 22 Miller Road, New Oxford, PA 17350

Tax Parcel No. 36-J07-0069

SEIZED and taken into execution as the property of **Lori S. Wallen** 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 November 21, 2005, 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.

9/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-281 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the right-of-way line of Lexington Way at Lot No. 76 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 76 North forty-nine (49) degrees thirty-six (36) minutes eight (08) seconds West, one hundred seventy-two and forty-three hundredths (172.43) feet to an iron pin set at Lot No. 56 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 56 North fifty-one (51) degrees eight (08) minutes forty-five (45) seconds East, seventy-six and thirty hundredths (76.30) feet to an iron pin set at Lot No. 56 and Lot No. 72 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 72 as shown on the hereinafter referenced subdivision plan South seventy-three (73) degrees forty-nine (49) minutes twenty-two (22) seconds East, thirty and zero hundredths (30.00) feet to an iron pin set at Lot No. 74 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 74 South thirty-three (33) degrees twenty-eight (28) minutes fifty (50) seconds East; one hundred fifty-six and eighty hundredths (156.80) feet to an iron pin set on the right-of-way line of Lexington Way; thence running along said right-of-way line of Lexington Way by a curve to the left, having a radius of fifty (50.00) feet, an arc length fifty and seven hundredths (50.07) feet and a long chord bearing and distance of South sixty-four (64) degrees forty-four (44) minutes fifty-one (51) seconds West; forty-eight and zero hundredths (48.00) feet to an iron pin set on the right-of-way line of Lexington Way, the point and place of BEGINNING.

CONTAINING 11,988 square feet.

THE above description being Lot No. 75 on the Phase 4 Final Plan for Heritage Hill II, prepared by Martin and Martin, Incorporated, dated December 7, 1997, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 76 at page 17.

Tax Map #27-13-25
RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Christopher A. Iser by Deed from Heritage Hill II, a Limited Partnership and New Age Associates, Inc. dated 8/8/1999 and recorded 8/11/2003, in Record Book 3239 Page 41.

Premises being: 529 Lexington Way, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Christopher Iser a/k/a Christopher A. Iser** 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 November 21, 2005, 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.

9/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-753 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the Northern side of Poplar Street and Lot No. 82; thence along Lot No. 82, North thirty-five (35) degrees fourteen (14) minutes fifty-five (55) seconds West, one hundred thirty and thirty-one hundredths (130.31) feet to a point at lands now or formerly of the Catholic Church; thence along said lands, North seventy-five (75) degrees twelve (12) minutes fifty-one (51) seconds East, one hundred nine and seventy-four hundredths (109.74) feet to a point at Lot No. 80; thence along Lot No. 80, South twenty-two (22) degrees nine (09) minutes nine (09) seconds East, one hundred three and

seventy-four hundredths (103.74) feet to a point at the aforementioned Poplar Street; thence along Poplar Street by a curve to the left whose radius is three hundred fifty (350.00) feet and whose chord bearing is South sixty-one (61) degrees seventeen (17) minutes fifty-eight (58) seconds West, seventy-nine and eighty-three hundredths (79.83) feet for an arc distance of eighty (80.00) feet to the point and place of BEGINNING. CONTAINING 10,691 square feet and identified as Lot No. 81 on a plan of lots entitled Phase II, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 45, page 95.

BEING THE SAME PREMISES which Louis T. Guthrie, unmarried, and Harold H. Hartlaub and Delores V. Hartlaub, husband and wife, by Deed dated 9/29/87 and recorded 10/2/87 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 469 at Page 1071, granted and conveyed unto Charles R. Rutter, III, and Andrea W. Rutter, husband and wife.

Tax Parcel #: 8-c-6-132

SEIZED and taken into execution as the property of **Charles R. Rutter, III & Andrea W. Rutter** 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 November 21, 2005, 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.

9/9, 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 MARIE R. DITZLER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executors: Diane K. Ditzler Barbour, 142 W. Hanover Street, Biglerville, PA 17307; Adams County National Bank, Lincoln Square, Gettysburg, PA 17325

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

ESTATE OF EVELYN W. KRUMRINE, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executor: Paul H. Krumrine, III, 8 Raubenstine Road, Hanover, PA 17331

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

ESTATE OF JERRY STILLER, DEC'D

Late of Freedom Township, Adams County, Pennsylvania

Executrix: Donna Jean Radford Ludwig, 15113 Whitetail Way, Darnestown, MD 20878

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

SECOND PUBLICATION

ESTATE OF ROY E. BREIGHNER, JR., DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Executors: Shirley E. Pannell, 2005 Walnut Lane, Lancaster, PA 17603; Barbara A. MacDonald, 2669 Beech Lane, Lancaster, PA 17601; Robert O. Breighner, 4000 Oxford Road, York Springs, PA 17372

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

ESTATE OF NANCY A. STEPHENS, DEC'D

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

Administrator: Cheryl A. Simpson, c/o Daley, Zucker & Gingrich, LLC, 1029 Scenery Drive, Harrisburg, PA 17109-5322

Attorney: Lindsay Gingrich Maclay, Esq., Daley, Zucker & Gingrich, LLC, 1029 Scenery Drive, Harrisburg, PA 17109-5322

ESTATE OF KATHY A. STRAUSBAUGH, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Administrators: Thomas L. Strausbaugh, 1931 Centennial Road, Hanover, PA 17331; Beatrice B. Strausbaugh, 1931 Centennial Road, Hanover, PA 17331

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

ESTATE OF ROBERT F. WAGNER, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executrix: Shirley A. Wagner, 1310 Goldenville Road, Gettysburg, PA 17325

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

THIRD PUBLICATION

(No Estates Notices Submitted)

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION
NO. 05-S-778
Action to Quiet Title

GERALD M. LIPPY and P. ELIZABETH
LIPPY, husband and wife, Plaintiffs

vs.

JOHN DOE, M. HOWARD, and their
respective executors, heirs and/or
assigns, Defendants

TO: John Doe, M. Howard and their
respective executors, heirs and/or
assigns

DATE OF NOTICE: August 31, 2005

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

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

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
(717) 337-9846 or
1-888-337-9846

/s/Richard E. Thrasher, Esq.
Attorney for Plaintiffs
220 Baltimore Street
Gettysburg, PA 17325
(717) 334-2159

Dated: August 31, 2005

9/9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-722 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate in the Borough of Littlestown, Adams County, Pennsylvania, more particularly described as follows:

BEGINNING at a point along the West side of Princess Street (sometimes known as Prince Street), which point is 60 feet (measured in a direction of North 30-1/4 degrees West), from the Northwest corner of the intersection of Locust Street and Princess Street; thence along Lot No. 32, South 59-3/4 degrees West, 100 feet to a 16 foot wide alley; thence along said alley North 30-1/4 degrees West, 40 feet to Lot No. 30; thence by Lot No. 30, North 59-3/4 degrees West, 100 feet to the West side of Princess Street; thence along the West side of Princess Street South 30-1/4 degrees East, 40 feet to the place of BEGINNING.

THE lot of ground hereby conveyed being known and designated as Lot No. 31 on plan of lots of Littlestown Development Company, prepared by Leroy H. Winebranner, Surveyor, during March of 1927 and revised in March of 1993.

THE lot of ground hereby conveyed is subject, however, to the building restrictions, contained in the recorded in Deed Book 152 at Page 333.

Tax ID No. (27) 8-110

BEING THE SAME property conveyed to Richard Trautman single man by deed from Carol A. Hippensteel a/k/a Carol A. Boyd recorded 08/30/2004 in Deed Book 3687 Page 74, in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

Premises being: 38 Prince Street, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Richard Trautman a/k/a Richard H. Trautman, Jr.** 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 November 21, 2005, 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.

9/9, 16 & 23

Adams County Legal Journal

Vol. 47

September 16, 2005

No. 17, pp. 105-107

IN THIS ISSUE

HOKE-D'AMICO VS. D'AMICO

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-867 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 827 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds in and for Adams County in Misc Deed Book 1, page 5, and subject to all legal highways, easements, rights of way and restrictions of record.

TOGETHER with the right in common with other owners of lots in said subdivision to use for all usual purposes the streets, ways, beaches, recreation areas, and other public areas, as shown on the said plot, and the right in common with the other owners of lots in the said subdivision to use the lake and beaches

for swimming, fishing and boating in accordance with the rules and regulations of Lake Meade Property Owners Association, its successor or assigns.

UNDER AND SUBJECT to the restrictions, conditions and agreement set forth at length in deed of Lake Meade, Inc. to the grantors herein, referred above.

HAVING THEREON ERECTED A DWELLING HOUSE KNOWN AS: 397 Lake Meade Drive, East Berlin, PA 17316

BEING THE SAME PREMISES WHICH Robert W. Snyder and Linda S. Snyder, by Deed dated 6/30/00 and recorded 7/25/00 in Adams County Deed Book 2093, Page 56, granted and conveyed unto Gary Zittle.

SEIZED IN EXECUTION AS THE PROPERTY OF GARY D. ZITTLE UNDER ADAMS COUNTY JUDGMENT NO. 03-S-867

Map & Parcel 37-10-56

SEIZED and taken into execution as the property of Gary D. Zittle 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 November 21, 2005, 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.

9/16, 23 & 30

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-634 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an existing railroad spike in the center line of Cranberry Road (S.R. #1014) at the Southeast corner of land now or formerly of Maxine Calaman; thence by said Calaman land North eighteen (18) degrees eighteen (18) minutes twenty (20) seconds East, one hundred seventy-one and six one-hundredths (171.06) feet to an existing steel rod; thence continuing by the same North six (06) degrees thirty-six (36) minutes five (05) seconds East, one hundred twenty-four and ninety one-hundredths (124.90) feet to a steel rod at the Southwest corner of Lot No. 2 on a Plan of Lots mentioned hereinafter; thence by said Lot No. 2 and through a concrete monument set twenty-six and zero tenths (26.0) feet from the end of this course North sixty-six (66) degrees thirty-eight (38) minutes twenty-five (25) seconds East, four hundred seventy-three and ninety-one one-hundredths (473.91) feet to a magnetic spike in the center line of Upper Bermudian Road (S.R. #1016); thence running in said Upper Bermudian Road South twenty-three (23) degrees forty-seven (47) minutes thirty-five (35) seconds East, three hundred fifteen and forty-one one-hundredths (315.41) feet to an existing railroad spike 4 feet East of the center line of said road and at the common intersection of Upper Bermudian Road, Cranberry Road and Bull Valley Road (T-539); thence running in said intersection South thirty-one (31) degrees fifty-one (51) minutes fifty-five (55) seconds West, twenty-three and twenty-nine one-hundredths (23.29) feet to a magnetic spike near the center line of Cranberry Road; thence running in said Cranberry

Road South sixty-one (61) degrees fifty-four (54) minutes thirty-five (35) seconds West, one hundred six and sixty-three one-hundredths (106.63) feet to a magnetic spike at the center line; thence continuing in said road South sixty-eight (68) degrees twenty-five (25) minutes thirty (30) seconds West, one hundred seventy-two and seventy-four one-hundredths (172.74) feet to a magnetic spike two (2) feet North of the center line; thence continuing in said road South seventy-eight (78) degrees twenty-one (21) minutes thirty-five (35) seconds West, one hundred seventy-two and seventy-four one-hundredths (172.74) feet to a magnetic spike in the center line; thence continuing in said road South eighty-four (84) degrees fifty-two (52) minutes twenty-five (25) seconds West, one hundred ninety-four and ninety-nine one-hundredths (194.99) feet to an existing railroad spike in the center line of Cranberry Road, the place of BEGINNING.

CONTAINING 4.100 acres.

THE above description was taken from a Final Plan prepared by Adams County Surveyors, J. Riley Redding, R.P.L.S., dated October 27, 1996 and recorded in Adams County Plat Book 70 Page 17, being designated as Lot No. 1, thereon.

Map #H5, Parcel 29

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Michael T. Laughman and Caroline S. Laughman, his wife by Deed from Michael L. Laughman, a/k/a Michael T. Laughman and Caroline S. Feeser, now known as Caroline S. Laughman, husband and wife, dated 9/22/2000 and recorded 10/2/2000 in Record Book 2136 Page 321.

Premises being: 828 Cranberry Road, Aspers, PA 17304

SEIZED and taken into execution as the property of **Michael T. Laughman & Caroline S. Laughman** 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 November 21, 2005, 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.

9/2, 9 & 16

NONPROFIT ARTICLES OF INCORPORATION

NOTICE IS HEREBY GIVEN that Nonprofit Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on July 13, 2005, for the purpose of obtaining a Certificate of Incorporation under the provisions of the Nonprofit Corporation Law of 1988. The name of the proposed nonprofit corporation is: CLINE'S UNITED METHODIST CHURCH.

The purpose for which it will be organized is: Church services within United Methodist Church denomination and the teachings of the Holy Bible and Evangelism.

Law Office Forest N. Myers
137 Park Pl. W.
Shippensburg, PA 17257

9/16

HOKE-D'AMICO VS. D'AMICO

1. Either party to a divorce proceeding is entitled to receive alimony pendente lite if there is a financial need. The net award is calculated solely based "on the relative finances of the parties", without regard to fault.

2. To allow a party to begin a divorce case and then allow that same party to effectively place it in neutral by refusing to file a necessary document, while continuing to collect a monthly check for alimony pendente lite, is unjust.

3. The Courts are not equipped with a remedy to order a party to proceed with a divorce.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 04-S-540, KAREN L. HOKE-D'AMICO VS. JOHN R.
D'AMICO, JR.

Henry O. Heiser III, Esq., for Plaintiff

Thomas E. Miller, Esq., for Defendant

Bigham, J., March 10, 2005

OPINION

STATEMENT OF FACTS

This case began on May 24, 2004, when Karen L. Hoke-D'Amico (hereinafter referred to as "Plaintiff") filed a divorce complaint including the following counts: (1) divorce (irretrievable breakdown), (2) equitable distribution, (3) alimony, and (4) alimony pendente lite, counsel fees and expenses. On September 9, 2004, John R. D'Amico (hereinafter referred to as "Defendant"), filed the affidavit of consent and waiver of notice required by Pa.R.C.P. 1920.72. On September 15, 2004, Plaintiff's request for alimony pendente lite in the amount of \$1,911 a month was granted. Prior to the alimony pendente lite award Defendant served Plaintiff's counsel with Defendant's filed affidavit of consent and waiver of notice and requested that Plaintiff promptly file her corresponding documents. Defendant was notified by Plaintiff's attorney that Plaintiff was mentally unable to file the affidavit. In response, Defendant filed a Petition to Suspend Plaintiff's Alimony Pendente Lite effective September 17, 2004, the date Plaintiff refused to file an affidavit of consent and waiver of notice. An evidentiary hearing was held by this Court on December 3, 2004, and subsequently an Order of Court was entered on January 3, 2005, directing the parties to submit memoranda of law on the issue of whether or not Defendant's alimony pendente lite obligation should be suspended due to Plaintiff's

failure to file an affidavit of consent and waiver of notice. The memoranda were filed and the issue is presently before the Court.

LEGAL DISCUSSION

Alimony pendente lite provides a level playing ground for financially disadvantaged litigants who otherwise might be forced to settle or compromise their position because they financially are unable to litigate. Either party to a divorce proceeding is entitled to receive alimony pendente lite if there is a financial need. *Rueckert v. Rueckert*, 20 Pa.D&C.3d 191 (C.P. Allegheny, 1981). The net award is calculated solely based, “on the relative finances of the parties”, without regard to fault. *Id.* So long as there is a pending divorce alimony pendente lite is a possible resource. *Id.*

An unfortunate side-effect of an alimony pendente lite award is that sometimes the receiving party may lose its incentive to proceed with a divorce, especially if that party is receiving a substantial award. To allow a party to begin a divorce case and then allow that same party to effectively place it in neutral by refusing to file a necessary document, while continuing to collect a monthly check for alimony pendente lite is unjust.

The Courts are not equipped with a remedy to order a party to proceed with a divorce. *Karchner v. Karchner*, 26 Pa.D&C.3d. 172,(Adams County, 1983). However, equity demands that the party either proceed with divorce and receive alimony pendente lite or refuse to go forward with the divorce and not receive alimony pendente lite. A reasonable alternative is to bifurcate the divorce action, preserving the economic issues with alimony pendente lite continuing until all economic issues are resolved.

Presently, Plaintiff’s counsel objects to the filing of an affidavit of consent and a waiver of notice because his client is, “unable to litigate due to her health, which is out of control. It is not a matter of Plaintiff voluntarily choosing not to proceed—she simply can’t.” (Plaintiff’s memorandum in opposition to suspension of alimony pendente lite, at page 2.) In support of this proposition, Plaintiff has produced two letters from healthcare providers stating that she is unable to work at this time due to her mental condition. The Court does not take issue with the severity of Plaintiff’s precarious mental condition. However, this Court can not allow a litigant who sought

the help of the judicial system and is receiving its protection to, “be permitted the benefits of a law [alimony pendente lite] whose spirit she is defying.” *Rueckert*, cited above. Therefore, Plaintiff will be given until March 28, 2005 to sign and file the necessary documents required by 23 Pa.C.S.A 3301(c), including but not limited to an affidavit of consent and a waiver of notice.¹ If Plaintiff chooses not to file the requisite documents, then Defendant’s alimony pendente lite obligation will be suspended effective March 28, 2005. The Court notes that the divorce action will not be terminated thus providing an opportunity for Defendant to file a counter-claim for divorce under 23 Pa.C.S.A 3301(d).

Accordingly, the attached Order will be entered.

ORDER OF COURT

AND NOW, this 10th day of March 2005, IT IS ORDERED that Plaintiff has until March 28, 2005, to sign and file an affidavit of consent and a waiver of notice as required by 23 Pa.C.S.A 3301(c). If Plaintiff chooses not to file the requisite documents then Defendant’s alimony pendente lite obligation will be suspended as of March 28, 2005.

¹The Court notes that on March 28, 2005, a combined support and evidentiary hearing has been scheduled in the present case. Therefore, March 28, 2005, is not an arbitrary date decided by the Court but rather it is a date selected for the convenience of the parties.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-400 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL of that piece, parcel or tract of land, with the improvements thereon erected, situate in Mt. Joy Township, Adams County, Pennsylvania, more particularly described as follows, to-wit:

BEGINNING at a point in the center of Long Road (T-425) a fifty (50.00) feet wide right-of-way at corner of Lot No. 1 as shown on the hereinafter referred to plan of lots; thence along said Lot No. 1 South twenty-seven (27) degrees thirty-eight (38) minutes five (05) seconds West, five hundred forty-nine and twenty-three hundredths (549.23) feet to a point at Lot No. 3 on the hereinafter referred to plan of lots; thence along Lot No. 3 North sixty-two (62) degrees twenty-one (21) minutes fifty-five (55) seconds West, seven hundred seventy-nine and seventeen hundredths (779.17) feet to a point at lands now or formerly of Hoffman Orphanage Farm; thence along said lands North forty (40) degrees ten (10) minutes thirty-five (35) seconds East, two hundred seventy-two and eighty hundredths (272.80) feet to a point at lands now or formerly of Esther Hess; thence along said lands South fifty-seven (57) degrees fifty-four (54) minutes forty (40) seconds East, three hundred fifty-four and thirty hundredths (354.30) feet to a point at lands now or formerly of Esther Hess; thence along said lands North twenty-nine (29) degrees forty (40) minutes forty (40) seconds East, three hundred sixty-eight and seventy-four hundredths feet to a point in the center of Long Road, aforesaid; thence along Long Road South fifty-three (53) degrees two (02) minutes twenty-five (25) seconds East, three hundred fifty-eight and twenty-nine hundredths (358.29) feet to a point in the center of Long Road, the point and place of BEGINNING. CONTAINING 7.050 acres and being shown on a plan of lots prepared by Adams County Surveyors dated March 16, 1999 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 76, page 39, and designated as Lot No. 2 thereon.

IT BEING part of the same tract of land which Harold R. Beebe and Mary Rose Beebe, husband and wife, by their deed dated December 11, 2002, and intended to be recorded in the Office of the

Recorder of Deeds of Adams County, Pennsylvania, granted and conveyed unto James M. Hurley, single person, MORTGAGOR HEREIN.

Premises Being: 30 Long Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **James M. Hurley** 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 November 21, 2005, 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.

9/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-722 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate in the Borough of Littlestown, Adams County, Pennsylvania, more particularly described as follows:

BEGINNING at a point along the West side of Princess Street (sometimes known as Prince Street), which point is 60 feet (measured in a direction of North 30-1/4 degrees West), from the Northwest corner of the intersection of Locust Street and Princess Street; thence along Lot No. 32, South 59-3/4 degrees West, 100 feet to a 16 foot wide alley; thence along said alley North 30-1/4 degrees West, 40 feet to Lot No. 30; thence by Lot No. 30, North 59-3/4 degrees West, 100 feet to the West side of Princess Street; thence along the West side of Princess Street South 30-1/4 degrees East, 40 feet to the place of BEGINNING.

THE lot of ground hereby conveyed being known and designated as Lot No. 31 on plan of lots of Littlestown

Development Company, prepared by Leroy H. Winebranner, Surveyor, during March of 1927 and revised in March of 1993.

THE lot of ground hereby conveyed is subject, however, to the building restrictions, contained in the recorded in Deed Book 152 at Page 333.

Tax ID No. (27) 8-110

BEING THE SAME property conveyed to Richard Trautman single man by deed from Carol A. Hippensteel a/k/a Carol A. Boyd recorded 08/30/2004 in Deed Book 3687 Page 74, in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

Premises being: 38 Prince Street, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Richard Trautman a/k/a Richard H. Trautman, Jr.** 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 November 21, 2005, 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.

9/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-590 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner at a point in the center of Township Road T-497 (commonly referred to as Red Hill Road) along lands of Trimen Industries, Inc.; thence along said last mentioned lands of Trimen Industries, Inc., North thirty-six (36) degrees forty-two (42) minutes nine (09) seconds West, through a steel pin set twenty-five (25) feet from the beginning of this course and a steel pin set ninety-one and nine hundredths (91.09) feet from the terminus of this course, five hundred sixty-eight and seventy-one hundredths (568.71) feet to a steel pin (found) at lands formerly of Earl B. Bittinger, now Hershey, as shown on the hereinafter referred to subdivision plan; thence along said last mentioned lands, North forty-nine (49) degrees fifty-two (52) minutes sixteen (16) seconds East, three hundred seventy-five and fifty-three hundredths (375.53) feet to a steel pin (set) at corner of Lot No. 2 on the subdivision plan hereinafter referred to; thence along said Lot No. 2, South thirty-six (36) degrees forty-two (42) minutes nine (09) seconds East (erroneously stated in prior deed as West), through a steel pin set twenty-five and forty-three hundredths (25.43) feet from the terminus of this course, six hundred fifty-six and eighty-six hundredths (656.86) feet to a pin in the center of Township Road T-497 (Red Hill Road); thence in and along the centerline of said Township Road T-497 the following four (4) courses and distances: (1) South sixty-six (66) degrees thirty-eight (38) minutes forty-nine (49) seconds West, one hundred eighteen and two hundredths (118.02) feet to a point; (2) South sixty-three (63) degrees nine (09) minutes thirty-five (35) seconds West, eighty-two and fifty-two hundredths (82.52) feet to a point; (3) South sixty-one (61) degrees fifty-five (55) minutes twenty-nine (29) seconds West seventy-one and seven hundredths (71.07) feet to a point; and (4) South sixty (60) degrees twenty-eight (28) minutes thirty-eight (38) seconds West, one hundred nine and thirty-three

hundredths (109.33) feet to a point in the center of Township Road T-497, the point and place of BEGINNING. (CONTAINING 5.2342 acres of land.) (Being Lot No. 1 on subdivision plan prepared for Bi-Win Corporation by Donald E. Worley, bearing date August 9, 1982, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 37, page 40. Being Map #K11, Parcel #103B.

TITLE TO SAID PREMISES IS VESTED IN Anita A. Crebs by Deed from Garland Construction, Inc. dated 12/11/1998, recorded 5/3/1999, in Record Book 1822 Page 104.

Notice: Conveys title to Lot #1 only.

Tax Parcel: 35-K11-103B

Premises Being: 1310 Red Hill Road, New Oxford, PA 17350

SEIZED and taken into execution as the property of **Anita A. Crebs** 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 November 21, 2005, 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.

9/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-692 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land located in Reading Township, Adams County, Pennsylvania, shown as Tract No. 2 on the final subdivision plan prepared for Edward C. Wallen, Sr. dated December 29, 1998 and about to be recorded in the Adams County, Pennsylvania, Recorder of Deeds Office and shown as Lot No. 2, on said plan, more particularly bounded and described as follows:

BEGINNING at a steel pin set located at the Eastern corner of Lot No. 1 as shown on said plan; thence along Lot No. 1 South 40 degrees 19 minutes 42 seconds West 160.00 feet to a steel pin set located at lands now or formerly of Gene H. Shenberger; thence by said lands of Shenberger South 49 degrees 40 minutes 18 seconds West 306.54 feet to an existing iron pipe at lands now or formerly of David W. Diehl; thence by lands of David W. Diehl North 22 degrees 54 minutes 02 seconds East 167.70 feet to an existing iron pipe at other lands of the grantors herein; thence by same North 49 degrees 40 minutes 18 seconds West 256.31 feet to a steel pin set; the point and place of BEGINNING.

CONTAINING 1.034 Acres.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Edward C. Wallen, Jr. and Lori Sue Wallen, husband and wife, by Deed from Edward C. Wallen, Sr. and Darlene K. Wallen, husband and wife, dated 4-22-99 and recorded 6-9-99 in Deed Book 1849, page 20.

Premises being: 22 Miller Road, New Oxford, PA 17350

Tax Parcel No. 36-J07-0069

SEIZED and taken into execution as the property of **Lori S. Wallen** 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 November 21, 2005, 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.

9/2, 9 & 16

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 HESTER C. BEALE, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Robert C. Beale, c/o Worley & Worley, 225 Latimore Valley Road, York Springs, PA 17372

Attorney: Daniel D. Worley, Esq., 225 Latimore Valley Road, York Springs, PA 17372

ESTATE OF REBECCA CORTEZ BEAMER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Mycala S. Kaczorowski, 306 Belmont Road, Gettysburg, PA 17325

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

ESTATE OF DENNIS E. CHURCH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Brenda K. Wertz, 339 Foxleigh Drive, Hanover, PA 17331; Dennis A. Church, 250 Sunset Avenue, Hanover, PA 17331; James M. Church, 58 Race Track Road, Hanover, PA 17331

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

ESTATE OF LLOYD C. LAUGHMAN, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Co-Executors: Mervin D. Laughman, 1272 Moulstown Road, Hanover, PA 17331; Barbara L. Farley, 444 Blooming Grove Road, Hanover, PA 17331

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

ESTATE OF LILLIAN L. MILLER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Eugene F. Miller, 155 Mountain View Drive, York, PA 17404; Stanton L. Miller, 2780 Belair Way, York, PA 17404

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

ESTATE OF ZENON ROSARIO, JR., DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Karen S. Crawford, 77 North Street, McSherrystown, PA 17344

Attorney: Jered L. Hock, Esq., Metzger, Wickersham, Knauss & Erb, P.C., P.O. Box 5300, 3211 North Front Street, Harrisburg, PA 17110-0300

ESTATE OF M. BLANCHE YINGLING, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Sandra K. Kump, 656 Barlow Road, Gettysburg, PA 17325; Richard F. Yingling, 676 Barlow Road, Gettysburg, PA 17325; Rodney H. Yingling, 746 Barlow Road, Gettysburg, PA 17325

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

SECOND PUBLICATION

ESTATE OF MARIE R. DITZLER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executors: Diane K. Ditzler Barbour, 142 W. Hanover Street, Biglerville, PA 17307; Adams County National Bank, Lincoln Square, Gettysburg, PA 17325

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

ESTATE OF EVELYN W. KRUMRINE, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executor: Paul H. Krumrine, III, 8 Raubenstine Road, Hanover, PA 17331

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

ESTATE OF JERRY STILLER, DEC'D

Late of Freedom Township, Adams County, Pennsylvania

Executrix: Donna Jean Radford Ludwig, 15113 Whitetail Way, Darnestown, MD 20878

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

THIRD PUBLICATION

ESTATE OF ROY E. BREIGHNER, JR., DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Executors: Shirley E. Pannell, 2005 Walnut Lane, Lancaster, PA 17603; Barbara A. MacDonald, 2669 Beech Lane, Lancaster, PA 17601; Robert O. Breighner, 4000 Oxford Road, York Springs, PA 17372

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

ESTATE OF NANCY A. STEPHENS, DEC'D

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

Administrator: Cheryl A. Simpson, c/o Daley, Zucker & Gingrich, LLC, 1029 Scenery Drive, Harrisburg, PA 17109-5322

Attorney: Lindsay Gingrich Maclay, Esq., Daley, Zucker & Gingrich, LLC, 1029 Scenery Drive, Harrisburg, PA 17109-5322

ESTATE OF KATHY A. STRAUSBAUGH, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Administrators: Thomas L. Strausbaugh, 1931 Centennial Road, Hanover, PA 17331; Beatrice B. Strausbaugh, 1931 Centennial Road, Hanover, PA 17331

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

ESTATE OF ROBERT F. WAGNER, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executrix: Shirley A. Wagner, 1310 Goldenville Road, Gettysburg, PA 17325

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-281 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the right-of-way line of Lexington Way at Lot No. 76 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 76 North forty-nine (49) degrees thirty-six (36) minutes eight (08) seconds West, one hundred seventy-two and forty-three hundredths (172.43) feet to an iron pin set at Lot No. 56 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 56 North fifty-one (51) degrees eight (08) minutes forty-five (45) seconds East, seventy-six and thirty hundredths (76.30) feet to an iron pin set at Lot No. 56 and Lot No. 72 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 72 as shown on the hereinafter referenced subdivision plan South seventy-three (73) degrees forty-nine (49) minutes twenty-two (22) seconds East, thirty and zero hundredths (30.00) feet to an iron pin set at Lot No. 74 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 74 South thirty-three (33) degrees twenty-eight (28) minutes fifty (50) seconds East, one hundred fifty-six and eighty hundredths (156.80) feet to an iron pin set on the right-of-way line of Lexington Way; thence running along said right-of-way line of Lexington Way by a curve to the left, having a radius of fifty (50.00) feet, an arc length fifty and seven hundredths (50.07) feet and a long chord bearing and distance of South sixty-four (64) degrees forty-four (44) minutes fifty-one (51) seconds West; forty-eight and zero hundredths (48.00) feet to an iron pin set on the right-of-way line of Lexington Way, the point and place of BEGINNING.

CONTAINING 11,988 square feet.

THE above description being Lot No. 75 on the Phase 4 Final Plan for Heritage Hill II, prepared by Martin and Martin, Incorporated, dated December 7, 1997, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 76 at page 17.

Tax Map #27-13-25

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Christopher A. Iser by Deed from Heritage Hill II, a Limited Partnership and New Age Associates, Inc. dated 8/8/1999 and recorded 8/11/2003, in Record Book 3239 Page 41.

Premises being: 529 Lexington Way, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Christopher Iser a/k/a Christopher A. Iser** 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 November 21, 2005, 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.

9/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-753 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the Northern side of Poplar Street and Lot No. 82; thence along Lot No. 82, North thirty-five (35) degrees fourteen (14) minutes fifty-five (55) seconds West, one hundred thirty and thirty-one hundredths (130.31) feet to a point at lands now or formerly of the Catholic Church; thence along said lands, North seventy-five (75) degrees twelve (12) minutes fifty-one (51) seconds East, one hundred nine and seventy-four hundredths (109.74) feet to a point at Lot No. 80; thence along Lot No. 80, South twenty-two (22) degrees nine (09) minutes nine (09) seconds East, one hundred three and

seventy-four hundredths (103.74) feet to a point at the aforementioned Poplar Street; thence along Poplar Street by a curve to the left whose radius is three hundred fifty (350.00) feet and whose chord bearing is South sixty-one (61) degrees seventeen (17) minutes fifty-eight (58) seconds West, seventy-nine and eighty-three hundredths (79.83) feet for an arc distance of eighty (80.00) feet to the point and place of BEGINNING. CONTAINING 10,691 square feet and identified as Lot No. 81 on a plan of lots entitled Phase II, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 45, page 95.

BEING THE SAME PREMISES which Louis T. Guthrie, unmarried, and Harold H. Hartlaub and Delores V. Hartlaub, husband and wife, by Deed dated 9/29/87 and recorded 10/2/87 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 469 at Page 1071, granted and conveyed unto Charles R. Rutter, III, and Andrea W. Rutter, husband and wife.

Tax Parcel #: 8-c-6-132

SEIZED and taken into execution as the property of **Charles R. Rutter, III & Andrea W. Rutter** 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 November 21, 2005, 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.

9/9, 16 & 23

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September 23, 2005

No. 18, pp. 108-110

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MYERS VS. WILDASIN

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-753 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the Northern side of Poplar Street and Lot No. 82; thence along Lot No. 82, North thirty-five (35) degrees fourteen (14) minutes fifty-five (55) seconds West, one hundred thirty and thirty-one hundredths (130.31) feet to a point at lands now or formerly of the Catholic Church; thence along said lands, North seventy-five (75) degrees twelve (12) minutes fifty-one (51) seconds East, one hundred nine and seventy-four hundredths (109.74) feet to a point at Lot No. 80; thence along Lot No. 80, South twenty-two (22)

degrees nine (09) minutes nine (09) seconds East, one hundred three and seventy-four hundredths (103.74) feet to a point at the aforementioned Poplar Street; thence along Poplar Street by a curve to the left whose radius is three hundred fifty (350.00) feet and whose chord bearing is South sixty-one (61) degrees seventeen (17) minutes fifty-eight (58) seconds West, seventy-nine and eighty-three hundredths (79.83) feet for an arc distance of eighty (80.00) feet to the point and place of BEGINNING. CONTAINING 10,691 square feet and identified as Lot No. 81 on a plan of lots entitled Phase II, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 45, page 95.

BEING THE SAME PREMISES which Louis T. Guthrie, unmarried, and Harold H. Hartlaub and Delores V. Hartlaub, husband and wife, by Deed dated 9/29/87 and recorded 10/2/87 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 469 at Page 1071, granted and conveyed unto Charles R. Rutter, III, and Andrea W. Rutter, husband and wife.

Tax Parcel #: 8-c-6-132

SEIZED and taken into execution as the property of **Charles R. Rutter, III & Andrea W. Rutter** 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 November 21, 2005, 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.

9/9, 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. 03-S-867 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 827 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds in and for Adams County in Misc Deed Book 1, page 5, and subject to all legal highways, easements, rights of way and restrictions of record.

TOGETHER with the right in common with other owners of lots in said subdivision to use for all usual purposes the streets, ways, beaches, recreation areas, and other public areas, as shown on the said plot, and the right in common with the other owners of lots in the said subdivision to use the lake and beaches for swimming, fishing and boating in accordance with the rules and regulations of Lake Meade Property Owners Association, its successor or assigns.

UNDER AND SUBJECT to the restrictions, conditions and agreement set forth at length in deed of Lake Meade, Inc. to the grantors herein, referred above.

HAVING THEREON ERECTED A DWELLING HOUSE KNOWN AS: 397 Lake Meade Drive, East Berlin, PA 17316

BEING THE SAME PREMISES WHICH Robert W. Snyder and Linda S. Snyder, by Deed dated 6/30/00 and recorded 7/25/00 in Adams County Deed Book 2093, Page 56, granted and conveyed unto Gary Zittle.

SEIZED IN EXECUTION AS THE PROPERTY OF GARY D. ZITTLE UNDER ADAMS COUNTY JUDGMENT NO. 03-S-867

Map & Parcel 37-10-56

SEIZED and taken into execution as the property of Gary D. Zittle 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 November 21, 2005, 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.

9/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-722 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate in the Borough of Littlestown, Adams County, Pennsylvania, more particularly described as follows:

BEGINNING at a point along the West side of Princess Street (sometimes known as Prince Street), which point is 60 feet (measured in a direction of North 30-1/4 degrees West) from the Northwest corner of the intersection of Locust Street and Princess Street; thence along Lot No. 32, South 59-3/4 degrees West, 100 feet to a 16 foot wide alley; thence along said alley North 30-1/4 degrees West, 40 feet to Lot No. 30; thence by Lot No. 30, North 59-3/4 degrees West, 100 feet to the West side of Princess Street; thence along the West side of Princess Street South 30-1/4 degrees East, 40 feet to the place of BEGINNING.

THE lot of ground hereby conveyed being known and designated as Lot No. 31 on plan of lots of Littlestown Development Company, prepared by Leroy H. Winebranner, Surveyor, during March of 1927 and revised in March of 1993.

THE lot of ground hereby conveyed is subject, however, to the building restrictions, contained in the recorded in Deed Book 152 at Page 333.

Tax ID No. (27) 8-110

BEING THE SAME property conveyed to Richard Trautman single man by deed from Carol A. Hippensteel a/k/a Carol A. Boyd recorded 08/30/2004 in Deed Book 3687 Page 74, in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

Premises being: 38 Prince Street, Littlestown, PA 17340

SEIZED and taken into execution as the property of Richard Trautman a/k/a Richard H. Trautman, Jr. 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 November 21, 2005, 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.

9/9, 16 & 23

MYERS VS. WILDASIN

1. In equity the test by which to determine whether a covenant in a deed runs with the land is the intention of the parties: to ascertain such intention resort must be had to the words of the covenant read in the light of the surrounding of the parties and the subject of the grant.

2. Judgment on the pleadings may be entered only in clear cases free from doubt where there are no issues of fact, and only where the cause is so clear that a trial would be a fruitless exercise.

In the Court of Common Pleas of Adams County, Pennsylvania, Equity, No. 04-S-1116, JOSEPH A. MYERS VS. DANIEL L. WILDASIN AND KATHY L. WILDASIN.

Paul W. Minnich, Esq., for Plaintiff

Rand A. Feder, Esq., for Defendants

Bigham, J., March 14, 2005

OPINION

STATEMENT OF FACTS

This case arises over a dispute between land owners of the effect of a 100 foot building set back included in the Plan for the Conewago Industrial Park (hereinafter referred to as "the Plan"). Joseph A. Myers, (hereinafter referred to as "Plaintiff"), has been the owner of lot 6 on said plan since 1988. Plaintiff's deed from grantors Harold Hartlaub, and Louis T. Guthrie, (hereinafter referred to as "Grantors"), contained a notation that the deed was subject to restrictions contained in the plan. In 2003 Daniel and Kathy Wildasin, (hereinafter referred to as "Defendants"), purchased lot 15 on said plan and their deed contained no notation of restrictions.

In June 2004, Defendants began construction of a building on their lot within the 100 foot setback. In response, on November 1, 2004, Plaintiff filed a Complaint asking the Court to enjoin Defendants from continuing to build. Plaintiff argues that the 100 foot setback constitutes a restrictive covenant and the property was purchased in reliance upon the restriction.

Defendants filed an Answer and New Matter on November 10, 2004, contending that the 100 foot setback is not a restrictive covenant because: (1) the building set back lines set forth in the Plan were included solely at the request of Conewago Township to disclose the minimum building set back lines contained in the

Conewago Township Zoning Ordinance at the time of the filing of the plan, (2) the site data contained in the Plan does not contain any language which would be necessary to create a restrictive covenant, (3) the deeds from the owners to Defendants and other grantees of tracts of land set forth on the plan, other than to the Plaintiff, do not contain any reference to restrictions contained in the Plan, and (4) the Grantors have indicated to Defendants' Counsel that it was not their intent to create restrictive covenants by including in the Plan the then-existing building set back lines contained in the Conewago Township Zoning Ordinance.

On November 29, 2004, Plaintiff filed a reply to Defendants' New Matter and on December 28, 2004 Defendants filed a Motion for Judgment on the Pleadings. Defendants Motion alleges that there is no genuine issue of any material fact as to a necessary element of the cause of action and defense. A briefing schedule was established by the Court and the parties complied with it.

LEGAL DISCUSSION

Presently, the issue before the Court is whether a 100 foot setback included in a plan is a restrictive covenant. "In equity the test by which to determine whether a covenant in a deed runs with the land is the intention of the parties: to ascertain such intention resort must be had to the words of the covenant read in the light of the surrounding of the parties and the subject of the grant." *McCloskey v. Kirk*, 90 A.73 (1914), quoting *Landell v. Hamilton*, 175 Pa. 327. Although, instantly the restriction was not included in the deed to Defendants the intention of the parties must still be ascertained.¹ The *McCloskey* Court went on to hold, "before it can be assumed that the notation on the plan is equivalent to a covenant in the deed running with the land ...the intention of the parties in the creation of the covenant or easement and of their several grantees must be reached." *Id.*

At this time numerous pleadings by both parties containing various allegations are all that is before the Court. Defendants allege in their Answer and New Matter that the Grantors did not intend to create a

¹Defendants' deed contains no notation of the 100 foot building set back line however Plaintiff's deed contains a statement that the "Grantee shall be subject to all restrictions and conditions contained in Plan Book 47, page 20."

covenant running with the land and furthermore the setback was only included to comply with the township's zoning ordinances at the time.

Like all summary judgments entered without a trial, judgment on the pleadings may be entered only in clear cases free from doubt where there are no issues of fact, and only where the cause is so clear that a trial would be a fruitless exercise. *Otterson v. Jones*, 690 A.2d 1166, 1167 (Pa.Super. 1997) quoting *Beck v. Minstrella*, 401 A.2d 762, 763 (Pa.Super. 1979). The Court looks only to the pleadings and any documents properly attached thereto. *Travelers Cas. & Sur. Co. v. Castegnaro*, 772 A.2d 456 (Pa. 2001). The Court finds that there exists a genuine issue of fact, the intent of the grantors; therefore Defendants Motion for Judgment on the Pleadings will be denied.

Accordingly, the attached Order will be entered.

ORDER OF COURT

AND NOW, this 14th day of March 2005, IT IS ORDERED THAT Defendants' Motion for Judgment on the Pleadings is denied.

ESTATE NOTICES

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

FIRST PUBLICATION**ESTATE OF DUANE LEONARD BOSCHERT, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania

Administratrix: Susan S. Boschert, 320 McSherry Woods Drive, Littlestown, PA 17340

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

ESTATE OF WILMER H. GARVICK, DEC'D

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

Executors: Betty L. Dockey, 201 Harrisburg Street, P.O. Box 114, East Berlin, PA 17316; Gary W. Garvick, Box 181, York New Salem, PA 17371

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

ESTATE OF JOAN W. HUFF, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executrix: Stephanie Werdebaugh, 3215 Chambersburg Rd., Biglerville, PA 17307

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

ESTATE OF GERALDINE K. LIPPY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Cynthia C. Hinkleman, 6404 Kenwood Avenue, Baltimore, MD 21237

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

SECOND PUBLICATION**ESTATE OF HESTER C. BEALE, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executor: Robert C. Beale, c/o Worley & Worley, 225 Latimore Valley Road, York Springs, PA 17372

Attorney: Daniel D. Worley, Esq., 225 Latimore Valley Road, York Springs, PA 17372

ESTATE OF REBECCA CORTEZ BEAMER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Mycala S. Kaczorowski, 306 Belmont Road, Gettysburg, PA 17325

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

ESTATE OF DENNIS E. CHURCH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Brenda K. Wertz, 339 Foxleigh Drive, Hanover, PA 17331; Dennis A. Church, 250 Sunset Avenue, Hanover, PA 17331; James M. Church, 58 Race Track Road, Hanover, PA 17331

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

ESTATE OF LLOYD C. LAUGHMAN, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Co-Executors: Mervin D. Laughman, 1272 Moulstown Road, Hanover, PA 17331; Barbara L. Farley, 444 Blooming Grove Road, Hanover, PA 17331

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

ESTATE OF LILLIAN L. MILLER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Eugene F. Miller, 155 Mountain View Drive, York, PA 17404; Stanton L. Miller, 2780 Belair Way, York, PA 17404

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

ESTATE OF ZENON ROSARIO, JR., DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Karen S. Crawford, 77 North Street, McSherrystown, PA 17344

Attorney: Jered L. Hock, Esq., Metzger, Wickersham, Knauss & Erb, P.C., P.O. Box 5300, 3211 North Front Street, Harrisburg, PA 17110-0300

ESTATE OF M. BLANCHE YINGLING, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Sandra K. Kump, 656 Barlow Road, Gettysburg, PA 17325; Richard F. Yingling, 676 Barlow Road, Gettysburg, PA 17325; Rodney H. Yingling, 746 Barlow Road, Gettysburg, PA 17325

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

THIRD PUBLICATION**ESTATE OF MARIE R. DITZLER, DEC'D**

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executors: Diane K. Ditzler Barbour, 142 W. Hanover Street, Biglerville, PA 17307; Adams County National Bank, Lincoln Square, Gettysburg, PA 17325

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

ESTATE OF EVELYN W. KRUMRINE, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executor: Paul H. Krumrine, III, 8 Raubenstein Road, Hanover, PA 17331

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

ESTATE OF JERRY STILLER, DEC'D

Late of Freedom Township, Adams County, Pennsylvania

Executrix: Donna Jean Radford Ludwig, 15113 Whitetail Way, Darnestown, MD 20878

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

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

DIVORCE ACTION—LAW
NO. 04-S-472

ARLYN R. MEYERS, Plaintiff

vs.

CHRISTINE MEYERS, Defendant

NOTICE

YOU ARE NOTIFIED that the Plaintiff has commenced an action of Divorce against you by complaint filed to the above docket number on May 7, 2004, and reinstated on June 4, 2004, which action you are required to defend.

You are required to plead to the said complaint within twenty (20) days after service has been completed by publication, or judgment by default may be entered against you.

If you wish to defend, you must take action by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the Plaintiff. You may lose money 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. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service at the
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
717-334-6781

Judith Koper Morris, Esq.
Attorney for Plaintiff
Mooney & Associates
230 York Street
Hanover, PA 17331
717-632-4656
ID#65108

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-281 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of October, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the right-of-way line of Lexington Way at Lot No. 76 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 76 North forty-nine (49) degrees thirty-six (36) minutes eight (08) seconds West, one hundred seventy-two and forty-three hundredths (172.43) feet to an iron pin set at Lot No. 56 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 56 North fifty-one (51) degrees eight (08) minutes forty-five (45) seconds East, seventy-six and thirty hundredths (76.30) feet to an iron pin set at Lot No. 56 and Lot No. 72 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 72 as shown on the hereinafter referenced subdivision plan South seventy-three (73) degrees forty-nine (49) minutes twenty-two (22) seconds East, thirty and zero hundredths (30.00) feet to an iron pin set at Lot No. 74 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 74 South thirty-three (33) degrees twenty-eight (28) minutes fifty (50) seconds East; one hundred fifty-six and eighty hundredths (156.80) feet to an iron pin set on the right-of-way line of Lexington Way; thence running along said right-of-way line of Lexington Way by a curve to the left, having a radius of fifty (50.00) feet, an arc length fifty and seven hundredths (50.07) feet and a long chord bearing and distance of South sixty-four (64) degrees forty-four (44) minutes fifty-one (51) seconds West; forty-eight and zero hundredths (48.00) feet to an iron pin set on the right-of-way line of Lexington Way, the point and place of BEGINNING.

CONTAINING 11,988 square feet.

THE above description being Lot No. 75 on the Phase 4 Final Plan for Heritage Hill II, prepared by Martin and Martin, Incorporated, dated December 7, 1997,

which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 76 at page 17.

Tax Map #27-13-25

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Christopher A. Iser by Deed from Heritage Hill II, a Limited Partnership and New Age Associates, Inc. dated 8/8/1999 and recorded 8/11/2003, in Record Book 3239 Page 41.

Premises being: 529 Lexington Way, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Christopher Iser a/k/a Christopher A. Iser** 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 November 21, 2005, 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.

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9/9, 16 & 23

Adams County Legal Journal

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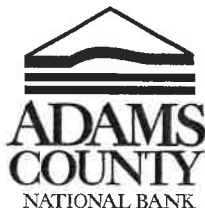
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COMMONWEALTH VS. BRUGGER

Commitment:

The philosophy upon which
Adams County National Bank is
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for your future financial needs today.



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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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, October 11, 2005, at 9:00 a.m.

GUSS—Orphans' Court Action Number OC-105-05. The First and Final Account of Alethea J. Snyder, Executrix of the Estate of Evelyn G. Guss, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

SETTLE—Orphans' Court Action Number OC-110-05. The First and Final Account of Adams County National Bank, Executor of the Estate of Harold W. Settle, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

HEYSER—Orphans' Court Action Number OC-111-05. The First and Final Account of Margaret Burcham, Executrix of the Estate of Frederick D. Heyser, deceased, late of Franklin Township, Adams County, Pennsylvania.

SHERWOOD—Orphans' Court Action Number OC-61-04. The First and Final Account of Douglas A. Sherwood and Donald E. Sherwood, Co-Executors of the Estate of Jean E. Sherwood, deceased, late of Cumberland Township, Adams County, Pennsylvania.

DEE—Orphans' Court Action Number OC-115-05. The First and Final Account of Ann Marie Dee and Thomas James Dee, Jr., Co-Executors of the Estate of Louise A. Dee, deceased, late of Mt. Pleasant Township, Adams County, Pennsylvania.

RIFE—Orphans' Court Action Number OC-116-05. The First and Final Account of Tony E. Rife, Executor of James E. Rife, deceased, late of Menallen Township, Adams County, Pennsylvania.

Lisa K. Grubbs
Clerk of Courts

9/30 & 10/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-867 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 827 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds in and for Adams County in Misc Deed Book 1, page 5, and subject to all legal highways, easements, rights of way and restrictions of record.

TOGETHER with the right in common with other owners of lots in said subdivision to use for all usual purposes the streets, ways, beaches, recreation areas, and other public areas, as shown on the said plot, and the right in common with the other owners of lots in the said subdivision to use the lake and beaches for swimming, fishing and boating in accordance with the rules and regulations of Lake Meade Property Owners Association, its successor or assigns.

UNDER AND SUBJECT to the restrictions, conditions and agreement set forth at length in deed of Lake Meade, Inc. to the grantors herein, referred above.

HAVING THEREON ERECTED A DWELLING HOUSE KNOWN AS: 397 Lake Meade Drive, East Berlin, PA 17316

BEING THE SAME PREMISES WHICH Robert W. Snyder and Linda S. Snyder, by Deed dated 6/30/00 and recorded 7/25/00 in Adams County Deed Book 2093, Page 56, granted and conveyed unto Gary Zittle.

SEIZED IN EXECUTION AS THE PROPERTY OF GARY D. ZITTLE UNDER ADAMS COUNTY JUDGMENT NO. 03-S-867

Map & Parcel 37-10-56

SEIZED and taken into execution as the property of Gary D. Zittle 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 November 21, 2005, 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.

9/16, 23 & 30

DISSOLUTION NOTICE

NOTICE IS HEREBY GIVEN to all persons interested or who may be affected by RAY WILT SUZUKI, INC., a Pennsylvania business corporation, that the Board of Directors is now engaged in winding up and settling the affairs of said Corporation so that its corporate existence shall be ended by the filing of Articles of Dissolution with the Department of State of the Commonwealth of Pennsylvania pursuant to the provisions of the Pennsylvania Business Corporation Law of 1988.

Barley Snyder LLC, Attorneys

9/30

COMMONWEALTH VS. BRUGGER

1. There is no duty on a trial judge to charge a jury upon law which has no applicability to the presented facts. There must be some relationship between the law upon which an instruction is required and the evidence presented at trial.

2. Pennsylvania law provides that a parolee may be subject to revocation for acts committed while on parole even though notice of revocation had not been provided prior to the parolee's release from supervision.

3. In considering whether the Commonwealth properly filed allegations of a violation of probation following the expiration of a probationary term, the Superior Court recently limited such action to three scenarios: where either the Commonwealth cannot ascertain that it was the probationer who committed another offense; the Commonwealth cannot show that the violation has actually occurred; or the violation occurred so late in the probationary term that the Commonwealth cannot actually file the paperwork prior to expiration of the term.

4. The application of the general rule requires a case-by-case examination of the specific circumstances of a particular revocation proceeding.

5. Instructing the jury on Pennsylvania law which is not related to competent evidence raises the risk of confusing the jury and obstructing justice.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-497-04, COMMONWEALTH OF PENNSYLVANIA VS. MELISSA LYNN TRAVERS BRUGGER.

Shawn C. Wagner, Esq., District Attorney, for Commonwealth
Steve Rice, Esq., for Defendant

George, J., March 15, 2005

OPINION PURSUANT TO PA.R.A.P. 1925

The Defendant, Melissa Lynn Travers Brugger ("Melissa Brugger") appeals following a jury conviction on the charge of driving under the influence of alcohol pursuant to Section 3802(a)(1) of the Pennsylvania Motor Vehicle Code.¹ On appeal, Melissa Brugger challenges this Court's refusal to instruct the jury concerning a specific request from Melissa Brugger. A meaningful discussion of the issue requires a brief summary of the factual background.²

On February 24, 2004, at approximately 10:30 P.M., Officer Justin Rogerson of the Gettysburg Borough Police was parked in the rear of the Lincoln Diner parking lot located in Gettysburg Borough, Adams County, Pennsylvania. At that time, he observed a gold vehicle

¹ It is noted that the conviction represents Melissa Brugger's second offense and, thereby, is graded as a misdemeanor of the first degree.

² At the time of this Opinion, the transcript from the trial proceedings has not yet been completed. The Court, therefore, relies on its trial notes for this background.

traveling through the parking lot at a high rate of speed. Due to its speed, the vehicle caught his attention. He noticed that the vehicle had two occupants. He observed the vehicle exiting the parking lot onto Railroad Street and pulling onto the train tracks at the rear of the parking lot. Moments later, Officer Rogerson heard a train strike the vehicle; however, he did not see the accident. Officer Rogerson immediately responded to the accident scene and noticed a male outside the vehicle. He then observed a female exit the vehicle from the front passenger door. The officer noted damage to the vehicle consisting of substantial damage to the driver's side front and rear doors. The officer determined that the vehicle had been stricken on the driver's side by the train and pushed approximately 198 feet. Due to the damage, the occupants were incapable of exiting on the driver's side. While Officer Rogerson did not witness Melissa Brugger driving the vehicle, he identified Melissa Brugger as the last person to exit the vehicle. He observed that upon exiting the vehicle, Melissa Brugger went to the steps of a neighboring business, crawled into a fetal position, and cried, "No more, no more, no more."

The Commonwealth called a number of witnesses who placed Melissa Brugger in the driver's side of the vehicle. Although no witnesses were able to indicate that Melissa Brugger was actually driving the vehicle at the time of the accident, within seconds following the accident, witnesses placed Melissa Brugger sitting on the driver's side of the vehicle and crawling over the middle console while exiting the vehicle. Witnesses who interacted with Melissa Brugger immediately following the accident described her as being in a state of shock and smelling of alcohol.

In addition to the eyewitnesses, the Commonwealth called the emergency medical technician who arrived on the scene immediately following the accident. He indicated that Melissa Brugger smelled of alcohol and told him that she was the driver of the vehicle. Melissa Brugger was transported to Gettysburg Hospital where a blood test revealed a blood alcohol concentration of .243 percent.

Finally, the Commonwealth introduced photographs of the accident scene which clearly depicted the front of the train engine protruding into portions of the driver's area of the vehicle. The photographs depicted the front light of the train entering through the driver's side window.

Although Melissa Brugger did not testify, Christopher Brugger, the other occupant of the vehicle and Melissa Brugger's husband, presented testimony. He indicated that he was driving the vehicle at the time of the accident. He claimed, incredibly, that while the train was pushing the vehicle 198 feet down its tracks, he asked his wife to switch positions with him in the vehicle. He also claimed that as the train was pushing the vehicle, he crawled into the passenger's seat while his wife crawled over him into the area of the driver's compartment which the train engine had substantially invaded. He attempted to explain this action by claiming that while the accident was occurring, he rationalized that he was on parole and the circumstances of the accident might result in his revocation. He claimed that fear caused him to switch positions in the vehicle with Melissa Brugger.³

During cross-examination, the Commonwealth pointed out that Christopher Brugger did not openly claim that he was the operator of the vehicle until some point following his release from parole. Christopher Brugger, in an effort to bolster his credibility, noted that he believed, despite his late disclosure, that he was still subject to parole revocation. While Christopher Brugger was on the stand, the Commonwealth's attorney questioned this belief. At the conclusion of trial, defense counsel requested that the jury be instructed that the law of Pennsylvania provides that a parolee may still be subject to parole revocation for violations occurring while under supervision despite revocation proceedings not being initiated until after the expiration of his parole. The Court's refusal to provide this instruction is now the subject of appeal.

In *Commonwealth v. Holland*, 543 A.2d 1068, 1071 (Pa. 1988), our Supreme Court summarizes the standard used in determining whether or not the matter is a proper subject for jury instruction:

It is axiomatic that a jury need not be instructed regarding matters that have no relevance to the evidence introduced at trial. As stated in *Commonwealth v. Whiting*,

³ Although Christopher Brugger claimed a fear of parole revocation, his trial testimony indicated that his fear was related to being out after curfew and the consumption of alcohol. A finder of fact might rationally conclude that neither basis set forth by Christopher Brugger in support of his fear of revocation was related to his location in the vehicle. Later in his testimony, Brugger claimed he was afraid he might be charged with careless driving.

409 Pa. 492, 498, 187 A.2d 563, 566 (1963), ‘[t]here is no duty on a trial judge to charge a jury upon law which has no applicability to the presented facts. There must be some relationship between the law upon which an instruction is required and the evidence presented at trial (citations omitted). . . .’

In fact, “[a] charge on a point or issue which is unsupported by [relevant] evidence is likely to confuse the jury and obstruct [j]ustice.” *Commonwealth v. Heckathorn*, 241 A.2d 97, 100 (Pa. 1968) (emphasis omitted).

Melissa Brugger argues that the requested instruction had a direct impact on the credibility of Christopher Brugger’s testimony. She points out that Pennsylvania law indeed provides that a parolee may be subject to revocation for acts committed while on parole even though notice of revocation had not been provided prior to the parolee’s release from supervision. See *Commonwealth v. Hackman*, 623 A.2d 350, 351-52 (Pa.Super. 1993). Although Melissa Brugger properly recites a general proposition of law, her application of this rule to the factual circumstances of this case is misguided.

Initially, I note that while Melissa Brugger’s reference to the general rule of law is accurate, application of the rule is not absolute. Specifically, the Commonwealth’s ability to initiate revocation proceedings subsequent to an offender’s release from parole supervision is not unlimited. See *Commonwealth v. Holmes*, 375 A.2d 379 (Pa.Super. 1977). In considering whether the Commonwealth properly filed allegations of a violation of probation following the expiration of a probationary term, the Superior Court recently limited such action to three scenarios: “where either the Commonwealth cannot ascertain that it was the probationer who committed another offense; the Commonwealth cannot show that the violation has actually occurred; or the violation occurred so late in the probationary term that the Commonwealth cannot actually file the [paperwork prior to expiration of the term]. . . .” *Commonwealth v. Smith*, 860 A.2d 142, 145 (Pa.Super. 2004). These cases tell us, therefore, that the application of the general rule cited by Melissa Brugger requires a case-by-case examination of the specific circumstances of a particular revocation proceeding. This Court felt that the trial of Melissa Brugger was not the appropriate arena in which to delve into a

collateral issue which would only distract the jury from the main issue before them. See *Egelkamp v. Egelkamp*, 524 A.2d 501, 504 (Pa.Super. 1987).

The requested charge was also unsupported by relevant evidence. Christopher Brugger's testimony concerning the status of his parole lacked details as to the supervising jurisdiction and was confusing. He indicated that he served "almost three and a half close to four years on a one and a half to four-year sentence." Later he indicated that his back time on this sentence was approximately one year and three months. Standing alone, this testimony is inherently contradictory under Pennsylvania law since Christopher Brugger's estimation would exceed the four-year maximum on the sentence he claimed to be serving. The testimony, however, became more clouded when Christopher Brugger indicated that he was extradited to Maryland to serve a sentence and then had a federal consecutive sentence to serve. Importantly, Christopher Brugger never clarified the jurisdiction under which he was on parole supervision. Instructing the jury on Pennsylvania law which is not related to competent evidence raises the risk of confusing the jury and obstructing justice. *Heckathorn*, cited above.

Finally, I note that the relevant issue in judging his credibility was not whether Christopher Brugger may be revoked following release from his parole but rather **his belief** that he could be revoked from parole. Whether his belief is accurate or inaccurate has no bearing on the credibility of his testimony. In this regard, Christopher Brugger, over objection of the Commonwealth, was given wide latitude in explaining his belief. Christopher Brugger was not only permitted the opportunity to explain the basis for his belief but the Commonwealth was precluded from arguing that his belief was contrary to law. The actual status of Pennsylvania law was, therefore, irrelevant.

Assuming, arguendo, error in failure to instruct the Court as requested by Melissa Brugger, such error was harmless and did not prejudice Melissa Brugger. The evidence overwhelmingly implicated Melissa Brugger as the driver of the vehicle at the time of the accident. Christopher Brugger's recount of what occurred in the vehicle while the vehicle was being crushed and pushed by the engine of the freight train was simply incredible. *Commonwealth v. Jones*, 668 A.2d 491,506 (Pa. 1995).

ESTATE NOTICES

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

FIRST PUBLICATION

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

Late of Freedom Township, Adams County, Pennsylvania

Executrix: Cristine C. Arentz, 130 Bigham Road, Gettysburg, PA 17325

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

ESTATE OF CAMERON B. KEISTER a/k/a C. BRETT KEISTER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: Harold Keister, 2105 East Coventry Lane, Enola, PA 17025

Attorney: John F. Lyons, Esq., 112 Walnut Street, Harrisburg, PA 17101

SECOND PUBLICATION

ESTATE OF DUANE LEONARD BOSCHERT, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Administratrix: Susan S. Boschert, 320 McSherry Woods Drive, Littlestown, PA 17340

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

ESTATE OF WILMER H. GARVICK, DEC'D

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

Executors: Betty L. Dockey, 201 Harrisburg Street, P.O. Box 114, East Berlin, PA 17316; Gary W. Garvick, Box 181, York New Salem, PA 17371

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

ESTATE OF JOAN W. HUFF, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executrix: Stephanie Werdebaugh, 3215 Chambersburg Rd., Biglerville, PA 17307

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

ESTATE OF GERALDINE K. LIPPY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Cynthia C. Hinkleman, 6404 Kenwood Avenue, Baltimore, MD 21237

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

THIRD PUBLICATION

ESTATE OF HESTER C. BEALE, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Robert C. Beale, c/o Worley & Worley, 225 Latimore Valley Road, York Springs, PA 17372

Attorney: Daniel D. Worley, Esq., 225 Latimore Valley Road, York Springs, PA 17372

ESTATE OF REBECCA CORTEZ BEAMER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Mycala S. Kaczorowski, 306 Belmont Road, Gettysburg, PA 17325

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

ESTATE OF DENNIS E. CHURCH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Brenda K. Wertz, 339 Foxleigh Drive, Hanover, PA 17331; Dennis A. Church, 250 Sunset Avenue, Hanover, PA 17331; James M. Church, 58 Race Track Road, Hanover, PA 17331

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

ESTATE OF LLOYD C. LAUGHMAN, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Co-Executors: Mervin D. Laughman, 1272 Moulstown Road, Hanover, PA 17331; Barbara L. Farley, 444 Blooming Grove Road, Hanover, PA 17331

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

ESTATE OF LILLIAN L. MILLER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Eugene F. Miller, 155 Mountain View Drive, York, PA 17404; Stanton L. Miller, 2780 Belair Way, York, PA 17404

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

ESTATE OF ZENON ROSARIO, JR., DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Karen S. Crawford, 77 North Street, McSherrystown, PA 17344

Attorney: Jered L. Hock, Esq., Metzger, Wickersham, Knauss & Erb, P.C., P.O. Box 5300, 3211 North Front Street, Harrisburg, PA 17110-0300

ESTATE OF M. BLANCHE YINGLING, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Sandra K. Kump, 656 Barlow Road, Gettysburg, PA 17325; Richard F. Yingling, 676 Barlow Road, Gettysburg, PA 17325; Rodney H. Yingling, 746 Barlow Road, Gettysburg, PA 17325

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

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 05-S-721
Action to Quiet Title

HARRY ROOD and MARILEE K. ROOD,
husband and wife, Plaintiffs

vs.

D. R. McCLEAF, and his/her estate, per-
sonal representative, heirs and descen-
dants

AND

A. C. BASEHOAR, and his/her estate,
personal representative, heirs and
descendants

AND

JOHN DOE, Defendants

TO: D. R. McCleaf
A. C. Basehoar
John Doe

Date of Notice: September 16, 2005

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRIT- TEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPER- TY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMA- TION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGI- BLE PERSONS AT A REDUCED FEE OR NO FEE.

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

Telephone Number: (717) 337-9846 or
1-888-337-9846

Patrono & Associates, LLC
John J. Murphy III, Esq.
Attorney for Plaintiffs
30 West Middle Street
Gettysburg, PA 17325
(717) 334-8098
PA ID # 91299

NOTICE

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 in the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for con- firmation of accounts and entering decrees of distribution on Tuesday, October 11, 2005, at 9:00 a.m.

TRUST FOR STEPHANIE KING—
Orphans' Court Action Number OC-44- 94. The First and Final Account of PNC Bank, N.A. and Kathy L. Landrigan, Trustees of the Trust for Stephanie King created under Will of Shirley K. Fohl, Deceased.

TRUST FOR JAYSON KING—
Orphans' Court Action Number OC-44- 94. The First and Final Account of PNC Bank, N.A. and Kathy L. Landrigan, Trustees of the Trust for Jayson King created under Will of Shirley K. Fohl, Deceased.

WALTER D. FOHL JR. MEDICAL EDUCATION LOAN FOUNDATION—
Orphans' Court Action Number OC-119- 05. The First and Final Account of PNC Bank, N.A., Trustee of the Walter D. Fohl Jr. Medical Education Loan Foundation.

McNees Wallace & Nurick LLC
Attorney for Trustees
100 Pine Street, P.O. Box 1166
Harrisburg, PA 17108

9/30 & 10/7