

Adams County Legal Journal

Vol. 40

February 5, 1999

No. 37, pp. 241-246

NOTICE OF ACTION (MORTGAGE FORECLOSURE)

IN THE
COURT OF COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW
98-S-858

Contimortgage Corporation, Plaintiff,
vs.

Aurelio DeJesus, Jr., Defendant.

To: Aurelio DeJesus, Jr.:

You are hereby notified that on September 2, 1998, Plaintiff, Contimortgage Corporation, filed an Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Adams County, Pennsylvania, docketed to No. 98-S-858. Wherein Plaintiff seeks to foreclosure its mortgage secured on your property located, 9 Oxwood Circle, New Oxford, PA 17350, whereupon your property would be sold by the Sheriff of Adams County.

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

NOTICE

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

You should take this notice to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Adams County Court Administrator
Adams County Courthouse
Gettysburg, PA 17325
(717) 334-6781, Ext. 213

2/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-1154 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of February, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the State Highway leading from Hanover to Gettysburg; thence by other lands now or formerly of Joel D. Musselman, et ux., and through an iron pin, North 25 degrees East, 258 feet to an iron pin; thence by land now or formerly of A. E. Hutchison, North 35 degrees East, 110 feet to lands now or formerly of Robert Paris; thence by said last mentioned lands South 67 degrees East, 57 feet to an iron pin at lands now or formerly of Trondle; thence by said last mentioned lands South 24 degrees West, 366 feet to a point in the aforesaid State Highway; thence by said State Highway North 66 degrees West, 81.9 feet to the place of BEGINNING. CONTAINING 105 Perches.

The above description was taken from a draft of survey prepared by LeRoy H. Winebrenner, C.S., dated February 6, 1962.

The address of this tract of land is 1508 Hanover Road, Gettysburg, Adams County, Pennsylvania.

SEIZED and taken into execution as the property of **Hector Lua Garcia & Brenda Doris Garcia** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
September 19, 1998

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 22, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/5 & 12, 19

NOTICE

THE COMMONWEALTH OF PENNSYLVANIA, To Robert W. and Lilian Allewalt.

WHEREAS, the Borough of Littlestown on the 29th day of September A.D., 1998 filed its claim in our Court of Common Pleas of Adams County at No. 553 of 1998 the sum of \$535.37 with interest from the 29th day of September A.D., 1998 for against the following property situate in the Borough of Littlestown, Adams County, Pennsylvania 17340, located at and known as 495 South Columbus Avenue, Littlestown, Adams County, Pennsylvania, 17340, also known as Adams County Parcel (Littlestown Borough) No. 011-0150 (Adams County Record Book 775 at Page 83.) owned or reputed to be owned by you **Robert W. & Lilian Allewalt**.

AND WHEREAS, we have been given to understand that said claim is still due and unpaid, and remains a lien against the property;

NOW, you are hereby notified to file your affidavit of defense to said claim, if defense you have thereto, in the office of the Prothonotary of our said Court within fifteen days after the service of this writ upon you.

If no affidavit of defense be filed within said time, judgment may be entered against you for the whole claim and the property described in the claim be sold to recover the amount thereof.

Witness the Honorable Oscar F. Spicer President Judge of our said Court at Gettysburg this 21st day of January A.D., 1999.

Patricia A. Funt
Prothonotary

2/5, 12 & 19

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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

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

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

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-362 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of February, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT tract of land situate, lying and being along the South side of Main Street in the Borough of Fairfield, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point along Main Street at corner of land now or formerly of Howard Sanders; thence along lands now or formerly of Howard Sanders, South 37-1/2 degrees East, 254 feet to an alley; thence along said alley and adjoining land now or formerly of John E. Brown, South 52-1/2 degrees West, 75 feet to a point; thence along other land now or formerly of Fairfield Mennonite Church, North 37-1/2 degrees West, 254 feet more or less, to a point along said Main Street; thence along said Main Street, North 52-1/2 degrees East, 75 feet to a point, the place of beginning.

HAVING THEREON ERECTED A DWELLING KNOWN AS 138 West Main Street, Fairfield, PA 17320.

BEING THE SAME PREMISES WHICH Ginny L. Reichart Realty, Inc. by their Deed dated December 12, 1996 and recorded in Adams County Recorder of Deeds Office on January 3, 1997 in Deed Book 1312, page 303, granted and conveyed unto Mary R. Keepers.

SEIZED IN EXECUTION AS THE PROPERTY OF MARY R. KEEPERS UNDER ADAMS COUNTY JUDGMENT NO. 1998-S-362.

PARCEL: 5-47

SEIZED and taken into execution as the property of **Mary S. Keepers** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
November 12, 1998.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 15, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be County, Pennsylvania, more particularly bounded and described as follows:

1/22 , 29 & 2/5

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, February 9, 1999, at 9:00 o'clock a.m.

KITZMILLER—Orphans' Court Action Number OC-146-98. The First and Final Account of Thomas L. Kitzmiller, Richard A. Kitzmiller and Kenneth R. Kitzmiller, Executors of the Last Will and Testament of Ray J. Kitzmiller, deceased, late of Gettysburg Borough, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk Of Courts

1/29 & 2/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-735 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described real estate, known locally as 144 Old Waynesboro Pike, lying and being situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point marked by an iron pin in the center of Old Route 16 between Waynesboro and Emmitsburg, being the Northwest corner of the tract herein conveyed and the Northeast corner of tract of lands now or formerly of Russell Hull, South 36-1/4 degrees West 10.58 perches to a point in the center of New Route 16, being the Southwest cor-

ner of the tract herein conveyed; thence running with the center of New Route 16, South 65 degrees East 15.20 perches to a point in the center of New Route 16, being the Southeast corner of the tract herein conveyed; thence along lands now or formerly of David C. Tressler and wife, North 30 degrees East 11.64 perches to a point, being the Northeast corner of the tract herein conveyed; thence along lands now or formerly of David C. Tressler and wife and in the center of Old Route 16, North 69-1/2 degrees West 14.06 perches to an iron pin, the place of beginning.

CONTAINING 1 acre and 25 square perches of land.

Tax Parcel Number: B-17-81

TITLE TO SAID PREMISES IS VESTED IN John E. Hess and Patricia J. Hess, his wife by Deed from Kurt S. Johnson and Mary Beth C. Johnson, his wife dated 8/25/95 recorded 9/6/95 in Deed Book Volume 1078 Page 151.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 5, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/5, 12, 19

GENERAL MOTORS ACCEPTANCE CORPORATION
VS. KELLER

1. A Court may exercise its discretion in entering a judgment of non pros by taking the following circumstances into consideration: (1) a party has shown a lack of due diligence by failing to proceed with reasonable promptitude, (2) there is no compelling reason for the delay, and (3) the delay has caused prejudice to the adverse party.

2. In cases involving a delay for a period of two years or more, the delay will be presumed prejudicial for purposes of any proceeding to dismiss for lack of activity on the docket.

3. While plaintiffs may not attempt to rebut the presumed prejudice arising from a delay for a period of two years or more by showing no actual prejudice to defendant, they may rebut it by showing that the defendant intentionally acted to further delay the case.

4. It is plaintiff's burden to move a case to trial and if plaintiff's counsel finds himself faced with delays created by others, he must take action to move the case forward.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 94-S-541 GENERAL MOTORS ACCEPTANCE CORPORATION VS. EUGENE KELLER.

John C. Sullivan, Esq., for Plaintiff
Richard Thrasher, Esq., for Defendant

OPINION

Kuhn, J. D., February 10, 1998.

On June 14, 1994, General Motors Acceptance Corporation ("GMAC") filed a Complaint against defendant Eugene Keller ("Keller"). Keller, a resident of Florida, filed a preliminary objection on October 14, 1994 challenging this Court's personal jurisdiction. Keller then filed a Petition for Entry of Judgment of Non Pros on August 25, 1997. Oral argument on these issues was held before this Court on September 22, 1997.

STATEMENT OF THE FACTS
AND PROCEDURAL HISTORY

The Complaint in this matter arose out of the purchase of a car by Keller on February 11, 1993. Keller obtained financing through GMAC and allegedly breached that agreement by failing to make his monthly payments. In response to the Complaint, Keller filed preliminary objections arguing that this Court did not have personal jurisdiction. Keller resides in Florida and claims the entire transaction between the parties took place in New Port Richey, Florida.

GMAC filed an answer to Keller's preliminary objections with new matter on November 18, 1994. No further action was taken on this case until June 23, 1997, when the Prothonotary of Adams County notified

the parties, pursuant to local rule of Court 10 and Pa.R.J.P. 1901(c) (dealing with termination of inactive cases), that the case could be dismissed for inactivity on September 22, 1997. In response, on July 15, 1997, GMAC praeciped to have Keller's preliminary objections listed for argument. On August 25, 1997, Keller filed a petition for the entry of judgment of non pros, or in the alternative, for a continuance of argument.

LEGAL DISCUSSION

We will first address Keller's Petition for Entry of Judgment of Non Pros.¹ In *Penn Piping, Inc. v. Insurance Company of North America*, 529 Pa. 350, 603 A.2d 1006 (1992), the Pennsylvania Supreme Court established the standard to be used when determining whether a non pros should be granted. The Court modified the original test set forth in *James Brothers Lumber Co. v. Union Banking and Trust*, 432 Pa. 129, 247 A.2d 587 (1968). The test established in *James Brothers* was that a court may exercise its discretion in entering a judgment of non pros by taking the following circumstances into consideration: (1) a party has shown a lack of due diligence by failing to proceed with reasonable promptitude, (2) there is no compelling reason for the delay, and (3) the delay has caused prejudice to the adverse party. *Id.* at 132. The third prong of this test was modified in *Penn Piping* where the Court held that "in cases involving a delay for a period of two years or more, the delay will be presumed prejudicial for purposes of any proceeding to dismiss for lack of activity on the docket." *Penn Piping, Inc. v. Insurance Company of North America*, 529 Pa. at 356, 603 A.2d at 1009.

We held, in *Naugle v. Miller*, No. 507 Civil 1991 (Adams January 26, 1998), that although plaintiffs may not attempt to rebut the *Penn Piping* presumption by showing no actual prejudice to defendant, they may rebut it by showing that a defendant intentionally acted to further delay the case. The Superior Court, in *Herb v. Snyder*, 454 Pa. Super. 612, 686 A.2d 412 (1996), alloc. den. 698 A.2d 67, held that "a delay caused by a defendant or properly chargeable to a defendant cannot be a ground for the entry of a judgment of non pros against a plaintiff." *Id.* at 413; see also, *Wasson v. McClintock*, PICS Case No. 97-2633 (Pa. Commw. Dec. 9, 1997); *Doyle v. Tesaro*, ___ Pa. Super. ___ 694 A.2d 627 (1997); *Collura v. L&E Concrete Pumping, Inc.*, 454 Pa. Super. 572, 686 A.2d 392 (1996); *Biondillo v. Commonwealth Department of*

¹As we have determined to grant Defendant's petition for entry of non pros, we need not address the motion to dismiss for lack of personal jurisdiction.

Transportation, ___ Pa. Commw. ___ 674 A.2d 1175 (1996); Mudd v. Nosker Lumber, Inc., 443 Pa. Super. 483, 662 A.2d 660 (1995).

GMAC argues that Keller failed to set his preliminary objections for argument thereby delaying the case. It is this Court's determination that Keller did not intentionally contribute to the delay in such a manner as to rebut the presumption of prejudice created by 33 months of inactivity on the docket. Although Keller was responsible for some delay by having filed preliminary objections and never setting them for argument, we do not believe this substantiates the 33 month period of non-activity as it is "plaintiffs burden to move a case to trial... [and if] plaintiff's counsel finds herself faced with delays created by others, she must take action to move the case forward, such as *filing praecipes for argument on undecided motions...*" Pennridge Electric Inc. v. Souderton Area Joint School Authority, 419 Pa. Super. 201, 209, 615 A.2d 95, 99 (1992) (emphasis added). Clearly, GMAC has the burden to move the case forward even if opposing counsel fails to set argument on a motion.

Because we have determined that the presumption of prejudice against Keller stands we will address the remaining elements of the non pros test. First, there must be a showing that there has been a lack of due diligence by GMAC in proceeding with the case. As discussed above, it is plaintiffs burden to move the case forward. No evidence was presented by GMAC indicating any due diligence on its' part in moving the case to trial. GMAC was able to easily facilitate the scheduling of argument on the preliminary objections when faced with the prospect of dismissal. That same ease of facilitation was available to GMAC since the objections were filed on October 14, 1994. Because GMAC created no docket activity on this case for 33 months they have failed to act with due diligence.

The last prong in the non pros test requires there to be no compelling reason for the delay. A compelling reason may include "cases where the delaying party establishes that the delay was caused by bankruptcy, liquidation, or other operation of law, or in cases awaiting significant developments in the law." Penn Piping, Inc. v. Insurance Company of North America, 529 Pa. at 356, n. 2, 603 A.2d at 1009, n. 2. GMAC has offered no evidence of a compelling reason for the delay. Failure on Keller's part to set his preliminary objections for trial is not a compelling reason for GMAC to allow a 33-month delay.

Accordingly, the attached order is issued.

ORDER OF COURT

AND NOW, this 10th day of February 1998, Defendant's Petition for Entry of Judgment of Non Pros is hereby granted.

BOOKS VS. BOOKS

1. Since the reasonable expenses of the obligor are factored into the support guidelines, the "actual expenses" of the parties should not be considered.

2. Defendant's obligation to his spouse may not be reduced as a result of his *voluntary* contributions towards the college tuition of his daughter.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 97-S-376, INDRA A. BOOKS VS. EDWARD P. BOOKS.

Larry W. Wolf, Esq., for Plaintiff

John James Mooney, III, Esq., for Defendant

MEMORANDUM OPINION

Bigham, J., February 12, 1998.

Plaintiff, Indra A. Books, filed a divorce action on April 22, 1997 and later petitioned for an award of Alimony Pendente Lite ("APL"). APL was set at \$363.00 per month by Court Order dated September 10, 1997. Defendant, Edward P. Books, appealed from this Order claiming that APL had been determined improperly.

STATEMENT OF THE FACTS

The facts are not in dispute. The parties were married on December 30, 1989. Approximately five years later Plaintiff left Defendant and moved out of the marital home. Since the parties' separation, Defendant has been contributing towards the college tuition of his daughter from a previous marriage. Defendant has made the following payments: \$3,860.00 on August 2, 1996, \$3,579.67 on December 31, 1996, and \$3,910.00 on August 7, 1997. Defendant argues that his contributions to his daughter's college tuition should be subtracted from his income for purposes of calculating APL or that these voluntary payments should be taken into account in some way, presumably to permit a deviation from the guideline amount.

LEGAL DISCUSSION

There is no support for Defendant's proposition that his voluntary contributions to his daughter's college tuition should be subtracted from his net income when calculating APL. Rule 1910.16-5(b) sets forth the proper calculation of monthly net income:

Monthly net income is determined by subtracting *only the following* items from monthly gross income:

- (1) federal, state, and local income taxes;
- (2) F.I.C.A. payments and non-voluntary retirement payments;

- (3) union dues;
- (4) health insurance premiums for the benefit of the other party or the children; and
- (5) alimony paid to the other party.

Pa.R.C.P. 1910.16-5(b), 42 Pa.C.S.A. (emphasis added).

Clearly, the Rules do not allow for subtraction of any other expenses when determining net income. Additionally, in *Ball v. Minnick*, 538 Pa. 441, 648 A.2d 1192 (1994), our Supreme Court held that “the reasonable expenses of the obligor are factored into the support guidelines.” *Id.* at 1197. Therefore, the “actual expenses” of the parties should not be considered. See also, *Terpak v. Terpak*, ___ Pa. Super. ___, 697 A.2d 1006 (1997) (where the Court applies the same reasoning to spousal support).

Furthermore, in *Horst v. Horst*, 406 Pa. Super. 188, 593 A.2d 1299 (1991), the Superior Court held that child support was to be determined based on the father’s net income before making any allowance for voluntary payments for college tuition. Thus, Defendant’s voluntary college payments may not be subtracted from his net income when determining APL.

Defendant has also argued that his voluntary payments should, in some way, be taken into account when deciding APL. Plaintiff’s APL was properly determined in accordance with the guidelines set forth in Pa.R.C.P. 1910.16-3. See, Pa.R.C.P. 1910.16-1(a), 42 Pa.C.S.A. (the amount of support, whether child support, spousal support or alimony pendente lite, is to be determined in accordance with the guidelines set forth in 1910.16-2 and 1910.16-3). Rule 1910.16-1(b) creates a rebuttable presumption that the amount awarded under the guidelines is correct. Pa.R.C.P. 1910.16-1(b), 42 Pa.C.S.A. Deviations from the guideline amounts are permissible only “if the trier of fact makes a written finding...that an award in the amount determined from the guidelines would be unjust or inappropriate.” Pa.R.C.P. 1910.16-1(b), 42 Pa.C.S.A. In deciding whether to deviate from the guideline amounts, Rule 1910.16-4 sets forth the following factors to take into consideration:

- (1) unusual needs and unusual fixed obligations;
- (2) other support obligations of the parties;
- (3) other income in the household;
- (4) ages of the children;
- (5) assets of the parties;
- (6) medical expenses not covered by insurance;

- (7) standard of living of the parties and their children; and
- (8) other relevant and appropriate factors, including the best interests of the child or children.

Pa.R.C.P. 1910.16-4(b), 42 Pa.C.S.A.

Our Courts have applied these factors strictly. Our Supreme Court has held that Rule 1910.16-4(b) “sets forth the *only* factors that a trier of fact may consider in determining whether to deviate.” *Ball v. Minnick*, 538 Pa. at 449, 648 A.2d at 1196 (emphasis added); see also, *Elias v. Spencer*, 449 Pa. Super. 359, 673 A.2d 982 (1996) (holding that a father’s new family and personal expenses are not enumerated factors in Pa.R.C.P. 1910.16-4(b) and therefore may not be considered when deviating from the amount of child support awarded pursuant to the guidelines); *McGinnis v. McGinnis*, 439 Pa. Super. 372, 654 A.2d 563 (1995) (holding that prior private support agreement is not an enumerated factor in Pa.R.C.P. 1910.16-4(b) that may be considered when deviating from the child support guidelines).

More recently, in *Terpak v. Terpak*, ___ Pa Super. ___, 697 A.2d 1006, the Superior Court dealt with a deviation from an award of spousal support. In that case, the Husband was making voluntary payments on an irrevocable life insurance trust for the children of the marriage. The Court held that “the *voluntary* incurrence of a debt does not reduce the appellee’s [Husband’s] obligation to his spouse, especially with its conspicuous absence from the criteria set forth in Pa.R.Civ.P. 1910.1604(b) in deciding whether to deviate from the amount of support.” *Id.* at 1009.

Similarly, in the case at hand, Defendant’s voluntarily contribution to college tuition is not a factor under Pa.R.C.P. 1910.16-4(b) that may be considered in deciding whether to deviate from the amount awarded under the guidelines. Defendant’s obligation to his spouse may not be reduced as a result of his *voluntary* contributions towards the college tuition of his daughter.

Accordingly, the attached Order is issued.

ORDER OF COURT

AND NOW, this 12th day of February 1998, Defendant’s appeal from the award of Alimony Pendente Lite is hereby 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 UTHA E. BOYER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: Joseph L. Boyer, 194 West Chestnut Hill Road, Aspers, PA 17304

Attorney: Robert L. McQuaide, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF THOMAS E. CROSS, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Sharon E. Pierce a/k/a Sharon E. Pierce-Cross, 99 Fairview Fruit Road, Biglerville, PA 17307

Attorney: Robert L. McQuaide, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ETHEL G. HARDMAN, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Personal Representatives: Ralph E. Hardman, P.O. Box 4322, Gettysburg, PA 17325; Theresa M. Myers, 62 Breckenridge Street, Gettysburg, PA 17325

Attorney: Robert E. Campbell, Esq., Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF DAVID MICHAEL HUNSBERGER, DEC'D

Late of the Borough of Abbottstown, Adams County, Pennsylvania

Administratrix: Kathy M. Foltz, 160 Municipal Road, Hanover, PA 17331

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

ESTATE OF MARY JANEROSE, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Randall R. Rose, 338 East Railroad Street, Gettysburg, PA 17325

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

ESTATE OF MARY L. STORM, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Guy E. Storm, 401 Allendale Road, Mechanicsburg, PA 17055

Attorney: Thomas E. Miller, Esq., Miller & Shultz, 249 York Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF MAE A. BAKER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Alice M. Sponseller, 286 S. Hickory Lane, New Oxford, PA 17350

Attorney: Richard E. Thrasher, Bulleit, Shultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF ELIZABETH G. GIFFORD, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

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

Attorney: Bulleit, Shultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF RONALD CLAIR IRWIN, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executrix: Peggy M. Woodring, 744 Whitehall Road, Littlestown, PA 17344

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

ESTATE OF ALLEN L. LEIB, DEC'D

Late of Abbottstown Borough, Adams County, Pennsylvania

Personal Representative: Janet A. Leib, 171 West Water Street, Abbottstown, PA 17301

Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

ESTATE OF ALEXIS JANELLE MASON, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Administrator: Jeffrey G. Mason, 38 Bowens Road, Littlestown, PA 17340

Attorney: Mark David Frankel, Esquire, Frankel, Bare & Associates, 14 West King Street, P.O. Box 1389, York, PA 17405-1389

ESTATE OF GLORIA MAY MILHIMES, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Howard M. Milhimes, 150 700 Road, New Oxford, PA 17350

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

ESTATE OF MARGARET E. WEYANT, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: John S. Weyant & Byron H. LeCates, c/o Stock & Leader, P.C., 35 South Duke Street, P.O. Box 5167, York, PA 17405-5167

Attorney: Henry B. Leader, Stock & Leader, P.C., 35 South Duke Street, P.O. Box 5167, York, PA 17405-5167

THIRD PUBLICATION

ESTATE OF JOHN L. HAMM, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executor: Allen Haar, 6805 Laurel Summit Drive, R.D. #5, Hanover, PA 17331

Attorney: James T. Yingst, Esquire, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF MARGARET K. MILLER, a/k/a MARGARET VADELLA MILLER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: John L. Miller, 31 Hilltop Road, Yardley, PA 19067

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

ESTATE OF DOROTHEA M. PALMER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Charles J. Kint, RD #1, Box 222, Abbottstown, PA 17301

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

ESTATE OF ELIZABETH K. SCHULTZ, DEC'D

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

Executors: Jack G. Schultz, 848 Cricket Road, Secane, PA 19018; Charles W. Smith, 45 Diane Lane, Biglerville, PA 17307

Attorney: Frey and Tiley, Attorneys at Law, 5 South Hanover Street, Carlisle, PA 17013

ESTATE OF BERNARD E. SMITH, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-executors: Kathleen A. Brown, RD #5, Box 5413, Spring Grove, PA 17362; Robert B. Smith, 838 West Middle Street, Hanover, PA 17331

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

ESTATE OF PORTIA E. UFFELMAN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administratrix: Gloria J. Kopman, 445 Maple Grove Road, Hanover, PA 17331

Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

ESTATE OF VERNA K. WOLF, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Sandra J. Haverstick, 100 Pine Run Road, New Oxford, PA 17350

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-869 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of February, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an iron pin in Township Road T-318 at a point where it intersects with Township Road T-324 and at the Southwestern corner of land now or formerly of Carl H. Perkins and the Northeastern corner of land now or formerly of Sydney M. Shapiro; thence running in Township Road T-318 and by land now or formerly of Sydney M. Shapiro, South 65 degrees 22 minutes 05 seconds West 233.76 feet to a railroad spike at the Southeastern corner of Tract #1 above; thence by Tract #1 and through an iron pin set back 25 feet from the start of this course North 05 degrees 52 minutes 55 seconds West 420.86 feet to an iron pin on line of land of Lot #3 in the hereinafter described Plan of Lots, which lot is currently owned by Alan P. Horoschak and wife; thence by Lot #3 and crossing Township Road T-324, North 73 degrees 14 minutes 21 seconds East 396.48 feet to an iron pin, situate 18 feet East of the center line of T-324 and on line of land now or formerly of Henry P. Benoit; thence running along and in Township Road T-324, by land now or formerly of Henry P. Benoit and by land now or formerly of Carl H. Perkins, South 15 degrees 52 minutes 37 seconds West 452.86 feet to an iron pin at the intersection of Township Road T-324 and Township Road T-318, the point and place of BEGINNING.

THE DESCRIPTION of the above tract was taken from a draft of Survey of Wilbur L. Plank Registered Engineer, date May 18, 1979 and recorded in Adams County Plat Book 28 at page 4.

THE TRACT is referred to as Lot #2 in said Plan.

BEING Tax Map #D-15 Parcel #22.

BEING THE SAME PREMISES which Alan P. Horoschak and Patricia A. Horoschak, husband and wife, by their Deed dated June 12, 1992 and recorded in the Office of the Recorder of Deeds in and for Adams County on March 1, 1993 in Deed Book 696, Page 23, granted and conveyed unto Dennis J. Walter and Theresa D. Walter, husband and wife, the Defendants herein.

SEIZED and taken into execution as the property of **Dennis J. Walter & Theresa D. Walter** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
December 12, 1998.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 15, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
1/22, 29 & 2/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-618 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of February, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an existing p.k. nail in the center line of the intersection of the Biglerville Road (S.R. 0034) with Boyde School Road (T-341); thence running in the center line of Boyde School Road (T-341) South 85 degrees 00 minutes 10 seconds West, 214.52 feet to an existing railroad spike in said center line at corner of land now or formerly of Rudisill; thence running by said Rudisill North 16 degrees 57 minutes 55 seconds West, 93.36 feet running through a reference pipe set back 15 feet from the beginning of this course, to an existing square pipe relocated by mutual agreements of land owners; thence by land now or formerly of Claude Rudisill North 73 degrees 13 minutes 40 seconds East, 209.58 feet to a point in the center line of Biglerville Road (S.R. 0034) running through an existing reference pipe set back 25-20 feet from the terminus of this course; thence in said center line of Biglerville Road (S.R. 0034) South 17 degrees 04 minutes 50 seconds East, 137.14 feet to an existing p.k. nail in the center line of the intersection of Biglerville Road (S.R. 0034) and Boyde School Road (T-341), the point and place of BEGINNING. CONTAINING 0.555 Acre (24,165 Square Feet).

HAVING A DWELLING ERECTED THEREON KNOWN as 1310 Biglerville Road, Gettysburg, PA.

BEING THE SAME PREMISES WHICH Michael A. Myers and Pamela S. Myers by deed dated 11/18/94 and recorded 11/26/94 in Adams County Deed Book 969 Page 184 granted and conveyed unto Carole M. Laughman.

TO BE SOLD AS THE PROPERTY OF CAROLE M. LAUGHMAN UNDER ADAMS COUNTY JUDGMENT NO. 98 S 618.

Parcel: F11-118

SEIZED and taken into execution as the property of **Carole M. Laughman & Melanie S. Cook** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
December 19, 1998.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 15, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/29, 2/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-893 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of February, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground, situate, lying and being in Oxford Township, Adams County, Pennsylvania, bounded and described as follows, to-wit:

BEGINNING at an iron pin for a corner at land now or formerly of Robert Johnson and other land now or formerly of Francis A. Carbaugh, widower; thence by said land now or formerly of Francis A. Carbaugh, North twenty-nine (29) degrees twelve (12) minutes East, one hundred forty (140.00) feet to an iron pin; thence by same South sixty-one (61) degrees six (06) minutes East, two hundred twenty-five (225.00) feet to an iron pin; thence by same South twenty-nine (29) degrees twelve (12) minutes West, one hundred forty (140.00) feet to an iron pin at land now or formerly of George Good; thence by said land now or formerly of George Good, North sixty-one (61) degrees six (06) minutes West, fifty-five (55.00) feet to an iron pin at land now or formerly of Reginald Rohrbach; thence by said land now or formerly of Reginald Rohrbach, North sixty-one (61) degrees six (06) minutes West, seventy (70.00) feet to an iron pin at land now or formerly of Kenneth W. Klinedinst thence by said land now or formerly of Kenneth W. Klinedinst, North sixty-one (61) degrees six (06) minutes West, one hundred (100.00) feet to an iron pin, the place of BEGINNING. CONTAINING 31,500 square feet. The within description being taken from a draft of survey made May 13, 1953, by J. H. Rife, R.E., as the Johnson and Carbaugh plots.

Being known as: Lot along Becker Road N/K/A 910 Q HANOVER STREET NEW OXFORD PA

Tax Parcel # K12-41A

Title to said premises is vested in Tony J. Hippensteel by deed from Dale E. Seymore and Elaine D. Seymore, his Wife, dated 8/31/1992 recorded 9/9/1992 in deed book 641 page 61.

SEIZED and taken into execution as the property of **Tony J. Hippensteel** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 15, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/29, 2/5 & 12

Adams County Legal Journal

Vol. 40

February 12, 1999

No. 38, pp. 247-250

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-1154 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of February, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the State Highway leading from Hanover to Gettysburg; thence by other lands now or formerly of Joel D. Musselman, et ux., and through an iron pin, North 25 degrees East, 258 feet to an iron pin; thence by land now or formerly of A. E. Hutchison, North 35 degrees East, 110 feet to lands now or formerly of Robert Paris; thence by said last mentioned lands South 67 degrees East, 57 feet to an iron pin at lands now or formerly of Trondle; thence by said last mentioned lands South 24 degrees West, 366 feet to a point in the aforesaid State Highway; thence by said State Highway North 66 degrees West, 81.9 feet to the place of **BEGINNING**. **CONTAINING 105 Perches.**

The above description was taken from a draft of survey prepared by LeRoy H. Winebrenner, C.S., dated February 6, 1962.

The address of this tract of land is 1508 Hanover Road, Gettysburg, Adams County, Pennsylvania.

SEIZED and taken into execution as the property of **Hector Lua Garcia & Brenda Doris Garcia** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
September 19, 1998

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 22, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/5 & 12, 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-735 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described real estate, known locally as 144 Old Waynesboro Pike, lying and being situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point marked by an iron pin in the center of Old Route 16 between Waynesboro and Emmitsburg, being the Northwest corner of the tract herein conveyed and the Northeast corner of tract of lands now or formerly of Russell Hull, South 36-1/4 degrees West 10.58 perches to a point in the center of New Route 16, being the Southwest corner of the tract herein conveyed; thence running with the center of New Route 16, South 65 degrees East 15.20 perches to a point in the center of New Route 16, being the Southeast corner of the tract herein conveyed; thence along lands now or formerly of David C. Tressler and wife, North 30 degrees East 11.64 perches to a point, being the Northeast corner of the tract herein conveyed; thence along lands now or formerly of David C. Tressler and wife and in the center of Old Route 16, North 69-1/2 degrees West 14.06 perches to an iron pin, the place of beginning.

CONTAINING 1 acre and 25 square perches of land.

Tax Parcel Number: B-17-81

TITLE TO SAID PREMISES IS VESTED IN John E. Hess and Patricia J. Hess, his wife by Deed from Kurt S. Johnson and Mary Beth C. Johnson, his wife dated 8/25/95 recorded 9/6/95 in Deed Book Volume 1078 Page 151.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 5, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/5, 12, 19

NOTICE

THE COMMONWEALTH OF PENNSYLVANIA, To Robert W. and Lilian Allewalt.

WHEREAS, the Borough of Littlestown on the 29th day of September A.D., 1998 filed its claim in our Court of Common Pleas of Adams County at No. 553 of 1998 the sum of \$535.37 with interest from the 29th day of September A.D., 1998 for against the following property situate in the Borough of Littlestown, Adams County, Pennsylvania 17340, located at and known as 495 South Columbus Avenue, Littlestown, Adams County, Pennsylvania, 17340, also known as Adams County Parcel (Littlestown Borough) No. 011-0150 (Adams County Record Book 775 at Page 83.) owned or reputed to be owned by you **Robert W. & Lilian Allewalt.**

AND WHEREAS, we have been given to understand that said claim is still due and unpaid, and remains a lien against the property;

NOW, you are hereby notified to file your affidavit of defense to said claim, if defense you have thereto, in the office of the Prothonotary of our said Court within fifteen days after the service of this writ upon you.

If no affidavit of defense be filed within said time, judgment may be entered against you for the whole claim and the property described in the claim be sold to recover the amount thereof.

Witness the Honorable Oscar F. Spicer President Judge of our said Court at Gettysburg this 21st day of January A.D., 1999.

Patricia A. Funt
Prothonotary

2/5, 12 & 19

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

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

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

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-792 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Carroll Valley Borough, formerly Liberty Township, Adams County, Pennsylvania, being Lot No. 24 in Section I, more particularly bounded and described as follows:

BEGINNING at a point in the center of Diane Trail at Lot No. 23; thence by said lot, North 65 degrees, 44 minutes West, 225 feet to lands now or formerly of Alex Thornton; thence by said lands, North 13 degrees 1 minute 20 seconds East, 127.44 feet to Lot No. 25; thence by said Lot, South 65 degrees 44 minutes East, 225 feet to a point in the center of said Diane Trail; thence in said Diane Trail, South 13 degrees 1 minute 20 seconds West, 127.44 feet to the point and place of the beginning.

The above description was taken from a plan of lots labeled "Section I, Charnita" dated August 26, 1969, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at page 57.

Tax Parcel Number: 27-115

TITLE TO SAID PREMISES IS VESTED IN James D. Sandy and Jessica A. Sandy, husband and wife by Deed from Janet E. Thompson now known as Janet E. Bonner and Forrest M. Bonner, her husband, dated 3/6/96 and recorded 3/6/96 in Record Book 1155 page 48.

SEIZED and taken into execution as the property of **James D. Sandy & Jessica A. Sandy** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 5, 1999, and distribution will be made in accordance with said thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/12, 19, 26

NOTICE OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on November 20, 1998, for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is **GARDNER'S HOSE & SERVICE, INC.**

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

Garnder's Hose & Service, Inc.
295 Rupp Road
Gettysburg, PA 17325

2/12

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Name Act, 54 Pa. C.S.A. §§301, et seq., that an Application to conduct business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of **STUDIO 16 HAIRSTYLING** was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, in Harrisburg, Pennsylvania, on January 6, 1999. The business is located at 16 South Queen Street, Littlestown, Adams County, Pennsylvania 17340. The name and address of the persons who are party to the registration is Sandra M. Hawk, 2744 Church Lane, Taneytown, Maryland 21787.

Thomas R. Campbell, Esq.
Campbell & White
122 Baltimore Street
Gettysburg, PA 17325
Attorneys for Applicant

2/12

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on January 25, 1999, for the purpose of obtaining a Certificate of Incorporation under the Non-Profit Corporation Act of 1988, 15 Pa. C.S.A. §5101 et seq.

The name of the corporation is **CENTER FOR AGRICULTURAL PARTNERSHIPS, INC.** The purpose of the corporation is the improvement of economic and environmental performance of production agriculture through education, training, applied and participatory research, organizational development, and strategic communications.

Bulleit, Schultz & Thrasher
Attorneys for the corporation

2/12

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that a certificate of organization for a domestic limited liability corporation was filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on or about February 1, 1999, for the purpose of obtaining a Certificate of Incorporation of a Pennsylvania limited liability company, organized under the Limited Liability Company Law of 1994, Act of December 7, 1994, P.L. 703.

The name of the corporation is **CUDDLES PET SITTING SERVICE, LIMITED.**

The purpose for which the corporation has been organized is: The corporation shall have unlimited power to engage in and do any lawful act, including, but not limited to, providing feeding and caring services to domestic animals, at homeowner's request, including non-over-night basic domestic maintenance of homeowner's houses such other business for which the corporation may be organized under the Pennsylvania Corporation Law.

Wolfe & Rice
47 West High Street
Gettysburg, PA 17325

2/12

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on December 31, 1998.

The name of the corporation is **QUINIQUE CORPORATION.**

The corporation has been incorporated under the Pennsylvania Business Corporation Law of 1988.

John R. White, Esq.
Campbell & White
122 Baltimore Street
Gettysburg, PA 17325
Attorneys for Incorporation

2/12

LEONARD VS. KATCHUK

1. If the Plaintiff knows of Defendant's out-of-state address and is able to serve him there, the Statute of Limitations will not be tolled.

2. Summary judgment is not available where the moving party relies exclusively upon oral affidavits or depositions to establish the absence of a genuine issue of material fact, except where that oral testimony consists of admissions of the opposing party or his witnesses.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 96-S-470, BELMONT L. LEONARD VS. RONALD A. KATCHUK.

Jerry A. Philpott, Esq., for Plaintiff

Debra Fourlas, Esq. for Defendant

SECOND OPINION ON THE PARTIES' MOTIONS FOR SUMMARY JUDGMENT

Kuhn, J., February 17, 1998.

On May 28, 1996, Plaintiff, Belmont Leonard, filed a Complaint against Defendant, Ronald Katchuk. Plaintiff then filed an amended complaint and on June 28, 1996, a second amended complaint. On July 12, 1996, Defendant answered and raised the affirmative defense of the statute of limitations. On December 23, 1996, Plaintiff filed a Motion for Partial Summary Judgment and on July 22, 1997, Defendant filed a Motion for Summary Judgment. Both motions raised the statute of limitations.¹ On September 16, 1997, this Court stayed the motions to allow the parties to supplement the record. Defendant filed an affidavit in support of his position on October 15, 1997 but Plaintiff chose not to supplement the record.

STATEMENT OF FACTS

In July of 1988, Defendant executed an installment note to Plaintiff for the sum of \$15,350 with interest. The note was executed in New York where Defendant had lived since 1984. Defendant moved to Pennsylvania in June of 1994, and currently resides in the Gettysburg area.

¹ The Pennsylvania Rules of Civil Procedure require that affirmative defenses, including the statute of limitations, be raised in New Matter. Pa.R.C.P. 1030, 42 Pa.C.S.A. However, "[w]here a party erroneously asserts substantive defenses in preliminary objections rather than to raise these defenses by answer or new matter, the failure of the opposing party to file preliminary objections, raising the erroneous defenses, waives the procedural defect and allows the trial court to rule on the preliminary objections." *Preis v. Rosenzweig*, 418 Pa. Super. 341, 345, 614 A.2d 303, 305 (1992); alloc. gr. 631 A.2d 1009, aff'd 646 A.2d 1166. In the instant case, both parties have raised the statute of limitations in their Motions for Summary Judgment and neither has objected to the form. Therefore, we will consider the pleading defects waived.

According to the note, Defendant was to pay in installments with the last installment to be made on June 1, 1989. Sometime after executing the note, Defendant paid a total of \$3,700. Defendant has claimed that additional payments were made, in the form of furniture, although he is uncertain of when the tender occurred. Plaintiff contends that he is still owed an amount of \$11,650 plus interest.

LEGAL DISCUSSION

This Court's Opinion of September 16, 1997 disposed of various issues raised by the parties. Supplementation was permitted to allow adequate analysis on two issues: (1) whether Section 5532(b)(3) is applicable because Plaintiff could have served Defendant while out-of-state, and (2) whether the acknowledgment doctrine applies because Defendant tendered part payment after his last scheduled note payment. We will address only these issues.

Both parties' motions center around the four-year statute of limitations found in 42 Pa.C.S.A. § 5525(7). Plaintiff's motion raises two arguments that the statute of limitations has not expired. First, Plaintiff claims that Defendant's absence from Pennsylvania from 1984 to 1994 tolled the statute pursuant to Section 5532. 42 Pa.C.S.A. §5532(a). Second, Plaintiff argues that the acknowledgment doctrine tolled the statute of limitations because Defendant had made partial payments.

In opposition to Plaintiff's first argument, Defendant claims that because he was not a Pennsylvania resident when the cause of action arose, the tolling of Section 5532(a) does not apply. This court previously disposed of this contention as meritless. (*Leonard v. Katchuk*, No. 470 Civil 1996, September 16, 1997). Defendant also argues that the statute of limitations was not tolled because Plaintiff made no reasonable effort to locate or serve him out-of-state. This argument could not be decided on the record at the time of our first opinion but may be addressed now that Defendant has provided supplementation.

Section 5532(b)(3) creates an exception to the general tolling provision in subsection (a). This Section precludes tolling where "jurisdiction over the person of the defendant can be obtained without personal delivery of process to him within this Commonwealth." 42 Pa.C.S.A. §5532(b)(3). As we stated in our earlier opinion, little case law in Pennsylvania has addressed this issue. However, we relied upon *Bywaters v. Bywaters*, 721 F. Supp. 84 (E.D. Pa. 1989), where the Court held that if the plaintiff knows of defendant's out-of-state address and is able to serve him there the statute will not be tolled.

There was a genuine issue of material fact as to Plaintiff's knowledge of Defendant's out-of-state address at the time of our first opinion and this fact continues to be in dispute. However, Defendant is also required to show that Plaintiff could have served him while he was absent from the Commonwealth. *Bywaters v. Bywaters*, 721 F. Supp. 85, 89. Service was not addressed by the parties at the time of our first Opinion. Since that time, Defendant has filed an affidavit stating that his contacts with the Commonwealth were such that he could have been served while absent from the Commonwealth. However, pursuant to the Nanty-Glo rule, summary judgment is not available where the moving party relies exclusively upon oral affidavits or depositions to establish the absence of a genuine issue of material fact, except where that oral testimony consists of admissions of the opposing party or his witnesses. *Johnson v. Johnson*, 410 Pa. Super. 631, 637, 600 A.2d 965, 968 (1991). Thus, we cannot grant Defendant's motion relying only upon his personal affidavit. Furthermore, because there is still a genuine issue of material fact as to whether or not Plaintiff knew of Defendant's out-of-state address, summary judgment cannot be granted.²

Plaintiff's second argument in his Motion for Partial Summary Judgment raises the acknowledgment doctrine. Defendant argues that the acknowledgment doctrine has not tolled the statute of limitations because any partial payments made by Defendant were made prior to the date of maturity on the note in question and therefore did not act to toll the statute and, alternatively, that even if the statute was tolled by the partial payments, it was only temporary and began to run again after the acknowledgment occurred.

At the time of our first opinion, the only showing made by Plaintiff that would have suggested a possible acknowledgment by Defendant was an interrogatory answered by Defendant claiming to have tendered goods to Plaintiff. Plaintiff has failed to provide any further supplementation on this issue. Therefore, there is nothing in the record to show that the tender occurred after the note had matured or that it was tendered as part payment. Plaintiff has

²Normally, whether or not the statute of limitations has run is a question of law for the trial judge. However, when there is an issue of fact, the determination must go to the jury. *Hayward v. Medical Center of Beaver County*, 530 Pa. 320, 325, 608 A.2d 1040, 1043 (1992). "Ordinarily most questions relating to the applicability of the defense of the statute of limitations are questions of fact to be determined by the jury." *Taylor v. Tukanowicz*, 290 Pa. Super. 581, 586, 435 A.2d 181, 183 (1981) (quoting 2 Standard Pennsylvania Practice 289).

the burden of pleading and providing facts to support his claim that the statute of limitations has been tolled. *Johns v. Cheeseman*, 457 Pa. 414, 421, 322 A.2d 648, 652 (1974). Because Plaintiff has failed to meet this burden his argument fails.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 17th day of February, 1998, Plaintiff's Motion for Partial Summary Judgment and Defendant's Motion for Summary Judgment are hereby denied.

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 99-S-33
Action to Quiet Title

LAWRENCE E. MCGLAUGHLIN,
Plaintiff,

vs.

ELEANOR A. BRADFORD, her heirs,
administrators, successors and
assigns, Defendant.

TO: Eleanor A. Bradford, her heirs,
administrators, successors and assigns

TAKE NOTICE that on January 13,
1999, Lawrence E. McGlaughlin, filed a
Complaint in Action to Quiet Title, against
Eleanor A. Bradford, her heirs, adminis-
trators, successors and assigns, aver-
ring that Lawrence E. McGlaughlin is the
owner of the real property described
herein. The Complaint requests the Court
to extinguish any possible interest you
may have in said real estate. The subject
property is a tract of land situate in Lib-
erty Township, Adams County, Pennsylv-
ania, being more particularly bounded
and described as follows:

BEGINNING at a point in the center of
Diana Trail at Lot No. 293; thence by said
lot, South 28 degrees 4 minutes 40 sec-
onds West 224 feet to Lot No. 269; thence
by said lot, North 61 degrees 55 minutes
20 seconds West 100 feet to Lot No. 291;
thence by said lot and in the cul-de-sac of
said Diana Trail, North 28 degrees 4
minutes 40 seconds East 225 feet to a
point in said cul-de-sac; thence in the
cul-de-sac and in said Diana trail, South
61 degrees 55 minutes 20 seconds East
100 feet to the place of beginning.

The above description was taken from
a plan of lots labeled "Section W of
Charnita, Inc.," dated January 3, 1970,
prepared by Gordon L. Brown, R.S., re-
corded in Adams County Plat Book 1 at
page 66.

BEING THE SAME which Charnita,
Inc., by deed dated April 3, 1971 and
recorded in the Office of the Recorder of
Deeds of Adams County, Pennsylvania,
in Deed Book 291 at Page 609 on April
16, 1971, sold and conveyed unto Eleanor
A. Bradford; and BEING THE SAME
which the Adams County Tax Claim Bu-
reau, by their deed dated January 4,
1988, and recorded in the aforemen-
tioned office in Record Book 477 at Page
261, sold and conveyed unto Christo-
pher A. McGee; and BEING THE SAME
which Christopher McGee and Juanita
E. McGee, his wife, by deed date Octo-
ber 14, 1998, and recorded in the afore-
mentioned office in Record Book 1688 at
Page 12, sold and conveyed unto
Lawrence E. McGlaughlin, Plaintiff
herein.

The Complaint requested the Court to
enter a Decree and Order that the title of
the property described above is in the
Plaintiff, and that the Defendants be for-
ever barred from asserting any right,

lien, title or interest in the said land
inconsistent with the interests of the
Plaintiffs as set forth in their Complaint.

WHEREFORE, by Order dated Janu-
ary 14, 1999, the Court of Common Pleas
of Adams County, Pennsylvania, has
ordered that service of the Complaint be
made on the above Defendants, their
respective heirs, personal representa-
tives, successors and assigns, by publi-
cation. Plaintiff will request the Court to
enter a final judgement ordering that any
possible legal interest the Defendants
might have had in the property be exting-
uishd.

NOTICE TO DEFEND

You have been sued in Court. If you
wish to defend against the claims set
forth in the Complaint filed in the Adams
County Court of Common Pleas at No.
99-S-33 and described hereinabove, you
must take action within twenty (20) days
after this publication by entering a written
appearance personally or by an 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 en-
tered against you by the Court without
further notice for the relief requested by
the Plaintiff. You may lose property or
other rights important to you.

YOU SHOULD TAKE THIS NOTICE
TO YOUR LAWYER AT ONCE. IF YOU
DO NOT HAVE A LAWYER OR CAN-
NOT AFFORD ONE, GO TO OR TELE-
PHONE THE OFFICE SET FORTH BE-
LOW TO FIND OUT WHERE YOU CAN
GET LEGAL HELP.

Court Administrator
Adams County Courthouse
Gettysburg, PA 17325
717-334-6781

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

2/12

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 98-S-1058
Action To Quiet Title

LAWRENCE E. MCGLAUGHLIN,
Plaintiff,

vs.

ESTATE OF JAMES MAJOR, DE-
CEASED, LAWANDA ADAMS
JOHNSON, DERRICK ADAMS, RUBY
ADAMS, DARLENE ADAMS, JOAN
CRAWFORD AND ARTHUR ADAMS,
their heirs, administrators, successors
and assigns, Defendants.

TO: Estate of James Major, deceased,
Lawanda Adams Johnson, Derrick
Adams, Ruby Adams, Darlene Adams,

Joan Crawford and Arthur Adams, their
heirs, administrators, successors and
assigns:

TAKE NOTICE that on October 27,
1998, Lawrence E. McGlaughlin filed a
Complaint in Action to Quiet Title, against
Estate of James Major, deceased,
Lawanda Adams Johnson, Derrick
Adams, Ruby Adams, Darlene Adams,
Joan Crawford and Arthur Adams, their
heirs, administrators, successors and
assigns, averring that Lawrence E.
McGlaughlin is the owner of the real
property described herein. The Complaint
requests the Court to extinguish any pos-
sible interest you may have in said real
estate. The subject property is ALL that
tract of land situate, lying and being in
the Borough of Carroll Valley (formerly
Liberty Township), Adams County, Penn-
sylvania, being Lot No. 13 in Section W,
bounded and described as follows:

BEGINNING at a point in the center of
Diane Trail at Lot No. 12; thence by said
lot South 46 degrees 6 minutes East, 225
feet to a point in the center of Cheryl
Trail; thence in said Cheryl Trail and by
Lot No. 26 South 43 degrees 54 minutes
West, 104.73 feet to Lot No. 14; thence
by said lot North 46 degrees 6 minutes
West, 225 feet to a point in the Center
of Said Diane Trail; thence in said Diane
Trail North 43 degrees 54 minutes East,
104.73 feet to the place of BEGINNING.

The above description was taken from
a plan of lots labeled "Section W of
Charnita, Inc.," dated January 3, 1970,
prepared by Gordon L. Brown, R.S., and
recorded in Adams County Plat Book 1 at
Page 66.

BEING THE SAME WHICH Charnita,
Inc., a Pennsylvania corporation, by deed
dated December 13, 1971 and recorded in
the Office of the Recorder of Deeds of
Adams County, Pennsylvania in Deed
Book 338 at Page 613, sold and con-
veyed unto James Major and Naomi J.
Major, husband and wife (Naomi J. Major
died December 3, 1975 leaving title
vested in fee simple in James Major;
James Major died intestate July 8, 1994;
Letters of Administration were issued on
October 24, 1994, naming Lawanda
Adams Johnson, Derrick Adams, Ruby
Adams, Darlene Adams, Joan Crawford
and Arthur Adams as co-personal repre-
sentatives of the Estate of James Major);
and BEING THE SAME WHICH Lawanda
Adams Johnson, Derrick J. Johnson,
Ruby M. Adams, Darlene R. Adams and
Joan B. Crawford, by deed dated Febru-
ary 23, 1996 and recorded in the afore-
mentioned recorder's office in Deed Book
1178 at Page 132, sold and conveyed
unto Arthur L. Adams; and BEING THE
SAME WHICH Arthur L. Adams, by deed
dated October 25, 1996 and recorded in
the aforementioned recorder's office in
Deed Book 1281 at Page 96, sold and
conveyed unto Lawrence E. McGlaughlin,
Plaintiff herein.

The Complaint requested the Court to
enter a Decree and Order that the title of
the property described above is in the

Plaintiff, and that the Defendants be forever barred from asserting any right, lien, title or interest in the said land inconsistent with the interests of the Plaintiffs as set forth in their Complaint.

WHEREFORE, by Order dated January 14, 1999, the Court of Common Pleas of Adams County, Pennsylvania, has ordered that service of the Complaint be made on the above Defendants, their respective heirs, personal representatives, successors and assigns, by publication. Plaintiff will request the Court to enter a final judgment ordering that any possible legal interest the Defendants might have had in the property be extinguished.

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the Complaint filed in the Adams County Court of Common Pleas at No. 98-S-1058 and described hereinabove, you must take action within twenty (20) days after this Publication by entering a written appearance personally or by an 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 by the Court without further notice for the relief requested by the Plaintiff. You may lose property or other rights important to you.

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

Court Administrator
Adams County Courthouse
Gettysburg, PA 17325
717-334-6781

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

2/12

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 98-S-1103
Action to Quiet Title

LAWRENCE E. MCGLAUGHLIN,
Plaintiff,

vs.

CHARNITA, INC., Its successors and assigns, Defendants.

TO: Charnita, Inc., its successors and assigns:

You are notified that an Order has been entered on January 14, 1999, di-

recting that within thirty (30) days after this publication, you shall commence an Action in Ejectment or other appropriate action against the Plaintiff above to assert any claim you may have in and to the lands herein described or be forever barred from asserting any right, lien, title or interest inconsistent with the interest or claim set forth in Plaintiff's Complaint with respect to the land herein described:

LOT No. 1: ALL that tract of land situate, lying and being in Carroll Valley, Adams County, Pennsylvania, being Lot No. 45 in Section F, Charnita Area, as shown on records in the Adams County Mapping Department and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book No. 1 at Page 50.

BEING ONE OF THE LOTS which Charnita, Inc., by order dated February 27, 1979 and recorded June 1, 1979 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 32 at Page 724, abandoned; and BEING THE SAME which the Adams County Tax Claim Bureau, by their deed dated January 9, 1981, and recorded in the aforementioned office in Deed Book 355 at Page 593, sold and conveyed unto Gene Guerny and Judith Ann Guerny, husband and wife; and BEING THE SAME which Gene Guerny and Judith Ann Guerny, by deed dated March 15, 1983, and recorded in the aforementioned office in Deed Book 367 at Page 138, sold and conveyed unto Helen Janet Walrath (now Helen W. LaFontaine); and BEING THE SAME WHICH Helen W. LaFontaine (formerly Helen Janet Walrath), by deed dated August 14, 1997, and recorded in the aforementioned office in Deed Book 1646 at Page 202, sold and conveyed unto Lawrence E. McGlaughlin, Plaintiff herein;

Lot No. 2: ALL that tract of land situate, lying and being in Carroll Valley, Adams County, Pennsylvania, being Lot No. 46 in Section F, Charnita Area, as shown on records in the Adams County Mapping Department and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book No. 1 at Page 50.

BEING ONE OF THE LOTS which Charnita, Inc., by order dated February 27, 1979 and recorded June 1, 1979 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 32 at Page 724, abandoned; and BEING THE SAME which the Adams County Tax Claim Bureau, by their deed dated January 9, 1981, and recorded in the aforementioned office in Deed Book 355 at Page 596, sold and conveyed unto Gene Guerny and Judith Ann Guerny, husband and wife; and BEING THE SAME which Gene Guerny and Judith Ann Guerny, by deed dated March 15, 1983, and recorded in the aforementioned office in Deed Book 367 at Page 132, sold and conveyed unto Helen Janet Walrath (now Helen W. La Fontaine);

and BEING THE SAME WHICH Helen W. LaFontaine (formerly Helen Janet Walrath), by deed dated August 14, 1997, and recorded in the aforementioned office in Deed Book 1646 at Page 202, sold and conveyed unto Lawrence E. McGlaughlin, Plaintiff herein;

Lot No. 3: ALL that tract of land situate, lying and being in Carroll Valley, Adams County, Pennsylvania, being Lot No. 47 in Section F, Charnita Area, as shown on records in the Adams County Mapping Department and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book No. 1 at Page 50.

BEING ONE OF THE LOTS which Charnita, Inc., by order dated February 27, 1979 and recorded June 1, 1979 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 32 at Page 724, abandoned; and BEING THE SAME which the Adams County Tax Claim Bureau, by their deed dated January 9, 1981, and recorded in the aforementioned office in Deed Book 355 at Page 601, sold and conveyed unto Gene Guerny and Judith Ann Guerny, husband and wife; and BEING THE SAME which Gene Guerny and Judith Ann Guerny, by deed dated March 15, 1983, and recorded in the aforementioned office in Deed Book 367 at Page 135, sold and conveyed unto Helen Janet Walrath (now Helen W. La Fontaine), and BEING THE SAME WHICH Helen W. LaFontaine (formerly Helen Janet Walrath), by deed dated August 14, 1997, and recorded in the aforementioned office in Deed Book 1646 at Page 202, sold and conveyed unto Lawrence E. McGlaughlin, Plaintiff herein;

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

2/12

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF TOMMY E. BAKER, DEC'D
Late of Reading Township, Adams County, Pennsylvania

Executrix: Darlene M. Baker, P.O. Box 320, East Berlin, PA 17316

Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ANNA W. BEAMER, DEC'D
Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Ethel M. Dixon, 33 Ridge Avenue, P.O. Box 73, Biglerville, PA 17307

Attorney: Harold A. Eastman, Jr., Esq., Puhl & Eastman, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF LURENE HENRY BENTZ, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: S. Faye Miller, RR2, Box 2198, Miller Road, Glenville, PA 17329

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

ESTATE OF BARBARA R. DITZLER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Melvin L. Ditzler, 29 West York Street, Biglerville, PA 17307

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

ESTATE OF MARION M. GOLDEN, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executrix: Margaret G. Golden, 437 Ground Oak Church Road, Gardners, PA 17324

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

ESTATE OF CLYDE DONALD SANDERS, DEC'D

Late of Borough of New Oxford, Adams County, Pennsylvania

Executrix: Margaret I. Sanders, 49 Pfeiffer Lane, New Oxford, PA 17350

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

ESTATE OF NAOMI EILEEN STIMER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executrices: Christine D. Holtzinger, 1000 Country Way, Chester Springs, PA 19425; Winona R. Peterson, 4200 Walnut Grove Road, Taneytown, MD 21787

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

ESTATE OF WILLIAM F. TOPPER, DEC'D

Late of Borough of McSherrystown, Adams County, Pennsylvania

Co-Executors: Stephen C. Topper, 25 Bragg Street, Hanover, PA 17331; Andrew L. Topper, 315 Basehoar School Road, Littlestown, PA 17340

Attorney: Keith A. Hassler, Esq., 9 North Beaver Street, York, PA 17401

ESTATE OF CHARLES W. WHISTLER a/k/a CHARLES W. WHISTLER, JR., DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: William K. Fengfish, Jr., 3351 Appleford Way, York, PA 17402; Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325

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

ESTATE OF PAUL LEWIS WOLFF a/k/a PAUL L. WOLFF, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Judy Ann Yingling, formerly Judy Ann Neth, 3231 Taneytown Road, Gettysburg, PA 17325

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

SECOND PUBLICATION

ESTATE OF UTHA E. BOYER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Joseph L. Boyer, 194 West Chestnut Hill Road, Aspers, PA 17304

Attorney: Robert L. McQuaide, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF THOMAS E. CROSS, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Sharon E. Pierce a/k/a Sharon E. Pierce-Cross, 99 Fairview Fruit Road, Biglerville, PA 17307

Attorney: Robert L. McQuaide, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ETHEL G. HARDMAN, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Personal Representatives: Ralph E. Hardman, P.O. Box 4322,

Gettysburg, PA 17325; Theresa M. Myers, 62 Breckenridge Street, Gettysburg, PA 17325

Attorney: Robert E. Campbell, Esq., Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF DAVID MICHAEL HUNSBERGER, DEC'D

Late of the Borough of Abbottstown, Adams County, Pennsylvania

Administratrix: Kathy M. Foltz, 160 Municipal Road, Hanover, PA 17331

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

ESTATE OF MARY JANE ROSE, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Randall R. Rose, 338 East Railroad Street, Gettysburg, PA 17325

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

ESTATE OF MARY L. STORM, DEC'D
Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Guy E. Storm, 401 Allendale Road, Mechanicsburg, PA 17055

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

THIRD PUBLICATION

ESTATE OF MAE A. BAKER, DEC'D
Late of Franklin Township, Adams County, Pennsylvania

Executrix: Alice M. Sponseller, 286 S. Hickory Lane, New Oxford, PA 17350

Attorney: Richard E. Thrasher, Bulleit, Shultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF ELIZABETH G. GIFFORD, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

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

Attorney: Bulleit, Shultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF RONALD CLAIR IRWIN, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executrix: Peggy M. Woodring, 744 Whitehall Road, Littlestown, PA 17344

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

ESTATE OF ALLEN L. LEIB, DEC'D

Late of Abbottstown Borough, Adams County, Pennsylvania

Personal Representative: Janet A. Leib, 171 West Water Street, Abbottstown, PA 17301

Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

Continued on next page

ESTATE NOTICES (cont.)

ESTATE OF ALEXIS JANELLE MASON, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania
 Administrator: Jeffrey G. Mason, 38 BOWENS ROAD, LITTLESTOWN, PA 17340
 Attorney: Mark David Frankel, Esquire, Frankel, Bare & Associates, 14 West King Street, P.O. Box 1389, York, PA 17405-1389

ESTATE OF GLORIA MAY MILHIMES, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executor: Howard M. Milhimes, 150 700 ROAD, NEW OXFORD, PA 17350
 Attorney: Larry W. Wolf, Esquire, 215 Broadway, Hanover, PA 17331

ESTATE OF MARGARET E. WEYANT, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Co-Executors: John S. Weyant & Byron H. LeCates, c/o Stock & Leader, P.C., 35 South Duke Street, P.O. Box 5167, York, PA 17405-5167
 Attorney: Henry B. Leader, Stock & Leader, P.C., 35 South Duke Street, P.O. Box 5167, York, PA 17405-5167

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-618 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of February, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an existing p.k. nail in the center line of the intersection of the Biglerville Road (S.R. 0034) with Boyde School Road (T-341); thence running in the center line of Boyde School Road (T-341) South 85 degrees 00 minutes 10 seconds West, 214.52 feet to an existing railroad spike in said center line at corner of land now or formerly of Rudisill; thence running by said Rudisill land North 16 degrees 57 minutes 55 seconds West, 93.36 feet running through a reference pipe set back 15 feet from the beginning of this course, to an existing square pipe relocated by mutual agreements of land owners; thence by land now or formerly of Claude Rudisill North 73 degrees 13 minutes 40 seconds East, 209.58 feet to a point in the center line of Biglerville Road (S.R. 0034) running through an existing reference pipe set back 25-20 feet from the terminus of this course; thence in said center line of Biglerville Road (S.R. 0034) South 17 degrees 04 minutes 50 seconds East, 137.14 feet to an existing p.k. nail in the center line of the intersection of Biglerville Road (S.R. 0034) and Boyde School Road (T-341), the point and place of BEGINNING. CONTAINING 0.555 Acre (24,165 Square Feet).

HAVING A DWELLING ERECTED THEREON KNOWN as 1310 Biglerville Road, Gettysburg, PA.

BEING THE SAME PREMISES WHICH Michael A. Myers and Pamela S. Myers by deed dated 11/18/94 and recorded 11/28/94 in Adams County Deed Book 969 Page 184 granted and conveyed unto Carole M. Laughman.

TO BE SOLD AS THE PROPERTY OF CAROLE M. LAUGHMAN UNDER ADAMS COUNTY JUDGMENT NO. 98 S 618.

Parcel: F11-118

SEIZED and taken into execution as the property of **Carole M. Laughman & Melanie S. Cook** and to be sold by me

Raymond W. Newman
 Sheriff

Sheriff's Office, Gettysburg, PA
 December 19, 1998.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 15, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/29 , 2/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-893 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of February, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground, situate, lying and being in Oxford Township, Adams County, Pennsylvania, bounded and described as follows, to-wit:

BEGINNING at an iron pin for a corner at land now or formerly of Robert Johnson and other land now or formerly of Francis A. Carbaugh, widower; thence by said land now or formerly of Francis A. Carbaugh, North twenty-nine (29) degrees twelve (12) minutes East, one hundred forty (140.00) feet to an iron pin; thence by same South sixty-one (61) degrees six (06) minutes East, two hundred twenty-five (225.00) feet to an iron pin; thence by same South twenty-nine (29) degrees twelve (12) minutes West, one hundred forty (140.00) feet to an iron pin at land now or formerly of George Good; thence by said land now or formerly of George Good, North sixty-one (61) degrees six (06) minutes West, fifty-five (55.00) feet to an iron pin at land now or formerly of Reginald Rohrbough; thence by said land now or formerly of Reginald Rohrbough, North sixty-one (61) degrees six (06) minutes West, seventy (70.00) feet to an iron pin at land now or formerly of Kenneth W. Klinedinst thence by said land now or formerly of Kenneth W. Klinedinst, North sixty-one (61) degrees six (06) minutes West, one hundred (100.00) feet to an iron pin, the place of BEGINNING. CONTAINING 31,500 square feet. The within description being taken from a draft of survey made May 13, 1953, by J. H. Rife, R.E., as the Johnson and Carbaugh plots.

Being known as: Lot along Becker Road N/K/A 910 Q HANOVER STREET NEW OXFORD PA

Tax Parcel # K12-41A

Title to said premises is vested in Tony J. Hippensteel by deed from Dale E. Seymore and Elaine D. Seymore, his Wife, dated 8/31/1992 recorded 9/9/1992 in deed book 641 page 61.

SEIZED and taken into execution as the property of **Tony J. Hippensteel** and to be sold by me

Raymond W. Newman
 Sheriff

Sheriff's Office, Gettysburg, PA
 January 16, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 15, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/29, 2/5 & 12

Adams County Legal Journal

Vol. 40

February 19, 1999

No. 39, pp. 251-254

CONTINUING LEGAL EDUCATION PROGRAMS

Commercial Document Series: Employment Contracts

Thursday, April 8, 1999 - 9:00 a.m.

Room 307, Adams County Courthouse

Credits: Substantive Law - 2, Ethics - 0

Registration through P.B.I. 800-932-4637.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-1154 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of February, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the State Highway leading from Hanover to Gettysburg; thence by other lands now or formerly of Joel D. Musselman, et ux., and through an iron pin, North 25 degrees East, 258 feet to an iron pin; thence by land now or formerly of A. E. Hutchison, North 35 degrees East, 110 feet to lands now or formerly of Robert Paris; thence by said last mentioned lands South 67 degrees East, 57 feet to an iron pin at lands now or formerly of Trondle; thence by said last mentioned lands South 24 degrees West, 366 feet to a point in the aforesaid State Highway; thence by said State Highway North 66 degrees West, 81.9 feet to the place of BEGINNING. CONTAINING 105 Perches.

The above description was taken from a draft of survey prepared by LeRoy H. Winebrenner, C.S., dated February 6, 1962.

The address of this tract of land is 1508 Hanover Road, Gettysburg, Adams County, Pennsylvania.

SEIZED and taken into execution as the property of **Hector Lua Garcia & Brenda Doris Garcia** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
September 19, 1998

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 22, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/5 & 12, 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-735 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described real estate, known locally as 144 Old Waynesboro Pike, lying and being situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point marked by an iron pin in the center of Old Route 16 between Waynesboro and Emmitsburg, being the Northwest corner of the tract herein conveyed and the Northeast corner of tract of lands now or formerly of Russell Hull, South 36-1/4 degrees West 10.58 perches to a point in the center of New Route 16, being the Southwest corner of the tract herein conveyed; thence running with the center of New Route 16, South 65 degrees East 15.20 perches to a point in the center of New Route 16, being the Southeast corner of the tract herein conveyed; thence along lands now or formerly of David C. Tressler and wife, North 30 degrees East 11.64 perches to a point, being the Northeast corner of the tract herein conveyed; thence along lands now or formerly of David C. Tressler and wife and in the center of Old Route 16, North 69-1/2 degrees West 14.06 perches to an iron pin, the place of beginning.

CONTAINING 1 acre and 25 square perches of land.

Tax Parcel Number: B-17-81

TITLE TO SAID PREMISES IS VESTED IN John E. Hess and Patricia J. Hess, his wife by Deed from Kurt S. Johnson and Mary Beth C. Johnson, his wife dated 8/25/95 recorded 9/6/95 in Deed Book Volume 1078 Page 151.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

Continued on insert

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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

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

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

Periodicals postage paid at Gettysburg, PA 17325.

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

All rights reserved.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-792 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Carroll Valley Borough, formerly Liberty Township, Adams County, Pennsylvania, being Lot No. 24 in Section 1, more particularly bounded and described as follows:

BEGINNING at a point in the center of Diane Trail at Lot No. 23; thence by said lot, North 65 degrees, 44 minutes West, 225 feet to lands now or formerly of Alex Thornton; thence by said lands, North 13 degrees 1 minute 20 seconds East, 127.44 feet to Lot No. 25; thence by said Lot, South 65 degrees 44 minutes East, 225 feet to a point in the center of said Diane Trail; thence in said Diane Trail, South 13 degrees 1 minute 20 seconds West, 127.44 feet to the point and place of the beginning.

The above description was taken from a plan of lots labeled "Section 1, Charnita" dated August 26, 1969, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at page 57.

Tax Parcel Number: 27-115

TITLE TO SAID PREMISES IS VESTED IN James D. Sandy and Jessica A. Sandy, husband and wife by Deed from Janet E. Thompson now known as Janet E. Bonner and Forrest M. Bonner, her husband, dated 3/6/96 and recorded 3/6/96 in Record Book 1155 page 48.

SEIZED and taken into execution as the property of **James D. Sandy & Jessica A. Sandy** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 5, 1999, and distribution will be made in accordance with said thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/12, 19, 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-918 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the centerline of New Chester Road (T-514), which point is located at the Southwestern corner of Lot No. 5 on the hereinafter described plan of lots; thence running in the centerline of the New Chester Road (T-514) South 22 degrees 36 minutes 05 seconds West 87.08 feet to a p.k. nail in the centerline of said road; thence running in the centerline of said road and by a curve to the right the radius of which is 741.53 feet with an arc distance of 278.69 feet and a chord bearing of South 34 degrees 29 minutes 00 seconds West for a chord length of 277.05 feet to a p.k. nail in the centerline of New Chester Road; thence continuing in the centerline of New Chester Road South 47 degrees 02 minutes 45 seconds West 204.67 feet to a point in the centerline of said road at the corner of land now or formerly of Randolph Swartz; thence running by land now or formerly of Randolph Swartz and through an existing steel rod set back 22.62 feet from the start of this course North 79 degrees 16 minutes 30 seconds West 277.41 feet to an existing steel rod; thence continuing by the same North 43 degrees 11 minutes 35 seconds West 151.58 feet to an existing steel rod; thence continuing by the same, through an existing steel rod near the line (.3 feet North) 116.1 feet from the start of this course and by Armatha Ford North 67 degrees 56 minutes 35 seconds West 346.98 feet to an existing "eye" steel rod on line of land of Armatha Ford; thence running by land now or formerly of Armatha Ford North 19 degrees 32 minutes 50 seconds East 509.45 feet to a steel rod at the Northwestern corner of

Lot No. 5 on the hereinafter described plan of lots; thence running by Lot No. 5 and through a steel rod set back 250 feet from the start of this course and through a steel rod set back 25 feet from the end of this course South 67 degrees 38 minutes 00 seconds East 924.53 feet to a point in the center of New Chester Road (T-514) the point and place of BEGINNING. CONTAINING 10.905 acres.

The description was taken from a draft of survey of J. Riley Redding, R.S., dated October 25, 1991 and recorded in Adams County Plat Book 61 at Page 15. The lot described is Lot No. 6 on said plan of lots.

TITLE TO SAID PREMISES IS VESTED IN Richard L. Henry and Sherry L. Henry, husband and wife by Deed from Philip Reuben Wessel, single dated 11/9/94 recorded 11/18/94 in Record Book 966 Page 235.

SEIZED and taken into execution as the property of **Richard L. Henry & Sherry L. Henry** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 5, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/19, 26, & 3/5

NOTICE

NOTICE IS HEREBY GIVEN that Katrina M. Luedtke, intends to apply in open Court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 10th day of May, 1999, and that she has established a full time legal practice in Adams County within the guidelines established by the Supreme Court of Pennsylvania.

2/19, 26 & 3/5

DEBOESER, ET AL VS. BOARD OF SUPERVISORS OF FREEDOM
TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA

1. Preliminary objections, the end result of which would be dismissal of a cause of action, should be sustained only in cases that are clear and free from doubt.
2. Because the Zoning Hearing Board had not been "established" as required under Section 909.1 of the Pennsylvania Municipalities Planning Code, this Court properly has jurisdiction.
3. The object of all statutory interpretation is to ascertain and effectuate the intention of the General Assembly.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 96-S-654, EDWARD V. DEBOESER, JR., FAUSTO D. DELGROSSO, BETTY J. REDDING, RAYMOND REDDING, JR., KAREN A. PATTERSON, THOMAS A. LASER, CARL L. RICKER, ANN E. DENTRY, PHILIP O. NETH AND FRANCES F. LORENZO VS. BOARD OF SUPERVISORS OF FREEDOM TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA.

Walton V. Davis, Esq., for Plaintiffs
Linus E. Fenicle, Esq., for Defendant

OPINION ON
DEFENDANT'S PRELIMINARY OBJECTIONS

Kuhn, J., February 19, 1998.

On July 26, 1996, Plaintiffs filed a Complaint against Defendant, Board of Supervisors of Freedom Township ("Board of Supervisors"), alleging that Defendant did not follow procedure in adopting a zoning ordinance. On August 12, 1996, Defendant filed Preliminary Objections arguing this Court did not have jurisdiction to hear the claim. By Court Order dated October 9, 1997, this Court scheduled a hearing to allow the parties to provide further factual support for their claims. A hearing was held before the undersigned on October 27, 1997.

STATEMENT OF THE FACTS

The following facts were presented at the hearing: On June 27, 1996, the Board of Supervisors adopted a zoning ordinance to become effective on July 2, 1996 and moved to appoint Dean Shultz as the Township Zoning officer. On July 11, 1996, the Board of Supervisors moved to appoint Nina Dick, William Kane, and Bradley Yohe to the Zoning Hearing Board. Plaintiffs filed their Complaint before the appointed Zoning Hearing Board members were approved by resolution on August 8, 1996. The Board of Supervisors approved the appointment of Yohe to a 3-year term, Kane to a 2-year term, and Dick to a 1-year term by Resolution 96-8. On September 12, 1996, the Board of Supervisors appointed James Yingst as the Zoning Hearing Board Solicitor and set the fees for zoning hearings. On September 20,

1996 there was an advertisement for the organizational meeting of the Zoning Hearing Board. Six days later, the organizational meeting was held at which time the Chairman and Vice-Chairman were elected and the secretary appointed. Additionally, the evidence showed that the 1996 Township budget did not have a line item for zoning matters but did have a sub-line under "Public Safety and Protection" for "Planning" in the amount of \$15,000.00. There were allegedly ample funds in the Township's general account that could be transferred to cover any expenses related to zoning matters.

Plaintiffs allege that the following procedural defects occurred in adopting the ordinance:

- (1) A public hearing was correctly held but a transcript of comments was never prepared or made available to the public;
- (2) Comments were never addressed by the Board;
- (3) Written comments from the public were not responded to;
- (4) The Notice of Intent to adopt the ordinance stated that a copy of the proposed ordinance was available at the Gettysburg Times but the proposal did not include an integral copy of a zoning map;
- (5) The Notice of Intent to adopt the ordinance stated that a proposed copy was available at the County Law Library but it was not provided until approximately June 25, 1996 (2 days before adoption of the ordinance) and also did not include a zoning map;
- (6) Prior to the special public meeting, all Board members met in private and no announcement was made concerning the purpose of this meeting, in violation of the Sunshine Act, 65 P.S. §278(b);
- (7) After commencement of the public meeting but before a vote by the Board, the public asked for and was denied the right to comment in violation of the Sunshine Act, 65 P.S. §280.1;
- (8) Prior to adoption of the ordinance but after the submission of the proposed ordinance to the Adams County Office of Planning and Development, the following changes were made to the ordinance:
 - (i) reclassification of district from one zone to another;
 - (ii) allowable density bonuses increased;
 - (iii) acreage required to classify as Planned

- Community Development decreased;
- (9) Prior to the public meeting, the available map did not reflect the changes;
 - (10) There was no legal advertisement published concerning the amendments;
 - (11) The legal advertisement
- (Plaintiffs' Complaint ¶¶ 4a-j).

LEGAL DISCUSSION

Preliminary objections, the end result of which would be dismissal of a cause of action, should be sustained only in cases that are clear and free from doubt. *League of Women Voters of PA v. Commonwealth*, Pa. Commw. ___ 692 A.2d 267 (1997) (citations omitted). Defendant argues by Preliminary Objection that this Court is without jurisdiction to hear Plaintiffs' Complaint because the Zoning Hearing Board has exclusive jurisdiction pursuant to 53 P.S. §10909.1. Section 909.1 reads, in pertinent part, as follows:

- (a) The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

- (2) Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the municipality and a *zoning board has not been previously established*, the appeal raising procedural questions shall be taken directly to court.

53 P.S. §10909.1.

Defendant argues that the Zoning Hearing Board was established at the time of the Complaint. Defendant equates "creation" of the board, as set forth in Section 901, with "establishment" of the board, as stated in Section 909.1. Section 901 states that "every municipality which has enacted or enacts a zoning ordinance pursuant to this act or **prior enabling laws**, shall *create* a zoning hearing board." 53 P.S. § 10901 (**emphasis added**).

Plaintiff counters that "establishment" and "creation" are distinct terms. Plaintiff maintains that the Zoning Hearing Board had not been "established" because all of the mandates imposed by the Legislature were not met. See, e.g., 53 P.S. § 10903(a) (zoning hearing board members to be appointed by resolution); 53 P.S. § 10903(a) (terms of members to be fixed); 53 P.S. § 10906(a) (officers to be elected from board members for annual terms); 53 P.S. § 10617.3(b) (governing body to make provisions in its budget and appropriate funds for the

operation of the board). Plaintiff concludes that because the Zoning Hearing Board had not been “established” as required under Section 909.1 that this Court properly has jurisdiction.

The parties’ arguments center on the distinction between the terms “create” and “establish.” In construing these terms it is important to keep in mind that the “object of all statutory interpretation is to ascertain and effectuate the intention of the General Assembly.” *Pipkin v. Pennsylvania State Police*, ___ Pa. ___, 693 A.2d 190, 192 (1997). The statute should also be construed in a manner that gives effect to all provisions and gives undefined terms common usage. *Id.* Thus, as the above terms are not defined, we must attempt to construe the legislature’s intent. With that in mind, it is only logical to believe that the legislature had distinct meanings in mind for the terms “creation” and “establishment.” If the legislature meant the terms to be synonymous they would have more likely used one word as opposed to two.

It is this Court’s determination that it is possible to “create” a zoning hearing board without having it “established.” That is what occurred in the case at hand. The zoning ordinance was adopted which effectively “created” the Zoning Hearing Board as an entity. However, the Board was not “established” until after the members were properly approved by resolution on August 8, 1996, more than 30 days after the effective date of the ordinance.

Additionally, the purpose of allowing the Court to hear an appeal as to procedural defects when the board is not yet established is to “provide a remedy when a municipality has no zoning hearing board to act as the adjudicatory body to resolve questions relating to the enactment procedure of an ordinance under the MPC.” *Land Acquisition Services, Inc. v. Clarion County Board of Commissioners*, 146 Pa. Commw. 293, 298, 605 A.2d 465, 467 (1992). In the instant case, the Zoning Hearing Board was not sufficiently “established” at the time the Complaint was filed to allow it to effectively deal with the case. Thus, this Court properly has jurisdiction.¹

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 19th day of February, 1998, Defendant’s Preliminary Objections questioning this Court’s jurisdiction are hereby denied.

¹ Plaintiffs argue that their claims relating to the Sunshine Act, 65 P.S. §§ 271-286, are properly within this Court’s jurisdiction. We agree. According to Section 285, “the courts of common pleas shall have original jurisdiction...to enforce this act.” 65 P.S. § 285. Therefore, this Court properly maintains jurisdiction over all issues raised in Plaintiffs’ Complaint.

Continued from page one

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 5, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/5, 12, 19

NOTICE

THE COMMONWEALTH OF PENNSYLVANIA, To Robert W. and Lilian Allewalt.

WHEREAS, the Borough of Littlestown on the 29th day of September A.D., 1998 filed its claim in our Court of Common Pleas of Adams County at No. 553 of 1998 the sum of \$535.37 with interest from the 29th day of September A.D., 1998 for against the following property situate in the Borough of Littlestown, Adams County, Pennsylvania 17340, located at and known as 495 South Columbus Avenue, Littlestown, Adams County, Pennsylvania, 17340, also known as Adams County Parcel (Littlestown Borough) No. 011-0150 (Adams County Record Book 775 at Page 83.) owned or reputed to be owned by you **Robert W. & Lilian Allewalt**.

AND WHEREAS, we have been given to understand that said claim is still due and unpaid, and remains a lien against the property;

NOW, you are hereby notified to file your affidavit of defense to said claim, if defense you have thereto, in the office of the Prothonotary of our said Court within fifteen days after the service of this writ upon you.

If no affidavit of defense be filed within said time, judgment may be entered against you for the whole claim and the property described in the claim be sold to recover the amount thereof.

Witness the Honorable Oscar F. Spicer President Judge of our said Court at Gettysburg this 21st day of January A.D., 1999.

Patricia A. Funt
Prothonotary

2/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-884 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that parcel of ground lying in Mt. Joy Township, Adams County, Pennsylvania, known as Lot No. 174 of the Lake Heritage Subdivision, as more specifically shown on a plan of lots of Lake Heritage Subdivision, as more specifically shown on a plan of lots of Lake Heritage Subdivision and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 4 at page 233.

UNDER AND SUBJECT to legal highways, easements, rights-of-way and restrictions recorded in Adams County Deed Book 252, page 508.

Tax Parcel # 6-12

TITLE TO SAID PREMISES IS VESTED IN Wayne A. Taylor and Linda J. Taylor, husband and wife by Deed from Wayne A. Taylor and Linda J. Taylor, husband and wife dated 6/19/95, recorded 6/28/95, in Record Book 1047 page 227.

SEIZED and taken into execution as the property of **Wayne A. Taylor & Linda J. Taylor** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 12, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/19, 26 & 3/5

NOTICE OF INCORPORATION NONPROFIT CORPORATION

NOTICE IS HEREBY given that Articles of Incorporation for APPLER CONDOMINIUM OWNERS ASSOCIATION, INC., were filed under the provisions of the Nonprofit Corporation Law of 1988.

Daniel M. Frey & Associates, a
division of Barley, Snyder,
Senft & Cohen
Solicitors

2/19

ARTICLES OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation for CENTRELLO, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on January 21, 1999, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Rudisill, Guthrie, Nonemaker,
Guthrie & Yingst
Solicitor

2/19

NOTICE

A HEARING SHALL be held before the Court of Common Pleas, Adams County, Pennsylvania, in Courtroom No. 1 or 2 of the Adams County Courthouse, Gettysburg, Pennsylvania, on March 15, 1999, at 9:00 o'clock, a.m. for the purpose of considering the sale of unimproved real estate from the Upper Adams School District to Inland Container Corp., in exchange for an unimproved tract of real estate to be conveyed by Inland Container Corp., to Upper Adams School District. Any persons interested in the sale and exchange of the aforesaid real estate should appear and be heard at that time.

Robert L. McQuaide
Solicitor for Upper
Adams School District

2/19, 26 & 3/5

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 KEITH A. CAMPBELL, DEC'D

Late of Butler Township, Adams County, Pennsylvania
Co-Administrators: George A. Campbell or Mashanda M. Campbell, 60 Rocky Road, Biglerville, PA 17307
Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF HELEN L. DAY, DEC'D

Late of the Borough of York Springs, Adams County, Pennsylvania
Co-Executors: Joyce L. Griest and Melvin E. Griest, 380 Cherry Hill Road, Gardners, PA 17324
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ERMA FREW, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
Co-Executors: Dolores F. Jordan, 146 Seminary Avenue, Gettysburg, PA 17325; Ronald Frew, 18146 Woodside Drive, Hagerstown, MD 21740
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CLARA V. LECRONE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Executors: Joyce E. Altland, 120 East King Street, Box 383, East Berlin, PA 17316; Lois L. Aldinger, 503 First Montgomery Boulevard, Thorndale, PA 19372
Attorney: Donald W. Dorr, Esq., Buchen, Wise & Dorr, 126 Carlisle Street, Hanover, PA 17331

ESTATE OF ARTHUR F. O'BRIEN, JR., DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania
Executrix: June F. O'Brien, 823 Chris Haven Drive, Seymour, TN 37865
Attorney: Roy A. Keefer, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CATHERINE S. STAMBAUGH, DEC'D

Late of Germany Township, Adams County, Pennsylvania
Executor: John B. Stambaugh, 720 Georgetown Road, Littlestown PA 17340
Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF TOMMY E. BAKER, DEC'D

Late of Reading Township, Adams County, Pennsylvania
Executrix: Darlene M. Baker, P.O. Box 320, East Berlin, PA 17316
Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ANNAW. BEAMER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania
Executrix: Ethel M. Dixon, 33 Ridge Avenue, P.O. Box 73, Biglerville, PA 17307
Attorney: Harold A. Eastman, Jr., Esq., Puhl & Eastman, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF LURENE HENRY BENTZ, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Executrix: S. Faye Miller, RR2, Box 2198, Miller Road, Glenville, PA 17329
Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF BARBARA R. DITZLER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania
Executor: Melvin L. Ditzler, 29 West York Street, Biglerville, PA 17307
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARION M. GOLDEN, DEC'D

Late of Huntington Township, Adams County, Pennsylvania
Executrix: Margaret G. Golden, 437 Ground Oak Church Road, Gardners, PA 17324
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF CLYDE DONALD SANDERS, DEC'D

Late of Borough of New Oxford, Adams County, Pennsylvania
Executrix: Margaret I. Sanders, 49 Pfeiffer Lane, New Oxford, PA 17350
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF NAOMI EILEEN STIMER, DEC'D

Late of Reading Township, Adams County, Pennsylvania
Executrices: Christine D. Holtzinger, 1000 Country Way, Chester Springs, PA 19425; Winona R. Peterson, 4200 Walnut Grove Road, Taneytown, MD 21787
Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF WILLIAM F. TOPPER, DEC'D

Late of Borough of McSherrystown, Adams County, Pennsylvania
Co-Executors: Stephen C. Topper, 25 Bragg Street, Hanover, PA 17331; Andrew L. Topper, 315 Basehoar School Road, Littlestown, PA 17340
Attorney: Keith A. Hassler, Esq., 9 North Beaver Street, York, PA 17401

ESTATE OF CHARLES W. WHISTLER a/k/a CHARLES W. WHISTLER, JR., DEC'D

Late of Straban Township, Adams County, Pennsylvania
Executors: William K. Fengfish, Jr., 3351 Appleford Way, York, PA 17402; Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325
Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF PAUL LEWIS WOLFF a/k/a PAUL L. WOLFF, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
Executrix: Judy Ann Yingling, formerly Judy Ann Nath, 3231 Taneytown Road, Gettysburg, PA 17325
Attorney: John W. Phillips, Esq., 101 W. Middle St., Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF UTHA E. BOYER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania
Executor: Joseph L. Boyer, 194 West Chestnut Hill Road, Aspers, PA 17304
Attorney: Robert L. McQuaide, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF THOMAS E. CROSS, DEC'D

Late of Franklin Township, Adams County, Pennsylvania
Executrix: Sharon E. Pierce a/k/a Sharon E. Pierce-Cross, 99 Fairview Fruit Road, Biglerville, PA 17307
Attorney: Robert L. McQuaide, Esq., 104 Baltimore Street, Gettysburg, PA 17325

Continued on next page

ESTATE NOTICES (cont.)

ESTATE OF ETHEL G. HARDMAN, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Personal Representatives: Ralph E. Hardman, P.O. Box 4322, Gettysburg, PA 17325; Theresa M. Myers, 62 Breckenridge Street, Gettysburg, PA 17325
 Attorney: Robert E. Campbell, Esq., Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF DAVID MICHAEL HUNSBERGER, DEC'D

Late of the Borough of Abbottstown, Adams County, Pennsylvania
 Administratrix: Kathy M. Foltz, 160 Municipal Road, Hanover, PA 17331
 Attorney: Stonesifer & Kelley, P.C., 209 Broadway, Hanover, PA 17331

ESTATE OF MARY JANE ROSE, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executor: Randall R. Rose, 338 East Railroad Street, Gettysburg, PA 17325
 Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF MARY L. STORM, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
 Executor: Guy E. Storm, 401 Allendale Road, Mechanicsburg, PA 17055
 Attorney: Thomas E. Miller, Esq., Miller & Shultis, 249 York Street, Hanover, PA 17331

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION-LAW NO. 99-S-14 ACTION TO QUIET TITLE

BENDERSVILLE FIRE COMPANY, Plaintiff,

vs.

NICHOLAS G. WILSON, SARAH WILSON, also known as SARAH MUMMA, aka SARAH WILSON MUMMA, DR. EDWARD W. MUMMA, aka DR. E. W. MUMMA, SUSAN MUMMA, aka SUSAN SNYDER, aka SUSAN M. SNYDER, aka SUSAN MUMMA SNYDER, HARRY SNYDER, aka HARRY M. SNYDER, and ALICE MUMMA OLIVER, their respective executors, heirs and/or assigns, and HUTTON ORCHARDS, INC., Defendants.

TO: Nicholas G. Wilson, Sarah Wilson, also known as Sarah Mumma, aka Sarah Wilson Mumma, Dr. Edward W. Mumma, aka Dr. E. W. Mumma, Susan Mumma, aka Susan Snyder, aka Susan M. Snyder, aka Susan Mumma Snyder, Harry Snyder, aka Harry M. Snyder, and Alice Mumma Oliver, their respective executors, heirs and/or assigns:

NOTICE

You are notified that the Plaintiff has commenced an action to quiet title against you by amended complaint filed to the above docket number on February 2, 1999, 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.

This action concerns the premises hereinafter described:

ALL those two triangular sections of land situate in the Borough of Bendersville, Adams County, Pennsylvania, more particularly bounded and described as follows:

Tract NO. 1:

From an existing railroad spike on the northern verge of Rampike Lane (a 15-foot public alley) at corner of lands now or formerly of the Bendersville Community Fire Company; thence along lands now or formerly of the Bendersville Community Fire Company, North 18 degrees 01 minute 55 seconds East, 360.30 feet to an existing concrete monument on the corner of lands now or formerly of Upper Adams School District and lands now or formerly of Hutton Orchards, Inc., the point and place of BEGINNING; thence along lands now or formerly of Hutton Orchards, Inc., North 87 degrees 16 minutes 55 seconds East, 85 feet to a point on line of lands the same; thence along lands now or formerly of Hutton Orchards, Inc., South 18 degrees 52 minutes 35 seconds East, 65.11 feet to a point at corner of lands now or formerly of Hutton Orchards, Inc. and lands now or formerly of the Bendersville Community Fire Company; thence along

lands now or formerly of the Bendersville Community Fire Company, North 61 degrees 29 minutes 00 seconds West, 120.60 feet to an existing concrete monument on the corner of lands now or formerly of the Bendersville Community Fire Company and lands now or formerly of the Upper Adams School District, the point and place of BEGINNING. CONTAINING 2,657 Square Feet.

Tract No. 2:

From an existing pipe located on the Northern edge of a 10-foot public alley, along lands now or formerly of Dale E. Clark and at corner of lands now or formerly of the Bendersville Community Fire Company; thence along lands now or formerly of Dale E. Clark, North 27 degrees 53 minutes 25 seconds East, 161.38 feet to an existing pipe at corner of lands now or formerly of Dale E. Clark, lands now or formerly of Hutton Orchards, Inc. and lands now or formerly of the Bendersville Community Fire Company, the point and place of BEGINNING; thence by lands now or formerly of the Bendersville Community Fire Company, North 61 degrees 29 minutes 00 seconds West 190.84 feet to a point on corner of other lands now or formerly of the Bendersville Community Fire Company; thence by the same, North 26 degrees 03 minutes 40 seconds East, 182.90 feet to a point at corner of lands now or formerly of Hutton Orchards, Inc., thence along lands now or formerly of Hutton Orchards, Inc., South 18 degrees 52 minutes 35 seconds East, 269.93 feet to an existing pipe, the point and place of BEGINNING. CONTAINING 17,436 Square Feet.

The above descriptions were taken from a draft of survey prepared for the Bendersville Fire Company by Mark A. Kuntz, Surveyor, dated August 17, 1992, on which said lots are identified as lot numbers 1 and 4, respectively, "Owner Unknown."

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 property or other rights important to you.

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

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

Puhl & Eastman
 Edward G. Puhl, Esquire
 Attorney for Plaintiff
 16 Lincoln Square
 Gettysburg, PA 17325

Adams County Legal Journal

Vol. 40

February 26, 1999

No. 40, pp. 255-258

CONTINUING LEGAL EDUCATION PROGRAMS

Commercial Document Series: Employment Contracts

Thursday, April 8, 1999 - 9:00 a.m.

Room 307, Adams County Courthouse

Credits: Substantive Law - 2, Ethics - 0

Registration through P.B.I. 800-932-4637.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-884 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that parcel of ground lying in Mt. Joy Township, Adams County, Pennsylvania, known as Lot No. 174 of the Lake Heritage Subdivision, as more specifically shown on a plan of lots of Lake Heritage Subdivision, as more specifically shown on a plan of lots of Lake Heritage Subdivision and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 4 at page 233.

UNDER AND SUBJECT to legal highways, easements, rights-of-way and restrictions recorded in Adams County Deed Book 252, page 508.

Tax Parcel # 6-12

TITLE TO SAID PREMISES IS VESTED IN Wayne A. Taylor and Linda J. Taylor, husband and wife by Deed from Wayne A. Taylor and Linda J. Taylor, husband and wife dated 6/19/95, recorded 6/28/95, in Record Book 1047 page 227.

SEIZED and taken into execution as the property of **Wayne A. Taylor & Linda J. Taylor** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 12, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/19, 26 & 3/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-1207 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying, and being in Latimore Township, Adams County, Pennsylvania, and being more particularly described as (Lot 1471) on a plan of Lots of Lake Meade Subdivision duly entered and appearing of record in the Office of the Recorder of Deeds for Adams County, in Miscellaneous Volume 1, Page 23, and subject to all legal highways, easements, rights of way and restrictions of record.

UNDER AND SUBJECT to restrictions, conditions, and easements as more fully set forth in Deed Book 268 at Page 1038.

TAX PARCEL NUMBER: 1-16

TITLE TO SAID PREMISES IS VESTED

IN Jack Cletus Orner, Jr. and Patricia K. Orner, his wife by Deed from Larry E. Stough and Judith A. Stough, husband and wife and Daniel L. Rodgers and Linda L. Rodgers, husband and wife dated 8/19/92 recorded 8/24/92 in Record Book 638 Page 1084.

SEIZED and taken into execution as the property of **Jack Cletus Orner, Jr. & Patricia K. Orner** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 12, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/26, 3/5 & 12

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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

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

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

Copyright© 1999 by Wm. W. Gaunt & Sons, Inc., for Adams County Bar Association, Gettysburg, PA 17325.
All rights reserved.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-792 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Carroll Valley Borough, formerly Liberty Township, Adams County, Pennsylvania, being Lot No. 24 in Section I, more particularly bounded and described as follows:

BEGINNING at a point in the center of Diane Trail at Lot No. 23; thence by said lot, North 65 degrees, 44 minutes West, 225 feet to lands now or formerly of Alex Thornton; thence by said lands, North 13 degrees 1 minute 20 seconds East, 127.44 feet to Lot No. 25; thence by said Lot, South 65 degrees 44 minutes East, 225 feet to a point in the center of said Diane Trail; thence in said Diane Trail, South 13 degrees 1 minute 20 seconds West, 127.44 feet to the point and place of the beginning.

The above description was taken from a plan of lots labeled "Section I, Charnita" dated August 26, 1969, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at page 57.

Tax Parcel Number: 27-115

TITLE TO SAID PREMISES IS VESTED IN James D. Sandy and Jessica A. Sandy, husband and wife by Deed from Janet E. Thompson now known as Janet E. Bonner and Forrest M. Bonner, her husband, dated 3/6/96 and recorded 3/6/96 in Record Book 1155 page 48.

SEIZED and taken into execution as the property of **James D. Sandy & Jessica A. Sandy** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 5, 1999, and distribution will be made in accordance with said 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 higher, shall be paid forthwith to the Sheriff.

2/12, 19, 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-918 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the centerline of New Chester Road (T-514), which point is located at the Southwestern corner of Lot No. 5 on the hereinafter described plan of lots; thence running in the centerline of the New Chester Road (T-514) South 22 degrees 36 minutes 05 seconds West 87.08 feet to a p.k. nail in the centerline of said road; thence running in the centerline of said road and by a curve to the right the radius of which is 741.53 feet with an arc distance of 278.69 feet and a chord bearing of South 34 degrees 29 minutes 00 seconds West for a chord length of 277.05 feet to a p.k. nail in the centerline of New Chester Road; thence continuing in the centerline of New Chester Road South 47 degrees 02 minutes 45 seconds West 204.67 feet to a point in the centerline of said road at the corner of land now or formerly of Randolph Swartz; thence running by land now or formerly of Randolph Swartz and through an existing steel rod set back 22.62 feet from the start of this course North 79 degrees 16 minutes 30 seconds West 277.41 feet to an existing steel rod; thence continuing by the same North 43 degrees 11 minutes 35 seconds West 151.58 feet to an existing steel rod; thence continuing by the same, through an existing steel rod near the line (.3 feet North) 116.1 feet from the start of this course and by Armatha Ford North 67 degrees 56 minutes 35 seconds West 346.98 feet to an existing "eye" steel rod on line of land of Armatha Ford; thence running by land now or formerly of Armatha Ford North 19 degrees 32 minutes 50 seconds East 509.45 feet to a steel rod at the Northwestern corner of

Lot No. 5 on the hereinafter described plan of lots; thence running by Lot No. 5 and through a steel rod set back 250 feet from the start of this course and through a steel rod set back 25 feet from the end of this course South 67 degrees 38 minutes 00 seconds East 924.53 feet to a point in the center of New Chester Road (T-514) the point and place of BEGINNING. CONTAINING 10.905 acres.

The description was taken from a draft of survey of J. Riley Redding, R.S., dated October 25, 1991 and recorded in Adams County Plat Book 61 at Page 15. The lot described is Lot No. 6 on said plan of lots.

TITLE TO SAID PREMISES IS VESTED IN Richard L. Henry and Sherry L. Henry, husband and wife by Deed from Philip Reuben Wessel, single dated 11/9/94 recorded 11/18/94 in Record Book 966 Page 235.

SEIZED and taken into execution as the property of **Ricahrd L. Henry & Sherry L. Henry** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 5, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/19, 26, & 3/5

NOTICE

NOTICE IS HEREBY GIVEN that Katrina M. Luedtke, intends to apply in open Court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 10th day of May, 1999, and that she has established a full time legal practice in Adams County within the guidelines established by the Supreme Court of Pennsylvania.

2/19, 26 & 3/5

COMMONWEALTH VS. SINGLETON

1. By entering a plea of nolo contendere, a Defendant waives "all defects and defenses except those concerning the jurisdiction of the Court, legality of the sentence, and validity of the plea".

2. While a Defendant should be liberally permitted to withdraw a plea before sentencing, after sentencing he must demonstrate that a manifest injustice will result if he is not allowed to withdraw the plea.

3. To prove ineffective assistance of Counsel, Defendant must prove, first, that his claim is of arguable merit; and if he succeeds, he must next establish that Defense Counsel had no reasonable basis for undertaking or failing to undertake the act or omission in question; and finally, must show that there is a reasonable probability that but for the act or omission in question the outcome of the proceeding would have been different.

4. In arguing ineffective assistance of counsel for failing to investigate or call a witness, a Defendant must show the existence and availability of the witness; that trial counsel was aware of, or had a duty to know of the witness; that the witness was willing and able to cooperate and appear on the Defendant's behalf, and that the proposed testimony of the uncalled witness would have been helpful to the defense asserted at trial.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-171-96, COMMONWEALTH OF PENNSYLVANIA VS. ROBERT SINGLETON.

Paul Dean, Esq., Assistant District Attorney
Roy A. Keefer, Esq., for Defendant

OPINION ON DEFENDANT'S MOTION TO WITHDRAW NOLO CONTENDERE PLEA

Kuhn, J., February 23, 1998.

On March 11, 1997, Defendant, Robert Singleton, entered a plea of nolo contendere and was sentenced for sexual assault in violation of Section 3124.1 of the Crimes Code. 18 Pa.C.S.A. § 3124.1. On April 11, 1997, Defendant filed a Motion to Withdraw his nolo contendere plea. A hearing on the Motion was held before the undersigned on August 26, 1997.

LEGAL DISCUSSION

The basis for Defendant's Motion to Withdraw his plea is that his counsel was ineffective. Defendant raises four issues in support of this claim. First, Defendant argues that his trial counsel was ineffective in failing to file a Motion to Suppress a statement allegedly made by him to the Pennsylvania State Police. Second, Defendant claims ineffective assistance because his counsel failed to interview and subpoena Steve McNabb as a defense witness. Third, Defendant argues that his counsel was ineffective in failing to subpoena Easter Tyler as a defense witness. Lastly, Defendant claims his counsel failed to provide him with a transcript from the preliminary hearing and mistrial of September 12, 1996 as requested.¹

Our Superior Court has stated the law relating to a plea of nolo contendere as follows:

¹ At Defendant's trial on September 12, 1996, he was granted a mistrial due to the Commonwealth's failure to disclose the existence of an alleged inculpatory statement by Defendant.

In terms of its effect upon a case, a plea of *nolo contendere* is treated the same as a guilty plea. *Commonwealth v. Boatwright*, 404 Pa. Super. 75, 83, 590 A.2d 15, 19 (1991). By entering a plea of *nolo contendere*, a defendant waives "all defects and defenses except those concerning the jurisdiction of the court, legality of sentence, and validity of plea." *Commonwealth v. Johnson*, 319 Pa. Super. 463, 474, 466 A.2d 636, 642 (1983). See also: *Commonwealth v. Coles*, 365 Pa. Super. 562, 569, 530 A.2d 453, 457 (1987). Therefore, "[o]nce a defendant has entered a plea of [*nolo contendere*], it is presumed that he was aware of what he was doing, and the burden of proving involuntariness is upon him." *Commonwealth v. West*, 336 Pa. Super. 180, 186, 485 A.2d 490, 493 (1984). See also: *Commonwealth v. Brown*, 242 Pa. Super. 240, 244, 363 A.2d 1249, 1251 (1976).

Commonwealth v. Nelson, 446 Pa. Super. 240, 247-8, 666 A.2d 714, 717 (1995); alloc. den. 675 A.2d 1069. Additionally, while a defendant should be liberally permitted to withdraw a plea before sentencing, after sentencing "he must demonstrate that a manifest injustice will result if he is not allowed to withdraw the plea." *Commonwealth v. Myers*, 434 Pa. Super. 221, 223, 642 A.2d 1103, 1104 (1994); see also, *Commonwealth v. Klunk*, 36 A.C.L.J. 275 (1995).

Defendant is attempting to argue that his plea was involuntary because his representation was ineffective leaving him no alternative but to enter a plea of *nolo contendere*. To prove ineffective assistance of counsel Defendant must prove the following:

First, a defendant must show his claim to be of arguable merit. In the event this threshold requirement is satisfied, the defendant must next establish that defense counsel had no reasonable basis for undertaking or failing to undertake the act or omission in question. Finally, the defendant must show that there is a reasonable probability that but for the act or omission in question the outcome of the proceeding would have been different. In other words, that the defendant suffered actual prejudice from the act or omission.

Commonwealth v. Rainey, 540 Pa. 220, 228, 656 A.2d 1326, 1330 (1995), cert. denied, ___ U.S. ___, 116 S.Ct. 562, 133 L.Ed.2d 488 (1995).

Defendant first argues that his counsel was ineffective for failing to file a Motion to Suppress a statement allegedly made by him to the Pennsylvania State Police. Where a claim for ineffective assistance of counsel is based upon a failure to move to suppress, the defendant must establish that there was no reasonable basis for not pursuing the suppression claim and that if the evidence had been suppressed, there is a reasonable probability the verdict would have been more favorable." *Commonwealth v. Graham*, 522 Pa. 115, 118, 560 A.2d 129, 130 (1989).

Defendant allegedly made a statement to a State Police Trooper indicating that he had consensual sexual contact with the victim on the night in question. Trial counsel testified at the hearing that the defense to the charges was that the sexual encounter was consensual. Strategically, it was decided that the evidence establishing that sexual contact had occurred was so strong (including witnesses who would place victim and Defendant together as well as chemical analysis of seminal fluid from a vaginal swab and the victim's underpants) that the most effective defense would be that the victim consented to the contact. "A reasonable decision by counsel with regard to a matter of trial strategy will not provide a basis for a finding of ineffectiveness." *Commonwealth v. Rosario*, 438 Pa. Super. 241, 266, 652 A.2d 354, 367 (1994); alloc. den. 685 A.2d 547. Thus, the statement made by Defendant that he had consensual sexual contact with the victim on the night in question did not need to be suppressed because it was consistent with his defense. Trial counsel had a "reasonable basis for not pursuing the suppression" and admission of this statement could not have caused Defendant to feel as though his only alternative was to plead *nolo contendere*.

Furthermore, Defendant has failed to produce evidence that his statement was suppressible. Commonwealth would contend that Defendant "blurted out" the statement without being questioned. Defendant at the recent hearing alleged he responded to a police question. Nevertheless, it is Defendant's burden to prove actual prejudice and he has failed to do so.

Defendant next argues that his counsel was ineffective because she failed to interview and subpoena Steve McNabb as a defense witness. In arguing ineffective assistance of counsel for failing to investigate or call a witness, a defendant must show:

...the existence and availability of the witness; that trial counsel was aware of, or had a duty to know of the witness; that the witness was willing and able to cooperate and appear on the defendant's behalf, and the proposed testimony of the uncalled witness would have been helpful to the defense asserted at trial.

Commonwealth v. Stanley, 534 Pa. 297, 300, 632 A.2d 871, 872 (1993).

Trial counsel testified that she had attempted to interview Steve McNabb several times but that he was uncooperative. Mr. McNabb was apparently very hostile and indicated to counsel that he would not testify. Counsel knew Mr. McNabb was likely to be uncooperative if called at trial and had no way of knowing the content of his testimony. Additionally, Mr. McNabb's testimony concerned the circumstances that occurred when the victim entered Defendant's car and not the circumstances at the time of the assault. Thus, Counsel's decision not to call Mr. McNabb as a defense witness was strategically reasonable under the circumstances and does not amount to ineffective assistance of counsel.

Defendant's third argument is that his counsel was ineffective in failing to subpoena Easter Tyler as a defense witness. Trial counsel's testimony estab-

lished that she had subpoenaed Easter Tyler and that Ms. Tyler was waiting in counsel's office during the trial in the event that she would need to be called to testify. The first trial ended in a mistrial before it became necessary or appropriate for Ms. Tyler to testify. Defendant was unable to show counsel failed to interview or have Ms. Tyler available; rather he candidly admitted that he just didn't see her. He did not indicate that he asked or was told that Ms. Tyler would not testify on his behalf before entering his plea.

Lastly, Defendant argues that his counsel failed to provide him with a transcript from the preliminary hearing and prior mistrial as requested. Defendant claims that he wished to review the transcripts in order to review the victim's testimony and prepare himself for trial. This Court has no information regarding counsel's reasoning behind failing to furnish the transcripts to Defendant. However, we do not believe, in light of the fact that Defendant was present at both proceedings and would have personally heard the victim's testimony, that if he had been given the opportunity to review the transcripts before entering his plea it would have reasonably effected his decision.

In conclusion, Defendant has not provided sufficient evidence that his counsel was ineffective or that her representation in some way forced him to enter into a plea. Furthermore, we note that at the time the colloquy was entered Defendant made the following statements:

THE COURT: Have you had enough time to talk to your lawyer about this?

THE DEFENDANT: Yes.

THE COURT: Are you satisfied with the advice and services received?

THE DEFENDANT: Absolutely.

THE COURT: Is anyone pressuring you to enter this plea?

THE DEFENDANT: Just myself.

THE COURT: You've had enough time to think about this?

THE DEFENDANT: Yes.

THE COURT: This is what you want to do? That is, do you want to enter this plea today?

THE DEFENDANT: Yes.

(Transcript of plea colloquy at 14-15).

There was no indication at the time of the colloquy that Defendant did not understand what he was doing or that he did not voluntarily enter into the plea. Because we have decided that defense counsel was not ineffective, Defendant's claim that he felt his representation was so poor that he had no choice but to enter into a plea is without merit. Accordingly, the attached Order is issued.

ORDER OF COURT

AND NOW, this 23rd day of February, 1998, Defendant's Motion to Withdraw his plea of nolo contendere due to ineffective assistance of counsel is hereby 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 SHEILA J. CHATLOS, DEC'D
Late of Hamiltonban Township, Adams County, Pennsylvania

Executors: Phyllis L. Kelly, P.O. Box 581, 22 Centennial Street, Fairfield, PA 17320; William Rudolf Chatlos, 2910 Blue Robin Court, Oak Hill, VA 20171

Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF EFFIE R. FOX, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Charles R. Fox, 283 Accomac Road, York, Pennsylvania 17406

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

ESTATE OF JUNIOR EARL MATHIAS a/k/a J. EARL MATHIAS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator: Robert Earl Mathias, R. D. #1, Box 334C, Abbottstown, Pennsylvania 17301

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

ESTATE OF BLANCHE E. REICHART, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Dorothy Reichart Mummert, 320 Pine Street, Hanover, PA 17331

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

ESTATE OF EUGENE W. SMITH, SR., a/k/a EUGENE WILLIAM SMITH, SR., DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executors: Robert E. Smith; Richard J. Smith

Attorney: David C. Smith, Esquire, 334 Main Street, McSherrystown, PA 17344

ESTATE OF LAVERE M. STARNER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executors: William L. Starnier, 5526 Carlisle Pike, New Oxford, PA 17350; Dolores V. Sheffield, 3291 Horizon Drive, Lancaster, PA 17601; Shirley L. Heagey, 5500 Carlisle Pike, New Oxford, PA 17350

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

SECOND PUBLICATION

ESTATE OF KEITH A. CAMPBELL, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Co-Administrators: George A. Campbell or Mashanda M. Campbell, 60 Rocky Road, Biglerville, PA 17307

Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF HELEN L. DAY, DEC'D

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

Co-Executors: Joyce L. Griest and Melvin E. Griest, 380 Cherry Hill Road, Gardeners, PA 17324

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

ESTATE OF ERMA FREW, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executors: Dolores F. Jordan, 146 Seminary Avenue, Gettysburg, PA 17325; Ronald Frew, 18146 Woodside Drive, Hagerstown, MD 21740

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

ESTATE OF CLARA V. LECRONE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Joyce E. Altland, 120 East King Street, Box 383, East Berlin, PA 17316; Lois L. Aldinger, 503 First Montgomery Boulevard, Thorndale, PA 19372

Attorney: Donald W. Dorr, Esq., Buchen, Wise & Dorr, 126 Carlisle Street, Hanover, PA 17331

ESTATE OF ARTHUR F. O'BRIEN, JR., DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executrix: June F. O'Brien, 823 Chris Haven Drive, Seymour, TN 37865

Attorney: Roy A. Keefler, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CATHERINE S. STAMBAUGH, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: John B. Stambaugh, 720 Georgetown Road, Littlestown, PA 17340

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

THIRD PUBLICATION

ESTATE OF TOMMY E. BAKER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executrix: Darlene M. Baker, P.O. Box 320, East Berlin, PA 17316

Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ANNA W. BEAMER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Ethel M. Dixon, 33 Ridge Avenue, P.O. Box 73, Biglerville, PA 17307

Attorney: Harold A. Eastman, Jr., Esq., Puhl & Eastman, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF LURENE HENRY BENTZ, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: S. Faye Miller, RR2, Box 2198, Miller Road, Glenville, PA 17329

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

ESTATE OF BARBARA R. DITZLER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: Melvin L. Ditzler, 29 West York Street, Biglerville, PA 17307

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

ESTATE OF MARION M. GOLDEN, DEC'D

Late of Huntingdon Township, Adams County, Pennsylvania

Executrix: Margaret G. Golden, 437 Ground Oak Church Road, Gardeners, PA 17324

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

ESTATE OF CLYDE DONALD SANDERS, DEC'D

Late of Borough of New Oxford, Adams County, Pennsylvania

Executrix: Margaret I. Sanders, 49 Pfeiffer Lane, New Oxford, PA 17350

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

ESTATE OF NAOMI EILEEN STIMER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executrices: Christine D. Holtzinger, 1000 Country Way, Chester Springs, PA 19425; Winona R. Peterson, 4200 Walnut Grove Road, Taneytown, MD 21787

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

ESTATE OF WILLIAM F. TOPPER, DEC'D

Late of Borough of McSherrystown, Adams County, Pennsylvania

Co-Executors: Stephen C. Topper, 25 Bragg Street, Hanover, PA 17331; Andrew L. Topper, 315 Basehoar School Road, Littlestown, PA 17340

Attorney: Keith A. Hassler, Esq., 9 North Beaver Street, York, PA 17401

ESTATE OF CHARLES W. WHISTLER a/k/a CHARLES W. WHISTLER, JR., DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: William K. Fengfish, Jr., 3351 Appierford Way, York, PA 17402; Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325

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

ESTATE OF PAUL LEWIS WOLFF a/k/a PAUL L. WOLFF, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Judy Ann Yingling, formerly Judy Ann Neth, 3231 Taneytown Road, Gettysburg, PA 17325

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-902 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the right-of-way line of Spicer Drive and Lot No. 26 as shown on the hereinafter referenced Subdivision plan; thence along said Lot No. 26, South seventy-four (74) degrees sixteen (16) minutes forty-two (42) seconds West, ninety-three and nine hundredths (93.09) feet to a point at lands now of formerly of Mount Olivet Cemetery Association as shown on the hereinafter reference subdivision plan; thence along said lands now or formerly of Mount Olivet Cemetery Association, North thirteen (13) degrees eight (08) minutes twenty-four (24) seconds west, one hundred thirty-five and fourteen hundredths (135.14) feet to a point at Lot No. 24 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 24, North seventy-four (74) degrees sixteen (16) minutes forty-two (42) seconds East, eight-seven (87.00) feet to a point on the right-of-way lien of Spicer Drive; thence along the right-of-way lien of Spicer Drive, South fifteen (15) degrees forty-three (43) minutes eighteen (18) seconds East,

one hundred thirty-five (135.00) feet to a point, the point and place of beginning.

CONTAINING 12,156 square feet.

HAVING THEREON ERECTED A DWELLING KNOWN AS 61 Spicer Drive, Abbottstown, PA 17301.

BEING THE SAME PREMISES WHICH B-Line Investments, Inc. by their Deed dated December 13, 1996 and recorded in Adams County Recorder of Deeds Office on December 18, 1996 in Deed Book 1305, page 70, granted and conveyed unto Ronald S. Davis and Brenda R. Davis.

SEIZED IN EXECUTION AS THE PROPERTY OF RONALD S. DAVIS, SR. A/K/A RONALD S. DAVIS AND BRENDA R. DAVIS UNDER ADAMS COUNTY JUDGMENT NO. 1998-S-902.

SEIZED and taken into execution as the property of **Ronald S. Davis, Sr. & Brenda R. Davis** and to be sold by me
Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 19, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/26, 3/5 & 12

NOTICE

A HEARING SHALL be held before the Court of Common Pleas, Adams County, Pennsylvania, in Courtroom No. 1 or 2 of the Adams County Courthouse, Gettysburg, Pennsylvania, on March 15, 1999, at 9:00 o'clock, a.m. for the purpose of considering the sale of unimproved real estate from the Upper Adams School District to Inland Container Corp., in exchange for an unimproved tract of real estate to be conveyed by Inland Container Corp., to Upper Adams School District. Any persons interested in the sale and exchange of the aforesaid real estate should appear and be heard at that time.

Robert L. McQuaide
Solicitor for Upper
Adams School District

2/19, 26 & 3/5

NOTICE OF INCORPORATION

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

Daniel Fetter
1535 Old Route 30
Orrtanna, PA 17353

2/26