

# *Adams County* Legal Journal

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## **IN THIS ISSUE**

DAYHOFF VS. CODORI ET AL

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



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

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

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, October 11, 2005, at 9:00 a.m.

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

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

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

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

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

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

Lisa K. Grubbs  
Clerk of Courts

9/30 & 10/7

#### NOTICE

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented in the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, October 11, 2005, at 9:00 a.m.

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

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

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

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

9/30 & 10/7

#### INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on or about August 5, 2005, with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the purpose of obtaining a Certificate of Incorporation for a business corporation organized under the Business Corporation Law of 1988, Act of December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is, S & S CONCRETE CONSTRUCTION, INC. The registered office of the corporation is 1845 Braggstown Rd., East Berlin, PA 17316.

This notice is given pursuant to Section 1307 of the Business Corporation Law of 1988.

John C. Zepp, III  
Attorney At Law  
P.O. Box 204  
York Springs, PA 17372

10/7

## DAYHOFF VS. CODORI ET AL

1. The Court adopts local rules for a specific purpose and they are binding on the parties. When they are not followed, waiver of the issue is an appropriate remedy.
2. The doctrine of a specific performance with an abatement may only prevail in cases where there is a defect in the vendor's title or deficiency in the quantity of the land to be conveyed.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 04-S-896, MICHAEL D. DAYHOFF AND ROBERT J. DAYHOFF VS. SARAH E. CODORI A/K/A SARAH E. GOULET AND JOHN A. GOULET.

Bernard A. Yannetti, Jr., Esq., for Plaintiffs  
Matthew E. Teeter, Esq., for Defendants  
George, J., March 24, 2005

### MEMORANDUM OPINION

A Complaint commenced this action on January 5, 2005. On January 26, 2005, the Defendants filed a document entitled "Demurrer" in response to the Plaintiffs' Complaint. This document will be treated as a preliminary objection pursuant to Pennsylvania Rule of Civil Procedure 1028(a)(4). As of the date of this Order, neither party has filed a brief as required by Adams County Local Rule of Civil Procedure 211.

Local Rule of Civil Procedure 211 requires that a moving party file a brief within ten (10) days following the filing of the preliminary objections. Furthermore, the Rule provides that where a party fails to file a brief, the Court may, in its discretion, consider the issues waived. See Adams County Local Rule C.P. 211, 210(d)(2). The Court adopts local rules for a specific purpose and they are binding on the parties. When they are not followed, waiver of the issue is an appropriate remedy. *In re Adoption of S.P.T.*, 783 A.2d 779, 781 (Pa.Super. 2001). In light of the Defendants' failure to comply with procedural requirements in the filing of preliminary objections, I find the issue raised by their preliminary objection waived. Waiver, however, is without prejudice to the Defendants to file appropriate motions once the pleadings and discovery have been completed.

Since I anticipate the issue raised by the Defendants will once again be presented to the Court once the pleadings have been closed, I direct counsel's attention to *Merritz v. Circelli*, 64 A.2d 796 (Pa.

1949) wherein the Supreme Court held that the doctrine of a specific performance with an abatement may only prevail in cases where there is a defect in the vendor's title or deficiency in the quantity of the land to be conveyed. Nevertheless, specific performance without abatement may remain a viable option. At first glance, it appears that the Plaintiffs are currently in the inequitable position of voiding the contract or moving forward with the settlement with knowledge of the deficiencies in the Defendants' contractual obligations. In the latter instance, any subsequent action at law would likely be met with the defense based upon acceptance and waiver. Under such circumstances, it is conceivable that the Plaintiffs lack a legal remedy at law to enforce the rights required under the contract entered between the parties. If such is the case, a court of equity may enforce the contract and compel a specific performance of all terms of the agreement.

The parties are encouraged to negotiate in good faith in an effort to resolve this matter without further or needless litigation.

For the foregoing reasons, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 24th day of March, 2005, the Defendants' Demurrer is denied. The Defendants shall file an Answer to the Plaintiffs' Complaint within twenty (20) days of the date of this Order.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-776 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the Eastern right-of-way line of Butternut Lane, a sixty (60) feet wide right-of-way, at corner of Lot No. 103 on the subdivision plan hereinafter referred to; thence along the Eastern right-of-way line of Butternut Lane by a curve to the left having a radius of six hundred twenty-two and sixty-five hundredths (622.65) feet, the long chord bearing and distance of which is North seven (07) degrees forty-two (42) minutes forty-four (44) seconds East, sixty-nine and ninety-six hundredths (69.96) feet for an arc distance of seventy (70) feet to a point at Lot No. 101 on the subdivision plan hereinafter referred to; thence along Lot No. 101, South eighty-five (85) degrees thirty (30) minutes thirty (30) seconds East, one hundred twenty (120) feet to a point at other lands of Joseph A. Myers Real Estate, Inc.; thence along said last mentioned lands, South seven (07) degrees twenty-eight (28) minutes thirty-seven (37) seconds West, ninety-seven and fifty-two hundredths (97.52) feet to a point at Lot No. 103 on the subdivision plan hereinafter referred to; thence along Lot No. 103, North seventy-two (72) degrees twenty-seven (27) minutes forty-eight (48) seconds West, one hundred twenty-two (122) feet to a point on the Eastern right-of-way line of Butternut Lane, the point and place of BEGINNING, (CONTAINING 10,003 square feet and being Lot No. 102 on the plan prepared for Diller's Village, Phase II, by Donald E. Worley, Registered Surveyor, dated April 29, 1987, designated as File No. G-93, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 47, Page 22).

UNDER AND SUBJECT, NEVERTHELESS, to easements and setbacks as more particularly set forth on the hereinabove referenced subdivision plan recorded in Plan Book 47, page 22, including ten (10) feet wide utility and drainage easements to the rear and sides of the hereinafter described premises.

UNDER AND SUBJECT, NEVERTHELESS, ALSO, to the temporary cul-de-sac as shown on the subdivision plan recorded in Plan Book 47, page 22.

BEING the same premises which John T. Harkleroad and Kimberly A. Stanton, also known as Kimberly A. Harkleroad, by their deed January 4, 1994 and recorded in Book 833, Page 204, granted and conveyed unto John T. Harkleroad, the grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Bill Harkleroad, a single man, by Deed from John T. Harkleroad, dated 12-30-99, recorded 1-13-00 in Deed Book 1986, page 298.

Premises being: 20 Butternut Lane, Hanover, PA 17331

Tax Parcel No. 8-010-0072

SEIZED and taken into execution as the property of **Bill Harkleroad** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/7, 14 & 21

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1280 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that 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 on the Western edge of the paved area of Legislative Route 01002, at the Northernmost corner of land now or formerly of James R. Bigham; thence by said land of James R. Bigham and passing through a reference iron pin set back 12.50 feet from the last mentioned point,

South 47 degrees 45 minutes 00 seconds West, 484.00 feet to an iron pin on line of land now or formerly of Donald G. Mason; thence by said land of Donald G. Mason, North 42 degrees 15 minutes 00 seconds West, 180.00 feet to an iron pin; thence by same, North 47 degrees 45 minutes 15 seconds East, 487.26 feet to an iron pin on line of land now or formerly of It's a New Dawn, Inc.; thence by said land of It's a New Dawn, Inc., passing through a 5/8-inch rebar marking the corner of land now or formerly of James W. Bigham, and by said land of James W. Bigham, and reentering the right of way of Legislative Route 01002, South 41 degrees 12 minutes 40 seconds East, 180.00 feet to an iron pin, the place of BEGINNING.

CONTAINING 2.003 acres, more or less. The above description was taken from a draft of survey prepared by Boyer Surveys, dated April 29, 1982, designating the above as Lot No. 1.

TITLE TO SAID PREMISES IS VESTED IN Douglas R. Caskey and Lori A. Caskey, husband and wife by Deed from Paul E. Miller, Jr. and Melva Eileen Miller, husband and wife dated 9/17/1998, recorded 9/17/1998, in Record Book 1663, Page 230.

Tax Parcel: D 15-0022C

745 Camp Gettysburg Road,  
Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Douglas R. Caskey & Lori A. Caskey** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-827 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land, together with the improvements thereon situate, lying and being in the Borough of New Oxford, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a corner on West High Street and lands now or formerly of Joseph Hockensmith; thence along lands now or formerly of the said Joseph Hockensmith in a Northerly direction, two hundred four (204) feet, more or less to a public alley; thence along said public alley in an Easterly direction sixty (60) feet to lands now or formerly of Agnes Breighner; thence along lands now or formerly of the said Agnes Breighner in a Southerly direction one hundred ninety (190) feet, more or less, to West High Street; thence along said West High Street in a Westerly direction sixty (60) feet to the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Steven D. Piper by Deed from Thomas E. Sheely and Doris L. Sheely, Co-Administrators of the Estate of Steven P. Sheely dated 5/18/2001 and recorded 5/21/2001 in Record Book 2289 Page 76.

Tax Parcel: (34) 004-0083

Premises: 318 W. High Street, New Oxford, PA 17350

SEIZED and taken into execution as the property of Steven D. Piper and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-777 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of the cartway of the Peach Glen-Idaville Road (L.R. 01047), said point, marking the common point of adjoiner of Lots No. 5 and No. 6 on the hereinafter mentioned plan of subdivision with the center of said cartway; thence departing from the centerline of the Peach Glen-Idaville Road, and extending along Lot Nos. 5 and 3 on the hereinafter mentioned plan of subdivision, North 30 degrees 12 minutes 30 seconds East, through a concrete monument set 30 feet from the origin of this call, for a total distance of 450 feet to a concrete monument which marks the common point of adjoiner of Lot Nos. 1, 2, 3 and 6 on the hereinafter mentioned plan of subdivision; thence extending along Lot No. 1, South 59 degrees 47 minutes 30 seconds East, for a distance of 270 feet to a steel pin at Lot No. 8 on the hereinafter mentioned plan of subdivision; thence departing from Lot No. 1, and extending along Lot No. 8, South 30 degrees 12 minutes 30 seconds West, for a distance of 230 feet to a steel pin at Lot No. 7 on the hereinafter mentioned plan of subdivision; thence extending along Lot No. 7, the following two courses and distances: North 59 degrees 47 minutes 30 seconds West, for a distance of 220 feet to a steel pin; thence continuing South 30 degrees 12 minutes 30 seconds West, through a steel pin set back 30 feet from the terminus of this call for a total distance of 220 feet, to a point in the center of the cartway of the Peach Glen-Idaville Road; thence extending in and through the center of the cartway of the Peach Glen-Idaville Road, North 59 degrees 47 minutes 30 seconds West, for a distance of 50 feet to a point in said cartway at Lot No. 5 on the hereinafter mentioned plan of subdivision, said point marking the place of BEGINNING. CONTAINING 1.678 acres and being designated as Lot No. 6 on a final plan of subdivision of Peach Glen Meadows, Phase I, prepared for Kimba, Inc., by Mort, Brown and Associates, dated August 16, 1984, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 40 at page 131.

Being the same which Robert Sroke and Andrea E. Sroke, husband and wife, by their deed dated February 13, 1990, which deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 546 at page 657, sold and conveyed unto Norman F. Runkles, Sr. and Eleanor J. Runkles, husband and wife; and the said Norman F. Runkles, Sr. having died May 16, 1993, title became vested in Eleanor J. Runkles, the Grantor herein named.

TITLE TO SAID PREMISES IS VESTED IN Ivan Richardson and Rebecca Richardson, husband and wife, as tenants of an estate by the entireties by Deed from Eleanor J. Runkles, widow, dated 7-6-00, recorded 7-6-00 in Deed Book 2083, page 82.

Premises being: 315 Peach Glen-Idaville Road, Gardners, PA 17324

Tax Parcel No. 22-G03-0091

SEIZED and taken into execution as the property of Ivan Richardson a/k/a Ivan Richardson, Jr. & Rebecca Richardson a/k/a Rebecca M. Richardson and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/7, 14 & 21

## 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 EVA K. ENGLE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Richard K. Engle and Daniel R. Engle, 437 Clearview Road, Hanover, PA 17331

## ESTATE OF ALTA M. LEPPA, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Sandra Lee Leppo, 7996 Clipper Court, Frederick, MD 21701

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

## ESTATE OF IVAN DANNEVANG THRANE, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Kai Christian Ludwig Thrane, 551 Stonegate Lane, Crozet, VA 22932

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

## ESTATE OF PAUL H. WARRENFELTZ, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Administratrix: Patricia H. Warrenfeltz, 846 Plunkert Rd., Littlestown, PA 17340

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

## SECOND PUBLICATION

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

Late of Freedom Township, Adams County, Pennsylvania

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

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

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

Late of Reading Township, Adams County, Pennsylvania

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

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

## THIRD PUBLICATION

## ESTATE OF DUANE LEONARD BOSCHERT, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

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

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

## ESTATE OF WILMER H. GARVICK, DEC'D

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

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

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

## ESTATE OF JOAN W. HUFF, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

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

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

## ESTATE OF GERALDINE K. LIPPY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

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

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-780 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of Old Westminster Road, T-485, at lands of Gene Ivan Wentz and Patricia M. Wentz; thence along said lands and passing through a steel pin set back 27.5 feet from the beginning hereof, North 67 degrees 32 minutes 15 seconds West, 160.61 feet to an iron pipe at lands formerly of Otto Sells, now Kenneth McGlaughlin and Debbie K. McGlaughlin; thence along said lands, North 68 degrees 12 minutes 4 seconds West, 99.74 feet to a steel pin at Lot No. 3 on the hereinafter referred to subdivision plan; thence along said Lot No. 3, lands of Dennis L. Gebhart and Dianne T. Gebhart, North 21 degrees 47 minutes 56 seconds East, 191.23 feet to a steel

pin at Lot No. 2; thence along said Lot No. 2, lands of Robert N. Rill and Dorothy M. Rill, and passing through a steel pin set back 25 feet from the end hereof, South 63 degrees 2 minutes 1 second East, 276.67 feet to a point in the center of the aforementioned Old Westminster Road, T-485; thence in and through the center of said Old Westminster Road, T-485, South 26 degrees 57 minutes 59 seconds West, 168.86 feet to the point and place of BEGINNING. CONTAINING 1,1055 Acres, and designated as Lot No. 1 on a Final Plan prepared for Thomas J. Whalen by J.H. Rife, Registered Engineer, dated October 9, 1979, revised December 19, 1979, and recorded in Adams County Plat Book 32, at page 8.

BEING the same tract of land which Thomas J. Whalen and Jean H. Whalen, his wife, by their deed dated August 23, 1982, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 364, at page 87, sold and conveyed unto Dennis L. Gebhart and Dianne T. Cummings, now Dianne T. Gebhart, husband and wife, Grantors herein.

TITLE TO SAID PREMISES IS VESTED IN Richard L. Roberts and Denene L. Roberts, as tenants of an estate by the entireties, by Deed from Dennis L.

Gebhart and Dianne T. Cummings now Dianne T. Gebhart, husband and wife, dated 9-8-04, recorded 9-15-04 in Deed Book 3705, page 235.

Premises being: 326 Old Westminster Road, Hanover, PA 17331

Tax Parcel No. 41-L18-0034

SEIZED and taken into execution as the property of **Richard L. Roberts, Sr. & Denene L. Roberts** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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10/7, 14 & 21

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6. Owner (Do not check this box if the publication is published by a corporation):  
**John W. Phillips, Esq.  
101 West Middle Street, Gettysburg, PA 17325**

7. Complete Mailing Address of the principal office, and all other mailing addresses:  
**John W. Phillips, Esq.  
101 West Middle Street, Gettysburg, PA 17325**

8. Complete Mailing Address of the principal office, and all other mailing addresses:  
**Adams County Bar Association  
Room 305 Courthouse  
111-117 Baltimore Street  
Gettysburg, PA 17325**

9. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check this box:  None

10. Tax Status (For completion by nonprofit organizations authorized to mail at nonprofit rates):  
 The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes.  
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 Has Changed During Preceding 12 Months. (Publisher must submit explanation of change with this statement)

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2. Unpaid (Include unpaid circulation outside the US): **300**

c. Total Paid and Unpaid Distribution: **350**

d. Copies not Distributed:  
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2. Return by Mail (Include return by mail outside the US): **0**

3. Other (Specify): **0**

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**John W. Phillips, Esq.**

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# *Adams County* Legal Journal

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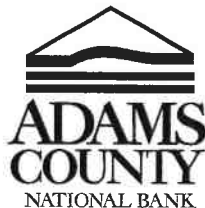
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## **IN THIS ISSUE**

COMMONWEALTH VS. CANTWELL

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Helping families achieve  
their long-range financial goals  
is our business.



Member FDIC

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-856 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those four tracts of land situated, lying, and being in Liberty Township, Adams County, Pennsylvania, being Lot Nos. 13, 14, 15, and 16, of "Stone Manor Farm", more particularly bounded and described as follows:

**TRACT NO. 1:** BEGINNING at a railroad spike in Topper Road (T-312) at land now or formerly of Charles T. and Anna H. Kemper; thence by said land, North 88 degrees 13 minutes 42 seconds East, 1,207.57 feet to an iron pin at land now or formerly of Carl R. Sturges, Thomas A. Bradford, Jr. and Walter B. Ward, Jr.; thence by said land, South 4 degrees 33 minutes 31 seconds West, 374.24 feet to an iron pin at Lot No. 15; thence by said lot, South 88 degrees 13 minutes 42 seconds West, 793.41 feet to an iron pin at Lot No. 14; thence by said lot, North 4 degrees 55 minutes 5 seconds East, 130 feet to an iron pin; thence continuing by said lot, South 88 degrees 13 minutes 42 seconds West, 400 feet to a railroad spike in said Topper Road (T-312); thence in said Topper Road (T-312), North 5 degrees 30 minutes East, 175 feet to a railroad spike; thence continuing in said Topper Road (T-312), North 10 degrees 8 minutes 40 seconds West, 70 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION of Tract No. 1 was taken from a draft of survey dated October 10, 1980, prepared by Boyer Surveys, recorded in Plat Book 35 at Page 7, designating the above as Lot No. 13.

SUBJECT TO the restrictions contained in Record Book 444 at Page 769.

**TRACT NO. 2:** BEGINNING at a railroad spike in Topper Road (T-312) at Lot No. 13; thence by said lot, North 88 degrees 13 minutes 42 seconds East, 400 feet to an iron pin; thence continuing by said lot and by Lot No. 15, South 4

degrees 55 minutes 5 seconds West, 244.98 feet to an iron pin; thence continuing by Lot No. 15, South 88 degrees 13 minutes 42 seconds West, 400 feet to a railroad spike in said Topper Road (T-312); thence in said Topper Road (T-312), North 4 degrees 3 minutes 5 seconds East, 98.44 feet to railroad spike; thence continuing in said Topper Road (T-312), North 5 degrees 30 minutes East, 146.56 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION of Tract No. 2 was taken from a draft of survey dated October 10, 1980, prepared by Boyer Surveys, recorded in Plat Book 35 at Page 7, designating the above as Lot No. 14.

SUBJECT TO the restrictions contained in Record Book 365 at Page 539.

**TRACT NO. 3:** BEGINNING at a railroad spike in Topper Road (T-312) at Lot No. 14; thence by said lot, North 88 degrees 13 minutes 42 seconds East, 400 feet to an iron pin; thence continuing by said lot, North 4 degrees 55 minutes 5 seconds East, 114.98 feet to an iron pin at Lot No. 13; thence by said lot, North 88 degrees 13 minutes 42 seconds East, 793.41 feet to an iron pin at land now or formerly of Carl R. Sturges, Thomas A. Bradford, Jr. and Walter B. Ward, Jr.; thence by said land, South 4 degrees 33 minutes 31 seconds West, 510.39 feet to an iron pin at Lot No. 16; thence by said lot, North 87 degrees 48 minutes 12 seconds West, 1,172.40 feet to a railroad spike in said Topper Road (T-312); thence in said Topper Road (T-312); North 10 degrees 38 minutes 33 seconds West, 50 feet to a railroad spike; thence continuing in said Topper Road (T-312), North 4 degrees 3 minutes 5 seconds East, 263.90 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION of Tract No. 3 was taken from a draft of survey dated October 10, 1980, prepared by Boyer Surveys, recorded in Plat Book 35 at Page 7, designating the above as Lot No. 15.

**TRACT NO. 4:** BEGINNING at a railroad spike in Topper Road (T-312) at Lot No. 15; thence by said lot, South 87 degrees 48 minutes 12 seconds East, 1,172.40 feet to an iron pin at land now or formerly of Carl R. Sturges, Thomas

A. Bradford, Jr. and Walter B. Ward, Jr.; thence by said land, South 4 degrees 33 minutes 31 seconds West, 347 feet to an iron pin at Lot No. 17; thence by said lot, South 87 degrees 37 minutes 57 seconds West, 1,063.17 feet to a railroad spike in said Topper Road (T-312); thence in said Topper Road (T-312), North 10 degrees 38 minutes 33 seconds West, 442.37 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION of Tract No. 4 was taken from a draft of survey dated October 10, 1980, prepared by Boyer Surveys, recorded in Plat Book 35 at Page 7, designating the above as Lot No. 16.

Tract Nos. 3 and 4, are SUBJECT TO the restrictions contained in Record Book 359 at Page 1096.

SEIZED and taken into execution as the property of Wyndemair On Lake Myton, Inc. and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/14, 21 & 28

## COMMONWEALTH VS. CANTWELL

1. In order to establish a prima facie case, the Commonwealth need only produce sufficient evidence of each of the material elements of the crime charged and sufficient probable cause to warrant the belief that the accused committed the offense.

2. In reviewing the sufficiency of the evidence, inferences reasonably drawn from the evidence of record which would support a verdict of guilty are to be given effect, and the evidence must be read in the light most favorable to the Commonwealth's case.

3. A determination of whether a person is in actual physical control (of a motor vehicle) requires inquiry into the totality of the circumstances, including the location of the vehicle, whether the engine was running and whether there was other evidence indicating that the defendant had driven the vehicle at some point prior to the arrival of police on the scene.

In the Court of Common Pleas of Adams County, Pennsylvania,  
Criminal, No. CP-01-CR-178-2005, COMMONWEALTH OF  
PENNSYLVANIA VS. LILLIAN ANNE CANTWELL.

Shawn C. Wagner, Esq., District Attorney, for Commonwealth  
Barbara Jo Entwistle, Esq., for Defendant

George, J., March 24, 2005

### OPINION

This matter comes before the Court on the Defendant's Petition for Writ of Habeas Corpus alleging the lack of a prima facie case against the Defendant. The parties have submitted a transcript from the preliminary hearing as the record upon which the Court may rule. The relevant facts from the preliminary hearing transcript are as follows:

On July 18, 2004, at 2:00 A.M., Officer Daniel Lanious of the Liberty Township Police Department was traveling west on State Route 16 when he observed a vehicle with no lights sitting on Steel Marker Road, Liberty Township, Adams County. Officer Lanious was in full uniform and was driving in a marked patrol vehicle. He turned his patrol vehicle around and turned onto Steel Marker Road where he activated his emergency lights and pulled behind the vehicle. He observed that the vehicle was sitting in the travel lane of Steel Marker Road. He further observed that the driver's seat appeared empty but the vehicle was occupied by a female on top of a male in the front passenger seat area of the vehicle. After the vehicle was lit by his overhead lights, the female rolled off the

male and into the driver's seat of the vehicle. He approached the vehicle and observed the Defendant, the person in the driver's seat. He further observed that the vehicle engine was not running but the keys were in the ignition. The vehicle's lights were not on. After he established contact with the Defendant, he did a registration check on the vehicle and discovered that the vehicle was registered to the Defendant and another party. The Defendant stated to the officer that she "knew [she] shouldn't have done this." Through his interaction with the Defendant, the officer observed classic signs of intoxication and placed the Defendant under arrest for driving under the influence of alcohol. She was taken to Gettysburg Hospital and produced a blood sample at 2:55 A.M. with a blood alcohol concentration of .174 per cent.

In order to establish a prima facie case, the Commonwealth need only produce sufficient evidence of each of the material elements of the crime charged and sufficient probable cause to warrant the belief that the accused committed the offense. *Commonwealth v. McBride*, 595 A.2d 589, 591 (Pa. 1991). The evidence need only be such that, "if presented at trial and accepted as true, the judge would be warranted in permitting the case to go to the jury." *Commonwealth v. Huggins*, 836 A.2d 862, 866 (Pa. 2003). In reviewing the sufficiency of the evidence, "[i]nferences reasonably drawn from the evidence of record which would support a verdict of guilty are to be given effect, and the evidence must be read in the light most favorable to the Commonwealth's case." *Commonwealth v. Marti*, 779 A.2d 1177, 1180 (Pa.Super. 2001) (quoting *Commonwealth v. Owens*, 580 A.2d 412, 414 (Pa.Super. 1990)). With this standard in mind, I will now turn my discussion to the particular circumstances of this case.

The Commonwealth has charged the Defendant with driving under the influence of alcohol under 75 Pa.C.S.A. § 3802(a)(1) (incapable of safe driving) and 75 Pa.C.S.A. § 3802(c) (highest rate of alcohol). The Defendant has not disputed, for purposes of her current motion, the sufficiency of the evidence as it relates to her alleged incapability to drive safely or the level of alcohol concentration in her blood. Rather, the sole issue raised by the Defendant is whether

the Commonwealth's evidence is sufficient to establish a prima facie case concerning whether she drove, operated, or was in actual physical control of the vehicle at the time she interacted with Officer Lanious. In its simplest terms, the issue is whether a person in the driver's seat of a parked vehicle sitting on the roadway with keys in the ignition has "actual physical control of the movement of a vehicle."<sup>1</sup> Due to the recency of the statute under which the Commonwealth is proceeding,<sup>2</sup> appellate courts have yet to address the nuances of this legislation. However, the language at issue is identical to the language in the former law and, therefore, appellate authority interpreting the former section is instructive.

An examination of previous case law reveals that a determination of whether a person is in "actual physical control" requires inquiry into "the totality of the circumstances, including the location of the vehicle, whether the engine was running and whether there was other evidence indicating that the defendant had driven the vehicle at some point prior to the arrival of police on the scene." *Commonwealth v. Wolen*, 685 A.2d 1384, 1385 (Pa. 1996). Application of this general test has led to a full spectrum of decisions. See *Commonwealth v. Kloch*, 327 A.2d 375 (Pa.Super. 1974) (finding that defendant had actual physical control when defendant was found sleeping on the side of the highway, his vehicle was protruding three quarters onto the highway, the headlights were on, and the motor was running); *Commonwealth v. Crum*, 523 A.2d 799 (Pa.Super. 1987) (actual physical control was found where defendant was sleeping in the driver's seat of his vehicle and the vehicle was on the berm of the road with the engine and headlights on); *Commonwealth v. Bobotas*, 588 A.2d 518 (Pa.Super. 1991) (actual physical control was found where defendant was parked in an alley with the motor running); *Commonwealth v. Price*, 610 A.2d 488 (Pa.Super. 1992) (no actual physical control established where defendant was sitting behind the wheel of a parked car, the engine was not running, and defendant had

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<sup>1</sup> Reading the evidence in a light most favorable to the Commonwealth's case, I find the evidence sufficient to circumstantially, if not directly, place the Defendant in the driver's seat of the vehicle. I note also that circumstances appear to indicate that the Defendant drove the vehicle to its current location. See generally, *Commonwealth v. Saunders*, 691 A.2d 946 (Pa.Super. 1997).

<sup>2</sup> 75 Pa.C.S.A. § 3802 became effective February 1, 2004 thereby replacing former 75 Pa.C.S.A. § 3731.

the keys in his hands); *Commonwealth v. Grimes*, 648 A.2d 538 (Pa. Super. 1994) (actual physical control established where defendant was revving his engine for five minutes while parked on the street in front of a bar where he had been drinking); *Commonwealth v. Byers*, 650 A.2d 468 (Pa. Super. 1994) (no actual physical control found where defendant's vehicle was found in the parking lot of a "lounge," defendant was asleep in the driver's seat, the motor was running, and the headlights were on);<sup>3</sup> *Commonwealth v. Trial*, 652 A.2d 338 (Pa. Super. 1994) (actual physical control found where the defendant's car was parked diagonally across the roadway, defendant was in the car, defendant was wearing his seatbelt, the parking lights were on, and the keys were in the ignition in the "on" position, but the engine was not running); *Commonwealth v. Wilson*, 660 A.2d 105 (Pa. Super. 1995) (actual physical control found where defendant's car was found down an embankment by the roadside, no keys were found, but the hood of the car was warm on a winter night); *Commonwealth v. Woodruff*, 668 A.2d 1158 (Pa. Super. 1995) (actual physical control found where defendant's car was on the berm of a road fifty yards west of the establishment where he had purchased beer, the engine was running, the high beams were on, and the car was protruding into traffic lanes); *Saunders*, cited above, (actual physical control found where defendant's car was parked at a convenience store that did not sell alcoholic beverages, the parking lot was only for customers of the store, the engine was running, and the defendant was sleeping); and *Commonwealth v. Yaninas*, 722 A.2d 187 (Pa. Super. 1998) (actual physical control found where defendant's vehicle was parked alongside the road, the parking lights were on, the engine was running, and the driver was asleep in the driver's seat with an open can of beer between his legs). Perhaps the only common thread among these decisions is that movement of the vehicle is not required to find actual physical control. See *Bobotas*, cited above.

The case most factually aligned with the current scenario is *Commonwealth v. Leib*, 588 A.2d 922 (Pa. Super. 1991). In *Leib*, the defendant's vehicle was found stopped on the roadway. *Id.* at 924. The defendant was passed out and slumped over the steering wheel

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<sup>3</sup>In *Wolen*, cited above, Judge Castille, in writing the Opinion of the Court, criticized the *Byers*' Court's consideration of whether the driver poses a threat to public safety in determining whether the driver was in actual physical control of the vehicle.

of the vehicle. *Id.* Although the vehicle's engine was not running, the keys were in the ignition. *Id.* Additionally, there were several open beer containers inside the vehicle. *Id.* at 926. The defendant claimed that he consumed the alcohol after his vehicle became disabled on the roadway. *Id.* The Superior Court found this evidence sufficient to sustain a conviction of driving under the influence of alcohol.

In reviewing the variety of appellate decisions on this issue, I find the *Lieb* Opinion to be most similar to the current factual circumstances. Similar to the facts in *Lieb*, the Defendant's vehicle is located on the travel portion of the roadway with the keys in the ignition. In reviewing the evidence most favorable to the Commonwealth, the circumstances indicate that the Defendant had driven the vehicle at some point prior to the arrival of police on the scene. There is no evidence that alcohol was consumed by the occupants at the area where it was located. Finally, the Defendant recognized consciousness of guilt in indicating that she "knew [she] shouldn't have done this."

For the foregoing reason, the attached Order is entered.<sup>4</sup>

#### ORDER

AND NOW, this 24th day of March, 2005, the Defendant's Motion for Writ of Habeas Corpus is denied.

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<sup>4</sup> I acknowledge the Defendant's reference to *Banner v. Commonwealth of Pennsylvania, Dep't of Transp., Bureau of Licensing* as support for her motion. In *Banner*, the Supreme Court found that reasonable grounds to arrest for driving under the influence of alcohol did not exist where the motorist was sleeping in a reclined position in a vehicle **along the roadway**. *Banner v. Commonwealth of Pennsylvania, Dep't of Transp. Bureau of Licensing*, 737 A.2d 1203, 1207-08 (Pa. 1999). However, the Court's Opinion recognized, and appears to approve, the Commonwealth Court's decision in *Commonwealth of Pennsylvania, Dep't of Transp. v. Paige*. In *Paige*, the factual circumstances are substantially similar to *Lieb*, cited above, wherein the arresting officer observed the defendant slumped over the driver's wheel of a vehicle parked on the travel portion of a public street. *Commonwealth of Pennsylvania, Dep't of Transp. v. Paige*, 628 A.2d 917, 918 (Pa.Cmwlth. 1993). The engine of the vehicle was not running, however, the keys were in the ignition and the parking lights were activated. *Id.* Since the primary distinction between *Banner* and *Paige* appears to be the vehicle's location, on the roadway compared to alongside the roadway, I will follow the appellate opinions on this issue which align factually with the case *sub judice*.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-776 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the Eastern right-of-way line of Butternut Lane, a sixty (60) feet wide right-of-way, at corner of Lot No. 103 on the subdivision plan hereinafter referred to; thence along the Eastern right-of-way line of Butternut Lane by a curve to the left having a radius of six hundred twenty-two and sixty-five hundredths (622.65) feet, the long chord bearing and distance of which is North seven (07) degrees forty-two (42) minutes forty-four (44) seconds East, sixty-nine and ninety-six hundredths (69.96) feet for an arc distance of seventy (70) feet to a point at Lot No. 101 on the subdivision plan hereinafter referred to; thence along Lot No. 101, South eighty-five (85) degrees thirty (30) minutes thirty (30) seconds East, one hundred twenty (120) feet to a point at other lands of Joseph A. Myers Real Estate, Inc.; thence along said last mentioned lands, South seven (07) degrees twenty-eight (28) minutes thirty-seven (37) seconds West, ninety-seven and fifty-two hundredths (97.52) feet to a point at Lot No. 103 on the subdivision plan hereinafter referred to; thence along Lot No. 103, North seventy-two (72) degrees twenty-seven (27) minutes forty-eight (48) seconds West, one hundred twenty-two (122) feet to a point on the Eastern right-of-way line of Butternut Lane, the point and place of BEGINNING, (CONTAINING 10,003 square feet and being Lot No. 102 on the plan prepared for Diller's Village, Phase II, by Donald E. Worley, Registered Surveyor, dated April 29, 1987, designated as File No. G-93, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 47, Page 22).

UNDER AND SUBJECT, NEVERTHELESS, to easements and setbacks as more particularly set forth on the hereinabove referenced subdivision plan recorded in Plan Book 47, page 22, including ten (10) feet wide utility and drainage easements to the rear and sides of the hereinafter described premises.

UNDER AND SUBJECT, NEVERTHELESS, ALSO, to the temporary cul-de-sac as shown on the subdivision plan recorded in Plan Book 47, page 22.

BEING the same premises which John T. Harkleroad and Kimberly A. Stanton, also known as Kimberly A. Harkleroad, by their deed January 4, 1994 and recorded in Book 833, Page 204, granted and conveyed unto John T. Harkleroad, the grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Bill Harkleroad, a single man, by Deed from John T. Harkleroad, dated 12-30-99, recorded 1-13-00 in Deed Book 1986, page 298.

Premises being: 20 Butternut Lane, Hanover, PA 17331

Tax Parcel No. 8-010-0072

SEIZED and taken into execution as the property of **Bill Harkleroad** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/7, 14 & 21

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1280 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that 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 on the Western edge of the paved area of Legislative Route 01002, at the Northernmost corner of land now or formerly of James R. Bigham; thence by said land of James R. Bigham and passing through a reference iron pin set back 12.50 feet from the last mentioned point,

South 47 degrees 45 minutes 00 seconds West, 484.00 feet to an iron pin on line of land now or formerly of Donald G. Mason; thence by said land of Donald G. Mason, North 42 degrees 15 minutes 00 seconds West, 180.00 feet to an iron pin, thence by same, North 47 degrees 45 minutes 15 seconds East, 487.26 feet to an iron pin on line of land now or formerly of It's a New Dawn, Inc.; thence by said land of It's a New Dawn, Inc., passing through a 5/8-inch rebar marking the corner of land now or formerly of James W. Bigham, and by said land of James W. Bigham, and reentering the right of way of Legislative Route 01002, South 41 degrees 12 minutes 40 seconds East, 180.00 feet to an iron pin, the place of BEGINNING.

CONTAINING 2.003 acres, more or less. The above description was taken from a draft of survey prepared by Boyer Surveys, dated April 29, 1982, designating the above as Lot No. 1.

TITLE TO SAID PREMISES IS VESTED IN Douglas R. Caskey and Lori A. Caskey, husband and wife by Deed from Paul E. Miller, Jr. and Melva Eileen Miller, husband and wife dated 9/17/1998, recorded 9/17/1998, in Record Book 1663, Page 230.

Tax Parcel: D 15-0022C

745 Camp Gettysburg Road,  
Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Douglas R. Caskey & Lori A. Caskey** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/7, 14 & 21



## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-827 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land, together with the improvements thereon situate, lying and being in the Borough of New Oxford, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a corner on West High Street and lands now or formerly of Joseph Hockensmith; thence along lands now or formerly of the said Joseph Hockensmith in a Northerly direction, two hundred four (204) feet, more or less to a public alley; thence along said public alley in an Easterly direction sixty (60) feet to lands now or formerly of Agnes Breighner; thence along lands now or formerly of the said Agnes Breighner in a Southerly direction one hundred ninety (190) feet, more or less, to West High Street; thence along said West High Street in a Westerly direction sixty (60) feet to the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Steven D. Piper by Deed from Thomas E. Sheely and Doris L. Sheely, Co-Administrators of the Estate of Steven P. Sheely dated 5/18/2001 and recorded 5/21/2001 in Record Book 2289 Page 76.

Tax Parcel: (34) 004-0083

Premises: 318 W. High Street, New Oxford, PA 17350

SEIZED and taken into execution as the property of **Steven D. Piper** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/7, 14 & 21

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-777 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of the cartway of the Peach Glen-Idaville Road (L.R. 01047), said point, marking the common point of adjoiner of Lots No. 5 and No. 6 on the hereinafter mentioned plan of subdivision with the center of said cartway; thence departing from the centerline of the Peach Glen-Idaville Road, and extending along Lot Nos. 5 and 3 on the hereinafter mentioned plan of subdivision, North 30 degrees 12 minutes 30 seconds East, through a concrete monument set 30 feet from the origin of this call, for a total distance of 450 feet to a concrete monument which marks the common point of adjoiner of Lot Nos. 1, 2, 3 and 6 on the hereinafter mentioned plan of subdivision; thence extending along Lot No. 1, South 59 degrees 47 minutes 30 seconds East, for a distance of 270 feet to a steel pin at Lot No. 8 on the hereinafter mentioned plan of subdivision; thence departing from Lot No. 1, and extending along Lot No. 8, South 30 degrees 12 minutes 30 seconds West, for a distance of 230 feet to a steel pin at Lot No. 7 on the hereinafter mentioned plan of subdivision; thence extending along Lot No. 7, the following two courses and distances: North 59 degrees 47 minutes 30 seconds West, for a distance of 220 feet to a steel pin; thence continuing South 30 degrees 12 minutes 30 seconds West, through a steel pin set back 30 feet from the terminus of this call for a total distance of 220 feet, to a point in the center of the cartway of the Peach Glen-Idaville Road; thence extending in and through the center of the cartway of the Peach Glen-Idaville Road, North 59 degrees 47 minutes 30 seconds West, for a distance of 50 feet to a point in said cartway at Lot No. 5 on the hereinafter mentioned plan of subdivision, said point marking the place of BEGINNING. CONTAINING 1.678 acres and being designated as Lot No. 6 on a final plan of subdivision of Peach Glen Meadows, Phase I, prepared for Kimba, Inc., by Mort, Brown and Associates, dated August 16, 1984, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 40 at page 131.

Being the same which Robert Sroke and Andrea E. Sroke, husband and wife, by their deed dated February 13, 1990,

which deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 546 at page 657, sold and conveyed unto Norman F. Runkles, Sr. and Eleanor J. Runkles, husband and wife, and the said Norman F. Runkles, Sr. having died May 16, 1993, title became vested in Eleanor J. Runkles, the Grantor herein named.

TITLE TO SAID PREMISES IS VESTED IN Ivan Richardson and Rebecca Richardson, husband and wife, as tenants of an estate by the entireties by Deed from Eleanor J. Runkles, widow, dated 7-6-00, recorded 7-6-00 in Deed Book 2083, page 82.

Premises being: 315 Peach Glen-Idaville Road, Gardners, PA 17324

Tax Parcel No. 22-G03-0091

SEIZED and taken into execution as the property of **Ivan Richardson a/k/a Ivan Richardson, Jr. & Rebecca Richardson a/k/a Rebecca M. Richardson** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/7, 14 & 21

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an application for registration of the fictitious name GETTYSBURG LAUNDROMAT was filed in the Department of State of the Commonwealth of Pennsylvania on May 13, 2005, under the Fictitious Names Act, Act 1982, No. 295 (54 Pa. C.S. Sections 301-332). The address of the principal office of the business to be carried on through the fictitious name is: 413 York Street, Gettysburg, Pennsylvania 17325. The names and addresses of all persons who are parties to the registration are: Roma Investments, Inc., 413 York Street, Gettysburg, Pennsylvania 17325.

Christopher E. Rice, Esq.  
Martson Dearthoff Williams & Otto  
Ten East High Street  
Carlisle, PA 17013  
(717) 243-3341

10/14

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 STEPHEN S. BRIGGS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Susan Smith, c/o Eric R. Dutcher, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

Attorney: Eric R. Dutcher, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

ESTATE OF TERRY LITTLE, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Administrators: Tron S. Hodges, 111 Edwards Street, Hanover, PA 17331; Leon C. Lemaster, 564 Broadway, Apt. #3, Hanover, PA 17331

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

SECOND PUBLICATION

ESTATE OF EVA K. ENGLE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Richard K. Engle and Daniel R. Engle, 437 Clearview Road, Hanover, PA 17331

ESTATE OF ALTA M. LEPP0, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Sandra Lee Leppo, 7996 Clipper Court, Frederick, MD 21701

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

ESTATE OF IVAN DANNEVANG THRANE, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Kai Christian Ludwig Thrane, 551 Stonegate Lane, Crozet, VA 22932

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

ESTATE OF PAUL H. WARRENFELTZ, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Administratrix: Patricia H. Warrenfeltz, 846 Plunkert Rd., Littlestown, PA 17340

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

THIRD PUBLICATION

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

Late of Freedom Township, Adams County, Pennsylvania

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

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

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

Late of Reading Township, Adams County, Pennsylvania

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

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

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-780 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of Old Westminster Road, T-485, at lands of Gene Ivan Wentz and Patricia M. Wentz; thence along said lands and passing through a steel pin set back 27.5 feet from the beginning hereof, North 67 degrees 32 minutes 15 seconds West, 160.61 feet to an iron pipe at lands formerly of Otto Sells, now Kenneth McGlaughlin and Debbie K. McGlaughlin; thence along said lands, North 68 degrees 12 minutes 4 seconds West, 99.74 feet to a steel pin at Lot No. 3 on the hereinafter referred to subdivision plan; thence along said Lot No. 3, lands of Dennis L. Gebhart and Dianne T. Gebhart, North 21 degrees 47 minutes 56 seconds East, 191.23 feet to a steel pin at Lot No. 2; thence along said Lot No. 2, lands of Robert N. Rill and Dorothy M. Rill, and passing through a steel pin set back 25 feet from the end hereof, South 83 degrees 2 minutes 1 second East, 276.67 feet to a point in the center of the aforementioned Old Westminster Road, T-485; thence in and through the center of said Old Westminster Road, T-485, South 26 degrees 57 minutes 59 seconds West, 168.86 feet to the point and place of BEGINNING. CONTAINING 1.1055 Acres, and designated as Lot No. 1 on a Final Plan prepared for Thomas J. Whalen by J.H. Rife, Registered Engineer, dated October 9, 1979, revised December 19, 1979, and recorded in Adams County Plat Book 32, at page 8.

BEING the same tract of land which Thomas J. Whalen and Jean H. Whalen, his wife, by their deed dated August 23, 1982, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 364, at page 87, sold and conveyed unto Dennis L. Gebhart and Dianne T. Cummings, now Dianne T. Gebhart, husband and wife, Grantors herein.

TITLE TO SAID PREMISES IS VESTED IN Richard L. Roberts and Denene L. Roberts, as tenants of an estate by the entireties, by Deed from Dennis L. Gebhart and Dianne T. Cummings now Dianne T. Gebhart, husband and wife, dated 9-8-04, recorded 9-15-04 in Deed Book 3705, page 235.

Premises being: 326 Old Westminster Road, Hanover, PA 17331

Tax Parcel No. 41-L18-0034

SEIZED and taken into execution as the property of **Richard L. Roberts, Sr. & Denene L. Roberts** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/7, 14 & 21

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-799 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those (2) lots of land situate, lying and being in the town of Heidlersburg, Tyrone Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

LOT NO. 1: BEGINNING at a steel pin set 33 feet North of the center of Heidlersburg Road, Pa. Route 234, at the Southwest corner of land now or formerly of Herbert W. and June E. Denike, thence along the Northern side of said road North 72 degrees 33 minutes 13 seconds West, 65 feet to a steel pin at the Southeast corner of Lot No. 2 herein; thence by Lot No. 2 North 27 degrees 09 minutes 50 seconds East, 220 feet to a point at the Southern edge of a 20 foot alley and land now or formerly of Heidlersburg Cemetery Association; thence along Southern edge of said 20 foot alley South 72 degrees 33 minutes 13 seconds East, 65 feet to a steel pin set; thence by said Denike land and through an existing well with hand pump located 43.6 feet North of the end of this line, South 27 degrees 09 minutes 50 seconds West, 220 feet to a steel pin set at the Northern edge of the Heidlersburg Road, Pa. Route 234, the place of BEGINNING. CONTAINING 0.324 Acres, more or less.

LOT NO. 2: BEGINNING at a point at the Southwest corner of Lot No. 1 herein on the Northern edge of the Heidlersburg Road, Pa. Route 234; thence along the Northern edge of said road North 72 degrees 33 minutes 13 seconds West, 65 feet to a steel pin set; thence along the Eastern edge of a 20 foot alley and land now or formerly of Heidlersburg Church of the United Brethren in Christ North 27 degrees 09 minutes 50 seconds East, 220 feet to a steel pin set at the Southern edge of a 20 foot alley and land now or formerly of Heidlersburg Cemetery Association; thence along the Southern edge of a 20 foot alley South 72 degrees 33 minutes 13 seconds East, 65 feet to a point at the Northwest corner of Lot No. 1 herein; thence along Lot No. 1 herein South 27 degrees 09 minutes 50 seconds West, 220 feet to a point, the place of BEGINNING. CONTAINING 0.324 Acres.

The above descriptions were taken from a draft of survey dated July 19, 1984, prepared by Boyer Surveys, Richard Boyer, R.S., and identified as property of Harry Little Estate.

BEING the same which Hulse Family Properties, Inc. by its Deed dated September 3, 1993 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Book 777 at page 292 sold and conveyed unto Ronald E. Warren and Charlene K. Warren, husband and wife, the Grantors herein.

TITLE TO SAID PREMISES IS VESTED IN Robert L. Rhodes, a single man by Deed from Ronald E. Warren and Charlene K. Warren, NKA, Teague S. Haven, husband and wife, dated 7-8-97, recorded 7-9-97 in Deed Book 1403, page 286.

Premises being: 2750 Heidlersburg Road, Gettysburg, PA 17325

Tax Parcel No. 40-001-0023

SEIZED and taken into execution as the property of **Robert L. Rhodes** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/14, 21 & 28

# *Adams County* Legal Journal

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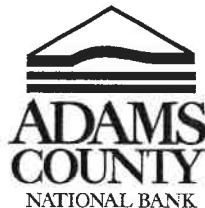
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## IN THIS ISSUE

HARRIS VS. HOWE ET AL

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



Member FDIC

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-856 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those four tracts of land situated, lying, and being in Liberty Township, Adams County, Pennsylvania, being Lot Nos. 13, 14, 15, and 16, of "Stone Manor Farm", more particularly bounded and described as follows:

**TRACT NO. 1:** BEGINNING at a railroad spike in Topper Road (T-312) at land now or formerly of Charles T. and Anna H. Kemper; thence by said land, North 88 degrees 13 minutes 42 seconds East, 1,207.57 feet to an iron pin at land now or formerly of Carl R. Sturges, Thomas A. Bradford, Jr. and Walter B. Ward, Jr.; thence by said land, South 4 degrees 33 minutes 31 seconds West, 374.24 feet to an iron pin at Lot No. 15; thence by said lot, South 88 degrees 13 minutes 42 seconds West, 793.41 feet to an iron pin at Lot No. 14; thence by said lot, North 4 degrees 55 minutes 5 seconds East, 130 feet to an iron pin; thence continuing by said lot, South 88 degrees 13 minutes 42 seconds West, 400 feet to a railroad spike in said Topper Road (T-312); thence in said Topper Road (T-312), North 5 degrees 30 minutes East, 175 feet to a railroad spike; thence continuing in said Topper Road (T-312), North 10 degrees 8 minutes 40 seconds West, 70 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION of Tract No. 1 was taken from a draft of survey dated October 10, 1980, prepared by Boyer Surveys, recorded in Plat Book 35 at Page 7, designating the above as Lot No. 13.

SUBJECT to the restrictions contained in Record Book 444 at Page 769.

**TRACT NO. 2:** BEGINNING at a railroad spike in Topper Road (T-312) at Lot No. 13; thence by said lot, North 88 degrees 13 minutes 42 seconds East, 400 feet to an iron pin; thence continuing by said lot and by Lot No. 15, South 4

degrees 55 minutes 5 seconds West, 244.98 feet to an iron pin; thence continuing by Lot No. 15, South 88 degrees 13 minutes 42 seconds West, 400 feet to a railroad spike in said Topper Road (T-312); thence in said Topper Road (T-312), North 4 degrees 3 minutes 5 seconds East, 98.44 feet to railroad spike; thence continuing in said Topper Road (T-312), North 5 degrees 30 minutes East, 146.56 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION of Tract No. 2 was taken from a draft of survey dated October 10, 1980, prepared by Boyer Surveys, recorded in Plat Book 35 at Page 7, designating the above as Lot No. 14.

SUBJECT to the restrictions contained in Record Book 365 at Page 539.

**TRACT NO. 3:** BEGINNING at a railroad spike in Topper Road (T-312) at Lot No. 14; thence by said lot, North 88 degrees 13 minutes 42 seconds East, 400 feet to an iron pin; thence continuing by said lot, North 4 degrees 55 minutes 5 seconds East, 114.98 feet to an iron pin at Lot No. 13; thence by said lot, North 88 degrees 13 minutes 42 seconds East, 793.41 feet to an iron pin at land now or formerly of Carl R. Sturges, Thomas A. Bradford, Jr. and Walter B. Ward, Jr.; thence by said land, South 4 degrees 33 minutes 31 seconds West, 510.39 feet to an iron pin at Lot No. 16; thence by said lot, North 87 degrees 48 minutes 12 seconds West, 1,172.40 feet to a railroad spike in said Topper Road (T-312); thence in said Topper Road (T-312); North 10 degrees 38 minutes 33 seconds West, 50 feet to a railroad spike; thence continuing in said Topper Road (T-312), North 4 degrees 3 minutes 5 seconds East, 263.90 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION of Tract No. 3 was taken from a draft of survey dated October 10, 1980, prepared by Boyer Surveys, recorded in Plat Book 35 at Page 7, designating the above as Lot No. 15.

**TRACT NO. 4:** BEGINNING at a railroad spike in Topper Road (T-312) at Lot No. 15; thence by said lot, South 87 degrees 48 minutes 12 seconds East, 1,172.40 feet to an iron pin at land now or formerly of Carl R. Sturges, Thomas

A. Bradford, Jr. and Walter B. Ward, Jr.; thence by said land, South 4 degrees 33 minutes 31 seconds West, 347 feet to an iron pin at Lot No. 17; thence by said lot, South 87 degrees 37 minutes 57 seconds West, 1,063.17 feet to a railroad spike in said Topper Road (T-312); thence in said Topper Road (T-312), North 10 degrees 38 minutes 33 seconds West, 442.37 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION of Tract No. 4 was taken from a draft of survey dated October 10, 1980, prepared by Boyer Surveys, recorded in Plat Book 35 at Page 7, designating the above as Lot No. 16.

Tract Nos. 3 and 4, are SUBJECT TO the restrictions contained in Record Book 359 at Page 1096.

SEIZED and taken into execution as the property of **Wyndemair On Lake Myton, Inc.** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/14, 21 & 28

## HARRIS VS. HOWE ET AL

1. With reference to the Sunshine Act, a “frivolous suit” is defined as “having no legal basis, often filed to harass or extort money from the defendant,” and “frivolous” is defined as “lacking a legal basis or legal merit; not serious; not reasonably purposeful.” “Substantially justified” is defined as “having a reasonable basis in law and in fact.”

2. A trial court can award attorney’s fees and costs to a party where “the conduct of another party in commencing the matter or otherwise was arbitrary, vexatious or in bad faith.”

3. Conduct is “arbitrary” if it is based on random or convenient selection or choice rather than on reason or nature. However, if a party’s claim is merely weak and subsequently found devoid of merit, it is not necessarily conduct that is arbitrary, vexatious or in bad faith.

4. The court may award attorney’s fees if the party’s conduct during the pendency of the matter is dilatory, obdurate or vexatious. “Obdurate” is defined as “resistant to persuasion or softening influences: inflexible, unyielding.”

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 04-S-1011, PHILLIP B. HARRIS VS. DANIEL HOWE, SALLY VANCE, RESIGNED PRESIDENT JEFFREY SHULL, AND THE BOROUGH COUNCIL OF YORK SPRINGS.

Plaintiff, *pro se*

Cheryl Kovaly, Esq., for Defendants

Kuhn, P.J., April 8, 2005

### OPINION ON DEFENDANTS’ MOTION FOR ATTORNEYS FEES AND COSTS

Before this Court for disposition is Defendants’ Motion For Attorneys Fees and Costs, filed January 10, 2005. For the reasons set forth herein, said motion is denied, in part, and granted, in part.

On October 4, 2004, Plaintiff, Phillip B. Harris (“Plaintiff”), filed his Complaint, captioned “Civil Action Mandamus,” against Defendants, Daniel Howe (“Howe”), Sally Vance (“Vance”), Jeffrey Shull (“Shull”) and the Borough Council of York Springs (“Council”), alleging that a special meeting of Council, held on September 29, 2004, was illegal for violating the Sunshine Act, 65 Pa.C.S. §701, *et seq.* He alleged that the following individuals comprise the Council: himself as Vice President; and Howe and Vance as Council members. Plaintiff further contended that Shull and Steven Picard tendered their resignations as members of Council prior to the September 29, 2004 meeting. He averred that while Shull convened the September 29, 2004 meeting with Howe and

Vance in attendance, a quorum did not exist because Shull was no longer a member of Council even though he withdrew his resignation prior to the meeting. Therefore, Plaintiff requested “the withdrawal and reversal of all actions taken in any business conducted [at the September 29, 2004 meeting], and that [Howe, Vance and Shull] pay for damages and costs incurred by the Plaintiff associated with this Complaint.”

On October 21, 2004, Defendants filed their Preliminary Objections to Plaintiff’s Complaint and brief in support thereof. They argued that pursuant to Pa. R.C.P. 1028(a)(4), the Complaint failed to state a claim or cause of action for violation of the Sunshine Act for which relief may be granted. In its supporting brief, Defendants clearly set forth the established case law that the resignation of a public official is not effective until it has been accepted by the governing authority.

Plaintiff failed to file a responsive brief within twenty days from the filing of Defendants’ brief in support of its preliminary objections in accordance with Local Rule 211. Instead, on November 15, 2004, Plaintiff filed an amended request for emergency injunction. Therein, he requested that the Court “enjoin in this Amended Request for Emergency Injunction until a Judicial determination has been made with regard to the ‘Complaint’ . . . , and the legality of the meeting held on September 29, 2004.”

By Order, dated November 24, 2004, the Court set a hearing on the injunction for December 3, 2004 and attached a Preliminary Memorandum Opinion on the issues involved. Therein, I addressed, *inter alia*, the issues of whether Shull effectively resigned as a member of the Council and whether a quorum existed at the September 29, 2004 meeting. I ruled that Shull’s resignation was not effective because it was not accepted by Council at an official meeting and a quorum did, indeed, exist on September 29, 2004. The Court determined that the only issue regarding the legality of the September 29, 2004 meeting was whether it was properly scheduled. My discussion in that Opinion is incorporated by reference herein.

At the hearing, Plaintiff conceded that the meeting was properly scheduled. Despite the Court’s ruling in its Preliminary Memorandum Opinion, Plaintiff persistently continued to argue that a quorum did not exist and that the September 29, 2004 meeting was invalid. Plaintiff

was also unprepared to present his case as he failed to secure witnesses to testify or submit appropriate documentation in support of his position. By Order dated December 3, 2004, the Court denied Plaintiff's request for injunctive relief because Plaintiff had been unable to offer any evidence to support his entitlement to the same.

On December 14, 2004, Plaintiff filed his Answer to Defendants' preliminary objections. Although the Court's Preliminary Memorandum Opinion explicitly stated that Shull's resignation was not effective and a quorum existed at the September 29, 2004 meeting,<sup>1</sup> Plaintiff continued to argue that Shull's resignation is self-effectuating and, therefore, a quorum did not exist. By Order dated December 27, 2004, this Court sustained Defendants' preliminary objections and dismissed Plaintiff's Complaint with prejudice for Plaintiff's failure to state a cause of action upon which relief may be granted. My discussion in the accompanying opinion, wherein I explained in detail how Plaintiff's reliance on his cited cases was flawed, is incorporated by reference herein.

On January 10, 2005, Defendants filed their Motion For Attorneys Fees and Costs and supporting brief. Therein, they request attorney's fees and costs pursuant to the Sunshine Act, specifically 65 Pa.C.S. §714.1, which authorizes the court to award attorney's fees and costs against the party whose challenge under the Act is frivolous or lacks substantial justification. Plaintiff filed an answer to the motion on January 28, 2005, wherein he argues that his Complaint was not based upon a violation of the Sunshine Act and therefore Defendants cannot pursue attorney's fees and costs under the Act.

At a hearing on Defendants' motion on March 1, 2005,<sup>2</sup> Defendants argued that Plaintiff's Complaint was necessarily an action under the Sunshine Act since the Act provides that a meeting must be held by a quorum and, though the Borough Code addresses what is a quorum, the Code does not provide authority to bring an action for its violation. They further contend that, even if Plaintiff's Complaint was not based upon the Sunshine Act, Defendants are still entitled to attorney's fees because Plaintiff's conduct in commencing the suit was "arbitrary." Finally, they argue, in the alternative, that

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<sup>1</sup>The undersigned again explained these determinations to Plaintiff at the hearing on injunctive relief.

<sup>2</sup>Plaintiff does not challenge the amount of hours or rate of the attorney's fees and costs as proposed by Defendants' attorney.



they are entitled to an award of counsel fees and costs from the date they filed their preliminary objections because Plaintiff persisted in continuing the suit in the face of well-settled case law and the Court's rulings in its Preliminary Memorandum Opinion.

I find that Defendants are not entitled to attorney's fees and costs for Plaintiff's conduct in *commencing* the present action. While it is disputed whether Plaintiff commenced his Complaint under the Sunshine Act<sup>3</sup> or the Borough Code, disposition on the issue of an award of attorney's fees and costs for Plaintiff's conduct in initiating the action is the same. Pursuant to Section 714.1 of the Sunshine Act:

[I]f the court finds that the legal challenge [for violating a provision of this Act] was of a frivolous nature or was brought without substantial justification, the court shall award the prevailing party reasonable attorney fees and costs of litigation or an appropriate portion of the fees and costs.

65 Pa.C.S. §714.1.<sup>4</sup>

A "frivolous suit" is defined as "having no legal basis, often filed to harass or extort money from the defendant," and "frivolous" is defined as "lacking a legal basis or legal merit; not serious; not reasonably purposeful <a frivolous claim>." Black's Law Dictionary 677-78 (7th ed. 1999). "Substantially justified" is defined as "having a reasonable basis in law and in fact." *Id.* at 1443.

Plaintiff testified at the hearing on the present motion that he conducted research before filing his Complaint and that based upon *Commonwealth ex rel., Gast v. Kelly*, 100 A. 272 (Pa. 1917) and "one

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<sup>3</sup>Section 704 of the Act provides, "Official action and deliberations by a quorum of the members of an agency shall take place at a meeting open to the public unless closed under section [707, 708 or 712]." 65 Pa.C.S. §704. While I recognize that the purpose of the Act is to merely give the public the right to witness the deliberation, policy formation and decision-making of agencies, a legal challenge can be made as to whether a meeting violated this section for lack of a quorum. See *Babac v. Pennsylvania Marketing Board*, 613 A.2d 551 (Pa. 1992) (protesting consumers appealed an order promulgated by the Board alleging that the adoption of the order violated the Sunshine Act because a quorum of the Board members were not physically present at the public meeting).

<sup>4</sup>Since the promulgation of this provision in 1998, the courts have not construed what constitutes a legal challenge of a "frivolous nature" or one "brought without substantial justification," as it pertains to this Act.

other case,” he instituted the action. Although *Kelly* does not support Plaintiff’s position, *Commonwealth v. DeCinti*, 6 D. & C.3d 670 (Luzerne 1978), a case that has not been overturned and which Plaintiff cites in his answer to Defendants’ preliminary objections, stands for the proposition that a resignation is self-effectuating. Though Plaintiff’s claim was weak and ultimately determined to be devoid of merit, it nevertheless had a legal basis. Moreover, Plaintiff testified that his intent in commencing this action was to gain clarification and guidance from the court regarding the existence of a quorum at the September 19, 2004 council meeting and to move forward; it was not to harass or extort money from Defendants. Therefore, under the Sunshine Act, Defendants are not entitled to reasonable attorney’s fees and costs because Plaintiff’s legal challenge was not frivolous or brought without substantial justification.

Likewise, Defendants are not entitled to attorney’s fees and costs for Plaintiff’s alleged “arbitrary” conduct in commencing the present action. Under 42 Pa.C.S. §2503(9), a trial court can award attorney’s fees and costs to a party where “the conduct of another party in commencing the matter or otherwise was arbitrary, vexatious or in bad faith.” 42 Pa.C.S. §2503(9). The intent of the rule is not to punish all of those who commence actions which ultimately fail, but rather, to sanction those who raise, in bad faith, frivolous claims which have no reasonable possibility of success, for the purpose of harassing, obstructing or delaying the opposing party. *In re: Estate of Liscio*, 638 A.2d 1019, 1022 (Pa.Super. 1994), citing *Dooley v. Rubin*, 618 A.2d 1014, 1018 (Pa.Super. 1993). At hearing, Defendants argued that Plaintiff’s conduct in filing his Complaint is arbitrary due to the long line of case law that indicates that a resignation is not effective until it has been accepted by the governing body.

Conduct is “arbitrary” if it is based on random or convenient selection or choice rather than on reason or nature. *Berg v. Georgetown Builders, Inc.*, 822 A.2d 810, 817 (Pa.Super. 2003) (citations omitted). However, if a party’s claim is merely weak and subsequently found devoid of merit, it is not necessarily conduct that is arbitrary, vexatious or in bad faith. See *Id.*, citing *Liscio*, 638 A.2d at 1022 (Pa. Super. 1994).

As explained above, though this Court found Plaintiff’s claim to be weak and devoid of merit, Plaintiff indeed had a legal basis for

commencing the action. Thus, I do not find his conduct “arbitrary” at the time he commenced the action.

Nevertheless, Defendants are entitled to reasonable attorney’s fees and costs incurred after the issuance of this Court’s Preliminary Memorandum Opinion, filed November 24, 2004.<sup>5</sup> Under 42 Pa.C.S. §2503(7), the court may award attorney’s fees if the party’s conduct during the *pendency* of the matter is dilatory, obdurate or vexatious. 42 Pa.C.S. §2503(7). “Obdurate” is defined as “resistant to persuasion or softening influences: inflexible, unyielding.” *Thomas v. Rensel*, 59 D. & C.4th 150, 156 (Butler 2002), quoting Webster’s 3rd New International Dictionary of the English Language. In their motion and at the hearing on the motion, Defendants argued that Plaintiff’s conduct after the issuance of the Court’s Preliminary Memorandum Opinion demonstrates his inflexible and unyielding endeavor to persuade the Court that the resignation in question was self-effectuating. I agree.

Plaintiff testified that before the hearing on his Amended Request for Emergency Injunction, he received and read Defendants’ preliminary objections and brief in support thereof as well as this Court’s Preliminary Memorandum Opinion. In the Court’s Opinion, it was determined that in accordance with current case law, the resignation of Council member Shull was not effective until officially accepted by Borough Council. The Court also explicitly laid out what issues, regarding Plaintiff’s request for injunctive relief, remained unresolved and what Plaintiff had to prove at the hearing on the injunction. Yet, at the hearing, not only did Plaintiff concede to the issues before the Court, but he also continued to argue that Shull’s resignation was self-effectuating and therefore a quorum did not exist at the September 19, 2004 meeting. Furthermore, he was unprepared to present any evidence to support his position.

Moreover, after the hearing, the Court gave Plaintiff additional time to respond to Defendants’ preliminary objections. Again, despite the Court’s prior rulings and explanation of the law at the hearing, Plaintiff filed his response to the objections arguing his

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<sup>5</sup>I am unwilling to award attorney’s fees and costs incurred from the time after Defendants filed their Preliminary Objections to Plaintiff’s Complaint up to the issuance of the Court’s Preliminary Memorandum Opinion. During this time, Plaintiff had a legal basis that the court had not yet ruled upon.

position. I find Plaintiff's conduct from the time of the hearing and thereafter to be obdurate as he relentlessly and unyieldingly continued to argue his untenable position in the face of the Court's ruling on the issue. Therefore, Defendants are entitled to reasonable attorney's fees and costs incurred from the time after the issuance of the Court's Preliminary Memorandum Opinion up to, but not including, attorney's fees and costs associated with the present motion.

Accordingly, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 8th day April, 2005, in consideration of Defendants' Motion For Attorney's Fees And Costs, filed January 10, 2005, said motion is denied, in part, and granted, in part. Defendants are awarded attorney's fees and costs in the amount of \$1,089.00.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-776 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the Eastern right-of-way line of Butternut Lane, a sixty (60) feet wide right-of-way, at corner of Lot No. 103 on the subdivision plan hereinafter referred to; thence along the Eastern right-of-way line of Butternut Lane by a curve to the left having a radius of six hundred twenty-two and sixty-five hundredths (622.65) feet, the long chord bearing and distance of which is North seven (07) degrees forty-two (42) minutes forty-four (44) seconds East, sixty-nine and ninety-six hundredths (69.96) feet for an arc distance of seventy (70) feet to a point at Lot No. 101 on the subdivision plan hereinafter referred to; thence along Lot No. 101, South eighty-five (85) degrees thirty (30) minutes thirty (30) seconds East, one hundred twenty (120) feet to a point at other lands of Joseph A. Myers Real Estate, Inc.; thence along said last mentioned lands, South seven (07) degrees twenty-eight (28) minutes thirty-seven (37) seconds West, ninety-seven and fifty-two hundredths (97.52) feet to a point at Lot No. 103 on the subdivision plan hereinafter referred to; thence along Lot No. 103, North seventy-two (72) degrees twenty-seven (27) minutes forty-eight (48) seconds West, one hundred twenty-two (122) feet to a point on the Eastern right-of-way line of Butternut Lane, the point and place of BEGINNING, (CONTAINING 10,003 square feet and being Lot No. 102 on the plan prepared for Diller's Village, Phase II, by Donald E. Worley, Registered Surveyor, dated April 29, 1987, designated as File No. G-93, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 47, Page 22).

UNDER AND SUBJECT, NEVERTHELESS, to easements and setbacks as more particularly set forth on the hereinabove referenced subdivision plan recorded in Plan Book 47, page 22, including ten (10) feet wide utility and drainage easements to the rear and sides of the hereinafter described premises,

UNDER AND SUBJECT, NEVERTHELESS, ALSO, to the temporary cul-de-sac as shown on the subdivision plan recorded in Plan Book 47, page 22.

BEING the same premises which John T. Harkleroad and Kimberly A. Stanton, also known as Kimberly A. Harkleroad, by their deed January 4, 1994 and recorded in Book 833, Page 204, granted and conveyed unto John T. Harkleroad, the grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Bill Harkleroad, a single man, by Deed from John T. Harkleroad, dated 12-30-99, recorded 1-13-00 in Deed Book 1986, page 298.

Premises being: 20 Butternut Lane, Hanover, PA 17331

Tax Parcel No. 8-010-0072

SEIZED and taken into execution as the property of **Bill Harkleroad** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/7, 14 & 21

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1280 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that 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 on the Western edge of the paved area of Legislative Route 01002, at the Northernmost corner of land now or formerly of James R. Bigham; thence by said land of James R. Bigham and passing through a reference iron pin set back 12.50 feet from the last mentioned point,

South 47 degrees 45 minutes 00 seconds West, 484.00 feet to an iron pin on line of land now or formerly of Donald G. Mason; thence by said land of Donald G. Mason, North 42 degrees 15 minutes 00 seconds West, 180.00 feet to an iron pin; thence by same, North 47 degrees 45 minutes 15 seconds East, 487.26 feet to an iron pin on line of land now or formerly of It's a New Dawn, Inc.; thence by said land of It's a New Dawn, Inc., passing through a 5/8-inch rebar marking the corner of land now or formerly of James W. Bigham, and by said land of James W. Bigham, and reentering the right of way of Legislative Route 01002, South 41 degrees 12 minutes 40 seconds East, 180.00 feet to an iron pin, the place of BEGINNING.

CONTAINING 2.003 acres, more or less. The above description was taken from a draft of survey prepared by Boyer Surveys, dated April 29, 1982, designating the above as Lot No. 1.

TITLE TO SAID PREMISES IS VESTED IN Douglas R. Caskey and Lori A. Caskey, husband and wife by Deed from Paul E. Miller, Jr. and Melva Eileen Miller, husband and wife dated 9/17/1998, recorded 9/17/1998, in Record Book 1663, Page 230.

Tax Parcel: D 15-0022C

745 Camp Gettysburg Road,  
Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Douglas R. Caskey & Lori A. Caskey** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-827 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land, together with the improvements thereon situate, lying and being in the Borough of New Oxford, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a corner on West High Street and lands now or formerly of Joseph Hockensmith; thence along lands now or formerly of the said Joseph Hockensmith in a Northerly direction, two hundred four (204) feet, more or less to a public alley; thence along said public alley in an Easterly direction sixty (60) feet to lands now or formerly of Agnes Breighner; thence along lands now or formerly of the said Agnes Breighner in a Southerly direction one hundred ninety (190) feet, more or less, to West High Street; thence along said West High Street in a Westerly direction sixty (60) feet to the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Steven D. Piper by Deed from Thomas E. Sheely and Doris L. Sheely, Co-Administrators of the Estate of Steven P. Sheely dated 5/18/2001 and recorded 5/21/2001 in Record Book 2289 Page 76.

Tax Parcel: (34) 004-0083

Premises: 318 W. High Street, New Oxford, PA 17350

SEIZED and taken into execution as the property of **Steven D. Piper** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-777 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of the cartway of the Peach Glen-Idaville Road (L.R. 01047), said point, marking the common point of adjoiner of Lots No. 5 and No. 6 on the hereinafter mentioned plan of subdivision with the center of said cartway; thence departing from the centerline of the Peach Glen-Idaville Road, and extending along Lot Nos. 5 and 3 on the hereinafter mentioned plan of subdivision, North 30 degrees 12 minutes 30 seconds East, through a concrete monument set 30 feet from the origin of this call, for a total distance of 450 feet to a concrete monument which marks the common point of adjoiner of Lot Nos. 1, 2, 3 and 6 on the hereinafter mentioned plan of subdivision; thence extending along Lot No. 1, South 59 degrees 47 minutes 30 seconds East, for a distance of 270 feet to a steel pin at Lot No. 8 on the hereinafter mentioned plan of subdivision; thence departing from Lot No. 1, and extending along Lot No. 8, South 30 degrees 12 minutes 30 seconds West, for a distance of 230 feet to a steel pin at Lot No. 7 on the hereinafter mentioned plan of subdivision; thence extending along Lot No. 7, the following two courses and distances: North 59 degrees 47 minutes 30 seconds West, for a distance of 220 feet to a steel pin; thence continuing South 30 degrees 12 minutes 30 seconds West, through a steel pin set back 30 feet from the terminus of this call for a total distance of 220 feet, to a point in the center of the cartway of the Peach Glen-Idaville Road; thence extending in and through the center of the cartway of the Peach Glen-Idaville Road, North 59 degrees 47 minutes 30 seconds West, for a distance of 50 feet to a point in said cartway at Lot No. 5 on the hereinafter mentioned plan of subdivision, said point marking the place of BEGINNING. CONTAINING 1.678 acres and being designated as Lot No. 6 on a final plan of subdivision of Peach Glen Meadows, Phase I, prepared for Kimba, Inc., by Mort, Brown and Associates, dated August 16, 1984, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 40 at page 131.

Being the same which Robert Sroke and Andrea E. Sroke, husband and wife,

by their deed dated February 13, 1990, which deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 546 at page 657, sold and conveyed unto Norman F. Runkles, Sr. and Eleanor J. Runkles, husband and wife; and the said Norman F. Runkles, Sr. having died May 16, 1993, title became vested in Eleanor J. Runkles, the Grantor herein named.

TITLE TO SAID PREMISES IS VESTED IN Ivan Richardson and Rebecca Richardson, husband and wife, as tenants of an estate by the entireties by Deed from Eleanor J. Runkles, widow, dated 7-6-00, recorded 7-6-00 in Deed Book 2083, page 82.

Premises being: 315 Peach Glen-Idaville Road, Gardners, PA 17324

Tax Parcel No. 22-G03-0091

SEIZED and taken into execution as the property of **Ivan Richardson a/k/a Ivan Richardson, Jr. & Rebecca Richardson a/k/a Rebecca M. Richardson** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/7, 14 & 21

DISSOLUTION NOTICE

NOTICE IS HEREBY GIVEN, that the Shareholder and Director of BIGGERSTAFF'S, INC., a Pennsylvania corporation, most recently conducting business at 25 Sandoe Road, Gettysburg, Pennsylvania, has approved a Resolution to voluntarily dissolve the corporation and to withdraw from doing business. This notice of voluntary dissolution is given pursuant to 15 Pa. C.S.A. Section 1971 et. seq.

Robert E. Campbell  
Campbell & White, P.C.  
112 Baltimore Street  
Gettysburg, PA 17325  
Attorney for the Corporation

10/21

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-799 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those (2) lots of land situate, lying and being in the town of Heidlersburg, Tyrone Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

**LOT NO. 1:** BEGINNING at a steel pin set 33 feet North of the center of Heidlersburg Road, Pa. Route 234, at the Southwest corner of land now or formerly of Herbert W. and June E. Denike; thence along the Northern side of said road North 72 degrees 33 minutes 13 seconds West, 65 feet to a steel pin at the Southeast corner of Lot No. 2 herein; thence by Lot No. 2 North 27 degrees 09 minutes 50 seconds East, 220 feet to a point at the Southern edge of a 20 foot alley and land now or formerly of Heidlersburg Cemetery Association; thence along Southern edge of said 20 foot alley South 72 degrees 33 minutes 13 seconds East, 65 feet to a steel pin set; thence by said Denike land and through an existing well with hand pump located 43.6 feet North of the end of this line. South 27 degrees 09 minutes 50 seconds West, 220 feet to a steel pin set at the Northern edge of the Heidlersburg Road, Pa. Route 234, the place of BEGINNING. CONTAINING 0.324 Acres, more or less.

**LOT NO. 2:** BEGINNING at a point at the Southwest corner of Lot No.1 herein on the Northern edge of the Heidlersburg Road, Pa. Route 234; thence along the Northern edge of said road North 72 degrees 33 minutes 13 seconds West, 65 feet to a steel pin set; thence along the Eastern edge of a 20 foot alley and land now or formerly of Heidlersburg Church of the United Brethren in Christ North 27 degrees 09 minutes 50 seconds East, 220 feet to a steel pin set at the Southern edge of a 20 foot alley and land now or formerly of Heidlersburg Cemetery Association; thence along the Southern edge of a 20 foot alley South 72 degrees 33 minutes 13 seconds East, 65 feet to a point at the Northwest corner of Lot No. 1 herein; thence along Lot No. 1 herein South 27 degrees 09 minutes 50 seconds West, 220 feet to a point, the place of BEGINNING. CONTAINING 0.324 Acres.

The above descriptions were taken from a draft of survey dated July 19, 1984, prepared by Boyer Surveys, Richard Boyer, R.S., and identified as property of Harry Little Estate.

BEING the same which Hulse Family Properties, Inc. by its Deed dated September 3, 1993 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Book 777 at page 292 sold and conveyed unto Ronald E. Warren and Charlene K. Warren, husband and wife, the Grantors herein.

TITLE TO SAID PREMISES IS VESTED IN Robert L. Rhodes, a single man by Deed from Ronald E. Warren and Charlene K. Warren, NKA, Teague S. Haven, husband and wife, dated 7-8-97, recorded 7-9-97 in Deed Book 1403, page 286.

Premises being: 2750 Heidlersburg Road, Gettysburg, PA 17325

Tax Parcel No. 40-001-0023

SEIZED and taken into execution as the property of **Robert L. Rhodes** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/14, 21 & 28

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-783 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described tract of land with the improvements thereon erected, situate, lying and being in Mt. Pleasant Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point at Lot No. 3 and lands now or formerly of Classon W. Stoner and Virgie V. Stoner, his wife; thence along said last mentioned lands, North thirty-one (31) degrees fifty (50) minutes fifty (50) seconds West, eighty-nine and sixty-two one-hundredths (89.62) feet to a point; thence North

sixty-seven (67) degrees fifty (50) minutes (erroneously omitted in prior deed) zero (00) seconds East, four hundred twenty (420) feet to a point on the Northern edge of a cul-de-sac; thence through the center of the aforesaid cul-de-sac and the center of a right-of-way, South eleven (11) degrees sixteen (16) minutes twenty-five (25) seconds East, one hundred sixty-three and twenty-eight one-hundredths (erroneously omitted in prior deed) (163.28) feet to a point at Lot No. 3; thence along and with said Lot No. 3, South seventy-eight (78) degrees forty-three (43) minutes thirty-five (35) seconds West, three hundred eighty and ninety-four one-hundredths (380.94) feet to a point and place of BEGINNING, CONTAINING 1.141 acres and being known as Lot No. 4 as per survey of Boyer Surveys, Biglerville, Pennsylvania, bearing date of March 22, 1978, and revised April 4, 1978.

BEING THE SAME PREMISES which Michael H. Thompson and Eileen B. Thompson, husband and wife, by Deed dated 5/25/89 and recorded 5/26/89 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 523 at Page 455, granted and conveyed unto Gary J. Given and Florence L. Given, husband and wife.

Tax Parcel #: 32-C-111-53

SEIZED and taken into execution as the property of **Gary J. Given & Florence L. Given** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 22, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/21, 28 & 11/4

## PUBLIC NOTICE

NOTICE IS GIVEN that the Board of Supervisors of the Township of Mount Joy, Adams County, Pennsylvania, in accordance with provisions of the Local Government Unit Debt Act [53 Pa. C.S. §8001 *et seq.*] (the "Debt Act"), has adopted a Resolution to have a question submitted to the electors at the November 2005 Municipal (General) Election, scheduled for November 8, 2005. The estimated total principal amount would not exceed \$2,000,000.00 and would be used for the Township's Agricultural Land Preservation Program. The wording of the question to be placed on the ballot is as follows:

"Shall debt in a sum not to exceed \$2,000,000.00 for the purpose of financing an agricultural, forest and farmland land preservation program be authorized to be incurred as debt approved by the electors of the Township of Mount Joy?"

STATEMENT  
PURSUANT TO 25 P. S.  
SECTION 2621.1; EXPLANATION  
OF BALLOT QUESTION.

The purpose of the ballot question is to determine whether the electors (voters) of the Township approve of the Township financing, with publicly borrowed funds, the development and continued implementation of its Agricultural Land Preservation Program.

The Agricultural Land Preservation Program was derived from the Township's long-range study and planning for the continued and future development of the Township. It determined the Township's current and future needs; for the preservation of land devoted to agricultural, forest and farming pursuits; for the continued use and growth of such enterprises; and, to retain and maintain the rural nature of the Township. All of the foregoing directly impact the health, safety and welfare of the citizens of the Commonwealth residing or having businesses within the Township; and

The Township, employing a volunteer agricultural land preservation program advisory committee, appointed by the Supervisors has planned, developed, financed and is now implementing its Agricultural Land Preservation Program. The committee recommends sites for preservation to the Supervisors for consideration in the Program. Going forward, the Township will continue, generally, to apply the guidelines for agricultural preservation developed by the County and the Commonwealth, but will no longer require potential applicants to the Agricultural Land Preservation Program to first apply to the County program. Round 1 of the Program funding will be

completely in January 2006; at that time, the Program will have a balance of \$278,900, in order for the Program to continue, the Township must incur new debt.

The debt to be incurred, and the estimated cost of the project, shall not exceed an aggregate principal amount of \$2,000,000.00. The financing would be derived from the proceeds from the issuance of electoral debt pursuant to the Debt Act. The proceeds can be used only for the project, *i.e.* the Program, stated in the resolution and approved on the ballot as a referendum unless a change of purpose referendum is placed on the ballot by the Township and received approval by the electors (voters) of the Township.

The program can be terminated or would be cancelled in the following ways:

On the tenth anniversary of the date of vote certification on which the electors voted in favor of incurring debt, the authority to issue such debt shall terminate.

The Township may by resolution, rescind or cancel, in whole or in part, the authorization to incur electoral debt for any reason as stated in that resolution.

The Township plans for the debt to be amortized with really transfer tax revenues and not with property tax revenues. Nevertheless, the Township will pledge its full faith, credit and taxing power to secure the debt, which means that, if necessary, the Township would be obligated to raise property tax revenues to repay the debt. If the Township was required to repay the debt solely from property tax revenues, the estimated Program cost for a \$100,000.00 home would average, approximately, \$125.00 per year.

10/21

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, Act 1982-295 (54 Pa.C.S. No. 311), that the undersigned entity has filed in the Office of the Secretary of the Commonwealth of Pennsylvania a certificate for the conducting of business in Adams County, Pennsylvania under the assumed or fictitious name, style or designation of GETTYSBURG LANDSCAPING SUPPLY, with its principal place of business at 2065 Chambersburg Road, Gettysburg, Pennsylvania 17325. The name and address of the person owning an interest in said business is Lawrence E. McGlaughlin, 116 Artillery Drive, Gettysburg, Pennsylvania 17325. The character or nature of the business is the growing and sale of nursery stock.

10/21

## PUBLIC NOTICE

The current term of office of United States Magistrate Judge J. Andrew Smyser at Middle District of Pennsylvania is due to expire on June 15, 2006. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of the magistrate judge to a new eight-year term.

The duties of a magistrate judge in this court include the following: (1) To exercise all the powers and duties conferred or imposed upon United States Magistrate Judges by law or the Federal Rules of Criminal Procedure or the Federal Rules of Civil Procedure; (2) To administer oaths and affirmations, impose conditions of release under 18 U.S.C. §3146, and take acknowledgments, affidavits, and depositions; (3) To try persons accused of misdemeanors committed within this district in accordance with 18 U.S.C. §3401, order presentence investigation reports and sentence such persons; (4) To conduct proceedings in accordance with Fed.R.Cr.P. 40; (5) To conduct extradition proceedings, in accordance with 18 U.S.C. §3184; (6) To appoint attorneys under the court's Criminal Justice Act Plan; (7) To review applications by prisoners for post-trial and other relief, make such orders as are necessary to obtain appropriate information which may be of assistance in determining the merits of any complaint, submit reports and recommendations to the district judge having jurisdiction over the case; (8) To act as a special master when designated by the district court; (9) To receive indictments returned by grand juries; (10) To conduct arraignments to the extent of taking a not guilty plea or noting a defendant's intention to plead guilty or nolo contendere; and (11) Conduct trials and the disposition of civil cases on consent of the parties.

Comments from members of the bar and the public are invited as to whether the incumbent magistrate judge should be recommended by the panel for reappointment by the court and should be directed to:

Merit Selection Panel  
c/o Clerk, U.S. District Court  
William J. Nealon Federal Building  
and U.S. Courthouse  
P.O. Box 1148  
Scranton, PA 18501-1148

Comments must be received no later than November 15, 2005.

10/21 &amp; 28



**ESTATE NOTICES**

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

**FIRST PUBLICATION****ESTATE OF MARY L. ADAMS, DEC'D**

Late of Latimore Township, Adams County, Pennsylvania

Executrix: Sherry A. Miller, 2085 Old Harrisburg Rd., Gettysburg, PA 17325

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

**ESTATE OF HETTIE R. DELP, DEC'D**

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executors: Kay D. Guise, 819 Yellow Hill Rd., Biglerville, PA 17307; Carol Ann Miller, P.O. Box 36, Idaville, PA 17337; Jane D. Delp, now Johnston, 23 Halleck Dr., East Berlin, PA 17316

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

**ESTATE OF KATHRYN H. DIETZEL, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Executor: Richard C. Dietzel, 564 Quaker Church Road, York Springs, PA 17372

Attorney: Mark E. Halbruner, Esq., Gates, Halbruner & Hatch, P.C., 1013 Mumma Road, Suite 100, Lemoyne, PA 17043

**ESTATE OF WILLIAM M. HANEY, SR., DEC'D**

Late of Highland Township, Adams County, Pennsylvania

Executrix: Brenda Cassatt, c/o Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

Attorney: Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

**ESTATE OF ANNA MOHAN a/k/a ANNA G. MOHAN, DEC'D**

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Anne Catherine Mohan, 5947 Houghton Street, Philadelphia, PA 19128

Attorney: Paul J. Datto, Esq., Cerullo, Datto & Walbillich, P.C., 450 West Market Street, P.O. Box 450, Pottsville, PA 17901

**ESTATE OF KERRY L. SCHNEIDER, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Tyree G. Berlin, 60 Shivers Corner Rd., Gettysburg, PA 17325

**ESTATE OF HENRI M. VANDENBONGAARD, DEC'D**

Late of Reading Township, Adams County, Pennsylvania

Executor: Roland Hoet, 1829 Arnold Road, York, PA 17404

Attorney: D. Michael Craley, 246 West Broadway, Lower Level, Red Lion, PA 17356

**SECOND PUBLICATION****ESTATE OF STEPHEN S. BRIGGS, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Susan Smith, c/o Eric R. Dutcher, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

Attorney: Eric R. Dutcher, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

**ESTATE OF TERRY LITTLE, DEC'D**

Late of Butler Township, Adams County, Pennsylvania

Administrators: Tron S. Hodges, 111 Edwards Street, Hanover, PA 17331; Leon C. Lemaster, 564 Broadway, Apt. #3, Hanover, PA 17331

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

**THIRD PUBLICATION****ESTATE OF EVA K. ENGLE, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Richard K. Engle and Daniel R. Engle, 437 Clearview Road, Hanover, PA 17331

**ESTATE OF ALTA M. LEPPPO, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Sandra Lee Leppo, 7996 Clipper Court, Frederick, MD 21701

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

**ESTATE OF IVAN DANNEVANG THRANE, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Kai Christian Ludwig Thrane, 551 Stonegate Lane, Crozet, VA 22932

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

**ESTATE OF PAUL H. WARRENFELTZ, DEC'D**

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Administratrix: Patricia H. Warrenfeltz, 846 Plunkert Rd., Littlestown, PA 17340

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-928 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in the Borough of Abbottstown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a R.R. Spike in or near the center line of Sutton Road at corner of Lot No. 3 on the hereinafter referred to Final Plan; thence in or near said centerline South 69 degrees 22 minutes 15 seconds West 39.90 feet to a R.R. Spike in or near said centerline; thence continuing in same South 64 degrees 23 minutes 00 seconds West 103.18 feet to a R.R. Spike at corner of Lot No. 1 on the hereinafter referred to Final plan; thence by Lot No. 1 and running through an iron pin back 25.12 feet from the beginning of this course North 20 degrees 05 minutes 15 seconds West, 684.19 feet to an iron pin at land now or formerly of David A. Holtzinger; thence by said Holtzinger land and by land now or formerly of Abbottstown Industries, Inc. North 82 degrees 14 minutes 14 seconds East, 233.84 feet to an iron pin at corner of Lot No. 3 on the hereinafter referred to Final plan; thence by Lot No. 3 and running through an iron pin back 25.27 feet from the terminus of this course South 12 degrees 15 minutes 10 seconds East, 629.83 feet to a R.R. Spike in or near the centerline of Sutton Road, the point and place of BEGINNING. CONTAINING 2.803 Acres, more or less.

The above description was taken from Final Plan, Gerald L. Hoffheins as prepared by George M. Wildasin, PLS, dated September 8, 1992, Revised October 29, 1992, bearing Field Book 35-58 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 61 at page 98, and being Lot No. 2 thereon.

BEING the same tract of land which Gerald L. Hoffheins and Dorothy E. Hoffheins, husband and wife, by their Deed dated December 1, 1992, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 662, page 315, granted and conveyed unto Wayne A. Gebhart and Tammy L. Gebhart, husband and wife, MORTGAGORS HEREIN.

SUBJECT, NEVERTHELESS, to a drainage easement as more fully set forth in Deed Book 311 at page 1012; and to drainage easements set forth on above mentioned Final Plan.

TOGETHER WITH a twenty (20) feet Septic Right-of-Way across lands now or formerly of Abbottstown Industries, Inc. as more particularly described in Right-of-Way Agreement dated July 12, 1993, and recorded in Book 1031, page 92.

EXCEPTING THEREOUT AND THEREFROM:

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

BEGINNING at a point at the corner of lands now or formerly of David A. Holtzinger and Lot No. 2, more particularly shown on the hereinafter referred to subdivision plan; thence continuing along lands now or formerly of David A. Holtzinger, North 20 degrees 05 minutes 15 seconds West, 299.07 feet to a point at an abandoned E. Berlin Railroad; thence continuing along said abandoned E. Berlin railroad, North 82 degrees 14 minutes 14 seconds East, 233.84 feet to an existing iron pin at other lands of the Grantees herein; thence continuing along said lands of the Grantees herein, South 12 degrees 15 minutes 10 seconds East, 244.57 feet to a point at Lot No. 2, more particularly described on the hereinafter referred to subdivision plan; thence continuing along Lot No. 2, South 67 degrees 53 minutes 42 seconds West, 195.24 feet to the point and place of BEGINNING. CONTAINING 1.3243 acres and known as Lot No. 2-A on the subdivision plan recorded in the Adams County Recorder of Deeds Office in Plat Book 77, page 69.

Lot No. 2-A is to become an integral, inseparable part of lands previously conveyed to Michael E. Miller and Lynne L. Miller and recorded in the Recorder of Deeds Office of Adams County in Record Book 1362, page 61.

IT BEING a part of a larger tract of land which Gerald L. Hoffheins and Dorothy E. Hoffheins, husband and wife, by deed dated December 1, 1992 and recorded in the Recorder of Deeds Office of Adams County, Pennsylvania, in Record Book 662, page 315, granted and conveyed unto Michael E. Miller and Lynne L. Miller, husband and wife, Grantors herein.

TAX PARCEL #: 1-5-20

SEIZED and taken into execution as the property of **Wayne A. Gebhart & Tammy L. Gebhart** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 22, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days

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

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

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

10/21, 28 & 11/4

NONPROFIT ARTICLES OF INCORPORATION

NOTICE IS HEREBY GIVEN that Nonprofit Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on October 14, 2005, for the purpose of obtaining a Certificate of Incorporation under the provisions of the Nonprofit Corporation Law of 1988. The name of the proposed nonprofit corporation is GARRISON FALLS HOMEOWNERS ASSOCIATION.

The purpose for which it will be organized is to be a unit owners association which provides for the management, maintenance and care of the residential community project located in Mount Joy Township, Adams County, Pennsylvania, known as Garrison Falls At The Links At Gettysburg, A Planned Community.

McNees Wallace & Nurick LLC  
100 Pine Street  
Harrisburg, PA 17101

10/21

NOTICE

The Adams County Tax Claim Bureau hereby gives notice that it presented a Consolidated Return of Sales to the Court of Common Pleas of Adams County, Pennsylvania on October 6, 2005, of sales of real estate for delinquent taxes made September 16, 2005. The Court confirmed said Return Nisi on October 6, 2005. Objections or exceptions thereto may be filed by any owner or lien creditor within Thirty (30) days from the date of the Return; otherwise the Return will be confirmed absolutely.

Adams County Tax Claim Bureau  
By: Danielle Asper, Director

10/21

# *Adams County* Legal Journal

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October 28, 2005

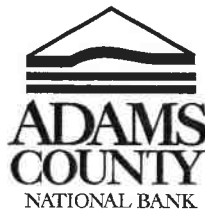
No. 23, pp. 130-132

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KEATING VS. OXFORD TWP.

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



Member FDIC

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-856 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those four tracts of land situated, lying, and being in Liberty Township, Adams County, Pennsylvania, being Lot Nos. 13, 14, 15, and 16, of "Stone Manor Farm", more particularly bounded and described as follows:

**TRACT NO. 1:** BEGINNING at a railroad spike in Topper Road (T-312) at land now or formerly of Charles T. and Anna H. Kemper; thence by said land, North 88 degrees 13 minutes 42 seconds East, 1,207.57 feet to an iron pin at land now or formerly of Carl R. Sturges, Thomas A. Bradford, Jr. and Walter B. Ward, Jr.; thence by said land, South 4 degrees 33 minutes 31 seconds West, 374.24 feet to an iron pin at Lot No. 15; thence by said lot, South 88 degrees 13 minutes 42 seconds West, 793.41 feet to an iron pin at Lot No. 14; thence by said lot, North 4 degrees 55 minutes 5 seconds East, 130 feet to an iron pin; thence continuing by said lot, South 88 degrees 13 minutes 42 seconds West, 400 feet to a railroad spike in said Topper Road (T-312); thence in said Topper Road (T-312), North 5 degrees 30 minutes East, 175 feet to a railroad spike; thence continuing in said Topper Road (T-312), North 10 degrees 8 minutes 40 seconds West, 70 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION of Tract No. 1 was taken from a draft of survey dated October 10, 1980, prepared by Boyer Surveys, recorded in Plat Book 35 at Page 7, designating the above as Lot No. 13.

SUBJECT TO the restrictions contained in Record Book 444 at Page 769.

**TRACT NO. 2:** BEGINNING at a railroad spike in Topper Road (T-312) at Lot No. 13; thence by said lot, North 88 degrees 13 minutes 42 seconds East, 400 feet to an iron pin; thence continuing by said lot and by Lot No. 15, South 4

degrees 55 minutes 5 seconds West, 244.98 feet to an iron pin; thence continuing by Lot No. 15, South 88 degrees 13 minutes 42 seconds West, 400 feet to a railroad spike in said Topper Road (T-312); thence in said Topper Road (T-312), North 4 degrees 3 minutes 5 seconds East, 98.44 feet to railroad spike; thence continuing in said Topper Road (T-312), North 5 degrees 30 minutes East, 146.56 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION of Tract No. 2 was taken from a draft of survey dated October 10, 1980, prepared by Boyer Surveys, recorded in Plat Book 35 at Page 7, designating the above as Lot No. 14.

SUBJECT TO the restrictions contained in Record Book 365 at Page 539.

**TRACT NO. 3:** BEGINNING at a railroad spike in Topper Road (T-312) at Lot No. 14; thence by said lot, North 88 degrees 13 minutes 42 seconds East, 400 feet to an iron pin; thence continuing by said lot, North 4 degrees 55 minutes 5 seconds East, 114.98 feet to an iron pin at Lot No. 13; thence by said lot, North 88 degrees 13 minutes 42 seconds East, 793.41 feet to an iron pin at land now or formerly of Carl R. Sturges, Thomas A. Bradford, Jr. and Walter B. Ward, Jr.; thence by said land, South 4 degrees 33 minutes 31 seconds West, 510.39 feet to an iron pin at Lot No. 16; thence by said lot, North 87 degrees 48 minutes 12 seconds West, 1,172.40 feet to a railroad spike in said Topper Road (T-312); thence in said Topper Road (T-312); North 10 degrees 38 minutes 33 seconds West, 50 feet to a railroad spike; thence continuing in said Topper Road (T-312), North 4 degrees 3 minutes 5 seconds East, 263.90 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION of Tract No. 3 was taken from a draft of survey dated October 10, 1980, prepared by Boyer Surveys, recorded in Plat Book 35 at Page 7, designating the above as Lot No. 15.

**TRACT NO. 4:** BEGINNING at a railroad spike in Topper Road (T-312) at Lot No. 15; thence by said lot, South 87 degrees 48 minutes 12 seconds East, 1,172.40 feet to an iron pin at land now or formerly of Carl R. Sturges, Thomas

A. Bradford, Jr. and Walter B. Ward, Jr.; thence by said land, South 4 degrees 33 minutes 31 seconds West, 347 feet to an iron pin at Lot No. 17; thence by said lot, South 87 degrees 37 minutes 57 seconds West, 1,063.17 feet to a railroad spike in said Topper Road (T-312); thence in said Topper Road (T-312), North 10 degrees 38 minutes 33 seconds West, 442.37 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION of Tract No. 4 was taken from a draft of survey dated October 10, 1980, prepared by Boyer Surveys, recorded in Plat Book 35 at Page 7, designating the above as Lot No. 16.

Tract Nos. 3 and 4, are SUBJECT TO the restrictions contained in Record Book 359 at Page 1096.

SEIZED and taken into execution as the property of Wyndemair On Lake Myton, Inc. and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/14, 21 & 28

## KEATING VS. OXFORD TWP.

1. It is well established that a township cannot enact an ordinance that declares an activity a nuisance per se. Rather, a township may declare that certain activities are nuisances only when the actual condition of a property is of such a nature as to create a nuisance in fact.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 04-S-985, MICHAEL KEATING AND WANDA KEATING VS. OXFORD TOWNSHIP BOARD OF SUPERVISORS.

John James Mooney III, Esq., for Plaintiffs

Stacey R. MacNeal, Esq., for Defendant

Bigham, J., April 15, 2005

### OPINION

#### STATEMENT OF FACTS

In July and August of 2003, Michael and Wanda Keating (hereinafter referred to as “Keatings”), received Notices of Violation from Oxford Township (hereinafter referred to as “the Township”), alleging that they were in violation of Chapter 10, Parts 1, 4, and 6 of the Oxford Township Code of Ordinances. The Township argued that the Keatings had allowed items to accumulate in an unsafe manner on their property. The Township’s position was that the accumulated property constituted a nuisance and posed a threat to the health, safety or welfare of the public and therefore such property should be stored either in trailers or behind a fence.

The Keatings appealed the Notice of Violation and requested a hearing before the Supervisors of the Township. A hearing was held on July 20, 2004, at which Michael Keating testified to the storing of numerous workable, useable items on his property, including farm equipment. He further testified that the equipment consisted of antiques for sale and were stored on his property to attract would-be buyers. The Township’s Code Enforcement officer also testified and presented pictures of the Keatings’ property. The Enforcement Officer’s position was that the manner in which the items were stored was conducive to the harborage of vermin, and was a safety concern, due to the possibility that the items would fall, tilt or shift.

On August 10, 2004 after viewing the Keatings’ property, the Supervisors voted to deny the Keatings’ appeal from the Township’s

Notice of Violation. The Keatings then filed the present appeal to this Court.

At the request of the parties, this Court conducted a view of the premises on March 22, 2005 and held Oral Argument on March 31, 2005.

### LEGAL DISCUSSION

It is well established that a township can not enact an ordinance that declares an activity a nuisance per se. Rather, a township may declare that certain activities are nuisances only when the actual condition of a property is of such a nature as to create a nuisance in fact. *Commonwealth v. Biber*, 25 Pa.D&C.3d 9, 11 (C.P. Allegheny County 1981) (citing *Commonwealth v. Hanzlik*, 161 A.2d 340 (1960)). The question presented in the instant case is whether or not the activity, storing antiques/property, constitutes a nuisance in fact. The Keatings argue that there was no evidence presented by the Township that proves a nuisance is present on their property. Alternatively, the Township argues that the storage of unused machinery and equipment constitutes a nuisance because the condition of the property is conducive to harboring and breeding of vermin, and the unused machinery and equipment contains broken glass or metal parts with sharp or protruding edges. The Township's main concern is that the Keatings' property is a nuisance due to the accumulation of dangerous/unsafe property in close proximity to the public right of way.

The Keatings' property is a substantial corner lot fronted on two sides by rights of way. The front of the property is aesthetically pleasing with several antique farm implements repaired, painted and placed on display in a very appealing manner. The other side of the property stands in marked contrast. There are numerous items stored in this section of the property, including but not limited to: plows, barrels, mowing blades, and metal milk cans. The items in this area are not displayed in a manner similar to the front yard. Instead they are piled next to and on top of each other in a haphazard manner within close proximity to the right of way. It is not only the manner in which the items are stored but it is also the nature of the items that pose a safety concern. Many of these items pose a serious safety risk due to the presence of rusted sharp metal edges and parts. For

example, a rusted, metal mowing blade in excess of 6 feet leans against the corner of a building on the east side of the property. Nothing stands between the 6 foot blade and the public traversing the right of way. There are also heavy rusted, metal plows and pumps that are haphazardly piled together.

The Court does not dispute the fact that the items on the side of the property are in fact antiques placed there by the Keatings in order to facilitate their sale. For instance, the wooden barrels are rather attractive and might catch the attention of would-be shoppers. Likewise the milk cans, although metal and rusted are rounded and do not pose the same safety concerns. The dangerous metal and rusted items need to be either stored in a building or trailer or secured behind a fence. This is not an unreasonable request. It is a simple requirement that would not place an undue burden on the Keatings. The front yard display and the presence on the property of open ended trailers filled with items show that the Keatings have the knowledge and the ability to display the items in a more appropriate fashion. This requirement will not adversely impact the Keatings' business; in fact it should be a benefit. The orderly and safe display of the antiques can only act to attract and encourage shoppers to stop and view the items. Therefore, the decision of the Oxford Township Board of Supervisors will be affirmed.

#### ORDER OF COURT

AND NOW, this 15th day of April, 2005, the Oxford Township Board of Supervisor's decision is affirmed.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-799 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of November, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those (2) lots of land situate, lying and being in the town of Heidlersburg, Tyrone Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

**LOT NO. 1:** BEGINNING at a steel pin set 33 feet North of the center of Heidlersburg Road, Pa. Route 234, at the Southwest corner of land now or formerly of Herbert W. and June E. Denike, thence along the Northern side of said road North 72 degrees 33 minutes 13 seconds West, 65 feet to a steel pin at the Southeast corner of Lot No. 2 herein; thence by Lot No. 2 North 27 degrees 09 minutes 50 seconds East, 220 feet to a point at the Southern edge of a 20 foot alley and land now or formerly of Heidlersburg Cemetery Association; thence along Southern edge of said 20 foot alley South 72 degrees 33 minutes 13 seconds East, 65 feet to a steel pin set; thence by said Denike land and through an existing well with hand pump located 43.6 feet North of the end of this line, South 27 degrees 09 minutes 50 seconds West, 220 feet to a steel pin set at the Northern edge of the Heidlersburg Road, Pa. Route 234, the place of BEGINNING. CONTAINING 0.324 Acres, more or less.

**LOT NO. 2:** BEGINNING at a point at the Southwest corner of Lot No. 1 herein on the Northern edge of the Heidlersburg Road, Pa. Route 234; thence along the Northern edge of said road North 72 degrees 33 minutes 13 seconds West, 65 feet to a steel pin set; thence along the Eastern edge of a 20 foot alley and land now or formerly of Heidlersburg Church of the United Brethren in Christ North 27 degrees 09 minutes 50 seconds East, 220 feet to a steel pin set at the Southern edge of a 20 foot alley and land now or formerly of Heidlersburg Cemetery Association; thence along the Southern edge of a 20 foot alley South 72 degrees 33 minutes 13 seconds East, 65 feet to a point at the Northwest corner of Lot No. 1 herein; thence along Lot No. 1 herein South 27 degrees 09 minutes 50 seconds West, 220 feet to a point, the place of BEGINNING. CONTAINING 0.324 Acres.

The above descriptions were taken from a draft of survey dated July 19, 1984, prepared by Boyer Surveys, Richard Boyer, R.S., and identified as property of Harry Little Estate.

BEING the same which Hulse Family Properties, Inc. by its Deed dated September 3, 1993 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Book 777 at page 292 sold and conveyed unto Ronald E. Warren and Charlene K. Warren, husband and wife, the Grantors herein.

TITLE TO SAID PREMISES IS VESTED IN Robert L. Rhodes, a single man by Deed from Ronald E. Warren and Charlene K. Warren, NKA, Teague S. Haven, husband and wife, dated 7-8-97, recorded 7-9-97 in Deed Book 1403, page 286.

Premises being: 2750 Heidlersburg Road, Gettysburg, PA 17325

Tax Parcel No. 40-001-0023

SEIZED and taken into execution as the property of **Robert L. Rhodes** and to be sold by me.

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

**TO ALL PARTIES IN INTEREST AND CLAIMANTS:** You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 12, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/14, 21 & 28

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-783 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described tract of land with the improvements thereon erected, situate, lying and being in Mt. Pleasant Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point at Lot No. 3 and lands now or formerly of Classon W. Stoner and Virgie V. Stoner, his wife; thence along said last mentioned lands, North thirty-one (31) degrees fifty (50) minutes fifty (50) seconds West, eighty-nine and sixty-two one-hundredths (89.62) feet to a point; thence North

sixty-seven (67) degrees fifty (50) minutes (erroneously omitted in prior deed) zero (00) seconds East, four hundred twenty (420) feet to a point on the Northern edge of a cul-de-sac; thence through the center of the aforesaid cul-de-sac and the center of a right-of-way, South eleven (11) degrees sixteen (16) minutes twenty-five (25) seconds East, one hundred sixty-three and twenty-eight one-hundredths (erroneously omitted in prior deed) (163.28) feet to a point at Lot No. 3; thence along and with said Lot No. 3, South seventy-eight (78) degrees forty-three (43) minutes thirty-five (35) seconds West, three hundred eighty and ninety-four one-hundredths (380.94) feet to a point and place of BEGINNING. CONTAINING 1.141 acres and being known as Lot No. 4 as per survey of Boyer Surveys, Biglerville, Pennsylvania, bearing date of March 22, 1978, and revised April 4, 1978.

BEING THE SAME PREMISES which Michael H. Thompson and Eileen B. Thompson, husband and wife, by Deed dated 5/25/89 and recorded 5/26/89 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 523 at Page 455, granted and conveyed unto Gary J. Given and Florence L. Given, husband and wife.

Tax Parcel #: 32-C-111-53

SEIZED and taken into execution as the property of **Gary J. Given & Florence L. Given** and to be sold by me.

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

**TO ALL PARTIES IN INTEREST AND CLAIMANTS:** You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 22, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/21, 28 & 11/4



IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

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

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

vs.

D. R. McCLEAF, and his/her estate, personal  
representative, heirs and descend-  
ants

AND

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

AND

JOHN DOE  
Defendants.

ORDER

AND NOW, this 17th day of October,  
2005, an Affidavit of Service of the  
Complaint by Publication together with a  
Notice to Plead having been filed and no  
Answer having been made by the  
Defendants, upon consideration of the  
Motion of the Plaintiff pursuant to Pa.  
R.C.P. 1066(a), it is hereby Ordered that  
judgment shall be entered against the  
Defendants unless the Defendants file  
an Answer to the Plaintiff's Complaint  
within thirty (30) days of the date of this  
Order. If the Defendants fail to file an  
Answer within thirty (30) days of the date  
of this Order, the Prothonotary shall,  
upon Praecepte, enter final judgment in  
the Plaintiff's favor directing that:

The Defendants, and any person or  
persons claiming under the Defendants,  
are permanently enjoined, restrained  
and forever barred from asserting any  
right, lien, title or interest in and to the fol-  
lowing real property or any part thereof:  
All that certain lot or piece of ground sit-  
uate in Hamiltonban Township, County of  
Adams, Commonwealth of Pennsylvania,  
more particularly bounded and described  
as follows:

BEGINNING at a pipe at stones at  
lands now or formerly of Edward Dick  
and John Warrenfeltz; thence along  
lands of Warrenfeltz South 30 degrees  
East 742.5 feet to a pipe at lands now  
or formerly of C. A. Wills and Myrtle  
Carson; thence along lands of Carson  
South 74 degrees West 174.9 feet to a  
pipe at stones at lands now or formerly  
of Nelda A. Herring; thence along lands  
of Herring North 30 degrees West  
656.70 feet to a pipe at stones at lands  
now or formerly of Edward Dick; thence  
along lands of Dick North 44 degrees  
East 165.00 feet to a pipe at stones at  
lands now or formerly of John  
Warrenfeltz, the place of BEGINNING.

SAID legal description taken from a  
description by Adams County  
Surveyors contained in Record Book  
3884 at Page 170.

BEING the same as lands described in  
the deed to the Defendants recorded at  
Record Book 327 at Page 915 as  
follows:

BEGINNING at a pile of stones or line  
of land of Jas. G. Irvin, to a corner of  
Lot No. 3 of same tract and running  
thence with Irvins land South 74  
degrees West 10.6 perches to stones.  
Thence with land formerly of J. W.  
Diehl, part of same lot. North 29  
degrees West 39.8 perches to stones.  
Thence by land formerly of Hon. L.  
Stevens, North 44 degrees-East 10  
perches to a pile of stones. Thence by  
Lot No. 3, Now \_\_\_\_\_  
Shoemaker South 30 degrees. East  
45 perches to the place of BEGIN-  
NING. CONTAINING 2 acres and 98  
square perches of land. It being a part  
of Lot No. 2 of a larger tract sold and  
conveyed by the Execr. of Hon. L.  
Stevens deed to John B. Paxton and  
the same which the said John B.  
Paxton and wife sold to the said David  
Shriver and conveyed to him by deed  
dated July 1, 1882 and of which the  
said David Shriver died seized in his  
demise as of fee of \_\_\_\_\_ inter  
alia and intestate.

The Court notes that original process  
was served by publication. The Plaintiff  
shall, therefore, serve the Defendant with  
a copy of this Order pursuant to Pa. R.C.P.  
440(a)(2) and proof thereof shall immedi-  
ately be filed with the Prothonotary.

By the Court:  
Michael A. George  
Judge

10/28

INCORPORATION NOTICE

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

The name of the corporation is DEN-  
ERO CITTA LOCANDA, INC.

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

10/28

PUBLIC NOTICE

The current term of office of United  
States Magistrate Judge J. Andrew  
Smysner at Middle District of  
Pennsylvania is due to expire on June  
15, 2006. The United States District  
Court is required by law to establish a  
panel of citizens to consider the reap-  
pointment of the magistrate judge to a  
new eight-year term.

The duties of a magistrate judge in this  
court include the following: (1) To exer-  
cise all the powers and duties conferred  
or imposed upon United States  
Magistrate Judges by law or the Federal  
Rules of Criminal Procedure or the  
Federal Rules of Civil Procedure; (2) To  
administer oaths and affirmations,  
impose conditions of release under 18  
U.S.C. §3146, and take acknowledg-  
ments, affidavits, and depositions; (3) To  
try persons accused of misdemeanors  
committed within this district in accor-  
dance with 18 U.S.C. §3401, order pre-  
sentence investigation reports and sen-  
tence such persons; (4) To conduct pro-  
ceedings in accordance with Fed.R.Cr.P.  
40; (5) To conduct extradition proceed-  
ings, in accordance with 18 U.S.C.  
§3184; (6) To appoint attorneys under  
the court's Criminal Justice Act Plan; (7)  
To review applications by prisoners for  
post-trial and other relief, make such  
orders as are necessary to obtain appro-  
priate information which may be of as-  
sistance in determining the merits of any  
complaint, submit reports and recom-  
mendations to the district judge having  
jurisdiction over the case; (8) To act as a  
special master when designated by the  
district court; (9) To receive indictments  
returned by grand juries; (10) To conduct  
arraignments to the extent of taking a not  
guilty plea or noting a defendant's inten-  
tion to plead guilty or nolo contendere;  
and (11) Conduct trials and the disposi-  
tion of civil cases on consent of the par-  
ties.

Comments from members of the bar  
and the public are invited as to whether  
the incumbent magistrate judge should  
be recommended by the panel for reap-  
pointment by the court and should be  
directed to:

Merit Selection Panel  
c/o Clerk, U.S. District Court  
William J. Nealon Federal Building  
and U.S. Courthouse  
P.O. Box 1148  
Scranton, PA 18501-1148

Comments must be received no later  
than November 15, 2005.

10/21 & 28

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-928 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in the Borough of Abbottstown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a R.R. Spike in or near the center line of Sutton Road at corner of Lot No. 3 on the hereinafter referred to Final Plan; thence in or near said centerline South 69 degrees 22 minutes 15 seconds West 39.90 feet to a R.R. Spike in or near said centerline; thence continuing in same South 64 degrees 23 minutes 00 seconds West 103.18 feet to a R.R. Spike at corner of Lot No. 1 on the hereinafter referred to Final plan; thence by Lot No. 1 and running through an iron pin back 25.12 feet from the beginning of this course North 20 degrees 05 minutes 15 seconds West, 684.19 feet to an iron pin at land now or formerly of David A. Holtzinger; thence by said Holtzinger land and by land now or formerly of Abbottstown Industries, Inc. North 82 degrees 14 minutes 14 seconds East, 233.84 feet to an iron pin at corner of Lot No. 3 on the hereinafter referred to Final plan; thence by Lot No. 3 and running through an iron pin back 25.27 feet from the terminus of this course South 12 degrees 15 minutes 10 seconds East, 629.83 feet to a R.R. Spike in or near the centerline of Sutton Road, the point and place of BEGINNING. CONTAINING 2.803 Acres, more or less.

The above description was taken from Final Plan, Gerald L. Hoffheins as prepared by George M. Wildasin, PLS, dated September 8, 1992, Revised October 29, 1992, bearing Field Book 35-58 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 61 at page 98, and being Lot No. 2 thereon.

BEING the same tract of land which Gerald L. Hoffheins and Dorothy E. Hoffheins, husband and wife, by their Deed dated December 1, 1992, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 662, page 315, granted and conveyed unto Wayne A. Gebhart and Tammy L. Gebhart, husband and wife, MORTGAGORS HEREIN.

SUBJECT, NEVERTHELESS, to a drainage easement as more fully set forth in Deed Book 311 at page 1012; and to drainage easements set forth on above mentioned Final Plan.

TOGETHER WITH a twenty (20) feet Septic Right-of-Way across lands now or formerly of Abbottstown Industries, Inc. as more particularly described in Right-of-Way Agreement dated July 12, 1993, and recorded in Book 1031, page 92.

## EXCEPTING THEREOUT AND THEREFROM:

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

BEGINNING at a point at the corner of lands now or formerly of David A. Holtzinger and Lot No. 2, more particularly shown on the hereinafter referred to subdivision plan; thence continuing along lands now or formerly of David A. Holtzinger, North 20 degrees 05 minutes 15 seconds West, 299.07 feet to a point at an abandoned E. Berlin Railroad; thence continuing along said abandoned E. Berlin railroad, North 82 degrees 14 minutes 14 seconds East, 233.84 feet to an existing iron pin at other lands of the Grantees herein; thence continuing along said lands of the Grantees herein, South 12 degrees 15 minutes 10 seconds East, 244.57 feet to a point at Lot No. 2, more particularly described on the hereinafter referred to subdivision plan; thence continuing along Lot No. 2, South 67 degrees 53 minutes 2 seconds West, 195.24 feet to the point and place of BEGINNING. CONTAINING 1.3243 acres and known as Lot No. 2-A on the subdivision plan recorded in the Adams County Recorder of Deeds Office in Plat Book 77, page 69.

Lot No. 2-A is to become an integral, inseparable part of lands previously conveyed to Michael E. Miller and Lynne L. Miller and recorded in the Recorder of Deeds Office of Adams County in Record Book 1362, page 61.

IT BEING a part of a larger tract of land which Gerald L. Hoffheins and Dorothy E. Hoffheins, husband and wife, by deed dated December 1, 1992 and recorded in the Recorder of Deeds Office of Adams County, Pennsylvania, in Record Book 662, page 315, granted and conveyed unto Michael E. Miller and Lynne L. Miller, husband and wife, Grantors herein.

## TAX PARCEL #: 1-5-20

SEIZED and taken into execution as the property of **Wayne A. Gebhart & Tammy L. Gebhart** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 22, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days

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

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

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

10/21, 28 & 11/4

## NOTICE

NOTICE IS HEREBY GIVEN that Articles of Amendment were filed on behalf of CHILD EVANGELISM FELLOWSHIP OF ADAMS COUNTY, with the Department of State, Commonwealth of Pennsylvania, in compliance with Section 806 of the Business Corporation Law, Act of May 5, 1933 (P.L. 364)(15 P.S. §1806) on March 26, 1997, for the purpose for which it has been organized is to provide and all matters related thereto.

Bruce A. Hoover  
Executive Director

10/28

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-518 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 29 on a plan of lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County in Misc. Deed Book 1, Page 1, and subject to all legal highways, easements, rights-of-way and restrictions of record.

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

UNDER AND SUBJECT, nevertheless, to certain covenants, conditions, restrictions, easements and other provisions as set forth in the aforesaid deed recorded in Deed Book 267, Page 1071, Adams County Records.

Being known as: 4 Hooker Cove, East Berlin, PA 17316

Property ID No.: 8-16

TITLE TO SAID PREMISES IS VESTED IN Barry E. Miller and Donna J. Miller, his wife by deed from Clyde C. Bachert, Jr., single person dated 8/4/00 recorded 8/28/00 in Deed Book 2115 Page 29.

SEIZED and taken into execution as the property of **Barry E. Miller & Donna J. Miller** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 22, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost,

whichever may be the higher, shall be paid forthwith to the Sheriff.

10/28, 11/4 & 11/10

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-378 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following three (3) tracts of land situate in Berwick Township, Adams County, Pennsylvania, more particularly described as follows, to-wit:

Tract No. 1:

ALL that piece, parcel or tract of land situate and being in Berwick Township, Adams County, Pennsylvania, more particularly described as follows, to-wit:

BEGINNING at a stone in a line with lands now or formerly of Jonas Flickinger, South thirty-five and one-half (35-1/2) degrees East, fourteen and eight tenths (14.8) perches to a stone and lands now or formerly of Charles Haugh; thence North fifty-four and one-half (54-1/2) degrees East, seventy and four tenths (70.4) perches to a stone and lands now or formerly of Lindezs Sturgeon; thence North fourteen (14) degrees West, sixteen and two tenths (16.2) perches to a stone and lands now or formerly of Rebecca Oaster; thence South along aforesaid lands now or formerly of Rebecca Oaster and lands now or formerly of John Kellenberger, South fifty-four and one-half (54-1/2) degrees West, seventy-six and one tenth (76.1) perches to the place of BEGINNING. CONTAINING six (6) acres and one hundred twenty-three (123) perches, more or less.

BEING the same tract of land which Fred H. Fissel and Donna D. Fissel, his wife, by their Deed dated November 5, 1993 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 0808, at page 0228, sold and conveyed unto David W. Schmidt and Sandra F. Schmidt, his wife.

Tract No. 2:

ALL that tract of land situate, lying and being in Berwick Township, Adams County, Pennsylvania, hereinafter more particularly bounded and described as follows, to-wit:

BEGINNING for a point in the center line of the Carlisle Pike (PA 94), at lands now or formerly of Wildasin Used Cars; thence continuing along and with the center line of the Carlisle Pike (PA 94),

North twenty-four (24) degrees thirty (30) minutes zero (00) seconds West, two hundred eighty-three and ninety-eight hundredths (283.98) feet to a point in the center line of the Carlisle Pike (PA 94) aforesaid; thence leaving said Carlisle Pike (PA 94), and along lands now or formerly of David Schmidt, and passing through an existing reference steel rod set back twenty-five and forty-five hundredths (25.45) feet from the beginning of this course, North sixty-five (65) degrees fifty-two (52) minutes zero (00) seconds East, two hundred twenty-seven and fifty-five hundredths (227.55) feet to an existing steel rod reset; thence continuing along lands of the same, North twenty-four (24) degrees zero (00) minutes forty (40) seconds West, one hundred eighty-six and sixty-seven hundredths (186.67) feet to an existing steel rod at stone at lands now or formerly of Evelyn Altland; thence continuing along lands now or formerly of Evelyn Altland, North twenty-seven (27) degrees eighteen (18) minutes fifteen (15) seconds West, ninety-six and eleven hundredths (96.11) feet to an existing pipe reset at lands now or formerly of John Hippensteel and lands now or formerly of Maurice Myers; thence continuing along lands of the same, North sixty-six (66) degrees twenty-three (23) minutes fifty (50) seconds East, two hundred forty-four and zero hundredths (244.00) feet to an aluminum post set at a thirty (30) foot oak stump; thence continuing along lands of the same, North sixty-five (65) degrees fifty-two (52) minutes fifteen (15) seconds East, three hundred forty and twenty-six hundredths (340.26) feet to an angle iron set at existing post and stones; thence continuing along lands of the same and lands now or formerly of Ingrid Luckenbaugh, and lands now or formerly of Fred Fissel, South thirty-six (36) degrees zero (00) minutes twenty-five (25) seconds East, five hundred sixty-five and zero hundredths (565.00) feet to an aluminum post set over existing old pipe at other lands now or formerly of Burnell Wildasin; thence continuing along lands of the same and passing through a reference existing drill shaft set thirty-six and eighty-four hundredths (36.84) feet back from the beginning of this course, South sixty-five (65) degrees seven (07) minutes ten (10) seconds West, six hundred eighty-three and fifty hundredths (683.50) feet to an existing bolt set at lands now or formerly of Wildasin Used Cars; thence continuing along lands of the same and passing through an existing reference pipe set twenty-two and thirty-seven hundredths (22.37) feet back from the terminus of this course, South sixty-five (65) degrees one (01) minute thirty-five (35) seconds West, two hundred thirty-seven and

(continued on page 8)

## 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 VIRGINIA V. DAVIS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Walton Vail Davis, 301 Ridge Avenue, Gettysburg, PA 17325; Richard Fletcher Davis, 195 Washington Road, Rye, NH 03870

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

## ESTATE OF MARGARET DITZLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Linda K. Ditzler, 425 Baltimore St., Gettysburg, PA 17325

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

## ESTATE OF RAYMOND J. McCLEAF, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executrices: Constance M. Howe, 102 Knoxlyn Rd., Gettysburg, PA 17325; Sandra K. Howe, 255 Belmont Rd., Gettysburg, PA 17325; Maysie A. Fox, 1653 Blakewood Dr., Chambersburg, PA 17201

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

## ESTATE OF RICHARD L. MICHAEL, SR., DEC'D

Late of Guilford Township, Franklin County, Pennsylvania

Executors: Robert Zullinger and Larry A. Musselman, c/o Barley Snyder LLC, 247 Lincoln Way East, Chambersburg, PA 17201

Attorney: Martha B. Walker, Esq., Barley Snyder LLC, 247 Lincoln Way East, Chambersburg, PA 17201

## ESTATE OF CHARLES F. MILLER, JR., DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Jeffrey A. Herr and Maria L. Miller, c/o Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

Attorney: Eric R. Dutcher, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

## ESTATE OF A. DOROTHY D. MILLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Jeffrey A. Herr and Maria L. Miller, c/o Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

Attorney: Eric R. Dutcher, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

## ESTATE OF CHARLES H. SLONAKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Constance A. Ray, 430 Sunrise Boulevard, Elizabethtown, PA 17022; David C. Slonaker, 149 New Lane, Chambersburg, PA 17201; John J. Slonaker, 41 Wilson Street, Carlisle, PA 17013; Bruce H. Slonaker, 153 N. Main Street, Biglerville, PA 17307

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

## SECOND PUBLICATION

## ESTATE OF MARY L. ADAMS, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executrix: Sherry A. Miller, 2085 Old Harrisburg Rd., Gettysburg, PA 17325

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

## ESTATE OF HETTIE R. DELP, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executors: Kay D. Guise, 819 Yellow Hill Rd., Biglerville, PA 17307; Carol Ann Miller, P.O. Box 36, Idaville, PA 17337; Jane D. Delp, now Johnston, 23 Halleck Dr., East Berlin, PA 17316

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

## ESTATE OF KATHRYN H. DIETZEL, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Richard C. Dietzel, 564 Quaker Church Road, York Springs, PA 17372

Attorney: Mark E. Halbruner, Esq., Gates, Halbruner & Hatch, P.C., 1013 Mumma Road, Suite 100, Lemoyne, PA 17043

## ESTATE OF WILLIAM M. HANEY, SR., DEC'D

Late of Highland Township, Adams County, Pennsylvania

Executrix: Brenda Cassatt, c/o Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

Attorney: Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

## ESTATE OF ANNA MOHAN a/k/a ANNA G. MOHAN, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Anne Catherine Mohan, 5947 Houghton Street, Philadelphia, PA 19128

Attorney: Paul J. Datte, Esq., Cerullo, Datte & Wallbillich, P.C., 450 West Market Street, P.O. Box 450, Pottsville, PA 17901

## ESTATE OF KERRY L. SCHNEIDER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Tyree G. Berlin, 60 Shrivvers Corner Rd., Gettysburg, PA 17325

## ESTATE OF HENRI M. VANDENBOGAARD, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: Roland Hoet, 1829 Arnold Road, York, PA 17404

Attorney: D. Michael Craley, 246 West Broadway, Lower Level, Red Lion, PA 17356

## THIRD PUBLICATION

## ESTATE OF STEPHEN S. BRIGGS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Susan Smith, c/o Eric R. Dutcher, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

Attorney: Eric R. Dutcher, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

## ESTATE OF TERRY LITTLE, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Administrators: Tron S. Hodges, 111 Edwards Street, Hanover, PA 17331; Leon C. Lemaster, 564 Broadway, Apt. #3, Hanover, PA 17331

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

sixty-three hundredths (237.63) feet to a point in the center line of the Carlisle Pike (PA 94), the point and place of BEGINNING, CONTAINING 9.627 acres as per survey prepared for Burnell Wildasin by Adams County Surveyors bearing dated of November 7, 1990. This survey was performed to correctly identify the boundaries of the above-described premises and is not intended to subdivide the premises in any manner whatsoever. It is the same as shown by draft of L. H. Winebrenner, County Surveyor, dated May 11, 1935.

BEING the same tract of land which David W. Schmidt by his Deed dated March 15, 1991 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 0583, at page 0200, sold and conveyed unto David W. Schmidt and Sandra F. Schmidt, his wife.

Tract No. 3:

ALL that lot of ground situate along the East side of the Hanover-Carlisle State Highway in Berwick Township, Adams County, Pennsylvania bounded and described as follows, to wit:

BEGINNING at a point in the center of the aforesaid State Highway at corner of land now or formerly of Mrs. Nelson Miller; thence in the center of said State Highway, North seventeen (17) degrees thirty-three (33) minutes fifteen (15) seconds West, one hundred eighty-eight and thirty-three hundredths (188.33) feet to a point; thence by land now or formerly of Mrs. Evelyn Utz and running through a steel pin located twenty-five (25.00) feet from the center of the aforesaid State Highway, North seventy-three (73) degrees seven (07) minutes forty-five (45) seconds East, two hundred twenty-eight and eighty hundredths (228.80) feet to a point; thence by land now or formerly of Mrs. Nelson Miller, South seventeen (17) degrees two (02) minutes twenty (20) seconds East, one hundred eighty-six and sixty-seven hundredths (186.67) feet to a point; thence by the same and running through a steel pin located twenty-five (25.00) feet from the center of the aforesaid State Highway, South seventy-two (72) degrees forty-two (42) minutes fifty-five (55) seconds West, two hundred twenty-seven and eleven hundredths (227.11) feet to a point in the center of said State Highway, the place of BEGINNING, CONTAINING 0.9812 acre.

The foregoing description was obtained from a draft of a survey made by Donald E. Worley, Registered Surveyor, on November 13, 1969.

BEING the same tract of land which David Schmidt and Bonnie Lou Schmidt, husband and wife, by their Deed dated July 26, 1988, and recorded in the Office

of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 496, at page 1, sold and conveyed unto David Schmidt.

SEIZED and taken into execution as the property of **David W. Schmidt & Sandra F. Leppo formerly Sandra F. Schmidt** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 22, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/28, 11/4 & 10