

# *Adams County* Legal Journal

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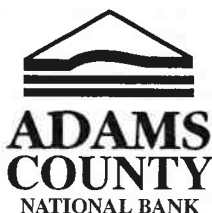
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## **IN THIS ISSUE**

ECKERT VS. KRUGER

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



Member FDIC

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

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-660 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground situate on the Southwest side of Linden Avenue in Conewago Township, Adams County, Pennsylvania, more particularly as follows:

BEGINNING at an iron pipe on the Southwest side of Linden Avenue at lands of Ethel Small; thence by lands of Ethel Small South 44 degrees 27 minutes 14 seconds West, 100.83 feet to an iron pipe at lands of Laverne K. Lawrence and Helen K. Lawrence; thence by same North 44 degrees 46 minutes 51 seconds West, 15.69 feet to an iron pipe; thence continuing by same South 45 degrees 24 minutes 4 seconds West, 19.85 feet to an iron pipe; thence continuing by same North 43 degrees 54 minutes 39 seconds West, 44 feet to an iron pipe at lands of John F. Klunk; thence by lands of John F. Klunk North 44 degrees 27 minutes 14 seconds East, 119.41 feet to an iron pipe at Linden Avenue aforesaid; thence along Linden Avenue South 45 degrees 22 minutes East, 60 feet to an iron pipe, the point and place of BEGINNING.

CONTAINING 6,893 square feet

THE foregoing description was taken from a draft of survey prepared for Laverne K. Lawrence by LaRue Surveys, Inc., dated June 4, 1974.

SUBJECT however, to the following restriction: That no building of any kind whatsoever shall ever be erected on said lot or piece of ground within 15 feet of the inside line of said Linden Avenue.

BEING the same premises conveyed by Laverne K. Lawrence and Helen K. Lawrence, to Donald Lee Wildasin and Patricia Ann Wildasin, husband and wife, by Deed dated June 14, 1974, and recorded in Adams County Deed Book 313, page 1101.

IMPROVEMENTS THEREON CONSIST OF 1 1/2 story detached bungalow.

SEIZED and taken into execution as the property of **Donald Lee Wildasin a/k/a Donald L. Wildasin & Patricia Ann Wildasin a/k/a Patricia A. Wildasin** 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 1, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/26, 10/3 & 10

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-952 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of November, 2003, 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.:

Description of Real Estate located at 485 Basehoar School Road, Littlestown, PA 17340:

## LEGAL DESCRIPTION:

ALL THAT CERTAIN tract of land situate, lying and being in Union Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point along the Southerly right-of-way line of Basehoar School Road and Lot No. 247 of the hereinafter referred to subdivision plan; thence along said Lot No. 247, South two (02) degrees eleven (11) minutes fifty-six (56) seconds East, one hundred forty and zero hundredths (140.00) feet to a point at other lands now or formerly of Lynn Lee Construction Co., Inc.; thence along said other lands now or formerly of Lynn Lee Construction Co., Inc., South

eighty-seven (87) degrees forty-eight (48) minutes four (04) seconds West, one hundred and zero hundredths (100.00) feet to a point at Lot No. 249; thence along said Lot No. 249, North two (02) degrees eleven (11) minutes fifty-six (56) seconds West, one hundred forty and zero hundredths (140) feet to a point along the Southerly right-of-way line of Basehoar School Road; thence along the Southerly right-of-way line of Basehoar School Road, North eighty-seven (87) degrees forty-eight (48) minutes four (04) seconds East, one hundred and zero hundredths (100.00) feet to a point, the place of BEGINNING. CONTAINING 14,000 square feet and being identified as Lot No. 248 on the final subdivision plan of Phase I, Meadowview Estates, which plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 54, page 75.

SEIZED and taken into execution as the property of **James W. Houseman III & t/d/b/a Timber Building Systems** 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 1, 2003, 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.

10/3, 10 & 17

## ECKERT VS. KRUGER

1. A non-expert witness may testify in the form of opinions or inferences provided those opinions or inferences “are rationally based on the perception of the witness, helpful to a clear understanding of the witness’ testimony or the determination of a fact in issue, and not based on scientific, technical, or other specialized knowledge.”

2. Personal knowledge remains a prerequisite to the admissibility of an expression of lay opinion.

3. A lay witness opinion is admissible if it is based on the witness’s perception of what they observe and would be helpful in clarifying an ultimate fact for the trier of fact.

4. To the extent that a lay witness is unable to accurately recall the incident, his memory may be refreshed pursuant to Pa. R. Evid. 612.

5. The witness’ inability to provide specifics concerning distances or other relevant observations may be challenged through cross-examination.

6. Regardless of the witness’s inability to provide exact measurements or distances regarding his observations, if a review of the proffered testimony indicates that it is rationally based on his perception of the occurrence, it will be allowed.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 00-S-958, ZACHARY PAUL ECKERT, A MINOR, BY BRIAN L. ECKERT AND SHARON E. ECKERT, HIS PARENTS AND NATURAL GUARDIANS, AND BRIAN L. ECKERT AND SHARON E. ECKERT, HUSBAND AND WIFE, VS. BUD KRUGER

Thomas R. Campbell, Esq., for Plaintiffs

James G. Nealon, Esq., for Defendant

George, J., September 6, 2002

### MEMORANDUM OPINION

This matter comes before the Court on the Defendant’s Motion in Limine asking the Court to preclude the lay opinion of Mark Harman. Specifically, the Plaintiffs seek to preclude Mr. Harman’s opinion that there was not anything the Defendant could have done to avoid the accident with the Plaintiff.

A non-expert witness may testify in the form of opinions or inferences provided those opinions or inferences “are rationally based on the perception of the witness, helpful to a clear understanding of the witness’ testimony or the determination of a fact in issue, and not based on scientific, technical, or other specialized knowledge...”. PA. R. EVID. 701. Personal knowledge remains a prerequisite to the admissibility of an expression of lay opinion. *Lewis v. Mellor*, 393 A.2d 941, 949 (Pa. Super. Ct. 1978). A lay witness opinion is

admissible if it is based on the witness's perception of what they observe and would be helpful in clarifying an ultimate fact for the trier of fact. *Watson v. American Home Assurance Co.*, 685 A.2d 194, 200 (Pa. Super. Ct. 1996); *citing McKee by McKee v. Evans*, 551 A.2d 260, 268 (Pa. Super. Ct. 1988).

In response to the Court's request for a proffer of Mr. Harman's testimony, the Defendant provided Mr. Harman's deposition dated May 25, 2001; an interview of Mr. Harman conducted on December 30, 1999; and a victim/witness statement given by Mr. Harman to the Pennsylvania State Police on the day of the accident, December 22, 1999. Additionally, the Defendant has supplemented that testimony with photographs of the scene as well as a proffer that the State Police have measurements from the crest of the hill east of the accident scene to the point of collision. Although the defense witness, Mr. Harman, cannot indicate the distance between the crest of the hill and the accident location, he does provide testimony that he observed the Plaintiff for about a quarter of a mile. *Harman Dep.* at 9.

It is true, as Plaintiffs allege, that Mr. Harman's current memory of the accident is understandably not as clear as it may have been shortly after the accident. To the extent that Mr. Harman is unable to accurately recall the incident, his memory may be refreshed pursuant to PA. R. EVID. 612. Additionally, the witness' inability to provide specifics concerning distances or other relevant observations may be challenged through cross-examination. Regardless of the witness's inability to provide exact measurements or distances regarding his observations, a review of the proffered testimony indicates that it is rationally based on Mr. Harman's perception of the occurrence. Moreover, it is clear that Mr. Harman had ample opportunity to adequately perceive the events as they were occurring. Plaintiffs' concerns in regard to his testimony may go to the weight thereof, however, the testimony is relevant and will be admitted.

#### ORDER OF COURT

AND NOW, this 6th day of September, 2002, Plaintiffs' Motion in Limine is denied. The Court reserves the right to revisit this issue at trial in the event that Mr. Harman's trial testimony fails to establish an adequate basis for his opinion.

## 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 7th day of November, 2003, 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 8/4/2000, recorded 8/28/2000, 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 1, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

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

9/26, 10/3 & 10

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-724 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of November, 2003, 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 in Gettysburg Borough, County of Adams, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a point at the corner of Springs Avenue and Reynolds Street; thence along Springs Avenue in a Westerly direction 50 feet to a point at corner of Lot No. 36 now or formerly of Clarence M. Sadler; thence along said Lot No. 36 in a Northerly direction 166 feet to a public alley; thence along said alley in an Easterly direction 50 feet to Reynolds Street; thence along Reynolds Street in a Southerly direction 166 feet to the place of BEGINNING.

BEING KNOWN AS 101 Springs Avenue, Gettysburg, PA 17325

PROPERTY ID NO: 006-0087

TITLE TO SAID PREMISES IS VESTED IN Gregory P. Christianson and Suzanne H. Christianson, husband and wife, as tenants by the entirety by deed from Suzanne H. Christianson now joined by Gregory P. Christianson, her husband, dated 7/30/2002, recorded 7/30/2002, in Deed Book 2748, Page 44.

SEIZED and taken into execution as the property of **Suzanne H. Christianson & Gregory P. Christianson** 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 1, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/26, 10/3 & 10

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1191 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Hamiltonban Township, Adams County, Pennsylvania, being Lot No. 141 in Section "BB", bounded and described as follows:

BEGINNING at a point in the center of Bourbon Trail at corner of Lot No. 140; thence by said lot, South 39 degrees, 35 minutes, 40 seconds East, 225.00 feet to a point in line of Lot No. 138; thence by said lot, South 50 degrees, 24 minutes, 20 seconds West, 100.00 feet to a point at corner of Lot No. 142; thence by said lot, North 39 degrees, 35 minutes, 40 seconds West, 225.00 feet to a point in the center of Bourbon Trail; thence in said Bourbon Trail, North 50 degrees, 24 minutes, 20 seconds East, 100.00 feet to a point, the place of BEGINNING.

THE above description was taken from a plan of lots labeled "section BB of Charnita, Inc.", dated December 6, 1969, prepared by Gordon L. Brown, R.S., and recorded in Plat Book 1 at page 62

Tax Parcel #BB-141

SEIZED and taken into execution as the property of **Mitchell A. Andrew & Lavada M. Andrew** 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 1, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/26, 10/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-637 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT lot of ground situate in the Borough of Littlestown, Adams County, Pennsylvania, as shown on the Subdivision Plan for "Lakeview Village - Phase Two" prepared by Donald E. Worley, Registered Surveyor, of Worley Surveying, dated April 21, 1989, revised September 11, 1989 recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 54, Page 65 (2 pages) and designated as Lot No. 49 thereon, more particularly bounded and described as follows:

BEGINNING at a steel pin on the Northern Right-of-Way line of Starlite Drive at corner of Lot No. 50 on the Plan of Lots hereinabove identified: thence by said Lot No. 50, North forty-four (44) degrees twenty-two (22) minutes thirty-two (32) seconds West, one hundred twenty-six and fifty-one hundredths (126.51) feet to a steel on line of land of Pennsylvania Classics, Inc.; thence by said land of Pennsylvania Classics, Inc., North fifty-five (55) degrees forty-three (43) minutes thirty-six (36) seconds East, thirty-five and fifty-five hundredths (35.55) feet to a steel pin at corner of Lot No. 48; thence by said Lot No. 48, South forty-four (44) degrees twenty-two (22) minutes thirty-two (32) seconds East, one hundred twenty and twenty-seven hundredths (120.27) feet to a steel pin on the Northern Right-of-Way line of Starlite Drive, thence by said Northern Right-of-Way line of Starlite Drive, South forty-five (45) degrees thirty-seven (37) minutes twenty-eight (28) seconds West, thirty-five (35.00) feet to the above described place of BEGINNING.

CONTAINING 4,319 square feet.

TOGETHER with and subject to a fifty (50) feet Right-of-Way in, through along the streets known as Crescent Lane and Starlite Drive to be used in common with other owners of lots in "Lakeview Village - Phase Two", as shown on the Subdivision Plan above referenced.

TITLE TO SAID PREMISES IS VESTED IN Ryan M. Glover by Deed from Garry L. Miller, unmarried, dated 11/28/2001 and recorded 12/10/2001 in Record Book 2491, Page 255.

Premises being: 31 Starlite Drive, Littlestown, PA 17340

Tax Parcel No. 11-129

SEIZED and taken into execution as the property of **Ryan M. Glover** 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 8, 2003, 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.

10/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-831 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate in Menallen Township, Adams County, Pennsylvania, being Lot No. 3 on the draft of survey hereinafter identified bounded and described as follows:

BEGINNING at an iron pin in a proposed 33 foot road at Lot No. 4; thence by said lot, South 38 degrees 1 minute 40 seconds East, 426.30 feet to an iron pin at Lot No. 7; thence by said lot, South 36 degrees 58 minutes 30 seconds West 235.96 feet to an iron pin at other lands now or formerly of Clair R. Showers; thence by said lands, North 39 degrees 16 minutes 30 seconds West 109.69 feet to an iron pin; thence continuing by said lands, North 90 degrees West, 220.42 feet to a nail in L.R. #01041, thence in said L.R. #01041 North 6 degrees 2 minutes 20 seconds East 240 feet to a nail in said L.R. 01041 at its intersection with said proposed 33 foot road; thence in said proposed 33 foot road, North 35 degrees 38 minutes 20 seconds East 247 feet to the place of BEGINNING.

CONTAINING 2.8963 acres

THE above description was taken from a draft of survey dated January 7, 1972, prepared by Boyer-Price and recorded in Adams County Plan Book No. 2 at page 14.

TOGETHER with a right of way over said proposed 33 foot road for means of ingress, egress and regress.

Tax Parcel No. B5-23

SEIZED and taken into execution as the property of **Daniel F. Hodowanec & Chastity L. Hodowanec** 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 1, 2003, 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.

10/3, 10 & 17

DISSOLUTION NOTICE

NOTICE IS HEREBY GIVEN, to all creditors and claimants of **MeRob, Inc.**, a business corporation, that the shareholders have approved a proposal that the corporation dissolve voluntarily and that the board of directors is now engaged in winding up and settling the affairs of the corporation under the provisions of Section 1975 of the Pennsylvania Business Corporation Law of 1988.

William A. Duncan, Esq.  
Duncan, Hartman & Douglas, P.C.  
ID # 22080  
1 Irvine Row  
Carlisle, PA 17013

9/19, 26 & 10/3

## 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 KATHLEEN M. ELINE, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Philip Staub, 230 S. Fifth St., McSherrystown, PA 17344; Marlene Staub, 224 Ridge Ave., McSherrystown, PA 17344

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

## ESTATE OF JOHN H. SCOTT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Beverly J. Scott, 2091 York Road, Gettysburg, PA 17325

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

## SECOND PUBLICATION

## ESTATE OF TRUMAN W. CRAWFORD, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Administrator: Lucille Crawford, 676 New Road, Orrtanna, PA 17353

Attorney: Jeffery M. Cook, Esq., 234 Baltimore St., Gettysburg, PA 17325

## ESTATE OF GRACE E. GARMAN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Charles L. Garman, 7 Glendale Street, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

## ESTATE OF JOANNE M. KRIVAK a/k/a JOANNE MICHELLE KRIVAK, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Administrator: Mack Chilcote, 20 Sunset Drive, Gettysburg, PA 17325

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

## ESTATE OF DENNIS RAY WOLF, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executor: Randall Charles Wolf, 463 Upper Temple Road, Biglerville, PA 17307

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

## THIRD PUBLICATION

## ESTATE OF MADALENE ELIZABETH DAY, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Co-Administrators: Larry A. Day and Phyllis E. Pierson, c/o Menges, Gent & McLaughlin, 1157 Eichelberger St., Hanover, PA 17331

Attorney: Douglas H. Gent, Esq., Menges, Gent & McLaughlin, 1157 Eichelberger St., Hanover, PA 17331

## ESTATE OF EDWIN M. FLICKINGER, SR., a/k/a EDWIN M. FLICKINGER, DEC'D

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

Executor: Sterling Financial Trust Company, 6 Lincoln Square, Gettysburg, PA 17325

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

## ESTATE OF ROBERT H. KENNEDY, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Lesa L. Milne a/k/a Lesa F. Milne, 2390 Belair Road, Dover, PA 17315

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

## ESTATE OF VIRGINIA F. MASINO, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Frank N. Masino, Jr., 70 Sonora Way, Corte Madera, CA 94925

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

## ESTATE OF JAMES D. MUNSHOUR, JR., DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Administrators: Mr. James A. Munshour, 1885 Highland Ave. Road, Gettysburg, PA 17325; Mrs. Carol A. Hess, 118 Rodas Avenue, Gettysburg, PA 17325; Mrs. Susan L. Hartzell, 55 Belmont Road, Gettysburg, PA 17325

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

## ESTATE OF HAZEL V. SNYDER, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Executor: John Craig Lowe, 1324 Mark Drive, West Chester, PA 19380

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

## ESTATE OF HELEN MARIE TEMPLE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Elise Jones Huddleston, 6090 Second Street, King George, VA 22486

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

## ESTATE OF WILLIAM H. YOHE, JR., DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Gloria E. Yohe, 205 Ewell Avenue, Gettysburg, PA 17325

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

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on September 10, 2003, with the Department of State of the Commonwealth of Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania Corporation Law of 1988, approved December 21, 1988, L.P. 1444, No. 177, as amended.

The name of the corporation is S & R HOMES, INC., with its principal office or place of business at 160 Rake Factory Road, Biglerville, PA 17307. The names and addresses of all persons owning or interested in said business are: Rodney E. Snyder, 66 Natural Springs Road, Gettysburg, PA 17325 and David A. Redding, 160 Rake Factory Road, Biglerville, PA 17307.

10/3

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on September 10, 2003, with the Department of State of the Commonwealth of Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania Corporation Law of 1988, approved December 21, 1988, L.P. 1444, No. 177, as amended.

The name of the corporation is NOW OR NEVER, INC., with its principal office or place of business at 412 Carlisle Street, Gettysburg, PA 17325. The names and addresses of all persons owning or interested in said business are: John T. de Montfort, 412 Carlisle Street, Gettysburg, PA 17325.

10/3

INCORPORATION NOTICE

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

The name of the corporation is PALMER DEVELOPMENT GROUP, INC.

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

Palmer Development Group, Inc.  
209 Locust Street  
East Berlin, PA 17316

10/3

United States Postal Service

**Statement of Ownership, Management, and Circulation**

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101 West Middle St., Gettysburg, PA 17325

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PS Form 3526, October 1999 (See instructions on Reverse)

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a. Total Number of Copies (Net press run)	125	
b. Paid and/or Requested Circulation		
(1) Paid (Include advertiser's proof and exchange copies)	51	
(2) Paid-In-County Subscriptions (Based on Form 3541 (Include advertiser's proof and exchange copies))	19	
(3) Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Non-USPS Paid Distribution	0	
(4) Other Classes Mailed Through the USPS	0	
Total Paid and/or Requested Circulation (Sum of 15b(1)-(4))	70	
c. Free Distribution Outside-County as Based on Form 3541	0	
(1) Outside-County as Based on Form 3541	0	
(2) In-County as Based on Form 3541	0	
(3) Other Classes Mailed Through the USPS	0	
d. Free Distribution Outside the Mail (Carriers or other means)	43	
e. Total Free Distribution (Sum of 15c and 15d)	43	
f. Total Distribution (Sum of 15b and 15e)	113	
g. Copies not Distributed	12	
Total (Sum of 15f and g)	125	
h. Percent Paid and/or Requested Circulation (15b divided by 15a times 100)	62	

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17. Signature and Title of Editor, Publisher, Business Manager, or Owner: 9/19/03

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).

**Instructions to Publishers**

- Complete and file one copy of this form with your postmaster annually on or before October 1. Keep a copy of the completed form for your records.
- In cases where the stockholder or security holder is a trustee, include in items 10 and 11 the name of the person or corporation for whom the trustee is acting. Also include the names and addresses of individuals who are stockholders who own or hold 1 percent or more of the total amount of bonds, mortgages, or other securities of the publishing corporation. In item 11, if none, check the box. Use blank sheets if more space is required.
- Be sure to furnish all circulation information called for in item 15. Free circulation must be shown in items 15d, e, and f.
- Item 15b. Copies not Distributed, must include (1) newspaper copies originally stated on Form 3541, and returned to the publisher, (2) estimated returns from news agents, and (3) copies for office use, leftovers, spoiled, and all other copies not distributed.
- If the publication had Periodicals authorization as a general or requester publication, this Statement of Ownership, Management, and Circulation must be published. It must be printed in any issue in October or, if the publication is not published during October, the first issue printed after October.
- In item 16, indicate the date of the issue in which this Statement of Ownership will be published.
- Item 17 must be signed.

Failure to file or publish a statement of ownership may lead to suspension of Periodicals authorization.

PS Form 3526, October 1999 (Reverse)



# Adams County Legal Journal

Vol. 45

October 10, 2003

No. 20, pp. 115-118

## IN THIS ISSUE

### COMMONWEALTH VS. BRYANT

#### SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-706 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 2003, 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 real estate lying and being situate in the Township of Mt. Joy, Adams County, Pennsylvania, being identified as Lot No. 17 as shown on a Plan of Lots known as "Deer Chase" prepared by Hoover Engineering Services, Inc., dated December 17, 1999, recorded April 5, 2000, in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plan Book 78 on Page 9 and being more particularly bounded and described as follows, to wit:

BEGINNING at a point in the centerline of T-432 (Miller Road); thence by Lot No. 18 of the aforementioned Subdivision South 89 degrees 15 minutes 59 seconds East, a distance of 426.20 feet to an iron pin; thence by Lot No. 21 on the aforementioned Subdivision South 28 degrees 44 minutes 35 seconds West, a distance of 203.88 feet to an iron pin; thence by Lot No. 16 of the aforementioned Subdivision North 89 degrees 15 minutes 59 seconds West, a distance of 427.23 feet to a point in the centerline of T-432; thence in along and through the centerline of T-432 North 28 degrees 59 minutes 50 seconds East, a distance of 204.36 feet to a point in the centerline of T-432 (Miller Road), the point and place of BEGINNING.

CONTAINING 1.763 gross acres of land, more or less, as surveyed.

TITLE TO SAID PREMISES IS VESTED IN Richard Wagaman and Diane

Wagaman, husband and wife by Deed from John P. Kresky and Jane M. Kresky, husband and wife, dated 1/15/2002 and recorded 1/29/2002 in Record Book 2544, Page 347.

#### TAX PARCEL I 17-0211

Premises Being: 218 Miller Road, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Richard Wagaman & Diane Wagaman** 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 8, 2003, 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.

10/10, 17 & 24

#### SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1191 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Hamiltonban Township, Adams County, Pennsylvania, being Lot No. 141

in Section "BB", bounded and described as follows:

BEGINNING at a point in the center of Bourbon Trail at corner of Lot No. 140; thence by said lot, South 39 degrees, 35 minutes, 40 seconds East, 225.00 feet to a point in line of Lot No. 138; thence by said lot, South 50 degrees, 24 minutes, 20 seconds West, 100.00 feet to a point at corner of Lot No. 142; thence by said lot, North 39 degrees, 35 minutes, 40 seconds West, 225.00 feet to a point in the center of Bourbon Trail; thence in said Bourbon Trail, North 50 degrees, 24 minutes, 20 seconds East, 100.00 feet to a point, the place of BEGINNING.

THE above description was taken from a plan of lots labeled "section BB of Charnita, Inc.", dated December 6, 1969, prepared by Gordon L. Brown, R.S., and recorded in Plat Book 1 at page 62

Tax Parcel #BB-141

SEIZED and taken into execution as the property of **Mitchell A. Andrew & Lavada M. Andrew** 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 1, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/26, 10/3 & 10

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-660 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground situate on the Southwest side of Linden Avenue in Conewago Township, Adams County, Pennsylvania, more particularly as follows:

BEGINNING at an iron pipe on the Southwest side of Linden Avenue at lands of Ethel Small; thence by lands of Ethel Small South 44 degrees 27 minutes 14 seconds West, 100.83 feet to an iron pipe at lands of Laverne K. Lawrence and Helen K. Lawrence; thence by same North 44 degrees 46 minutes 51 seconds West, 15.69 feet to an iron pipe; thence continuing by same South 45 degrees 24 minutes 4 seconds West, 19.85 feet to an iron pipe; thence continuing by same North 43 degrees 54 minutes 39 seconds West, 44 feet to an iron pipe at lands of John F. Klunk; thence by lands of John F. Klunk North 44 degrees 27 minutes 14 seconds East, 119.41 feet to an iron pipe at Linden Avenue aforesaid; thence along Linden Avenue South 45 degrees 22 minutes East, 60 feet to an iron pipe, the point and place of BEGINNING.

CONTAINING 6,893 square feet

THE foregoing description was taken from a draft of survey prepared for Laverne K. Lawrence by LaRue Surveys, Inc., dated June 4, 1974.

SUBJECT however, to the following restriction: That no building of any kind whatsoever shall ever be erected on said lot or piece of ground within 15 feet of the inside line of said Linden Avenue.

BEING the same premises conveyed by Laverne K. Lawrence and Helen K. Lawrence, to Donald Lee Wildasin and Patricia Ann Wildasin, husband and wife, by Deed dated June 14, 1974, and recorded in Adams County Deed Book 313, page 1101.

IMPROVEMENTS THEREON CONSIST OF 1 1/2 story detached bungalow.

SEIZED and taken into execution as the property of **Donald Lee Wildasin a/k/a Donald L. Wildasin & Patricia Ann Wildasin a/k/a Patricia A. Wildasin** 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 1, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/26, 10/3 & 10

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-952 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of November, 2003, 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.:

Description of Real Estate located at 485 Basehoar School Road, Littlestown, PA 17340:

## LEGAL DESCRIPTION:

ALL THAT CERTAIN tract of land situate, lying and being in Union Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point along the Southerly right-of-way line of Basehoar School Road and Lot No. 247 of the hereinafter referred to subdivision plan; thence along said Lot No. 247, South two (02) degrees eleven (11) minutes fifty-six (56) seconds East, one hundred forty and zero hundredths (140.00) feet to a point at other lands now or formerly of Lynn Lee Construction Co., Inc.; thence along said other lands now or formerly of Lynn Lee Construction Co., Inc., South

eighty-seven (87) degrees forty-eight (48) minutes four (04) seconds West, one hundred and zero hundredths (100.00) feet to a point at Lot No. 249; thence along said Lot No. 249, North two (02) degrees eleven (11) minutes fifty-six (56) seconds West, one hundred forty and zero hundredths (140) feet to a point along the Southerly right-of-way line of Basehoar School Road; thence along the Southerly right-of-way line of Basehoar School Road, North eighty-seven (87) degrees forty-eight (48) minutes four (04) seconds East, one hundred and zero hundredths (100.00) feet to a point, the place of BEGINNING. CONTAINING 14,000 square feet and being identified as Lot No. 248 on the final subdivision plan of Phase I, Meadowview Estates, which plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 54, page 75.

SEIZED and taken into execution as the property of **James W. Houseman III & t/d/b/a Timber Building Systems** 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 1, 2003, 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.

10/3, 10 & 17

## INCORPORATION NOTICE

ABLE ENTERPRISES, INC. has been incorporated under the provisions of the Business Corporation Law of 1988.

10/10

## COMMONWEALTH VS. BRYANT

1. An admission of fabrication, if correct, is exculpatory and discoverable unless precluded by a statutory privilege.

2. Regarding 42 Pa. C.S.A. §5943 “Confidential communications to clergymen,” the information must have been acquired 1) in the course of the recipient’s duties as a clergyman and 2) in secret and in confidence. Even if the communication is for counseling or solace, it is not privileged unless it is motivated by spiritual, confessional or penitential considerations.

3. A (school) principal is not one of the persons specifically covered by 42 Pa. C.S.A. §5945, “Confidential communications to school personnel.”

4. Evidentiary privileges are not favored. Exceptions .... are not lightly created nor expansively construed, for they are in derogation of the search for the truth.

5. Unless a principal is also designated as the school’s guidance counselor, communications received would not be privileged.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-880-01, COMMONWEALTH VS. PHILIP EDWIN BRYANT.

Paul Dean, Esq., District Attorney, for Commonwealth

Joseph Kalasnik, Esq., for Defendant

Kuhn, P.J., September 10, 2002

### MEMORANDUM OPINION PURSUANT TO DEFENDANT’S MOTION FOR ORDER FOR PRODUCTION OF SCHOOL RECORDS

On July 23, 2001, Defendant was charged with Statutory Sexual Assault, Involuntary Deviate Sexual Intercourse, and Statutory Indecent Assault, in violation of 18 Pa. C.S.A. §3122.1, 3123-7, and 3126(a)(8), respectively. Allegedly, the underlying incidents took place between Defendant (age 27) and the victim, T.B. (age 15) on various occasions between June 14 – August 14, 2000.

On July 2, 2002, Defendant filed a Motion wherein he seeks discovery of conversations T.B. allegedly had with personnel at the Freedom Valley Worship Center and Christian School and/or the Bermudian Springs High School. A Rule was issued upon the Commonwealth and the two institutions to show cause why the information sought should not be disclosed. A hearing was set for August 7, 2002, at which only the Commonwealth responded or appeared. Commonwealth argued that the information was privileged and not discoverable. A briefing schedule was established.

Defendant suggests that T.B. admitted to a youth pastor and principal at Freedom Valley that the allegations against Defendant were a fabrication. Obviously, such information, if correct, is exculpatory and discoverable unless precluded by a statutory privilege. Defendant seeks to examine school records to ascertain whether written reports of T.B.'s conversation with school personnel were prepared and maintained.

There are two statutory privileges at issue relating to confidential communications to clergymen and certain school personnel. We will address each separately.

42 Pa. C.S.A. §5943

Confidential communications to clergymen

No clergyman, priest, rabbi or minister of the gospel of any regularly established church or religious organization, except clergymen or ministers, who are self-ordained or who are members of religious organizations in which members other than the leader thereof are deemed clergymen or ministers, who while in the course of his duties has acquired information from any person secretly and in confidence shall be compelled, or allowed without consent of such person, to disclose that information in any legal proceeding, trial or investigation before any government unit.

Defendant alleges that T.B. made a statement to "the youth pastor" at Freedom Valley. Even assuming that allegation to be true does not mean the communication is privileged. As the statute clearly indicates, the information must have been acquired 1) in the course of the recipient's duties as a clergyman and 2) in secret and in confidence. Even if the communication is for counseling or solace, it is not privileged unless it is motivated by spiritual, confessional or penitential considerations. *Commonwealth v. Stewart*, 690 A.2d 195, 200 (Pa. 1997).

It is impossible to determine from the record presented whether any communication which did occur is covered by the privilege.

42 Pa. C.S.A. §5945

Confidential communications to school personnel

**(a) General rule.** – No guidance counselor, school nurse, school psychologist, or home and school visitor in the public schools or in private or parochial schools or other educational institutions providing elementary or secondary education, including any clerical worker of such schools and institutions, who, while in the course of his professional or clerical duties for a guidance counselor, home and school visitor, school nurse or school psychologist, has acquired information from a student in confidence shall be compelled or allowed:

(1) without the consent of the student, if the student is 18 years of age or over; or

(2) without the consent of his parent or guardian, if the student is under the age of 18 years;

to disclose such information in any legal proceeding, trial, or investigation before any government unit.

**(b) Exemption.** – Notwithstanding subsection (a), no such person shall be excused or prevented from complying with 23 Pa. C.S. Ch. 63 (relating to child protective services).

Defendant alleges that T.B. made a statement to the “principal” of Freedom Valley. A principal is not one of the persons specifically covered by §5945. Commonwealth contends that the role played by the principal when the communication is made is more critical than the recipient’s title. However, Commonwealth has cited no authority for that position. As noted in *Stewart*,

Evidentiary privileges are not favored. “[E]xceptions to the demand for every man’s evidence are not lightly created nor expansively construed, for they are in derogation of the search for the truth.” *Hutchinson v. Luddy*, 414 Pa. Super. 138, 146, 606 A.2d 905, 908 (1992) (quoting *Herbert v. Lando*, 441 U.S. 153, 175, 99 S.Ct. 1635, 1648, 60 L.Ed.2d 115 (1979)). Thus, courts should accept testimonial privileges “only to the very limited extent that permitting a refusal to testify or excluding relevant evidence has a public good transcending the normally predominant principle of utilizing all rational means to ascertain the truth.” *In re: Grand Jury*

*Investigation*, 918 F.2d 374, 383 (3rd Cir. 1990) (quoting *Trammel v. United States*, 445 U.S. 40, 46, 100 S.Ct. 906, 910, 63 L.Ed.2d 186 (1980)).

690 A.2d at 197.

This Court believes that if the Legislature intended to include within the privilege principals, teachers, coaches, or others with whom a student may confide, it would have done so. The obvious legislative intent is to only address communications to persons who clearly are recognized as being available to receive confidential communications. Unless a principal is also designated as the school's guidance counselor, communications received would not be privileged.

Accordingly, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 10th day of September, 2002, in consideration of Defendant's Motion for Order for Production of School Records, it is hereby directed that the Freedom Valley Worship Center and Christian School and the Bermudian Springs School District shall make available to Defendant's counsel a copy of all written reports in its possession concerning statements made or purportedly made by T.B. from June 14, 2000 to the present regarding the allegations made in this case except no report of a communication made:

- 1) to a clergyman of a regularly established church or religious organization who while in the course of his/her duties as a clergyman has acquired information from T.B. in secret and in confidence for reasons motivated by spiritual or penitential considerations as privileged pursuant to 42 Pa. C.S.A. §5943; or
- 2) to school personnel as described in 42 Pa. C.S.A. §5945.

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 7th day of November, 2003, 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. Bachtel, Jr., single person, dated 8/4/2000, recorded 8/28/2000, 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 1, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

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

9/26, 10/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-724 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of November, 2003, 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 in Gettysburg Borough, County of Adams, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a point at the corner of Springs Avenue and Reynolds Street; thence along Springs Avenue in a Westerly direction 50 feet to a point at corner of Lot No. 36 now or formerly of Clarence M. Sadler; thence along said Lot No. 36 in a Northerly direction 166 feet to a public alley; thence along said alley in an Easterly direction 50 feet to Reynolds Street; thence along Reynolds Street in a Southerly direction 166 feet to the place of BEGINNING.

BEING KNOWN AS 101 Springs Avenue, Gettysburg, PA 17325

PROPERTY ID NO: 006-0087

TITLE TO SAID PREMISES IS VESTED IN Gregory P. Christianson and Suzanne H. Christianson, husband and wife, as tenants by the entirety by deed from Suzanne H. Christianson now joined by Gregory P. Christianson, her husband, dated 7/30/2002, recorded 7/30/2002, in Deed Book 2748, Page 44.

SEIZED and taken into execution as the property of **Suzanne H. Christianson & Gregory P. Christianson** 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 1, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/26, 10/3 & 10

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 21, 2003, at 9:00 a.m.

**ELLER**—Orphans' Court Action Number OC-88-03. The First and Final Account of Robert L. Eller, Executor of the Estate of Nelson E. Eller, deceased, late of Cumberland Township, Adams County, Pennsylvania.

**ZEPP**—Orphans' Court Action Number OC-92-03. The First and Final Account of Glenn A. Zepp and Martha J. Zepp, Executors of the Will and Codicil of Ruth J. Zepp, deceased, late of Straban Township, Adams County, Pennsylvania.

**STAUB**—Orphans' Court Action Number OC-96-03. The First and Final Account of Carlen L. Staub, Executrix of the Estate of Raphael F. Staub, deceased, late of the Borough of McSherrystown, Adams County, Pennsylvania.

**NICHOLS**—Orphans' Court Action Number OC-104-03. The First and Final Account of Marshall H. Nichols, Executor of the Estate of Elizabeth L. Nichols, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

**LOSMAN**—Orphans' Court Action Number OC-108-03. The First and Final Account of Susan M. Snyder and Lester Bucher, Jr., Co-Executors of the Estate of Raymond F. Losman, a/k/a Ray F. Losman, deceased, late of Conewago Township, Adams County, Pennsylvania.

Clerk of Courts

10/10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-637 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT lot of ground situate in the Borough of Littlestown, Adams County, Pennsylvania, as shown on the Subdivision Plan for "Lakeview Village - Phase Two" prepared by Donald E. Worley, Registered Surveyor, of Worley Surveying, dated April 21, 1989, revised September 11, 1989 recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 54, Page 65 (2 pages) and designated as Lot No. 49 thereon, more particularly bounded and described as follows:

BEGINNING at a steel pin on the Northern Right-of-Way line of Starlite Drive at corner of Lot No. 50 on the Plan of Lots hereinabove identified: thence by said Lot No. 50, North forty-four (44) degrees twenty-two (22) minutes thirty-two (32) seconds West, one hundred twenty-six and fifty-one hundredths (126.51) feet to a steel on line of land of Pennsylvania Classics, Inc.; thence by said land of Pennsylvania Classics, Inc., North fifty-five (55) degrees forty-three (43) minutes thirty-six (36) seconds East, thirty-five and fifty-five hundredths (35.55) feet to a steel pin at corner of Lot No. 48; thence by said Lot No. 48, South forty-four (44) degrees twenty-two (22) minutes thirty-two (32) seconds East, one hundred twenty and twenty-seven hundredths (120.27) feet to a steel pin on the Northern Right-of-Way line of Starlite Drive, thence by said Northern Right-of-Way line of Starlite Drive, South forty-five (45) degrees thirty-seven (37) minutes twenty-eight (28) seconds West, thirty-five (35.00) feet to the above described place of BEGINNING.

CONTAINING 4,319 square feet.

TOGETHER with and subject to a fifty (50) feet Right-of-Way in, through along the streets known as Crescent Lane and Starlite Drive to be used in common with other owners of lots in "Lakeview Village - Phase Two", as shown on the Subdivision Plan above referenced.

TITLE TO SAID PREMISES IS VESTED IN Ryan M. Glover by Deed from Garry L. Miller, unmarried, dated 11/28/2001 and recorded 12/10/2001 in Record Book 2491, Page 255.

Premises being: 31 Starlite Drive, Littlestown, PA 17340

Tax Parcel No. 11-129

SEIZED and taken into execution as the property of **Ryan M. Glover** 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 8, 2003, 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.

10/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-831 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate in Menallen Township, Adams County, Pennsylvania, being Lot No. 3 on the draft of survey hereinafter identified bounded and described as follows:

BEGINNING at an iron pin in a proposed 33 foot road at Lot No. 4; thence by said lot, South 38 degrees 1 minute 40 seconds East, 426.30 feet to an iron pin at Lot No. 7; thence by said lot, South 36 degrees 58 minutes 30 seconds West 235.96 feet to an iron pin at other lands now or formerly of Clair R. Showers; thence by said lands, North 39 degrees 16 minutes 30 seconds West 109.69 feet to an iron pin, thence continuing by said lands, North 90 degrees West, 220.42 feet to a nail in L.R. #01041, thence in said L.R. #01041 North 6 degrees 2 minutes 20 seconds East 240 feet to a nail in said L.R. 01041 at its intersection with said proposed 33 foot road; thence in said proposed 33 foot road, North 35 degrees 38 minutes 20 seconds East 247 feet to the place of BEGINNING.

CONTAINING 2.8963 acres

THE above description was taken from a draft of survey dated January 7, 1972, prepared by Boyer-Price and recorded in Adams County Plan Book No. 2 at page 14.

TOGETHER with a right of way over said proposed 33 foot road for means of ingress, egress and regress.

Tax Parcel No. B5-23

SEIZED and taken into execution as the property of **Daniel F. Hodowanec & Chastity L. Hodowanec** 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 1, 2003, 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.

10/3, 10 & 17

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 April 30, 2003, 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 THE COURTYARDS 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 The Courtyards At The Links At Gettysburg, A Planned Community.

McNEES WALLACE & NURICK LLC  
100 Pine Street  
Harrisburg, PA 17101

10/10



## 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 LOUIS N. DIEHL, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Administratrices: Carol A. Marcelli, 74 N. High St., P.O. Box 546, Arendtsville, PA 17303; Emily D. Simmers, 13 Bragg Dr., East Berlin, PA 17316

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

## ESTATE OF KATHRYN S. FETTERS, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: David Donharl, 616 Buchanan Valley Road, Orrtanna, PA 17353

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

## ESTATE OF ANNA K. HULL a/k/a ANNA KATHRYN HULL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Mayetta Becker, 3480 Willow Road, Dover, PA 17315; Sherman Krall, 119 Water Street, East Berlin, PA 17316; Mary Krall, 119 Water Street, East Berlin, PA 17316

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

## SECOND PUBLICATION

## ESTATE OF KATHLEEN M. ELINE, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Philip Staub, 230 S. Fifth St., McSherrystown, PA 17344; Marlene Staub, 224 Ridge Ave., McSherrystown, PA 17344

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

## ESTATE OF JOHN H. SCOTT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Beverly J. Scott, 2091 York Road, Gettysburg, PA 17325

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

## THIRD PUBLICATION

## ESTATE OF TRUMAN W. CRAWFORD, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Administrator: Lucille Crawford, 676 New Road, Orrtanna, PA 17353

Attorney: Jeffery M. Cook, Esq., 234 Baltimore St., Gettysburg, PA 17325

## ESTATE OF GRACE E. GARMAN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Charles L. Garman, 7 Glendale Street, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

## ESTATE OF JOANNE M. KRIVAK a/k/a JOANNE MICHELLE KRIVAK, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Administrator: Mack Chilcote, 20 Sunset Drive, Gettysburg, PA 17325

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

## ESTATE OF DENNIS RAY WOLF, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executor: Randall Charles Wolf, 463 Upper Temple Road, Biglerville, PA 17307

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-472 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in or near the centerline of U.S. Route 15; thence leaving said centerline and extending along a right-of-way the following courses and distances: north thirty-four (34°) degrees thirty (30') minutes (30") seconds East four hundred four and seven hundredths (404.07) feet to an iron pipe; thence North thirty-four (34°) degrees thirty (30') minutes (30") seconds East one hundred seventy-four and twenty-six hundredths (174.26) feet to an iron pipe at stones at lands now or formerly of George R. Barrick; thence continuing along the last mentioned lands South fifty-five (55°) degrees twenty-three (23') minutes five (05") seconds East eight hundred eighty-five and twenty-one hundredths (885.21) feet to a concrete monument in or near the centerline of White Church Road, also known at T-568; thence extending in and along said centerline South forty-three (43°) degrees twelve (12') minutes seventeen (17") seconds West five hundred thirty-eight and sixty-two hundredths (538.62) feet to an iron pipe in the center of said last mentioned roadway; thence leaving said roadway and extending along lands now or formerly of the Episcopal Church and E.D.L.U. corporation North fifty-eight (58°) degrees thirty-eight (38') minutes thirty-five (35") seconds West a distance of eight hundred four and ninety-eight hundredths (804.98) feet to a point in or near the centerline of U.S. Route 15 being the point and place of BEGINNING.

CONTAINING 10.747 acres total and 9.812 acres net and being designated as Lot No. 2 on a final subdivision plan for John W. and Doris M. Breighner dated August 14, 1987, as prepared by John R. Williams, P.L.S. Said Plan is recorded in the Adams County Recorder's Office in Plan Book 47, Page 100.

Having thereon erected a dwelling house known as: 460 White Church Road, York Springs, Pennsylvania 17372

BEING THE SAME PREMISES WHICH Verne W. Nestler, Jr. and Amelia T. Nestler, by Deed dated 4/30/02 and recorded 5/7/02 in Adams County Deed Book 2651, Page 285, granted and con-

veyed unto Franklin D. Buckley, Jr.

Seized in execution as the property of Franklin D. Buckley, Jr. under Adams County Judgment No. 03-S-472

MAP & PARCEL 22-16-12

SEIZED and taken into execution as the property of **Franklin D. Buckley, Jr.** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 8, 2003, 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.

10/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-319 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land situate on the westerly right of way line of Abbots Drive in the Borough of Abbottstown, Adams County, Pennsylvania, known and numbered as Lot No. 50 and for Adams County, PA in Subdivision Plan Book 76, Page 99, more fully bounded and described as follows, to wit:

BEGINNING at a point on the westerly right of way line of Abbots Drive, at a corner of Lot No. 51 on said plan; thence extending along the said right of way line South 47 degrees 16 minutes 34 seconds East 85 feet to a point at corner of Lot No. 49 on said plan; thence extending along Lot No. 49 South 41 degrees 58 minutes 10 seconds West 278.28 feet to a point; thence extending along Lot No. 55E on a plan of lots for Abbots Manor Phase II, Plan Book 73, Page 43 North 25 degrees 36 minutes 53 seconds West 95.40 feet to a point; thence North 42 degrees 43 minutes 26 seconds East 243.04 feet to the point and place of BEGINNING.

CONTAINING 22,600 square feet.

TITLE TO SAID PREMISES IS VESTED IN Daniel J. Furman by Deed from Garland Construction, Inc. dated 11/3/2000 and recorded 1/31/2001 in Record Book 2205, Page 134

Tax Parcel: 005-0040

Premises Being: 51 Abbotts Drive, Abbottstown, PA 17301

SEIZED and taken into execution as the property of **Daniel J. Furman** 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 8, 2003, 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.

10/10, 17 & 24

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 April 30, 2003, 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 THE LINKS AT GETTYSBURG MASTER ASSOCIATION.

The purpose for which it will be organized is: To be a master association which provides for the management, maintenance and care of the PGC located in Mount Joy Township, Adams County, Pennsylvania, known as The Links At Gettysburg Planned Golf Community.

McNEES WALLACE & NURICK LLC  
100 Pine Street  
Harrisburg, PA 17101

10/10

# *Adams County* Legal Journal

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October 17, 2003

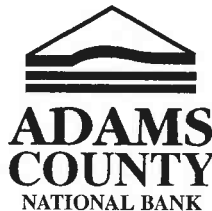
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Adams County National Bank's commitment to its communities is more than a fleeting promise. It is a tradition founded upon our more than 130 years of service to the individuals, businesses and organizations in these communities.



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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-706 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 2003, 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 real estate lying and being situate in the Township of Mt. Joy, Adams County, Pennsylvania, being identified as Lot No. 17 as shown on a Plan of Lots known as "Deer Chase" prepared by Hoover Engineering Services, Inc., dated December 17, 1999, recorded April 5, 2000, in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plan Book 78 on Page 9 and being more particularly bounded and described as follows, to wit:

BEGINNING at a point in the centerline of T-432 (Miller Road); thence by Lot No. 18 of the aforementioned Subdivision South 89 degrees 15 minutes 59 seconds East, a distance of 426.20 feet to an iron pin; thence by Lot No. 21 on the aforementioned Subdivision South 28 degrees 44 minutes 35 seconds West, a distance of 203.88 feet to an iron pin; thence by Lot No. 16 of the aforementioned Subdivision North 89 degrees 15 minutes 59 seconds West, a distance of 427.23 feet to a point in the centerline of T-432; thence in along and through the centerline of T-432 North 28 degrees 59 minutes 50 seconds East, a distance of 204.36 feet to a point in the centerline of T-432 (Miller Road), the point and place of BEGINNING.

CONTAINING 1.763 gross acres of land, more or less, as surveyed.

TITLE TO SAID PREMISES IS VESTED IN Richard Wagaman and Diane Wagaman, husband and wife by Deed from John P. Kresky and Jane M. Kresky, husband and wife, dated 1/15/2002 and recorded 1/29/2002 in Record Book 2544, Page 347.

TAX PARCEL 1 17-0211

Premises Being: 218 Miller Road, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Richard Wagaman & Diane Wagaman** 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 8, 2003, 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.

10/10, 17 & 24

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-952 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of November, 2003, 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.:

Description of Real Estate located at 485 Basehoar School Road, Littlestown, PA 17340:

## LEGAL DESCRIPTION:

ALL THAT CERTAIN tract of land situate, lying and being in Union Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point along the Southerly right-of-way line of Basehoar School Road and Lot No. 247 of the hereinafter referred to subdivision plan; thence along said Lot No. 247, South two (02) degrees eleven (11) minutes fifty-six (56) seconds East, one hundred forty and zero hundredths (140.00) feet to a point at other lands now or formerly of Lynn Lee Construction Co., Inc.; thence along said other lands now or formerly of Lynn Lee Construction Co., Inc., South

eighty-seven (87) degrees forty-eight (48) minutes four (04) seconds West, one hundred and zero hundredths (100.00) feet to a point at Lot No. 249; thence along said Lot No. 249, North two (02) degrees eleven (11) minutes fifty-six (56) seconds West, one hundred forty and zero hundredths (140) feet to a point along the Southerly right-of-way line of Basehoar School Road; thence along the Southerly right-of-way line of Basehoar School Road, North eighty-seven (87) degrees forty-eight (48) minutes four (04) seconds East, one hundred and zero hundredths (100.00) feet to a point, the place of BEGINNING. CONTAINING 14,000 square feet and being identified as Lot No. 248 on the final subdivision plan of Phase I, Meadowview Estates, which plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 54, page 75.

SEIZED and taken into execution as the property of **James W. Houseman III & t/d/b/a Timber Building Systems** 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 1, 2003, 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.

10/3, 10 & 17

## McCARTHY VS. HENRY ET AL

1. Preliminary Objections, the end result of which would be dismissal of a cause of action, should be sustained only in cases that are clear and free from doubt.

2. The theory of "corporate liability" as a cause of action was first adopted in Pennsylvania in *Thompson v. Nason Hosp.*, 591 A.2d 703 (Pa. 1991), as a new cause of action against a corporate hospital.

3. Corporate negligence is a doctrine under which the hospital is liable if it fails to uphold the proper standard of care owed the patient, which is to ensure the patient's safety and well-being while at the hospital. This theory of liability creates a nondelegable duty which the hospital owes directly to a patient. Therefore, an injured party does not have to rely on and establish the negligence of a third party.

4. In adopting the theory of corporate liability, the Pennsylvania Supreme Court embraced the theory as an "emerging trend."

5. The Pennsylvania Superior Court extended applicability of a "corporate liability" cause of action to a health maintenance organization (HMO).

6. There is no appellate case extending the theory of corporate liability to entities providing health services less extensive than those provided by hospitals or HMO's.

7. The traditional theories of liability, including "respondeat superior" and "partnership law," are perfectly adequate to establish liability to business entities other than corporations.

8. The law of partnerships in Pennsylvania makes it clear that a partnership as a unit is liable for the negligence or misconduct of a partner acting in the ordinary course of the partnership's business.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 01-S-1339, JOHN G. McCARTHY, INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF FRANCES M. McCARTHY, DECEASED, VS. MARK R. HENRY, M.D., AND EDWARD A. NELSON, M.D., AND EAST BERLIN FAMILY PRACTICE

James W. Harris, Esq., for Plaintiffs

James W. Saxton, Esq., and Todd R. Bartos, Esq., for Defendants

George, J., September 11, 2002

### OPINION

On April 26, 2002, the Plaintiff filed a Complaint alleging a cause of action for medical malpractice against Dr. Mark R. Henry, Dr. Edward A. Nelson and East Berlin Family Medicine. Plaintiff's Complaint contains language for causes of action against East Berlin Family Medicine consistent with theories of "respondeat superior," "partnership liability" and "corporate liability". The Defendants filed Preliminary Objections to the Plaintiff's Complaint in the form of a

Demurrer challenging Plaintiff's theory of corporate liability.<sup>1</sup> Essentially, the Defendants argue that a cause of action for corporate liability is inapplicable against a non-corporate Defendant such as East Berlin Family Medicine.<sup>2</sup>

Preliminary Objections, the end result of which would be dismissal of a cause of action, should be sustained only in cases that are clear and free from doubt. *League of Women Voters of Pennsylvania v. Commonwealth*, 692 A.2d 263 (Pa. Commw. Ct. 1997). Because of the nature of a Demurrer, all well-pled material facts as well as all reasonable inferences deductible therefrom are admitted. *Peerless Publications, Inc. v. County of Montgomery*, 656 A.2d 547, 550 (Pa. Commw. Ct. 1995).

The theory of "corporate liability" as a cause of action was first adopted in Pennsylvania in *Thompson v. Nason Hosp.*, 591 A.2d 703 (Pa. 1991), as a new cause of action against a corporate hospital. Recognizing a corporate hospital's role in the total health care of its patients, the *Thompson* Court defined the cause of action as follows:

Corporate negligence is a doctrine under which the hospital is liable if it fails to uphold the proper standard of care owed the patient, which is to ensure the patient's safety and well-being while at the hospital. This theory of liability creates a nondelegable duty which the hospital owes directly to a patient. Therefore, an injured party does not have to rely on and establish the negligence of a third party.

The hospital's duties have been classified into four general areas: (1) a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment ... (2) a duty to select and retain only competent physicians ... (3) a duty to oversee all persons who practice medicine within its walls as to patient care... and (4)

---

<sup>1</sup> Defendants' Preliminary Objections were accompanied by a brief pursuant to CTY. R. CIV. P. 211. Plaintiff, however, has failed to file a responsive brief. Defendants' Preliminary Objections may be sustained on this basis alone. See CTY. R. CIV. P. 210.

<sup>2</sup> This Complaint alleged that Dr. Henry and Dr. Nelson are "partners" in East Berlin Family Medicine. *Pl.'s Compl.* at ¶ 6.

a duty to formulate, adopt and enforce adequate rules and policies to ensure quality care for the patients ... .

*Id.* at 707 (citations omitted).

In adopting the theory of corporate liability, the Pennsylvania Supreme Court embraced the theory as an “emerging trend”. *Id.* at 707. Since *Thompson*, a number of appellate cases involving corporate hospital defendants have ratified the existence of such a cause of action. See *Welsh v. Bulger*, 698 A.2d 581 (Pa. 1997); *Whittington v. Episcopal Hosp.*, 768 A.2d 1144 (Pa. Super. Ct. 2001); *Matthews v. Clarion Hosp.*, 742 A.2d 1111 (Pa. Super. Ct. 1999); *Edwards v. Brandywine Hosp.*, 652 A.2d 1382 (Pa. Super. Ct. 1995).

In *Shannon v. McNulty*, 718 A.2d 828 (Pa. Super. Ct. 1998), the Pennsylvania Superior Court extended applicability of a “corporate liability” cause of action to a health maintenance organization (HMO). In doing so, the Superior Court found no reason to distinguish between hospitals and HMO’s when the HMO “is performing the same or similar functions as a hospital.” *Id.* at 836. However, after an exhaustive search, this Court has been unable to discover any appellate case extending the theory of corporate liability to entities providing health services less extensive than those provided by hospitals or HMO’s. There is also a void of any case law extending the theory to non-corporate defendants.

The void in case law affecting non-corporate defendants not only reflects the inapplicability of the cause of action to non-corporate defendants but also is likely a recognition that other theories of liability are available to fill this void. The traditional theories of liability, including “respondeat superior” and “partnership law,” are perfectly adequate to establish liability to business entities other than corporations.

Instantly, the Plaintiff has alleged a theory of “respondeat superior” against East Berlin Family Medicine. Moreover, the Complaint has joined both Dr. Henry and Dr. Nelson as partners in East Berlin Family Medicine. Undoubtedly, the liability of a partner may be imputed to the partnership. The law of partnerships in Pennsylvania makes it clear that a partnership as a unit is liable for the negligence or misconduct of a partner acting in the ordinary course of the partnership’s business. *Svetik v. Svetik*, 547 A.2d 794, 799 (Pa. Super. Ct.

1988).<sup>3</sup> A theory of “corporate liability” adds little, if anything, to the allegations in Plaintiff’s Complaint.

Under these circumstances, and absent appellate authority, this Court is reluctant to create such a monumental change in the law of this Commonwealth.

For the foregoing reasons, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 11th day of September, 2002, the Defendants’ Preliminary Objections in the form of a demurrer are granted. Paragraphs 19i, j and k of Plaintiff’s Complaint are stricken. Since amendment cannot cure the deficiencies in these allegations, the Plaintiff will not be given the opportunity to file an amended complaint. The Defendants shall have twenty (20) days from the date of this Order within which to file an answer to the remaining paragraphs of Plaintiff’s Complaint.

---

<sup>3</sup> Plaintiff’s Complaint alleges a theory of corporate liability due to the alleged failure of East Berlin Family Medicine to “select and retain competent physicians; oversee all persons who practice medicine within its walls; and formulate, adopt and enforce adequate rules and policies to ensure quality care”. *See, Pl.’s Compl.*



## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-637 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT lot of ground situate in the Borough of Littlestown, Adams County, Pennsylvania, as shown on the Subdivision Plan for "Lakeview Village - Phase Two" prepared by Donald E. Worley, Registered Surveyor, of Worley Surveying, dated April 21, 1989, revised September 11, 1989 recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 54, Page 65 (2 pages) and designated as Lot No. 49 thereon, more particularly bounded and described as follows:

BEGINNING at a steel pin on the Northern Right-of-Way line of Starlite Drive at corner of Lot No. 50 on the Plan of Lots hereinabove identified: thence by said Lot No. 50, North forty-four (44) degrees twenty-two (22) minutes thirty-two (32) seconds West, one hundred twenty-six and fifty-one hundredths (126.51) feet to a steel on line of land of Pennsylvania Classics, Inc.; thence by said land of Pennsylvania Classics, Inc., North fifty-five (55) degrees forty-three (43) minutes thirty-six (36) seconds East, thirty-five and fifty-five hundredths (35.55) feet to a steel pin at corner of Lot No. 48; thence by said Lot No. 48, South forty-four (44) degrees twenty-two (22) minutes thirty-two (32) seconds East, one hundred twenty and twenty-seven hundredths (120.27) feet to a steel pin on the Northern Right-of-Way line of Starlite Drive, thence by said Northern Right-of-Way line of Starlite Drive, South forty-five (45) degrees thirty-seven (37) minutes twenty-eight (28) seconds West, thirty-five (35.00) feet to the above described place of BEGINNING.

CONTAINING 4,319 square feet.

TOGETHER with and subject to a fifty (50) feet Right-of-Way in, through along the streets known as Crescent Lane and Starlite Drive to be used in common with other owners of lots in "Lakeview Village - Phase Two", as shown on the Subdivision Plan above referenced.

TITLE TO SAID PREMISES IS VESTED IN Ryan M. Glover by Deed from Garry L. Miller, unmarried, dated 11/28/2001 and recorded 12/10/2001 in Record Book 2491, Page 255.

Premises being: 31 Starlite Drive, Littlestown, PA 17340

Tax Parcel No. 11-129

SEIZED and taken into execution as the property of **Ryan M. Glover** 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 8, 2003, 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.

10/3, 10 & 17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-831 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate in Menallen Township, Adams County, Pennsylvania, being Lot No. 3 on the draft of survey hereinafter identified bounded and described as follows:

BEGINNING at an iron pin in a proposed 33 foot road at Lot No. 4; thence by said lot, South 38 degrees 1 minute 40 seconds East, 426.30 feet to an iron pin at Lot No. 7; thence by said lot, South 36 degrees 58 minutes 30 seconds West 235.96 feet to an iron pin at other lands now or formerly of Clair R. Showers; thence by said lands, North 39 degrees 16 minutes 30 seconds West 109.69 feet to an iron pin; thence continuing by said lands, North 90 degrees West, 220.42 feet to a nail in L.R. #01041, thence in said L.R. #01041 North 6 degrees 2 minutes 20 seconds East 240 feet to a nail in said L.R. 01041 at its intersection with said proposed 33 foot road; thence in said proposed 33 foot road, North 35 degrees 38 minutes 20 seconds East 247 feet to the place of BEGINNING.

CONTAINING 2.8963 acres

THE above description was taken from a draft of survey dated January 7, 1972, prepared by Boyer-Price and recorded in Adams County Plan Book No. 2 at page 14.

TOGETHER with a right of way over said proposed 33 foot road for means of ingress, egress and regress.

Tax Parcel No. B5-23

SEIZED and taken into execution as the property of **Daniel F. Hodowanec & Chastity L. Hodowanec** 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 1, 2003, 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.

10/3, 10 & 17

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on the 1st day of August, 2003, for the purpose of obtaining a Certificate of Incorporation for a business corporation organized under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania of 1988, as amended.

The name of the Corporation is CUSTOM TRANSPORTATION, INC. The purpose for which said Corporation is organized is to engage in and do any lawful act concerning any or all business for which corporations may be incorporated under the Business Corporation Law of 1988, December 21, P.L. 1444, No. 177 Section 103, effective October 1, 1989 including but not limited to a trucking business and related items.

Stonesifer and Kelley, P.C.

10/17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-472 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in or near the centerline of U.S. Route 15; thence leaving said centerline and extending along a right-of-way the following courses and distances: north thirty-four (34°) degrees thirty (30') minutes (30") seconds East four hundred four and seven hundredths (404.07) feet to an iron pipe; thence North thirty-four (34°) degrees thirty (30') minutes (30") seconds East one hundred seventy-four and twenty-six hundredths (174.26) feet to an iron pipe at stones at lands now or formerly of George R. Barrick; thence continuing along the last mentioned lands South fifty-five (55°) degrees twenty-three (23') minutes five (05") seconds East eight hundred eighty-five and twenty-one hundredths (885.21) feet to a concrete monument in or near the centerline of White Church Road, also known as T-568; thence extending in and along said centerline South forty-three (43°) degrees twelve (12') minutes seventeen (17") seconds West five hundred thirty-eight and sixty-two hundredths (538.62) feet to an iron pipe in the center of said last mentioned roadway; thence leaving said roadway and extending along lands now or formerly of the Episcopal Church and E.D.L.U. corporation North fifty-eight (58°) degrees thirty-eight (38') minutes thirty-five (35") seconds West a distance of eight hundred four and ninety-eight hundredths (804.98) feet to a point in or near the centerline of U.S. Route 15 being the point and place of BEGINNING.

CONTAINING 10.747 acres total and 9.812 acres net and being designated as Lot No. 2 on a final subdivision plan for John W. and Doris M. Breighner dated August 14, 1987, as prepared by John R. Williams, P.L.S. Said Plan is recorded in the Adams County Recorder's Office in Plan Book 47, Page 100.

Having thereon erected a dwelling house known as: 460 White Church Road, York Springs, Pennsylvania 17372

BEING THE SAME PREMISES WHICH Verne W. Nestler, Jr. and Amelia T. Nestler, by Deed dated 4/30/02 and recorded 5/7/02 in Adams County Deed

Book 2651, Page 285, granted and conveyed unto Franklin D. Buckley, Jr.

Seized in execution as the property of Franklin D. Buckley, Jr. under Adams County Judgment No. 03-S-472

MAP & PARCEL 22-16-12

SEIZED and taken into execution as the property of **Franklin D. Buckley, Jr.** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 8, 2003, 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.

10/10, 17 & 24

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-319 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land situate on the westerly right of way line of Abbots Drive in the Borough of Abbottstown, Adams County, Pennsylvania, known and numbered as Lot No. 50 and for Adams County, PA in Subdivision Plan Book 76, Page 99, more fully bounded and described as follows, to wit:

BEGINNING at a point on the westerly right of way line of Abbots Drive, at a corner of Lot No. 51 on said plan; thence extending along the said right of way line South 47 degrees 16 minutes 34 seconds East 85 feet to a point at corner of Lot No. 49 on said plan; thence extending along Lot No. 49 South 41 degrees 58 minutes 10 seconds West 278.28 feet to a point; thence extending along Lot No. 55E on a plan of lots for Abbots Manor Phase II, Plan Book 73, Page 43 North 25 degrees 36 minutes 53 seconds West 95.40 feet to a point; thence North 42 degrees 43 minutes 26 seconds East 243.04 feet to the point and place of BEGINNING.

CONTAINING 22,600 square feet.

TITLE TO SAID PREMISES IS VESTED IN Daniel J. Furman by Deed from Garland Construction, Inc. dated 11/3/2000 and recorded 1/31/2001 in Record Book 2205, Page 134

Tax Parcel: 005-0040

Premises Being: 51 Abbots Drive, Abbottstown, PA 17301

SEIZED and taken into execution as the property of **Daniel J. Furman** 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 8, 2003, 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.

10/10, 17 & 24

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Commonwealth of Pennsylvania, Department of State, at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation.

The name of the proposed corporation which has been organized under the Business Corporation Law of 1988 adopted December 21, 1988, P.L. 1444, No. 177, §103, as amended, is WHISLER'S DRY CLEANERS, INC.

G. Steven McConly, Solicitor

10/17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-359 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot or piece of ground situate, lying and being in Mt. Joy Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point near the centerline of S.R. 0134, the Taneytown Road, at a corner of Lot No. 3 on the hereinafter mentioned draft of survey and subdivision plan; thence in S.R. 0134, the Taneytown Road, South Ten (10) degrees Three (03) minutes Seventeen (17) seconds East, One Hundred Thirty-five and Thirty-nine One-hundredths (135.39) feet to a point near the centerline of said S.R. 0134, the Taneytown Road; thence continuing in S.R. 0134, the Taneytown Road, South Eight (08) degrees Sixteen (16) minutes Twenty-six (26) seconds East 287.82 feet to a point in said S.R. 0134, the Taneytown Road; thence South Eighty-four (84) degrees Fifty (50) minutes Thirteen (13) seconds West, Twenty-five and Eighty-three One-hundredths (25.83) feet to an existing railroad spike on line of land of the Mt. Joy Evangelical Lutheran Church and along the edge of Benner Road; thence crossing Benner Road, North Five (05) degrees Forty (40) minutes Eighteen (18) seconds West, Twenty-six and Forty One-hundredths (26.40) feet to an existing wooden post; thence along and in said Benner Road, South Eighty (80) degrees Eleven (11) minutes Thirty (30) seconds West, One Hundred Forty-seven and Twenty-five One-hundredths (147.25) feet to an existing cotton gin spindle One (1) foot North of the centerline of said Benner Road; thence in said Benner Road, South Eighty (80) degrees Nine (09) minutes Twenty-five (25) seconds West, One Hundred Fifty-five (155.00) feet to a railroad spike set near the centerline of Benner Road, and at a corner of Lot No. 5; thence by Lot No. 5, North Twenty-six (26) degrees Eight (8) minutes Fifteen (15) seconds West, Two Hundred Seventy and Seventy-one One-hundredths (270.71) feet to a steel pin set on line of Lot No. 5 and at a corner of Lot No. 3; thence by Lot No. 3, and passing through a steel pin set Twenty-five (25) feet from the next mentioned point, North Sixty-one (61) degrees Fifty-six (56) minutes Twenty-five (25) seconds East, Four Hundred Thirty-one and One One-hundredths (431.01) feet to a point near the

centerline of S.R. 0134, Taneytown Road, at a corner of Lot No. 3, the place of BEGINNING.

CONTAINING 2.847 Acres, more or less.

THE ABOVE DESCRIPTION was taken from a draft of survey and subdivision plan entitled "Scheller Subdivision", dated October 27, 1997, and revised January 19, 1998, as prepared by Richard W. Boyer, Professional Land Surveyor No. 17399-E, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 73 at pages 23 and 23A, and designated as Lot No. 4 thereon.

UNDER AND SUBJECT to certain restrictions contained in prior deeds and instruments of record.

IMPROVEMENTS thereon consisting of a residential dwelling.

BEING KNOWN AS 2585 Taneytown Road, Gettysburg, PA 17325.

BEING TAX PARCEL NO. (30) F17-65.

BEING the same premises which Vincent Scheller and Marie Scheller, husband and wife, by Deed dated September 2, 1999 and recorded on September 3, 1999 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 1909, Page 141, granted and conveyed unto Joseph M. Regler, IV and April L. Regler, husband and wife, as tenants by the entireties, in fee.

SEIZED AND TAKEN as the property of Joseph M. Regler, IV and April L. Regler under Judgment No. 03-S-359.

SEIZED and taken into execution as the property of **Joseph M. Regler, IV & April L. Regler** 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 29, 2003, 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.

10/17, 24 & 31

## 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 21, 2003, at 9:00 a.m.

**ELLER**—Orphans' Court Action Number OC-88-03. The First and Final Account of Robert L. Eller, Executor of the Estate of Nelson E. Eller, deceased, late of Cumberland Township, Adams County, Pennsylvania.

**ZEPP**—Orphans' Court Action Number OC-92-03. The First and Final Account of Glenn A. Zepp and Martha J. Zepp, Executors of the Will and Codicil of Ruth J. Zepp, deceased, late of Straban Township, Adams County, Pennsylvania.

**STAUB**—Orphans' Court Action Number OC-96-03. The First and Final Account of Carlen L. Staub, Executrix of the Estate of Raphael F. Staub, deceased, late of the Borough of McSherrystown, Adams County, Pennsylvania.

**NICHOLS**—Orphans' Court Action Number OC-104-03. The First and Final Account of Marshall H. Nichols, Executor of the Estate of Elizabeth L. Nichols, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

**LOSMAN**—Orphans' Court Action Number OC-108-03. The First and Final Account of Susan M. Snyder and Lester Bucher, Jr., Co-Executors of the Estate of Raymond F. Losman, a/k/a Ray F. Losman, deceased, late of Conewago Township, Adams County, Pennsylvania.

Clerk of Courts

10/10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-471 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stone in center of public road on line between land now or formerly of James B. Meyer and S.W. Hammers; thence with center of said road Southwest, 52 feet to a stone; thence by land now or formerly of the said James B. Meyers, Southeast 150 feet to a stone on line of land now or formerly of Cornelius Reneicker; thence by land now or formerly of Cornelius Reneicker Northeast 53 feet to a stone; thence by land now or formerly of S.S.W. Hammers, 138 feet to stone, the place of BEGINNING. CONTAINING 28 perches, more or less.

TITLE TO SAID PREMISES IS VESTED IN: BEING the same premises which Allan F. Trostle, Widower by Deed dated January 19, 1973 and recorded January 19, 1973 in Deed Book 304, Page 767 granted and conveyed unto Rondale A. Trostle and Karen S. Trostle, husband and wife, in fee.

Map and Parcel ID: (2) E12-121

BEING KNOWN AS: 690 Knoxlyn Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Rondale A. Trostle a/k/a Rondale Allen Trostle, Karen S. Trostle & United States of America** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 29, 2003, 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.

10/17, 24 & 31

IN THE COURT OF COMMON PLEAS OF THE 51ST JUDICIAL DISTRICT OF PENNSYLVANIA - ADAMS COUNTY

DOCKET NO.: 03-S-1002  
Action to Quiet Title

JOSEPH H. KEMPER and GLORIA B. KEMPER, Plaintiffs

vs.

LAKE MEADE, INCORPORATED, Defendant

TO: Lake Meade, Inc., its distributees, successors and assigns

TAKE NOTICE that on September 26, 2003, Joseph H. Kemper and Gloria B. Kemper filed a Complaint in Action to Quiet Title, against Lake Meade, Incorporated, averring that Joseph H. Kemper and Gloria B. Kemper are the owners of the real property described herein. The Complaint requests the Court to extinguish any possible interest you may have in said real estate. The subject property is a tract of land situated in Reading Township, Adams County, Pennsylvania, and described as follows:

ALL THAT CERTAIN lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot #182 and Lot #364 on Plan of Lots of LAKE MEADE SUBDIVISION, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, Miscellaneous Book 1, Page 4, and subject to all rights-of-ways and restrictions of record.

The Complaint requested the Court to enter a Decree and Order that the title of the property described above is in the Plaintiffs and that the Defendant be forever barred from asserting any right, lien, title or interest in the said land inconsistent with the interest of the Plaintiffs as set forth in their Complaint.

WHEREFORE, the Court of Common Pleas of Adams County, Pennsylvania has ordered that service of the Complaint be made on the above Defendant, its distributees, successors and assigns, by publication, Plaintiffs will request the Court to enter a final judgment ordering that any possible legal interest the Defendant might have had in the property be extinguished.

NOTICE TO DEFEND

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

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

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

Court Administrator  
Adams County Court House  
111-117 Baltimore Street  
Gettysburg, Pennsylvania 17325  
(717) 337-9846

Catherine J. Gault, Esq.  
Attorney for Plaintiffs  
31 South Washington Street  
Gettysburg, PA 17325-2112

10/17

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 9, 2003, of sales of real estate for delinquent taxes made October 3, 2003. The Court confirmed said Return Nisi on October 9, 2003. 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

10/17

NOTICE

The law firm of **WILEY, LENOX, COLGAN & MARZZACCO, PC (The Wiley Group)**, of Dillsburg, PA, announces its relocation to 130 W. Church St., Suite 100, Dillsburg, PA 17019. The present phone number (717-432-9666) and facsimile number (717-432-0426) will remain the same at the new location.

10/17, 24 & 31

**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 GEORGE S. DEATRICK, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Personal Representative: Harry E. Deatrack, 1209 Beaver Run Road, New Oxford, PA 17350

Attorney: G. Steven McKonily, Esq., 119 Baltimore Street, Hanover, PA 17331

**ESTATE OF JOAN LARSON PATTON, DEC'D**

Late of Mt. Joy Township, Adams County, Pennsylvania

Executer: Dale M. Patton, Sr., 61 Heritage Drive, Gettysburg, PA 17325

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

**ESTATE OF VIRGINIA M. PECK, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Janice Peck, 446 South High Street, Hanover, PA 17331

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

**SECOND PUBLICATION****ESTATE OF LOUIS N. DIEHL, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Administratrices: Carol A. Marcelli, 74 N. High St., P.O. Box 546, Arendtsville, PA 17303; Emily D. Simmers, 13 Bragg Dr., East Berlin, PA 17316

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

**ESTATE OF KATHRYN S. FETTERS, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executor: David Donharl, 616 Buchanan Valley Road, Orrtanna, PA 17353

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

**ESTATE OF ANNA K. HULL a/k/a ANNA KATHRYN HULL, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Mayetta Becker, 3480 Willow Road, Dover, PA 17315; Sherman Krall, 119 Water Street, East Berlin, PA 17316; Mary Krall, 119 Water Street, East Berlin, PA 17316

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

**THIRD PUBLICATION****ESTATE OF KATHLEEN M. ELINE, DEC'D**

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Philip Staub, 230 S. Fifth St., McSherrystown, PA 17344; Marlene Staub, 224 Ridge Ave., McSherrystown, PA 17344

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

**ESTATE OF JOHN H. SCOTT, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Executrix: Beverly J. Scott, 2091 York Road, Gettysburg, PA 17325

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-826 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, 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, parcel, piece of ground situate in Reading Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a steel pin set Twenty-five (25) feet from the center line of State Highway Route 234, said steel pin being a corner of land now or late of George C. Kimmel and the Southwest corner of the tract herein conveyed; thence by said Kimmel land, North seventeen (17) degrees fifty-seven (57) minutes West, one hundred eighty-five and forty-two hundredths (185.42) feet to a steel pin at corner of land now or late of Charles R. Keller; thence by said Keller land, North fifty-two (52) degrees forty-five (45) minutes East, sixty-six and fifty-eight hundredths (66.58) feet to a steel pin at the Northwest corner of Lot No. 2 on Plan of Lots of Charles R. Keller; thence by said Lot No. 2, South thirty-seven (37) degrees fifteen (15) minutes East, one hundred seventy-five (175) feet to a steel pin set twenty-five (25) feet from the center line of State Highway Route 234; thence along said State Highway Route 234, South fifty-two (52) degrees forty-five (45) minutes West, one hundred twenty-seven and nine-tenths (127.9) feet to a steel pin, the place of BEGINNING.

THE ABOVE DESCRIPTION was taken from a draft of survey dated August 4, 1956, by J.H. Rife, R.E., and designated as Lot No. 1 on said survey.

HAVING erected thereon a dwelling known as 60 Stoney Point Road, New Oxford, PA 17350

Parcel No. J08-0016A

BEING the same premises which Kermit V. Bluhm and Glenda G. Bluhm, by their Deed dated 12/29/2001 and recorded on 01/22/2002, in the Adams County, Pennsylvania, in the Recorder of Deeds Office in Deed Book Volume 2543, page 333, granted and conveyed unto Kevin J. Crouse and Traci L. Crouse, husband and wife.

SEIZED and taken into execution as the property of **Kevin J. Crouse & Traci L. Crouse** 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 29, 2003, 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.

10/17, 24 & 31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-554 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN property situated in the Township of Mount Joy in the County of Adams and Commonwealth of Pennsylvania, being more fully described in a fee simple deed dated 07/29/1997 and recorded 08/07/1997, among the land records of the County and State set forth above in Volume 1420 Page 95.

Tax Parcel ID: G14-41 B

Address: 1570 Highland Avenue  
Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Robert G. Brown, Jr. & Stephanie L. Brown** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 29, 2003, 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.

10/17, 24 & 31

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—DIVORCE  
NO. 03-S-681

REGINA M. LEE, Plaintiff  
vs.

ANTHONY D. LEE, Defendant

NOTICE OF INTENTION TO REQUEST  
ENTRY OF SECTION 3301(d)  
DIVORCE DECREE

TO: Anthony D. Lee, Defendant

You have been sued in an action for divorce. You have failed to answer the Complaint or file a counter-affidavit to the Section 3301(d) Affidavit which has been filed by the Plaintiff. A copy of this Affidavit can be obtained from the Prothonotary or the undersigned Counsel for the Plaintiff. Therefore, on or after thirty days from the date of publication of this notice, the other party can request the Court to enter a final decree in divorce.

If you do not file with the Prothonotary of the Court an answer with your signature notarized or verified or a counter-affidavit by the above date, the Court can enter a final decree in divorce. A counter-affidavit which you may file with the Prothonotary of the Court is available by contacting the undersigned Counsel for the Plaintiff.

Unless you have already filed with the Court a written claim for economic relief, you must do so by the above date or the Court may grant the divorce and you will lose forever the right to ask for economic relief. The filing of the form counter-affidavit alone does not protect your economic claims.

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

Court Administrator  
Adams County Courthouse  
Gettysburg, PA 17325  
Phone 1-800-337-9846 OR  
(717) 337-9846

Wolfe & Rice, LLC  
John A. Wolfe, Esq.  
Attorneys for Plaintiff  
47 West High Street  
Gettysburg, PA 17325

10/17

# Adams County Legal Journal

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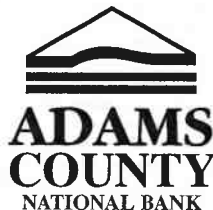
## IN THIS ISSUE

CACO THREE VS. HUNTINGTON TWP.

*This opinion continues to next issue (10/31/2003)*

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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. 03-S-706 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 2003, 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 real estate lying and being situate in the Township of Mt. Joy, Adams County, Pennsylvania, being identified as Lot No. 17 as shown on a Plan of Lots known as "Deer Chase" prepared by Hoover Engineering Services, Inc., dated December 17, 1999, recorded April 5, 2000, in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plan Book 78 on Page 9 and being more particularly bounded and described as follows, to wit:

BEGINNING at a point in the centerline of T-432 (Miller Road); thence by Lot No. 18 of the aforementioned Subdivision South 89 degrees 15 minutes 59 seconds East, a distance of 426.20 feet to an iron pin; thence by Lot No. 21 on the aforementioned Subdivision South 28 degrees 44 minutes 35 seconds West, a distance of 203.88 feet to an iron pin; thence by Lot No. 16 of the aforementioned Subdivision North 89 degrees 15 minutes 59 seconds West, a distance of 427.23 feet to a point in the centerline of T-432; thence in along and through the centerline of T-432 North 28 degrees 59 minutes 50 seconds East, a distance of 204.36 feet to a point in the centerline of T-432 (Miller Road), the point and place of BEGINNING.

CONTAINING 1.763 gross acres of land, more or less, as surveyed.

TITLE TO SAID PREMISES IS VESTED IN Richard Wagaman and Diane Wagaman, husband and wife by Deed from John P. Kresky and Jane M. Kresky, husband and wife, dated 1/15/2002 and recorded 1/29/2002 in Record Book 2544, Page 347.

TAX PARCEL I 17-0211

Premises Being: 218 Miller Road, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Richard Wagaman & Diane Wagaman** 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 8, 2003, 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.

10/10, 17 & 24

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-826 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, 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, parcel, piece of ground situate in Reading Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a steel pin set Twenty-five (25) feet from the center line of State Highway Route 234, said steel pin being a corner of land now or late of George C. Kimmel and the Southwest corner of the tract herein conveyed; thence by said Kimmel land, North seventeen (17) degrees fifty-seven (57) minutes West, one hundred eighty-five and forty-two hundredths (185.42) feet to a steel pin at corner of land now or late of Charles R. Keller; thence by said Keller land, North fifty-two (52) degrees forty-five (45) minutes East, sixty-six and fifty-eight hundredths (66.58) feet to a steel pin at the Northwest corner of Lot No. 2 on Plan of

Lots of Charles R. Keller; thence by said Lot No. 2, South thirty-seven (37) degrees fifteen (15) minutes East, one hundred seventy-five (175) feet to a steel pin set twenty-five (25) feet from the center line of State Highway Route 234; thence along said State Highway Route 234, South fifty-two (52) degrees forty-five (45) minutes West, one hundred twenty-seven and nine-tenths (127.9) feet to a steel pin, the place of BEGINNING.

THE ABOVE DESCRIPTION was taken from a draft of survey dated August 4, 1956, by J.H. Rife, R.E., and designated as Lot No. 1 on said survey.

HAVING erected thereon a dwelling known as 60 Stone Point Road, New Oxford, PA 17350

Parcel No. J08-0016A

BEING the same premises which Kermit V. Bluhm and Glenda G. Bluhm, by their Deed dated 12/29/2001 and recorded on 01/22/2002, in the Adams County, Pennsylvania, in the Recorder of Deeds Office in Deed Book Volume 2543, page 333, granted and conveyed unto Kevin J. Crouse and Traci L. Crouse, husband and wife.

SEIZED and taken into execution as the property of **Kevin J. Crouse & Traci L. Crouse** 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 29, 2003, 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.

10/17, 24 & 31



## CACO THREE VS. HUNTINGTON TWP.

1. Where a Court has taken no additional evidence in a land development case, the Court's review is limited to determining whether or not the Board abused its discretion, committed an error of law, or made findings of fact not supported by substantial evidence.

2. Where a land development plan has been denied on a number of bases, the decision of the Board should not be overturned if rejection of a plan is supported by even one of the grounds set forth for denial.

3. When the developer's application is not approved in terms as filed the decision shall specify the defects found and shall cite to the provisions of the statute or ordinance relied upon.

4. Where a preliminary subdivision plan fails to comply with the objective, substantive requirements of a subdivision ordinance, its rejection or conditional approval is within the discretion of the governing body.

5. Conditional approval by the Board is an option available to the Board upon remand where the basis for the plan's denial is otherwise insufficient as a matter of law.

6. Where the substantive provisions of an ordinance are not complied with, conditional approval is not required but rather a township may deny the plan.

In the Court of Common Pleas of Adams County, Pennsylvania,  
Civil, No. 00-S-1025, CACO THREE, INC. VS. BOARD OF  
SUPERVISORS OF HUNTINGTON TOWNSHIP

Ronald M. Lucas, Esq., and Charles M. Suhr, Esq., for Plaintiff  
Robert E. Campbell, Esq., for Defendant

George, J., November 15, 2002

### OPINION

CACO Three, Inc. (hereinafter referred to as "CACO") is the owner and developer of a two hundred thirty-five (235) acre tract of land located between State Route 94 and State Route 1020 in Huntington Township, Adams County, Pennsylvania. In early 1999, CACO submitted a land development plan for a two hundred seventy-five (275) unit mobile home park to the Board of Supervisors of Huntington Township. The initial plan was denied on April 8, 1999, on the basis that the submission was insufficient pursuant to the Township Subdivision Ordinance (hereinafter referred to as "Ordinance"). CACO submitted a second preliminary land development plan on May 10, 1999. After a lengthy procedural history, the Huntington Township Board of Supervisors (hereinafter referred

to as “Board”) unanimously voted to deny CACO’s preliminary land development plan on September 14, 2000.<sup>1</sup> A written decision was entered on September 18, 2000, and subsequently mailed to CACO. CACO files the instant appeal claiming that the Board abused its discretion in denying the land development plan.

Where a Court has taken no additional evidence<sup>2</sup> in a land development case, the Court’s review is limited to determining whether or not the Board abused its discretion, committed an error of law, or made findings of fact not supported by substantial evidence. *Puleo v. Zoning Hearing Bd. of Schuylkill Township*, 722 A.2d 789, 790 n.2 (Pa. Commw. Ct. 1999). “Substantial evidence” has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Valley View Civic Ass’n v. Zoning Bd. of Adjustment*, 462 A.2d 637, 639 (Pa. 1983). Where a land development plan has been denied on a number of bases, the decision of the Board should not be overturned if rejection of a plan is supported by even one of the grounds set forth for denial. *Herr v. Lancaster County Planning Comm’n*, 625 A.2d 164, 168-69 (Pa. Commw. Ct. 1993).

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<sup>1</sup>The record reflects that the Peakview Plan was initially submitted on January 25, 1999. The Board rejected this original plan on April 8, 1999, and provided notice of its decision to CACO on April 12, 1999. On May 10, 1999, CACO submitted its second submission concerning its property. Thereafter, CACO requested at least four continuances of the Board’s consideration of the plan. On June 22, 2000, CACO submitted a revised plan. It is that plan which is currently under consideration in this appeal. CACO attempted to submit a second revised plan in September, 2000, however, the Board did not consider that plan in light of its late submission just prior to the scheduled September 14, 2000, Board of Supervisors meeting.

During argument, the Board’s counsel urged that there had been a number of incorrect submissions by CACO in an effort to have the plan pre-date the pending adoption of a zoning ordinance in Huntington Township. As of the May 10, 1999, submission, the Township did not have a zoning ordinance. However, effective November 11, 1999, a zoning ordinance was adopted in Huntington Township. Pursuant to the terms of the adopted zoning ordinance, the area where the proposed development is located is currently zoned agricultural conservation district and essentially would prohibit the CACO plan.

<sup>2</sup>CACO previously filed a Motion to Receive Additional Evidence, however, after an evidentiary hearing, that Motion was denied by Order of Court dated June 7, 2002.

In rejecting CACO's plan, the Board listed nine (9) separate reasons for denial.<sup>3</sup> CACO has challenged each of those reasons. Before addressing the substantive issues raised by CACO, I will briefly address a procedural issue which precludes the Board's reliance on the fourth reason as a basis for denying CACO's plan. Although the Board's written notice of the decision indicates that

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<sup>3</sup>By letter dated September 18, 2000, the Board issued the following decision:

This letter is to inform you of the denial of the Peakview Subdivision/Land Development Plan. The denial is recorded in the minutes of the September 14, 2000 regular business meeting of the Huntington Township Supervisors. The violations of the Subdivision and Land Development Ordinance are as follows:

1. No erosion and sediment control approval has been obtained from the Adams County Conservation District in violation of Section 304.3.B of the ordinance.
2. A most striking and severe problem with this development is the fact that the land with the large concentration of development and small children that might reside thereon is subject to life threatening hazards and may be considered uninhabitable unless those hazards have been removed. The premissis [sic] is situated adjacent to a quarry and the plans do not provide for the complete fencing of the quarry and the proposals as submitted are inadequate in violation of Section 402.F. This is not a surprise to the developers, it has been stated for months and possibly a year that the fencing of the quarry must be completed.
3. There are insufficient details on the plan showing minimum compliance with the sanitary sewer systems set forth under Section 807.
4. There are insufficient details showing the water supply and distribution systems and the sewage collection and disposal systems.
5. The following inadequacies exist with regard to the storm-water management and design criteria:
  - A. There is no proposed grading shown on Sheet 6 through 14 and the contours are not labeled in violation of section 507.2.C.
  - B. Ponds are indicated at the lower end of the swales between the lots. No details or design calculations appear.
  - C. No inlets for R-1, R-02, R-3, R-4, R-5, are shown on the profile review of Sheet #25.
  - D. Discharge from the R-9 area need to be directed to the Sediment Trap #5.
  - E. Sheet #'s 263 and 264 indicate that release rates do not meet the Ordinance requirements.All of the foregoing are violations of Section 507 and Section 304.3.G.
6. The developer has not complied with Section 505 and Section 806 pertaining to the water supply system to service this large development. Sufficient design details and calculations of a potable water supply system have not been submitted to confirm compliance with this section and no DEP permits have been issued. Furthermore, the report of the developer's

CACO's plan failed to include sufficient detail concerning the water supply/distribution systems and the sewage collection/disposal systems, the notice of decision failed to appropriately cite to the provisions to the statute or ordinance relied upon for the denial. Thus, any decision on this basis is void and contrary to law. *See* PA. STAT. ANN. tit. 53, § 10508(2) (West 1997) ("When the application is not approved in terms as filed the decision shall specify the defects found . . . and shall . . . cite to the provisions of the statute or ordinance relied upon."); *see also Goodman v. Bd. of Comm'rs, Township of S. Whitehall*, 411 A.2d 838, 842 (Pa. Commw. Ct. 1980). The Board, therefore, has properly preserved only eight objections as a basis for denial of the plan.

A major thrust of CACO's attack on the remaining points raised by the Board's decision argues that it was an error of law and an abuse of discretion for the Board to deny CACO's preliminary plan rather than approve the plan with conditions. In this regard, CACO

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geologist Carlyle Gray Associates by letter dated July 21, 2000, indicate in its own report that the ground water recharge for the site during a drought year would appear only to support 224 residential units but a significantly larger number of units are planned. Reference is made to the likelihood of two to three wells but no pump tests have been provided and the developer has had over a year to provide more detailed information. An adequate water supply as contemplated in Section 806 et. seq. of the Ordinance is an absolutely critical situation for a development of this magnitude.

7. The proposed development is inconsistent with the comprehensive plan for Adams County as adopted by Huntington Township. Very low density use is proposed for this and surrounding areas. There is a preserved farm directly to the North and West of the proposed development and an agricultural security to the South. A development as proposed would have undesirable impacts on the surrounding area. This is in violation of Section 402A and 402B.
8. The developers have not complied with Section 506 and Section 807 dealing with the stormwater management and design criteria. Sufficient design details and calculations of the sewage collection and disposal system have not been submitted to confirm compliance with this section and approval by the DEP for a Part II permit has not been issued or obtained.
9. No highway occupancy permits or tentative approvals have been obtained from PennDOT in violation of Section 304.2.P.

For the reasons set forth above the land development of "Peakview" as submitted by McDermitt, Inc. and CACO Three, Inc. is denied by the Board of Supervisors of Huntington Township.

argues that rather than deny the plan, the Board should have approved the plan contingent upon obtaining approval of:

- i) The Adams County Conservation District Office. Compare with the written decision of the Board (hereinafter referred to as “Decision”) at ¶ 1;
- ii) Approval of the Department of Environmental Protection (hereinafter referred to as “DEP”) of a waste water collection and treatment system for the development. Compare with Decision, ¶’s 3 and 8;
- iii) Approval of a public water supply system for the development by DEP. Compare with Decision, ¶ 6; and
- iv) Approval of a highway occupancy permit by the Pennsylvania Department of Transportation (hereinafter referred to as “PennDOT”). Compare with Decision, ¶ 9.

Pennsylvania law in this area is clear. Where a preliminary subdivision plan fails to comply with the objective, substantive requirements of a subdivision ordinance, its rejection or conditional approval is within the discretion of the governing body. *Schultheis v. Bd. of Sup’rs of Upper Bern Township, Berks County*, 727 A.2d 145, 149 (Pa. Commw. Ct. 1999), *citing Herr*, 625 A.2d at 172. Therefore, it is entirely appropriate for a Board to reject a preliminary plan if it fails to conform to ordinance requirements. *Schultheis*, 727 A.2d at 148. It becomes necessary, therefore, to determine whether or not CACO’s plan violates ordinance requirements and, if so, whether those requirements are substantive requirements.

In regard to the Board’s insistence on CACO’s obtaining prior approvals by the Adams County Conservation District and DEP, CACO’s point is well taken. Contrary to the Board’s assertions, my reading of the Ordinance fails to reveal any requirement that an applicant **obtain** approval of the respective agencies as a condition **precedent** to preliminary plan approval. For instance, the Board cites § 304.3.B of the Ordinance for the proposition that an erosion and sediment control plan approved by the Adams County Conservation District must be included in the preliminary plan. That section, however, actually reads as follows:

3. Supplementary data required. The preliminary plan shall be accompanied by the following supplementary data where applicable: . . .

B. A plan for the control of erosion and sedimentation for review by the County Conservation District Office as required by the Pennsylvania Clean Streams Act.

Ordinance § 304.3.B. The Board's requirement that CACO obtain final approval from DEP prior to submission of the preliminary plan is equally void of support in the Ordinance. Where the Ordinance does not require such prior approvals, I will not read such a requirement into the Ordinance. *See generally Stein v. Easttown Township Zoning Hearing Bd.*, 532 A.2d 906, 912 (Pa. Commw. Ct. 1987). Accordingly, the Board's denial of the plans on failure of CACO to obtain the prior approval of DEP and the Adams County Conservation District is contrary to law.

On the other hand, the Ordinance requires that if "the subdivision proposes a new street intersection with a State route, the intersection occupancy permit number(s) shall be indicated for all such intersections." Ordinance § 304.2.P. CACO essentially concedes this Ordinance requirement and acknowledges that a PennDOT highway occupancy permit had not been obtained prior to submission of the preliminary plan. They argue, however, that this non-compliance with the Ordinance is not a substantive violation. They rely upon *Harrisburg Fore Assocs. v. Bd. of Supervisors of Lower Paxton Township*, 344 A.2d 277 (Pa. Commw. Ct. 1975) in arguing that the preliminary plan should have been approved conditioned upon receipt of the state permit from PennDOT. CACO's reliance on this precedent is misplaced.

*Harrisburg Fore Assocs.*, supra, concerned denial of a preliminary plan on the basis of general and non-specific provisions in an ordinance. The Court held these provisions of the subdivision ordinance were insufficient to support the denial of a proposed subdivision. The Court determined that the general provision relied upon by Lower Paxton Township in denying the plan was unreasonable in light of the consideration that the applicant must obtain a permit from PennDOT prior to obtaining access to the roads in question. Thus, the *Harrisburg Fore Assocs.* Court did not deal with an ordinance like the current Ordinance which specifically requires a highway occupancy permit prior to the preliminary plan submission.

Moreover, contrary to the argument of CACO, *Harrisburg Fore Assocs.* does not stand for the proposition that conditional approval

**is required** when a PennDOT permit has not been obtained prior to the submission. Rather, the *Harrisburg Fore Assocs.* decision suggested that conditional approval by the Board **is an option** available to the Board upon remand where the basis for the plan's denial is otherwise insufficient as a matter of law. I find the reasoning of *Harrisburg Fore Assocs.* to be limited to the facts of that specific case and inapplicable to the case at bar.

As mentioned, in determining whether or not the Board abused its discretion in denying the plan based upon CACO's failure to comply with § 304.2.P of the Ordinance, it is necessary to determine whether or not this provision of the Ordinance is both objective and substantive. See *Schultheis*, supra. Although it is apparent that this provision of the Ordinance sets forth a clearly expressed standard and, thus, is objective, further discussion is necessary on whether this provision of the Ordinance is substantive.

Appellate courts have found non-compliance with substantive provisions of ordinances where a plan failed to conform to lot size requirements, *Herr*, supra; failed to provide necessary storm water management information, *Herr*, supra; or failed to contain soil percolation in probe test, wetland delineations and erosion and sedimentation controls, *Schultheis*, supra. On the other hand, relatively minor deficiencies were found where a plan failed to designate streets by name and width, *Valley Run, Inc. v. Bd. of Comm'rs of Swatara Township*, 347 A.2d 517 (Pa. Commw. Ct. 1975) and where a plan did not include Department of Environmental Resources approval to enclose and pipe a stream. *Stein*, supra.<sup>4</sup>

*Continued to next issue (10/31/2003)*

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<sup>4</sup>The *Stein* Opinion is unclear as to whether the prior approval of the DER was specifically required as a term of the respective municipality's ordinance.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-472 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in or near the centerline of U.S. Route 15; thence leaving said centerline and extending along a right-of-way the following courses and distances: north thirty-four (34°) degrees thirty (30') minutes (30") seconds East four hundred four and seven hundredths (404.07) feet to an iron pipe; thence North thirty-four (34°) degrees thirty (30') minutes (30") seconds East one hundred seventy-four and twenty-six hundredths (174.26) feet to an iron pipe at stones at lands now or formerly of George R. Barrick; thence continuing along the last mentioned lands South fifty-five (55°) degrees twenty-three (23') minutes five (05") seconds East eight hundred eighty-five and twenty-one hundredths (885.21) feet to a concrete monument in or near the centerline of White Church Road, also known as T-568; thence extending in and along said centerline South forty-three (43°) degrees twelve (12') minutes seventeen (17") seconds West five hundred thirty-eight and sixty-two hundredths (538.62) feet to an iron pipe in the center of said last mentioned roadway; thence leaving said roadway and extending along lands now or formerly of the Episcopal Church and E.D.L.U. corporation North fifty-eight (58°) degrees thirty-eight (38') minutes thirty-five (35") seconds West a distance of eight hundred four and ninety-eight hundredths (804.98) feet to a point in or near the centerline of U.S. Route 15 being the point and place of BEGINNING.

CONTAINING 10.747 acres total and 9.812 acres net and being designated as Lot No. 2 on a final subdivision plan for John W. and Doris M. Breighner dated August 14, 1987, as prepared by John R. Williams, P.L.S. Said Plan is recorded in the Adams County Recorder's Office in Plan Book 47, Page 100.

Having thereon erected a dwelling house known as: 460 White Church Road, York Springs, Pennsylvania 17372

BEING THE SAME PREMISES WHICH Verne W. Nestler, Jr. and Amelia T. Nestler, by Deed dated 4/30/02 and recorded 5/7/02 in Adams County Deed

Book 2651, Page 285, granted and conveyed unto Franklin D. Buckley, Jr.

Seized in execution as the property of Franklin D. Buckley, Jr. under Adams County Judgment No. 03-S-472

MAP & PARCEL 22-16-12

SEIZED and taken into execution as the property of **Franklin D. Buckley, Jr.** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 8, 2003, 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.

10/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-319 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land situate on the westerly right of way line of Abbotts Drive in the Borough of Abbottstown, Adams County, Pennsylvania, known and numbered as Lot No. 50 and for Adams County, PA in Subdivision Plan Book 76, Page 99, more fully bounded and described as follows, to wit:

BEGINNING at a point on the westerly right of way line of Abbotts Drive, at a corner of Lot No. 51 on said plan; thence extending along the said right of way line South 47 degrees 16 minutes 34 seconds East 85 feet to a point at corner of Lot No. 49 on said plan; thence extending along Lot No. 49 South 41 degrees 58 minutes 10 seconds West 278.28 feet to a point; thence extending along Lot No. 55E on a plan of lots for Abbotts Manor Phase II, Plan Book 73, Page 43 North 25 degrees 36 minutes 53 seconds West 95.40 feet to a point; thence North 42 degrees 43 minutes 26 seconds East 243.04 feet to the point and place of BEGINNING.

CONTAINING 22,600 square feet.

TITLE TO SAID PREMISES IS VESTED IN Daniel J. Furman by Deed from Garland Construction, Inc. dated 11/3/2000 and recorded 1/31/2001 in Record Book 2205, Page 134

Tax Parcel: 005-0040

Premises Being: 51 Abbotts Drive, Abbottstown, PA 17301

SEIZED and taken into execution as the property of **Daniel J. Furman** 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 8, 2003, 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.

10/10, 17 & 24

NOTICE

The law firm of **WILEY, LENOX, COLGAN & MARZACCO, PC (The Wiley Group)**, of Dillsburg, PA, announces its relocation to 130 W. Church St., Suite 100, Dillsburg, PA 17019. The present phone number (717-432-9666) and facsimile number (717-432-0426) will remain the same at the new location.

10/17, 24 & 31



## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-359 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot or piece of ground situate, lying and being in Mt. Joy Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point near the centerline of S.R. 0134, the Taneytown Road, at a corner of Lot No. 3 on the hereinafter mentioned draft of survey and subdivision plan; thence in S.R. 0134, the Taneytown Road, South Ten (10) degrees Three (03) minutes Seventeen (17) seconds East, One Hundred Thirty-five and Thirty-nine One-hundredths (135.39) feet to a point near the centerline of said S.R. 0134, the Taneytown Road; thence continuing in S.R. 0134, the Taneytown Road, South Eight (08) degrees Sixteen (16) minutes Twenty-six (26) seconds East 287.82 feet to a point in said S.R. 0134, the Taneytown Road; thence South Eighty-four (84) degrees Fifty (50) minutes Thirteen (13) seconds West, Twenty-five and Eighty-three One-hundredths (25.83) feet to an existing railroad spike on line of land of the Mt. Joy Evangelical Lutheran Church and along the edge of Benner Road; thence crossing Benner Road, North Five (05) degrees Forty (40) minutes Eighteen (18) seconds West, Twenty-six and Forty One-hundredths (26.40) feet to an existing wooden post; thence along and in said Benner Road, South Eighty (80) degrees Eleven (11) minutes Thirty (30) seconds West, One Hundred Forty-seven and Twenty-five One-hundredths (147.25) feet to an existing cotton gin spindle One (1) foot North of the centerline of said Benner Road; thence in said Benner Road, South Eighty (80) degrees Nine (09) minutes Twenty-five (25) seconds West, One Hundred Fifty-five (155.00) feet to a railroad spike set near the centerline of Benner Road, and at a corner of Lot No. 5; thence by Lot No. 5, North Twenty-six (26) degrees Eight (8) minutes Fifteen (15) seconds West, Two Hundred Seventy and Seventy-one One-hundredths (270.71) feet to a steel pin set on line of Lot No. 5 and at a corner of Lot No. 3; thence by Lot No. 3, and passing through a steel pin set Twenty-five (25) feet from the next mentioned point, North Sixty-one (61) degrees Fifty-six (56) minutes Twenty-five (25) seconds East, Four

Hundred Thirty-one and One One-hundredths (431.01) feet to a point near the centerline of S.R. 0134, Taneytown Road, at a corner of Lot No. 3, the place of BEGINNING.

CONTAINING 2.847 Acres, more or less.

THE ABOVE DESCRIPTION was taken from a draft of survey and subdivision plan entitled "Scheller Subdivision", dated October 27, 1997, and revised January 19, 1998, as prepared by Richard W. Boyer, Professional Land Surveyor No. 17399-E, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 73 at pages 23 and 23A, and designated as Lot No. 4 thereon.

UNDER AND SUBJECT to certain restrictions contained in prior deeds and instruments of record.

IMPROVEMENTS thereon consisting of a residential dwelling.

BEING KNOWN AS 2585 Taneytown Road, Gettysburg, PA 17325.

BEING TAX PARCEL NO. (30) F17-65.

BEING the same premises which Vincent Scheller and Marie Scheller, husband and wife, by Deed dated September 2, 1999 and recorded on September 3, 1999 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 1909, Page 141, granted and conveyed unto Joseph M. Regler, IV and April L. Regler, husband and wife, as tenants by the entireties, in fee.

SEIZED AND TAKEN as the property of Joseph M. Regler, IV and April L. Regler under Judgment No. 03-S-359.

SEIZED and taken into execution as the property of **Joseph M. Regler, IV & April L. Regler** 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 29, 2003, 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.

10/17, 24 & 31

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-554 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN property situated in the Township of Mount Joy in the County of Adams and Commonwealth of Pennsylvania, being more fully described in a fee simple deed dated 07/29/1997 and recorded 08/07/1997, among the land records of the County and State set forth above in Volume 1420 Page 95.

Tax Parcel ID: G14-41 B

Address: 1570 Highland Avenue  
Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Robert G. Brown, Jr. & Stephanie L. Brown** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 29, 2003, 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.

10/17, 24 & 31

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—EQUITY  
NO. 03-SU-966  
Action to Quiet Title

RICHARD B. STULL and BRENDA L. STULL, husband and wife, Plaintiffs  
vs.

DAVID B. KELLY, his heirs, administrators, successors and assigns, Defendants

TO: David B. Kelly, his heirs, administrators, successors and assigns

TAKE NOTICE that on September 16, 2003, Richard B. Stull and Brenda L. Stull, husband and wife, filed a Complaint in Action to Quiet Title, against David B. Kelly, his heirs, administrators, successors and assigns, averring that Richard B. Stull and Brenda L. Stull are the owners of the real property described herein. The Complaint requests the Court to extinguish any possible interest you may have in said real estate. The subject property is a tract of land situate in Carroll Valley Borough, Adams County, Pennsylvania, being Lot No. 16 in Charnita Subdivision, Section R1, more particularly bounded and described as follows:

BEGINNING at a point in the center of a 50-foot wide trail at Lot No. 15; thence by said lot North 81 degrees 25 minutes 40 seconds West, 195.32 feet to Lot No. 17; thence by said lot North 5 degrees 17 minutes East, 178.76 feet to a point in the center of McGlaughlin Trail; thence in said McGlaughlin Trail South 84 degrees 43 minutes East, 195 feet to a point in the intersection of McGlaughlin Trail and said 50-foot wide trail; thence in said 50-foot wide trail South 5 degrees 17 minutes West, 189.96 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section R1, Charnita" dated May 29, 1970, prepared by Gordon L. Brown, R.S. and recorded in Adams County Plat Book No. 1 at page 83.

BEING THE SAME WHICH Charnita, Inc., by deed dated September 13, 1971 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book 295 at page 900, sold and conveyed unto David B. Kelly, Defendant herein.

The Complaint requested the Court to enter a Decree and Order that the title of the property described above is in the Plaintiffs, and that the Defendant be forever barred from asserting any right, lien, title or interest in the said land inconsistent with the interests of the Plaintiffs as set forth in their Complaint.

WHEREFORE, by Order dated October 9, 2003, the Court of Common

Pleas of Adams County, Pennsylvania, has ordered that service of the Complaint be made on the above Defendant, his respective heirs, personal representatives, successors and assigns, by publication. Plaintiffs will request the Court to enter a final judgment ordering that any possible legal interest the Defendant might have had in the property be extinguished.

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the Complaint filed in the Adams County Court of Common Pleas at No. 03-SU-966 and described hereinabove, you must take action within **twenty (20) days** after this publication by entering a written appearance personally or by an attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for the relief requested by the Plaintiffs. You may lose property or other rights important to you.

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

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

Hartman & Yannetti  
Bernard A. Yannetti, Esq.  
Attorney for Plaintiffs  
126 Baltimore Street  
Gettysburg, PA 17325  
(717) 334-3105

10/24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-863 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center line of Legislative Route 01077 at corner of other lands now or formerly of John Whitney; thence in said center line of Legislative Route 01077 South 58

degrees 40 minutes East, 89.77 feet to a point in the center line of said Legislative Route 01077 at land now or formerly of James Sharrah; thence through an iron pin set back along the line by other land now or formerly of James Sharrah South 34 degrees 36 minutes West, 182.41 feet to an iron pipe; thence by land of James Sharrah and Mrs. Lottie Topper South 57 degrees 33 minutes East, 117.93 feet to an iron pipe; thence by other land formerly of Calvin Cluck and wife South 30 degrees 12 minutes West, 268.11 feet to an iron pin; thence by same South 25 degrees 38 minutes West, 808.79 feet to an iron pipe; thence by land now or formerly of Mark Bucher, North 55 degrees 9 minutes West, 386.35 feet to an iron pipe; thence by other land formerly of Cluck North 37 degrees 25 minutes East, formerly of John Whitney and through an iron pin set back along the line 29.90 feet North 34 degrees 37 minutes East, 322.80 feet to a point in the center of Legislative Route 01077 to the point and place of BEGINNING.

CONTAINING 6.7478 acres.

BEING KNOWN AS 126 Olde Route 30, McKnightstown, PA 17343

PROPERTY ID NO: D11-95A

TITLE TO SAID PREMISES IS VESTED IN Stephan H. Reaver and Cindy L. Reaver, husband and wife, as tenants of an estate by the entireties, by Deed from Calvin A. Slegal a/k/a Calvin Andrew Slegal and Mary Jane Slegal, husband and wife, dated 1/2/1997, recorded 1/3/1997, in Deed Book 1312, Page 345.

SEIZED and taken into execution as the property of **Stephan H. Reaver & Cindy L. Reaver** 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 January 5, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/24, 31 & 11/7

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-734 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, 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 piece, parcel or tract of land situate, lying and being in Oxford Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING for a point on the property line on the Eastern side of Pine Lane, at corner of Lot No. 95 on the hereinafter referred to plan of lots; thence along the property line of Pine Lane, by a curve to the left, the radius of which is one thousand five hundred seventy and two hundred fifty-five thousandths (1,570.255) feet, an arc distance of sixty-five (65) feet, and having a long chord bearing and distance of North forty-six (46) degrees sixteen (16) minutes thirteen (13) seconds West, sixty-five (65) feet to a point on the property line of Pine Lane, aforesaid, thence continuing along said Pine Lane and along Walnut Lane, which intersects with Pine Lane, by a curve to the right, the radius of which is fifteen (15) feet, an arc distance of twenty-two and sixteen hundredths (22.16) feet, and having a long chord bearing and distance of North five (5) degrees six (6) minutes fifty (50) seconds West, twenty and twenty hundredths (20.20) feet to a point; thence continuing along said Walnut Lane by a curve to the right, the radius of which is seven hundred seventy-eight and six hundred forty-five thousandths (778.645) feet, an arc distance of one hundred seventeen and fifteen hundredths (117.15) feet and having a long chord bearing and distance of North forty-one (41) degrees thirty-nine (39) minutes forty-eight (48) seconds East one hundred seventeen and four hundredths (117.04) feet to a point at Lot No. 109; thence continuing along said Lot No. 109, South thirty-eight (38) degrees eleven (11) minutes six (6) seconds East, eighty (80) feet to a point at Lot No. 95, aforesaid; thence along said Lot No. 95, South forty-one (41) degrees twelve (12) minutes fifty-eight (58) seconds West, one hundred nineteen and twelve hundredths (119.12) feet to a point on the property line of Pine Lane, the point and place of BEGINNING. (CONTAINING 9,995.480 square feet or 0.229 acres.) (Being Lot No. 96 on a plan of lots of Oxford Estates, dated January, 1983, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 37, at page 122.

SUBJECT, NEVERTHELESS, to the restrictions contained in a prior deed of conveyance.

HAVING thereon erected a dwelling house known as: 9 Walnut Lane, New Oxford, Pennsylvania 17350

BEING THE SAME PREMISES WHICH Robert Ford and Beverly K. Ford, by Deed dated June 12, 1992 and recorded June 22, 1992 in Adams County Deed Book 631, Page 841, granted and conveyed unto Roger E. Misner and Kathy L. Misner.

SEIZED in EXECUTION AS THE PROPERTY OF ROGER E. MISNER AND KATHY L. MISNER UNDER ADAMS COUNTY JUDGMENT NO. 03-S-734

MAP & PARCEL 35-9-40

SEIZED and taken into execution as the property of **Roger E. Misner & Kathy L. Misner** 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 29, 2003, 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.

10/24, 31 & 11/7

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1235 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of Harney Road at lands now or formerly of Esh; thence in the center of said Harney Road, South seventy-seven (77) degrees eight (08) minutes fifty-four (54) seconds East, one hundred sixty-three and forty-four hundredths (163.44) feet

to a point at other lands now or formerly of Lake Weant; thence by said lands and through a steel pin set thirty (30) feet back on the line, South seventeen (17) degrees forty-one (41) minutes thirty-two (32) seconds West, two hundred seventy-three and sixty-seven hundredths (273.67) feet to a flange axle; thence continuing by lands, North seventy-seven (77) degrees sixteen (16) minutes eighteen (18) seconds West, one hundred eighteen and eighty-four hundredths (118.84) feet to a flange axle; thence continuing by said lands, South twenty-one (21) degrees eleven (11) minutes twenty-eight (28) seconds West, two hundred sixty-six and sixteen hundredths (266.16) feet to a flange axle; thence continuing by said lands, North seventy-four (74) degrees fifty-five (55) minutes twenty-two (22) seconds West, twenty-seven and ninety-two hundredths (27.92) feet to a flange axle at lands now or formerly of Esh; thence by said land, North seventeen (17) degrees thirty-nine (39) minutes twenty-five (25) seconds East, five hundred thirty-seven and ten hundredths (537.10) feet to the place of BEGINNING.

CONTAINING 1.2419 acres, neat measure.

THE above description was taken from a draft of survey, dated December 16, 1974, prepared by J. H. Rife, R.E.

TITLE TO SAID PREMISES IS VESTED IN Brian Scott Boese by Deed from Tony R. Forbes and Bonnie S. Forbes, his wife dated 10/29/1999 and recorded 11/4/1999 in Record Book 1947 Page 126.

Tax Parcel: H-18-13A

Premises Being: 1655 Harney Road, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Brian Scott Boese** 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 January 5, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/24, 31 & 11/7

## 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 EDNA L. HILBERT, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: JoAnne M. Wolfgang, 115 Mussetta Street, Hanover, PA 17331; Leo C. Hilbert, Jr., 10 Kilpatrick Avenue, Hanover, PA 17331

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

## ESTATE OF ROBERT A. MILLER a/k/a ROBERT ALLEN MILLER, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Co-Executors: Judy J. Miller, 2018 York Road, Gettysburg, PA 17325; Robert L. Miller, 686 Goulden Road, Gettysburg, PA 17325

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

## ESTATE OF THOMAS J. SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administratrix: Yvonne M. Smith, 460 Irishtown Road, New Oxford, PA 17350

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

## ESTATE OF RUTHANNA M. STAHL, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Co-Executrices: Rhonda M. Hartlaub, 1915 Youngs Road, Hanover, PA 17331; Denise F. Dietz, 1950 Alcott Road, York, PA 17402

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

## SECOND PUBLICATION

## ESTATE OF GEORGE S. DEATRICK, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Personal Representative: Harry E. Deatrick, 1209 Beaver Run Road, New Oxford, PA 17350

Attorney: G. Steven McKonly, Esq., 119 Baltimore Street, Hanover, PA 17331

## ESTATE OF JOAN LARSON PATTON, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executor: Dale M. Patton, Sr., 61 Heritage Drive, Gettysburg, PA 17325

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

## ESTATE OF VIRGINIA M. PECK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Janice Peck, 446 South High Street, Hanover, PA 17331

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

## THIRD PUBLICATION

## ESTATE OF LOUIS N. DIEHL, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Administratrices: Carol A. Marcelli, 74 N. High St., P.O. Box 546, Arendtsville, PA 17303; Emily D. Simmers, 13 Bragg Dr., East Berlin, PA 17316

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

## ESTATE OF KATHRYN S. FETTERS, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: David Donharf, 616 Buchanan Valley Road, Orrtanna, PA 17353

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

## ESTATE OF ANNA K. HULL a/k/a ANNA KATHRYN HULL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Mayetta Becker, 3480 Willow Road, Dover, PA 17315; Sherman Krall, 119 Water Street, East Berlin, PA 17316; Mary Krall, 119 Water Street, East Berlin, PA 17316

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

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

NO. 03-S-1034  
Action to Quiet Title

CHARLES F. DOWD, Plaintiff  
vs.

ESTELLA M. ALLTAND, a widow, HER  
HEIRS, ASSIGNS AND PERSONAL  
REPRESENTATIVE AND ANY UN-  
KNOWN PERSONS HAVING OR  
CLAIMING AN APPARENT INTEREST  
IN TITLE TO CERTAIN PROPERTY SIT-  
UATE IN THE TOWNSHIP OF  
BERWICK, ADAMS COUNTY, PENN-  
SYLVANIA, Defendants

ADAMS COUNTY COURT OF  
COMMON PLEAS NOTICE

TO: Estella M. Alltand, a widow, her  
heirs, assigns and personal representa-  
tive and any unknown persons having or  
claiming an apparent interest in title to  
certain property situate in the Township  
of Berwick, Adams County, Pennsylvania

On October 7, 2003, Plaintiff Charles  
F. Dowd filed a Complaint in the Court of  
Common Pleas of Adams County,  
Pennsylvania, docketed at No. 03-S-  
1034, which is an action to quiet title  
against you, setting forth that they are  
the owners of the premises described  
below, and that their title to said prem-  
ises is superior to anyone else's title. The  
premises in question is described as fol-  
lows:

ALL that tract of woodland, situ-  
ate, lying and being in Berwick  
Township, Adams County,  
Pennsylvania, more particularly  
bounded and described as fol-  
lows, to wit:

ADJOINING lands of Henry  
Wolf, now deceased, on the  
North; lands formerly owned by  
George Strubinger on the East,  
and lands now or formerly  
owned by Jacob Laughman  
and Solomon Slothouer on the  
South and West. CONTAINING  
4 acres and 16 perches of land.

NOTICE

If you wish to defend, you must enter a  
written appearance personally or by  
attorney and file your defenses or objec-  
tions in writing with the court. You are  
warned that if you fail to do so the case  
may proceed without you and a judg-  
ment may be entered against you with-  
out further notice of the relief requested  
by the plaintiff. You may lose money or  
property or other rights important to you.

YOU ARE DIRECTED AND NOTIFIED  
TO file a written response to the said  
Complaint on or before twenty (20) days  
from the date of publication of this Notice  
or a judgment will be entered against you  
for the relief requested in the Complaint  
and you will be forever barred from bring-  
ing any action in ejectment or asserting  
any right, lien, title, or interest in the  
premises described above.

SAID COMPLAINT requests the Court  
to decree that the rights of the  
Defendants in the above-described  
premises are released and/or exting-  
uished. Further, said Complaint  
requests the Court to decree that the fee  
simple title to the above-described prem-  
ises is in Plaintiff, Charles F. Dowd.

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

Court Administrator  
Adams County Courthouse  
111-117 Baltimore Street  
Gettysburg, Pennsylvania 17325  
Telephone No. (717) 337-9846

Barley, Snyder, Senft & Cohen, LLC  
By /s/Michelle Pokrifka, Esq.  
Attorney for Plaintiff  
14 Center Square  
Hanover, PA 17331  
(717) 637-6239, I.D. No. 66654

10/24

CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN, that an  
Application for Certificate of Authority to  
do business in the Commonwealth of  
Pennsylvania was made to the  
Department of State of the  
Commonwealth of Pennsylvania, at  
Harrisburg, PA on September 8, 2003,  
by TIGRETT CORP, a Virginia business  
corporation, with its former principal  
Virginia office at 4201 N. 25th Street,  
Arlington, Virginia 22207-3909 and its  
proposed registered office in the  
Commonwealth of Pennsylvania located  
at 215 Ridgewood Drive, Gettysburg, PA  
17325-8506.

Teeter, Teeter & Teeter

10/24

# Adams County Legal Journal

Vol. 45

October 31, 2003

No. 23, pp. 130-136

## IN THIS ISSUE

### CACO THREE VS. HUNTINGTON TWP.

*This opinion continued from last issue (10/24/2003)*

#### SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1235 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of Harney Road at lands now or formerly of Esh; thence in the center of said Harney Road, South seventy-seven (77) degrees eight (08) minutes fifty-four (54) seconds East, one hundred sixty-three and forty-four hundredths (163.44) feet to a point at other lands now or formerly of Lake Weant; thence by said lands and through a steel pin set thirty (30) feet back on the line, South seventeen (17) degrees forty-one (41) minutes thirty-two (32) seconds West, two hundred seventy-three and sixty-seven hundredths (273.67) feet to a flange axle; thence continuing by lands, North seventy-seven (77) degrees sixteen (16) minutes eighteen (18) seconds West, one hundred eighteen and eighty-four hundredths (118.84) feet to a flange axle; thence continuing by said lands, South

twenty-one (21) degrees eleven (11) minutes twenty-eight (28) seconds West, two hundred sixty-six and sixteen hundredths (266.16) feet to a flange axle; thence continuing by said lands, North seventy-four (74) degrees fifty-five (55) minutes twenty-two (22) seconds West, twenty-seven and ninety-two hundredths (27.92) feet to a flange axle at lands now or formerly of Esh; thence by said land, North seventeen (17) degrees thirty-nine (39) minutes twenty-five (25) seconds East, five hundred thirty-seven and ten hundredths (537.10) feet to the place of BEGINNING.

CONTAINING 1.2419 acres, neat measure.

THE above description was taken from a draft of survey, dated December 16, 1974, prepared by J. H. Rife, R.E.

TITLE TO SAID PREMISES IS VESTED IN Brian Scott Boese by Deed from Tony R. Forbes and Bonnie S. Forbes, his wife dated 10/29/1999 and recorded 11/4/1999 in Record Book 1947 Page 126.

Tax Parcel: H-18-13A

Premises Being: 1655 Harney Road, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Brian Scott Boese** 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 January 5, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/24, 31 & 11/7

#### 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 purposes of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is VANHOUTTE ENTERPRISES, INC.

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

10/31

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-826 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, 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, parcel, piece of ground situate in Reading Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a steel pin set Twenty-five (25) feet from the center line of State Highway Route 234, said steel pin being a corner of land now or late of George C. Kimmel and the Southwest corner of the tract herein conveyed; thence by said Kimmel land, North seventeen (17) degrees fifty-seven (57) minutes West, one hundred eighty-five and forty-two hundredths (185.42) feet to a steel pin at corner of land now or late of Charles R. Keller; thence by said Keller land, North fifty-two (52) degrees forty-five (45) minutes East, sixty-six and fifty-eight hundredths (66.58) feet to a steel pin at the Northwest corner of Lot No. 2 on Plan of Lots of Charles R. Keller; thence by said Lot No. 2, South thirty-seven (37) degrees fifteen (15) minutes East, one hundred seventy-five (175) feet to a steel pin set twenty-five (25) feet from the center line of State Highway Route 234; thence along said State Highway Route 234, South fifty-two (52) degrees forty-five (45) minutes West, one hundred twenty-seven and nine-tenths (127.9) feet to a steel pin, the place of BEGINNING.

THE ABOVE DESCRIPTION was taken from a draft of survey dated August 4, 1956, by J.H. Rife, R.E., and designated as Lot No. 1 on said survey.

HAVING erected thereon a dwelling known as 60 Stoney Point Road, New Oxford, PA 17350

Parcel No. J08-0016A

BEING the same premises which Kermit V. Bluhm and Glenda G. Bluhm, by their Deed dated 12/29/2001 and recorded on 01/22/2002, in the Adams County, Pennsylvania, in the Recorder of Deeds Office in Deed Book Volume

2543, page 333, granted and conveyed unto Kevin J. Crouse and Traci L. Crouse, husband and wife.

SEIZED and taken into execution as the property of **Kevin J. Crouse & Traci L. Crouse** 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 29, 2003, 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.

10/17, 24 & 31

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-863 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center line of Legislative Route 01077 at corner of other lands now or formerly of John Whitney; thence in said center line of Legislative Route 01077 South 58 degrees 40 minutes East, 89.77 feet to a point in the center line of said Legislative Route 01077 at land now or formerly of James Sharrah; thence through an iron pin set back along the line by other land now or formerly of James Sharrah South 34 degrees 36 minutes West, 182.41 feet to an iron pipe; thence by land of James Sharrah and Mrs. Lottie Topper

South 57 degrees 33 minutes East, 117.93 feet to an iron pipe; thence by other land formerly of Calvin Cluck and wife South 30 degrees 12 minutes West, 268.11 feet to an iron pin; thence by same South 25 degrees 38 minutes West, 808.79 feet to an iron pipe; thence by land now or formerly of Mark Bucher, North 55 degrees 9 minutes West, 386.35 feet to an iron pipe; thence by other land formerly of Cluck North 37 degrees 25 minutes East, formerly of John Whitney and through an iron pin set back along the line 29.90 feet North 34 degrees 37 minutes East, 322.80 feet to a point in the center of Legislative Route 01077 to the point and place of BEGINNING.

CONTAINING 6.7478 acres.

BEING KNOWN AS 126 Olde Route 30, McKnightstown, PA 17343

PROPERTY ID NO: D11-95A

TITLE TO SAID PREMISES IS VESTED IN Stephan H. Reaver and Cindy L. Reaver, husband and wife, as tenants of an estate by the entireties, by Deed from Calvin A. Segal a/k/a Calvin Andrew Segal and Mary Jane Segal, husband and wife, dated 1/2/1997, recorded 1/3/1997, in Deed Book 1312, Page 345.

SEIZED and taken into execution as the property of **Stephan H. Reaver & Cindy L. Reaver** 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 January 5, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/24, 31 & 11/7

## CACO THREE VS. HUNTINGTON TWP.

*Continued from last issue (10/24/2003)*

CACO's plan proposes access onto state highways at two different locations, thus, they are required to obtain two highway occupancy permits from PennDOT. Obtaining a permit from PennDOT is not merely an administrative matter but one that necessitates compliance with stringent standards related to road volume and sight distance. *See Harrisburg Fore Assocs.*, supra. Although PennDOT is responsible for administering the issuance of its own permits, I cannot view that process in a vacuum. The interplay of the various approval processes has an obvious impact on the total picture presented to the municipality for approval.

CACO urges that the Board's concerns may be protected by conditioning the issuance of building permits upon CACO's obtaining highway occupancy permits. This argument, however, ignores that PennDOT may ultimately issue permits at locations different than those represented in the preliminary plans.<sup>5</sup> If the location of the state highway access is moved by PennDOT, there will likely be a significant ripple effect on the interplay of the change in location with the sedimentation control and storm water management as well as a host of other issues. The fiscal impact and drain on township resources in reconsidering the plans each time a subsequent permit approval requires modifications to the preliminary plan can be substantial.

The Board, in adopting their Ordinance, has chosen to deal with this myriad of issues up front rather than through a conditional approval process. The expense and consideration that the Board incurs in reviewing subdivision and land development plans is obvious from the thoroughness of its Ordinance. Although I recognize that an application fee is paid at the time the preliminary plan is submitted, a brief review of the record in this matter reveals extensive involvement by municipal authorities in the plan consideration process. I cannot find fault with the Board's decision to write its ordinance to specifically require that an applicant acquire an occupancy permit prior to submission of a preliminary plan so that the uncertainty involved in a PennDOT approval is eliminated before substantial township resources are expended. In fact, the Ordinance

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<sup>5</sup>Interestingly, an August 10, 2000, letter from CACO to the Board indicates that applications had been made to PennDOT for highway occupancy permits. In relevant portion, that letter indicates that CACO was currently reworking the location where a proposed road intersected with State Route 94.



sets forth pre-application procedures so as to avoid needless expense by either the applicant or the township. Ordinance § 301.

CACO was well aware of the importance that the Board placed on this provision of the Ordinance. As early as May 18, 1999, CACO was copied with correspondence from the Township Engineer to the Planning Commission that set forth the necessity of obtaining highway occupancy permits prior to approval of a preliminary plan.<sup>6</sup> It is noteworthy that this correspondence was exchanged within eight (8) days following CACO's initial submission of the plan to township authorities. The record reveals similar correspondence on July 7, 2000, and August 30, 2000, once again pointing out the requirement that the preliminary plan include indication of an approved highway occupancy permit. Despite notice to CACO of this deficiency, CACO failed to address the concerns during the sixteen-month period which passed between the original notice and the Board's final consideration of the plan. Under these circumstances, there is nothing grossly unfair about the Board's rejection of CACO's preliminary plan. More importantly, I find neither an abuse of discretion by the Board nor an error of law in denying the plan due to CACO's failure to comply with § 304.2.P of the Ordinance.

Similarly, I find that the Board's denial of CACO's preliminary plan on the basis of CACO's failure to comply with §§ 505 and 806 of the Ordinance is supported by the record and, therefore, constitutes neither an abuse of discretion nor is contrary to law.<sup>7</sup> These sections, when read together, provide comprehensive requirements concerning water supply systems. A number of these requirements necessitate specific detail as to the location of the water supply, water mains, storage reservoirs and overflow pipes.<sup>8</sup> Although the plans

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<sup>6</sup>The record contains a letter dated May 18, 1999, from Township Engineer, John Shambaugh, to the Huntington Township Planning Commission. The letter reflects that a copy was provided to LaRue Survey Associates who, at the time, was representing CACO in the submission of the plan.

<sup>7</sup>Board Denial Letter, ¶ 6, September 18, 2000.

<sup>8</sup>Ordinance § 806.2.B requires the water supply system to be located in such a manner that neither underground nor surface contamination will reach the water supply from any source. Ordinance § 806.4.B provides the water piping system shall not be connected with non-potable or questionable water supplies. Ordinance § 806.3 discusses water storage, reservoirs and the location of overflow vents and pipes. Ordinance § 806.4.E references the location of water mains. The Ordinance contains a number of other requirements concerning the water supply and distribution system.

submitted by CACO include a basic designation of the location of some water pipes, it is simply inadequate in regard to a number of requirements contained in § 806 of the Ordinance. For instance, CACO's consulting geologist indicates "to meet the water demands of the community, two to three wells may be required."<sup>9</sup> Yet, the CACO preliminary plans do not include the location of such wells.

The report of Karlyle Gray Associates, CACO's consulting geologist, adds little insight to this lack of information and, in fact, supports the Board's decision. The report is generally a description of the site hydrogeology and a general estimate of ground water budgets. Importantly, the report acknowledges that, pursuant to Pennsylvania Code Chapter 73 regulations, the site is insufficient to support the number of residential units proposed by the plan.<sup>10</sup> This acknowledgment is certainly substantive evidence supporting the Board's decision since the Ordinance specifically requires compliance with DEP regulations.<sup>11</sup>

CACO argues that since the Ordinance only requires a supply of 150 gallons per day per unit, *see* Ordinance § 806.2.A, the estimate provided by their geologist is more than sufficient to supply the 275 units that are planned.<sup>12</sup> I am not persuaded by this argument, however, for two reasons. First, CACO simply ignores the other deficiencies in the plan's compliance with §§ 505 and 806 of the Ordinance. Secondly, a thorough review of the report submitted by CACO's geologist indicates that the figure of 250 gallons per minute is purely an estimate. Although a pre-drilling plan has been submitted to DEP, pump tests to determine the actual capacity of potential wells had not been completed as of the time of the plan's submission. The Ordinance clearly requires information in the plan that indicates an adequate water supply.<sup>13</sup> In light of the drought conditions through central Pennsylvania over the past several years, it is indisputable that

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<sup>9</sup> Karlyle Gray Associates' letter, p. 9, July 21, 2000.

<sup>10</sup> *See* Karlyle Gray Associates' letter, pp. 2, 7, July 21, 2002. The opinion in this letter indicates that ground water recharge for the site would support 224 residential units at 250 gallons per day, per unit pursuant to DEP regulations. The CACO plan calls for about 275 units.

<sup>11</sup> *See* Ordinance § 806.1.

<sup>12</sup> CACO is mathematically correct in calculating that 275 units x 150 gallons per minute equals 41,250, which is less than the estimate of the geologist of 224 units x 250 gallons which equals 56,000 total gallons.

<sup>13</sup> *See* Ordinance § 806.1.

provisions in an ordinance concerning an adequate water supply are substantive in nature. Where the substantive provisions of an ordinance are not complied with, conditional approval is not required but rather a township may deny the plan. See *Schultheis*, supra. Therefore, the denial of CACO's plan for failure to comply with §§ 505 and 806 is neither an abuse of discretion nor contrary to law.

Similar deficiencies in the plan exist in regard to sewage collection and disposal.<sup>14</sup> Essentially, CACO's preliminary plan claims that a sewage disposal system will be provided for the subdivision, however, lacks any indications of the specifications of that system. In fact, the plan is void of any detail concerning the type of sewage system to be installed. Under these circumstances, it is impossible for the Board to complete any meaningful evaluation of the adequacy of the sewage system or its compliance with the Ordinance.

CACO argues that it was an abuse of discretion under these circumstances not to approve a plan subject to a sanitary sewer system being approved by DEP. Once again, however, this argument fails to take into account the interplay among the various conditions affecting the ultimate development. The Board was simply provided inadequate information necessary to make a determination of the impact that the sewage disposal system may have on the water supply system. These issues are critical to a consideration of the plan. More importantly, the Board is not required to give conditional approval on substantive issues of such magnitude. See *Schultheis*, supra. Accordingly, the Board's denial of the plan based upon CACO's failure to comply with §§ 505 and 807 of the Ordinance is proper.

The Board also denied CACO's preliminary plan on the basis that the plan is "inconsistent with the comprehensive plan for Adams County as adopted by Huntington Township."<sup>15</sup> CACO does not

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<sup>14</sup> ¶ 8 of the September 18, 2000, denial letter cites §§ 506 and 807 as a basis for denial. Although the letter inadvertently refers to storm water management, a reading of the entire paragraph makes it clear that the basis of the denial was insufficient design, details and calculations for the sewage collection and disposal system. Additionally, CACO in their brief refers to § 809 of the Ordinance. Apparently this reference is the result of the poor quality of the print on the denial letter. Once again, however, it is clear that the denial letter is referencing § 807 rather than § 809.

<sup>15</sup> Board Denial Letter, ¶ 7, September 18, 2000. The Adams County Comprehensive Plan was adopted under the provisions of PA. STAT. ANN. tit. 53, § 10301 (West 2002). Huntington Township adopted the plan on April 12, 1990 (subsequent amendments are applicable now as well).

argue that the Board misinterpreted the plan in determining that low-density use is proposed for the area of the development. Rather, they cite *Saenger v. Planning Comm'n of Berks County*, 308 A.2d 175 (Pa. Commw. Ct. 1973) for the proposition that it is improper for a municipality to deny a land development plan based upon deviations from the County Comprehensive Plan. *Saenger*, supra, does not, however, support this broad proposition.

In *Saenger*, the Berks County Planning Commission granted subdivision approval for a mobile home development. During the course of the proceedings, the township appealed the decision but eventually withdrew its objections. However, residents who had intervened in the action continued with the appeal contending that approval of the subdivision plan was unlawful since it was contrary to the comprehensive plan adopted by the county. In dismissing the intervenor's appeal, the Commonwealth Court found that the Planning Commission had no legal duty to adhere to the county's comprehensive plan and, therefore, an approval of the subdivision plan contrary to the comprehensive plan was lawful. Thus, *Saenger* did not address the issue of whether it is improper for a municipality to deny a subdivision plan due to non-compliance with a county comprehensive plan. Rather, *Saenger* held that the county comprehensive plan did not limit the discretion of a planning commission in approving a plan. This distinction is critical as it applies to the Board's actions.

Moreover, unlike the ordinance in *Saenger*, the current Ordinance **requires** compliance with the municipal comprehensive plan.<sup>16</sup> The Board has, therefore, determined that the comprehensive plan is mandatory rather than recommendatory in nature. I have been unable to find any statutory or case authority indicating that the Board's adoption of such a mandatory requirement is illegal or otherwise contrary to law. Accordingly, I cannot find that the Board's insistence on compliance with this ordinance requirement is either contrary to law or an abuse of discretion.

The final reason relied upon by the Board in denying the CACO plan concerns the proposed development's close proximity to a quarry.<sup>17</sup>

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<sup>16</sup> The Ordinance reads in relevant part that "[t]he plans **shall** conform to the municipal comprehensive plan. . . ." Ordinance § 402.A. (emphasis added). Ordinance language using the term "shall" is mandatory language. *Cranberry Park Assocs. v. Cranberry Township Zoning Hearing Bd.*, 751 A.2d 165, 167 (Pa. 2000).

<sup>17</sup> Board Denial Letter, ¶ 2, September 18, 2000.

In setting forth this basis for a denial, the Board relies on § 402.F of their Ordinance which reads: “Land subject to hazards of life, health or property . . . or considered uninhabitable for other reasons may not be developed unless the hazards have been removed or the plans show adequate safeguards against them.” The record is replete with documentation confirming that the Board, from the very conception of this plan, has taken the position that the development’s proximity to a quarry presented a danger to children and would not be approved unless the hazard was removed through fencing around the entire quarry area. In support of their claim, the Board argues that the location of the quarry in close proximity to the development, in and of itself, is substantial evidence to support their decision. This argument finds its genesis in the Board’s claim that “[i]t is fairly common knowledge that children are attracted to quarries and that deaths occur too frequently.” Board Br., p. 7.

In response, CACO has indicated a willingness to provide fencing on the portions of its property which abut the quarry, however, they assert that they have no ability to fence areas on neighboring properties which they do not own.

At first glance, it appears that the Board’s imposition of conditions which require off-site improvements on property that CACO does not control is unreasonable and contrary to law. *See* PA. STAT. ANN. tit. 53, § 10503-A(b) (West 2002). Whether the Board may properly prohibit such a large development next to a quarry based on principles of public health, safety and welfare is a different issue. In this regard, I note that at the time that the plans were submitted, the Board did not have zoning in place. However, as mentioned above, their subdivision and planning ordinance did mandate compliance with the county’s comprehensive plan. This plan, as indicated, calls for low-density development in this area perhaps in recognition of the potential dangers inherent in a large residential development being located in close proximity to a quarry.<sup>18</sup>

Had this issue been the sole basis for denial by the Board, remand to the Board for the limited purpose of taking additional evidence on this issue would be appropriate in light of the significant safety

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<sup>18</sup> If the scale on the preliminary plans is accurate, it appears that the quarry is, at certain points, less than fifty (50) feet from the rear property line of several of the proposed residential units.

concerns at stake. *See* PA. STAT. ANN. tit. 53, § 11005-A (West 1997). However, such an action is not necessary in light of the numerous other bases enunciated by the Board supporting denial of CACO's preliminary plan. The Board's decision cannot be held to be an abuse of discretion or contrary to law where there is a single basis justifying their decision. *Herr*, 625 A.2d at 168-69.

For the foregoing reasons, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 15th day of November, 2002, the appeal of CACO Three, Inc., is dismissed and the action of the Board of Supervisors of Huntington Township is affirmed. Costs to be paid by the Appellant, CACO Three, Inc.

## 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 CAROL LYNN CIEPIELA a/k/a CAROL LYNN RUTH, DEC'D

Late of the Borough of Carroll Valley, Adams County, Pennsylvania

Executor: Gregory Matthew Ciepiela, 1907 Martin Place, Sykesville, MD 21784

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

ESTATE OF ROSE M. FERRARA, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executor: Leonard J. Ferrara, 759 McClellan Drive, Gettysburg, PA 17325

Attorney: Walton V. Davis, 63 West High Street, Gettysburg, PA 17325

ESTATE OF CHARLES F. LIVELSBERGER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Francis H. Livelsberger, 5 Kilpatrick Avenue, Hanover, PA 17331

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

ESTATE OF ESTHER M. MILLER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Richard Leroy Miller, 1216 Granite Station Road, Gettysburg, PA 17325; Evelyn May Rebert, 765 Old Route 30, Orrtanna, PA 17353

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

ESTATE OF ROBERT JAMES STORM, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administratrix: Shirley R. Esaley, c/o William W. Hafer, Esq., 215 Baltimore Street, Hanover, PA 17331

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

## SECOND PUBLICATION

ESTATE OF EDNA L. HILBERT, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: JoAnne M. Wolfgang, 115 Mussetta Street, Hanover, PA 17331; Leo C. Hilbert, Jr., 10 Kilpatrick Avenue, Hanover, PA 17331

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

ESTATE OF ROBERT A. MILLER a/k/a ROBERT ALLEN MILLER, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Co-Executors: Judy J. Miller, 2018 York Road, Gettysburg, PA 17325; Robert L. Miller, 686 Goulden Road, Gettysburg, PA 17325

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

ESTATE OF THOMAS J. SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administratrix: Yvonne M. Smith, 460 Irishtown Road, New Oxford, PA 17350

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

ESTATE OF RUTHANNA M. STAHL, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Co-Executrices: Rhonda M. Hartlaub, 1915 Youngs Road, Hanover, PA 17331; Denise F. Dietz, 1950 Alcott Road, York, PA 17402

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

## THIRD PUBLICATION

ESTATE OF GEORGE S. DEATRICK, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Personal Representative: Harry E. Deatrack, 1209 Beaver Run Road, New Oxford, PA 17350

Attorney: G. Steven McKonly, Esq., 119 Baltimore Street, Hanover, PA 17331

ESTATE OF JOAN LARSON PATTON, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executor: Dale M. Patton, Sr., 61 Heritage Drive, Gettysburg, PA 17325

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

ESTATE OF VIRGINIA M. PECK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Janice Peck, 446 South High Street, Hanover, PA 17331

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

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-359 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot or piece of ground situate, lying and being in Mt. Joy Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point near the centerline of S.R. 0134, the Taneytown Road, at a corner of Lot No. 3 on the hereinafter mentioned draft of survey and subdivision plan; thence in S.R. 0134, the Taneytown Road, South Ten (10) degrees Three (03) minutes Seventeen (17) seconds East, One Hundred Thirty-five and Thirty-nine One-hundredths (135.39) feet to a point near the centerline of said S.R. 0134, the Taneytown Road; thence continuing in S.R. 0134, the Taneytown Road, South Eight (08) degrees Sixteen (16) minutes Twenty-six (26) seconds East 287.82 feet to a point in said S.R. 0134, the Taneytown Road; thence South Eighty-four (84) degrees Fifty (50) minutes Thirteen (13) seconds West, Twenty-five and Eighty-three One-hundredths (25.83) feet to an existing railroad spike on line of land of the Mt. Joy Evangelical Lutheran Church and along the edge of Benner Road; thence crossing Benner Road, North Five (05) degrees Forty (40) minutes Eighteen (18) seconds West, Twenty-six and Forty One-hundredths (26.40) feet to an existing wooden post; thence along and in said Benner Road, South Eighty (80) degrees Eleven (11) minutes Thirty (30) seconds West, One Hundred Forty-seven and Twenty-five One-hundredths (147.25) feet to an existing cotton gin spindle One (1) foot North of the centerline of said Benner Road; thence in said Benner Road, South Eighty (80) degrees Nine (09) minutes Twenty-five (25) seconds West, One Hundred Fifty-five (155.00) feet to a railroad spike set near the centerline of Benner Road, and at a corner of Lot No. 5; thence by Lot No. 5, North Twenty-six (26) degrees Eight (8) minutes Fifteen (15) seconds West, Two Hundred Seventy and Seventy-one One-hundredths (270.71) feet to a steel pin set on line of Lot No. 5 and at a corner of Lot No. 3; thence by Lot No. 3, and passing through a steel pin set Twenty-five (25) feet from the next mentioned point, North Sixty-one (61) degrees Fifty-six (56) minutes Twenty-five (25) seconds East, Four

Hundred Thirty-one and One One-hundredths (431.01) feet to a point near the centerline of S.R. 0134, Taneytown Road, at a corner of Lot No. 3, the place of BEGINNING.

CONTAINING 2.847 Acres, more or less.

THE ABOVE DESCRIPTION was taken from a draft of survey and subdivision plan entitled "Scheller Subdivision", dated October 27, 1997, and revised January 19, 1998, as prepared by Richard W. Boyer, Professional Land Surveyor No. 17399-E, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 73 at pages 23 and 23A, and designated as Lot No. 4 thereon.

UNDER AND SUBJECT to certain restrictions contained in prior deeds and instruments of record.

IMPROVEMENTS thereon consisting of a residential dwelling.

BEING KNOWN AS 2585 Taneytown Road, Gettysburg, PA 17325.

BEING TAX PARCEL NO. (30) F17-65.

BEING the same premises which Vincent Scheller and Marie Scheller, husband and wife, by Deed dated September 2, 1999 and recorded on September 3, 1999 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 1909, Page 141, granted and conveyed unto Joseph M. Regler, IV and April L. Regler, husband and wife, as tenants by the entireties, in fee.

SEIZED AND TAKEN as the property of Joseph M. Regler, IV and April L. Regler under Judgment No. 03-S-359.

SEIZED and taken into execution as the property of **Joseph M. Regler, IV & April L. Regler** 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 29, 2003, 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.

10/17, 24 & 31

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-554 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN property situated in the Township of Mount Joy in the County of Adams and Commonwealth of Pennsylvania, being more fully described in a fee simple deed dated 07/29/1997 and recorded 08/07/1997, among the land records of the County and State set forth above in Volume 1420 Page 95.

Tax Parcel ID: G14-41 B

Address: 1570 Highland Avenue  
Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Robert G. Brown, Jr. & Stephanie L. Brown** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 29, 2003, 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.

10/17, 24 & 31

## NOTICE

The law firm of **WILEY, LENOX, COLGAN & MARZZACCO, PC (The Wiley Group)**, of Dillsburg, PA, announces its relocation to 130 W. Church St., Suite 100, Dillsburg, PA 17019. The present phone number (717-432-9666) and facsimile number (717-432-0426) will remain the same at the new location.

10/17, 24 & 31