

Adams County Legal Journal

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IN THIS ISSUE

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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. 06-S-117 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of June, 2006, 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 lying and being in Mount Pleasant Township, Adams County, Pennsylvania, more fully and completely described as follows:

BEGINNING at a spike in the center of a public road known as Township Road No. T-467; thence along lands now or formerly of Dennis Bolin and through a steel pin at lands now or formerly of C. N. Gebhart; thence along same, North 19 degrees 24 minutes 30 seconds East, 104.62 feet to a steel pin near the Southerly edge of a lane; thence along and in the said lane, North 72 degrees 54 minutes 36 seconds East, 149.41 feet to a spike in the intersection of the land and Township Road No. T-467; thence along and in the said Township Road No. T-467, South 13 degrees 00 minutes 20 seconds West, 161.56 feet to the place of BEGINNING.

The above description is taken from a draft of survey by Donald E. Worley, R.S., dated February 1, 1971.

IT BEING the same tract of land which LaSalle National Bank, by deed dated January 30, 2002, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2554, page 270, granted and conveyed unto Roy E. Geisler, Jr. and Pearl T. Geisler, husband and wife, Grantors herein.

Being Parcel # 32-J14-0014-000

Premises: 474 Smoketown Road, Hanover, PA 17331, Adams County, Pennsylvania

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Jerry M. Geisler, by Deed from Roy E. Geisler, Jr. and Pearl T. Geisler, husband and wife, dated 03-31-04, recorded 04-06-04 in Deed Book 3518, page 123.

SEIZED and taken into execution as the property of **Jerry M. Geisler** and to be sold by me.

James W. Muller-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 July 17, 2006, 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.

5/19, 26 & 6/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-68 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of July, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that improved tract of land situate in Straban Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of the York Road, being U.S. Route 30, at the Northwest corner of land now or formerly of Earl Leatherman; thence along said Leatherman land and through an existing reference pipe set back along the line 42.20 feet from the point of beginning, South 7 degrees 18 minutes 50 seconds East, 305 feet to an existing steel rod; thence by land now or formerly of Earl Leatherman and land now or formerly of Charles Scamack, North 77 degrees 35 minutes 00 seconds East, 272.44 feet to an existing steel rod; thence by land now or formerly of Jo Ann Gastley, South 13 degrees 23 minutes 50 seconds East, 356 feet to a point

along said Gastley boundary; thence by land now or formerly of Clarence E. Boyd and wife, designated as Lot No. 3 on the plan from which this description is taken, South 80 degrees 39 minutes 00 seconds West, 435.83 feet to a point; thence by the same through a steel rod 315.33 feet from the beginning point, and through a reference steel rod set back 27 feet from the end of this line, North 10 degrees 52 minutes 00 seconds West, 645.57 feet to a point in the center of the Gettysburg-York Road (U.S. Route 30); thence in the center of said road, North 80 degrees 39 minutes 00 seconds East, 166.58 feet to a point in the center of said road, the place of BEGINNING. CONTAINING 4.493 acres.

Premises being: 1875 York Rd., Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Gettysburg Pretzel Company, Inc.** and to be sold by me.

James W. Muller-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 August 14, 2006, 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.

5/26, 6/2 & 9

COMMONWEALTH VS. VAUGHN

1. In order for a confession to be valid and admissible, it must be voluntary. The burden is on the Commonwealth to prove that the challenged statement was given voluntarily.

2. Factors to consider in determining whether a statement is voluntary or coerced include:

The duration and means of interrogation; the physical and psychological state of the accused; and conditions attendant to the detention; the attitude of the interrogator; and any and all factors that could drain a person's ability to withstand suggestion and coercion.

3. One's mental condition is relevant to his susceptibility to coercion, but it is only one factor in analyzing voluntariness. Even low I.Q. alone does not invalidate a confession.

4. In order to obtain relief based on counsel's ineffective assistance, the defendant must demonstrate that: (1) the underlying claim is of arguable merit; (2) counsel's course of conduct was without reasonable basis designed to effectuate his interest; and (3) he was prejudiced by counsel's ineffectiveness. Counsel's assistance is deemed constitutionally effective once this Court determines that the defendant has not established any one of the prongs of the ineffectiveness test.

5. In reviewing counsel's stewardship the court does not employ a hindsight evaluation of the record to determine whether other alternatives were more reasonable, rather counsel will be deemed effective so long as the course chosen by counsel had some reasonable basis designed to effectuate his clients. The course taken must be reasonable, not perfect.

6. There is no obligation on the part of the Commonwealth to pay for the services of an expert. Under the law of Pennsylvania, as in a majority of the states, the appointment of an expert witness or an investigator to assist in the preparation of a defense is vested in the sound discretion of the trial court. There must be some showing as to the content and relevancy of the proposed expert testimony before such a request will be granted.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, CRIMINAL ACTION NO. CR-1031-2001.
COMMONWEALTH VS. HARVEY VAUGHN.

Shawn Wagner, Esq., District Attorney, for Commonwealth
Anthony Miley, Esq., for Defendant

Kuhn, P.J., September 14, 2005

OPINION ON DEFENDANT'S POST-SENTENCE MOTION AS AMENDED

Before the Court for disposition is Defendant's Post-Sentence Motion, filed October 20, 2003, and his Amended Post-Sentence Motion, filed April 7, 2005. For reasons set forth herein, said motions are denied.

An extensive discussion of the background of this case is necessary in order to put the current discussion in proper perspective. On September 27, 2001, a Criminal Complaint was filed by the Pennsylvania State Police charging Defendant with sexually abusing his 12-year-old daughter from November, 2000 - September 26, 2001.

On January 29, 2002, Defendant, through privately retained counsel, Stephen D. Kulla, Esquire, filed an Application¹ under the Mental Health Procedures Act.² Therein, counsel averred that Defendant may be incompetent and requested that the Court appoint Dr. Neil Blumberg, a Maryland psychiatrist, to evaluate Defendant at an estimated cost of \$3,500.00.³ A hearing on the Application was scheduled for March 6, 2002.

Meanwhile, on February 6, 2002, Defendant, through Attorney Kulla, filed a Motion Challenging Validity and Admissibility of Alleged Confession. On September 26, 2001, before charges were filed, Pennsylvania State Police Troopers Philip J. Duffy and Michael Weaver interviewed Defendant at his home and at the State Police barracks. During the interviews, Defendant allegedly made inculpatory admissions. Counsel averred that because of Defendant's limited mental capacity and his inability to understand his rights, the statements he gave the police should be suppressed. A hearing on this Motion was initially set for April 8, 2002.⁴

On March 6, 2002, the undersigned held a hearing on Defendant's competency Application, filed January 29, 2002. Defendant presented his mother, Brenda Vaughn, who testified to significant changes in Defendant's behavior⁵ and his apparent inability to understand the charges. She also reported Defendant's past psychiatric history from the 1970's. Defendant graduated from high school but was assigned to special education. Defendant's parents were paying his attorney fees but reportedly had no additional money to pay for a

¹ The pleading was entitled Application For Incompetency Examination And Notice Of Alleged Incompetence To Proceed On Criminal And/Or Lack Of Criminal Responsibility As Defense Pursuant To Title 50 Mental Health Chapter 15, Mental Health Procedures Article 14, §7402.

² 50 P.S. §7101, et seq., specifically §7402.

³ Dr. Blumberg's hourly rate was \$350.00.

⁴ This hearing was subsequently continued upon request to October 7, 2002.

⁵ Defendant would talk to himself, disappear for long periods, cry, become aggressive, not remember things, draw coffins, and write down Bible verses.

psychiatric evaluation.⁶ The Court granted the Commonwealth 14 days to investigate Dr. Blumberg's credentials. On March 19, 2002, the Court was advised that the Commonwealth had no opposition to Dr. Blumberg's appointment.

Under §7402 of the Mental Health Procedures Act, the Court is authorized to appoint a psychiatrist to examine a defendant's competency. Accordingly, the Court endeavored to secure fee information from four Pennsylvania forensic psychiatrists solely for the purpose of determining the reasonableness of the fees requested by Defendant. As a result, on May 31, 2002, the Court supplied that information to Attorney Kulla and authorized an expenditure of up to \$2,000.00 for an evaluation and report. There was no directive for counsel to employ Dr. Blumberg or any other particular psychiatrist. Subsequently, Attorney Kulla was able to arrange for Dr. Blumberg to perform the evaluation for that sum.

Dr. Blumberg conducted his evaluation on August 21, 2002, and authored his report on August 26, 2002. At that time, he diagnosed Defendant with Borderline Intellectual Functioning (DSM-IV-TR: V62.89) and Major Depressive Disorder, Single Episode, Moderate (DSM-IV-TR: 296.22). He opined that Defendant was competent to aid in his defense and proceed to trial but that as a result of his intellectual limitations, his ability to provide background information was somewhat limited. At the end of his report, Dr. Blumberg gratuitously added "a potential area of further inquiry might involve Mr. Vaughn's competency to waive Miranda and the voluntariness of his statement to the police, especially in view of his significant intellectual limitations."

As a result of Dr. Blumberg's report, Attorney Kulla filed a Motion on September 20, 2002, withdrawing the earlier request to find Defendant incompetent to stand trial. However, at the same time, he requested that the Court appoint Dr. Blumberg as an expert to further evaluate Defendant and to testify as to the voluntariness of his admissions to the police on September 26, 2001. The purported fee would be \$4,000 - \$5,000.00. The Commonwealth opposed the motion for an expert because Dr. Blumberg's report "specifically stated that the Defendant denied making any statement of guilt,"

⁶Mrs. Vaughn indicated that Defendant was unemployed and owned no real estate or other assets of value.

therefore, “[t]he issue at trial will be whether the Defendant in fact made an inculpatory statement at all.”⁷ Defendant’s request was denied by Order dated October 3, 2002.

On October 7, 2002, the Court conducted a hearing on Defendant’s suppression motion filed February 6, 2002. The following background was revealed during the hearing.

On September 26, 2001, Defendant’s wife contacted the State Police to report that her daughter had been sexually abused by Defendant. At approximately 9:59 p.m., Troopers Duffy and Weaver arrived at Defendant’s residence in an unmarked car. Neither trooper was in uniform although both were armed. Defendant met the troopers outside the residence and asked about the whereabouts of his wife and daughter [N.T. 4-7]. Trooper Duffy indicated they were fine and asked if the officers could speak to Defendant inside “about an incident.” Trooper Duffy also advised Defendant that he was not under arrest, that they were there for an interview, and that Defendant did not have to talk to them [N.T. 17, 18, 21].

Once inside the residence, Trooper Duffy advised Defendant “we are here to talk about an allegation made by your daughter” to which Defendant immediately responded, “I didn’t touch my daughter.” Trooper Duffy reminded Defendant that “we never said you touched your daughter” [N.T. 8]. Trooper Duffy then stated, “your daughter said you caused her to masturbate you today after school . . . and that this has been continuing for quite some time . . .” [N.T. 9]. After Defendant repeatedly stated that his daughter was a “liar,” Trooper Duffy opined that she appeared credible to him. Defendant then accused his wife of lying and having a vendetta against him [N.T. 9].

Noticing that Defendant’s clothing fit the description given by the victim, the police asked Defendant if they could have the clothing. Defendant agreed and changed clothes [N.T. 10]. Trooper Duffy then told Defendant that he believed Defendant’s daughter was credible and Defendant should do the right thing. At that point, Defendant admitted that earlier in the day, his daughter had masturbated him to the point of ejaculation [N.T. 10].

⁷ In Dr. Blumberg’s report, he discussed his interview with Defendant and wrote “Despite the statement by the police, the defendant claimed that the police were lying about his making a statement to them. He specifically denied ever admitting to the offense or making the statement that was indicated in the police reports.” (p. 6).

At 11:47 p.m., Defendant was placed under arrest and advised of his Miranda warnings [N.T. 11, 12, 17, 21, 22]. Defendant stated that he understood these rights [N.T. 12, 28]. Defendant was asked whether he was opposed to discussing the matter further at the barracks and he agreed to do so [N.T. 12, 14, 23]. At the barracks, Trooper Duffy again reminded Defendant of his Miranda rights [N.T. 13, 14]. Trooper Duffy then informed Defendant that his daughter indicated there were 15-20 incidents of sexual conduct to which Defendant responded it was "more like 5-10 times" [N.T. 13]. Defendant also responded affirmatively to questions whether he had his daughter masturbate him, whether he put his mouth on her vagina, and whether he had her put her mouth on his penis [N.T. 13, 14].

During both interviews, the troopers opined that Defendant was polite and relaxed, appeared to understand everything that was occurring (except some later confusion about the arraignment process), and answered questions appropriately [N.T. 23, 24, 28, 30].

At the conclusion of the Commonwealth's case, Attorney Kulla tried to place on the record an offer of proof regarding Dr. Blumberg's testimony had he been retained by Defendant at county expense [N.T. 31-5]. Defendant then testified that he 1) had graduated from high school but was in special education classes [N.T. 43], 2) had been employed as a fork lift operator [N.T. 41], 3) believed that he had to talk to the police or he would go to jail [N.T. 38], 4) was scared because the police had guns [N.T. 38], 5) had never heard of Miranda rights before [N.T. 39], and 6) was tired during the interview [N.T. 39]. Most importantly, he confirmed telling Dr. Blumberg that he never made statements to the police admitting guilt and denied being taken to the police barracks [N.T. 44, 50, 51]. He denied being given Miranda rights or making any admissions [N.T. 44, 48, 49].

After receipt of legal memorandum from counsel, the Court on January 2, 2003, denied Defendant's suppression motion. Specifically, the Court determined that some statements made by Defendant occurred when he was not in custody and, therefore, Miranda warnings were not required. I also concluded that statements made after being taken into custody were made after Miranda warnings were given.

I specifically discussed the impact of Defendant's mental limitations upon the voluntariness of his statement. I recognized that in

order for a confession to be valid and admissible, it must be voluntary. The burden is on the Commonwealth to prove that the challenged statement was given voluntarily. *Commonwealth v. Thomas*, 425 A.2d 1151, 1153 (Pa. Super. 1981). Whether a confession is voluntary is determined by the totality of the circumstances which means whether the interrogation was so manipulative or coercive that it deprived Defendant of his ability to make a “free and unconstrained decision to confess.” *Commonwealth v. Nestor*, 709 A.2d 879, 882 (Pa. 1998). Factors to consider in determining whether a statement is voluntary or coerced include:

The duration and means of the interrogation; the physical and psychological state of the accused; and conditions attendant to the detention; the attitude of the interrogator; and any and all factors that could drain a person’s ability to withstand suggestion and coercion. *Id.*

One’s mental condition is relevant to his “susceptibility to coercion, but it is only one factor in analyzing voluntariness . . .” *Nestor*, *supra.*, 709 A.2d at 884. Even low I.Q. alone does not invalidate a confession. See *Commonwealth v. Hughes*, 555 A.2d 1264, 1275 (Pa. 1989) and cases cited therein.

I concluded that other than the statement that Defendant was a special education student, there was no other indicator that he was unable to understand or knowingly waive his rights. Defendant reported being a fork lift operator which one can assume requires some intellectual skills. He acknowledged that he reads the Bible [N.T. 41, 42]. There was no evidence that Defendant was physically distressed or emotionally distraught. There was no suggestion that techniques used by the troopers were overbearing, harsh or threatening. There was no indication that the interviews were particularly long, that Defendant was isolated, deprived of food or drink, or that he was forced to stay awake. Defendant did not simply mimic suggested facts but rather corrected some allegations, i.e. the number of incidents.⁸

Continued to next issue (6/9/2006)

⁸See Findings of Fact, Conclusions of Law and Discussion set forth in the Order entered January 2, 2003.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-222 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 July, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point at High Street at Lot No. 3 now or formerly of George Hofferis; thence by the same North fourteen and one-fourth (14-1/4) degrees West one hundred eighty-one and five-tenths (181.5) feet to a point at fourteen (14) foot wide alley; thence along said alley North seventy-five and three-fourths (75-3/4) degrees East sixty-six (66) feet to a stone at another fourteen (14) foot wide alley; thence along the last mentioned alley South fourteen and one-fourth (14-1/4) degrees East one hundred eighty-one and five-tenths (181.5) feet to a stone at High Street aforesaid; thence along High Street South seventy-five and three-fourths (75-3/4) degrees to a point, the place of BEGINNING.

IT BEING known as Lot No. 4 on a plan of lots as laid out by Z. E. Craumer, Surveyor, on January 14, 1928, as the land of Grant Freed.

IT BEING the same tract of land which Carol M. Direnzo, Administratrix of the Estate of Adriana N. Direnzo, by deed dated April 30, 1997 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 1365, page 305, granted and conveyed unto David R. Kirby and Sandra L. Kirby, husband and wife, Grantors herein.

This is a conveyance between husband and wife.

AND the said grantors hereby covenant and agree that they and each of them will warrant specially the property hereby conveyed.

Being known as: 249 High Street, Abbottstown, PA 17301

Property ID No.: 1-3-20

TITLE TO SAID PREMISES IS VESTED IN David R. Kirby by Deed from David R. Kirby and Sandra L. Kirby, husband and wife dated 6/23/00 recorded 6/29/00 in Deed Book 2078 Page 20.

SEIZED and taken into execution as the property of **David R. Kirby** and to be sold by me.

James W. Muller-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 July 21, 2006, 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.

5/26, 6/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-280 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 July, 2006, 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.:

BEGINNING at a point in the Frederick Pike, Pennsylvania Route 194, at corner of lands now or formerly of William A. Parsons; thence by said lands now or formerly of William A. Parsons, South 55 degrees 19 minutes 52 seconds East, 182.48 feet to a steel pin; thence by same, South 45 degrees 24 minutes 18 seconds East, 203.04 feet to a steel pin at corner of lands now or formerly of the Township of Germany; thence by said lands now or formerly of the Township of Germany, South 34 degrees 40 minutes 08 seconds West, 255.00 feet to an existing steel pin along line of lands now or formerly of the Township of Germany and at corner of lands now or formerly of Jerry L. Stambaugh; thence by said lands now or formerly of Jerry L. Stambaugh and lands now or formerly of Kenneth L. Stambaugh, North 55 degrees 19 minutes 52 seconds West, 200 feet to an existing steel pin at corner of Lot No. 4; thence by said Lot No. 4 North 34 degrees 40 minutes 08 seconds East, 141.32 feet to a steel pin set; thence by same, North 55 degrees 19 minutes 52 seconds West, 214.98 feet to a point in the right of way line of Frederick Pike, Pennsylvania Route 194, thence in said Frederick Pike, Pennsylvania Route 194, North 49 degrees 41 minutes 22 seconds East, 84.06 feet to a point; thence by same, North 43 degrees 41 minutes 39 seconds East, 68.34 feet to a point at corner of other lands now or formerly of William A. Parsons, the point and place of BEGINNING. CONTAINING 1.923 Acres.

BEING Lot No. 3 on the plan of lots entitled "Final Subdivision Plan for: William A. & Sandra S. Parsons", prepared by Mort, Brown and Associates, dated February 12, 1990 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 55 at page 33.

This conveyance is made subject to coal, oil, gas, mineral and mining rights and all rights and privileges incident to the mining of coal heretofore conveyed or reserved of record. Further subject to all restrictions, reservations, rights of way, easements for public utilities and building line as may be shown on the recorded plan in prior instruments of record.

Being known as: 1360 Frederick Pike, Littlestown, PA 17340

Property ID No.: 15-118-16L

TITLE TO SAID PREMISES IS VESTED IN Mary L. Garrison and William Garrison, mother and son, as joint tenants with the right of survivorship by deed from Mary L. Garrison dated 11/21/02 recorded 12/2/02 in Deed Book 2893 Page 97.

SEIZED and taken into execution as the property of **Mary L. Garrison & William Garrison** and to be sold by me.

James W. Muller-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 July 21, 2006, 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.

5/26, 6/2 & 9

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

No. 06-471

Action to Quiet Title

LESTER E. MYERS and FAIRY C. MYERS, Husband and Wife, and LESTER E. MYERS and FAIRY C. MYERS, TRUSTEES OF LESTER E. MYERS and FAIRY C. MYERS REVOCABLE LIVING TRUST, Plaintiffs

vs.

HOWE W. SHUTZ and MARIAM G. SHUTZ, Together with any and all of their predecessors, successors, and assigns, and all other parties of interest, Defendants

TO: HOWE W. SHUTZ and MARIAM G. SHUTZ, Together with any and all of their predecessors, successors, and assigns, and all other parties of interest

TAKE NOTICE that on May 1, 2006, Lester E. Myers and Fairy C. Myers filed a Complaint in Action to Quiet Title against Howe W. Shutz and Mariam G. Shutz, together with any and all of their predecessors, successors, and assigns, and all other parties of interest, regarding that tract of land lying and situate in Springettsbury Township, County of York, Commonwealth of Pennsylvania, and more fully described as follows, to wit: All that certain tracts of land situate in lying and being partly in the Township of Oxford, and partly the Township of Benwick, and partly in the Township of Hamilton, County of Adams, Commonwealth of Pennsylvania, and more fully described as follows, to wit:

TRACT NO. 1

BEGINNING at a stone for a corner, thence by lands now or formerly of Jacob Martin, North seventeen and three-fourths degrees West, fifty-nine and fourteen hundredths perches to a stone; thence by lands of Alexander Kinneman and heirs of John Myers, deceased, North eighty-seven and one-half degrees West, fifty-one and four tenths perches to a stone, thence by lands of the heirs of John Myers, deceased and lands of Edward Emlet, South fifty-one and three-fourths degrees West, twenty-nine and five tenths perches to a stone; thence by lands of John H. Flemming, South twenty-two and one-half degrees East, one hundred and twenty-five and sixty-four hundredths perches to a stake in Black Oak stump on North side of York and Gettysburg Turnpike; by land of same, diagonally across said Turnpike, North eighty-nine and three-fourths degrees East, nineteen and two tenths perches to a stone on South side of said Turnpike; thence by the same South twenty-six degrees East, ninety-five and two tenths perches to a stone; thence by lands John N. Hersh, North fifty-eight and three-fourths degrees

East, fifty-eight and sixty-four hundredths perches to a point in Hanover and Carlisle Turnpike; thence by same South forty degrees East, seventy-six and six tenths perches to a stone; thence by land of Mary Kurtz, North fifty-one and one-half degrees West, fifty-five and one-tenth perches to a point in middle of York and Gettysburg Turnpike; thence along middle of said Turnpike by lands of Mrs. Jerome Miller, South sixty-nine degrees West, two and fifty-four hundredths perches to a point in said Turnpike; thence by same North sixty-four degrees West, twenty and thirty-six hundredths perches to a stone; thence by same, North forty-four degrees East, six and one-tenths perches to a post; thence by lands of Jacob Martin, North sixty-five and three-fourth degrees West, sixty-one and fifty-six hundredth perches to a stone, the place of the Beginning. Containing one hundred twenty-seven acres and one hundred thirty-one perches of land, neat measure.

Being the same tract of land which by virtue of diverse good and sufficient deeds of conveyances in the law and duly executed, became vested in Edmund C. Gitt, who being to thereof since died on the 28th day of September, 1898, leaving to survive him as his only heirs at law, Margaret S. Gitt, and Bessie Gitt Bryan, in whom, by virtue of the intestate laws of the Commonwealth of Pennsylvania, the same became vested and, this said, Margaret S. Gitt, unmarried, being so thereof seized of the undivided one-half interest in said tract of land, died intestate on the 15th day of September, 1904, leaving to survive her as her only heir at law, her sister, of full blood, Bessie Gitt Bryan, in whom the same became vested by virtue of the intestate laws of the Commonwealth of Pennsylvania, and being the same which Bessie Gitt Bryan and Oliver Bryan, her husband, by deed dated March 1, 1906, sold and conveyed to Elmer E. Freed, and the same which Elmer E. Freed and Mary Freed, his wife, by deed died March 31, 1908 recorded in the Recorders office of Adams County, in deed book 62 at page 173, sold and conveyed unto Jacob C. Shriver.

TRACT NO. 2

Situate on the West side of the Hanover Carlisle Turnpike, and BEGINNING at a stone twenty-six links [sic] from a point in said Turnpike, a corner of lands now or formerly of A.J. Martin and William Yealy, thence with lands of said Yealy, South eighty-nine and one-half degrees, eleven and sixteen-hundredths perches to a stone; thence by line of lands of Tract No. 1, hereinafter described South nineteen degrees East, fifty-eight and ninety-six hundredths perches to a stone; thence by same, South sixty-eight degrees East fifteen and two-tenths

perches to a point in the center of the aforesaid Turnpike; thence with the center of said Turnpike, North nineteen and three-fourth degrees West, sixty-five and twenty-eight hundredths perches to a place of BEGINNING. CONTAINING four acres and thirty-eight perches.

Being part of a larger tract of land which Franklin J. Martin, in his lifetime became seized and being so thereafter seized, died intestate, leaving to survive him as his only heirs at law, Elizabeth Martin, Bertha Martin, F.L. Martin, Clara Rinehart, and Louis Delone, and being the same which Elizabeth Martin, Bertha Martin, F.L. Martin and his wife, Clara Rinehart and Charles Rinehart, her husband and Louis Delone surviving husband of Sara James Delone, deceased by deed dated March 29, 1919 and recorded in the Recorder of Deeds office of Adams County in deed book 80 at page 162, and Joseph R. Sneringer, Administrator of the Estate of said Sara James Delone, deceased by authority of an Order of the Orphans' Court of Adams County, by his deed dated April 1, 1918 and recorded in said Recorder's Office in Deed Book 81 at Page 488, sold and conveyed their undivided interest therein to Martin, who with the grantors were all heirs and legal representatives of the said Franklin Martin, deceased and being the same which A.J. Martin, and Francis L., his wife by deed dated March 28, 1919, and recorded in the Recorder of Deeds Office aforesaid in deed book 111 at page, sold and conveyed unto J.C. Shriver. And said J.C. Shriver, being so thereof seized of Tract Nos. 1 and 2, died on December 22, 1920 leaving a last will and testament divided all of his real estate onto his wife and widow, Ellen Shriver, with full power to sell and convey the same, and which the said Ellen Shriver sold by deed dated May 10, 1927 recorded in said office in deed book 110 page 8, conveyed unto Pius A. Miller, being so thereof seized died March 14, 1931 testate, his Last Will and Testament being probated and remaining on file in the office of the Register of Wills of Adams County, Pennsylvania, where and whereby he gave, devised all of his property, real and personal, onto his wife, Catherine A. Miller and which the Catherine A. Miller, widow, sold by deed dated July 28, 1932 recorded in said office in deed book 133, page 537 onto Mary A. Miller, party of the first part hereto, as reference will at more fully at large appear. The Complaint requests the Court to decree title to the said property to Plaintiffs, and that the Defendants, their predecessors, successors, assigns, personal representatives, and all other parties of interest be forever barred from asserting any right, lien, title or interest in the property inconsistent with the interests of the Plaintiffs as set forth in the Complaint.

(continued on page 5)

Plaintiffs are aware of no other owners or claimants to the Property and an action of ejectment will not lie in this case.

WHEREFORE, the Court of Common Pleas of Adams County has ordered that service of the Complaint be made on the Defendants, their predecessors, successors, assigns, personal representatives, and all other parties of interest, by publication. Plaintiffs will request the Court to enter a final judgment ordering that any possible legal interest the Defendants, their predecessors, successors, assigns, personal representatives, and all other parties of interest might have had in the property be extinguished.

NOTICE

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

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

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

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
717-337-9846

CGA LAW FIRM
Christian J. Dabb, Esquire
#85370
135 North George Street
York, PA 17401
717-848-4900 telephone

6/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-242 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of July, 2006, 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 the Borough of East Berlin, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point along the Southerly right-of-way line of Lodge Lane and Lot No. 55 of the hereinafter referred to Subdivision Plan; thence along said Lot No. 55, South forty-six (46) zero (00) minutes eight (08) seconds East, one hundred twenty-five and zero hundredths (125.00) feet to a point at other lands now or formerly of the grantors herein; thence along said other lands now or formerly of the grantors herein, South forty-three (43) degrees fifty-nine (59) minutes fifty-two (52) seconds West, one hundred and zero hundredths (100.00) feet to a point at Lot No. 57; thence along said Lot No. 57, North forty-six (46) degrees zero (00) minutes eight (08) seconds West, one hundred twenty-five and zero hundredths (125.00) feet to a point along the Southerly right-of-way line of Lodge Lane; thence along the Southerly right-of-way line of Lodge Lane; North forty-three (43) degrees fifty-nine (59) minutes fifty-two (52) seconds East, one hundred and zero hundredths (100.00) feet to a point, the place of BEGINNING. CONTAINING 12,500 square feet and being identified as Lot No. 56 on the final subdivision plan of Beaver Colony Estates, Phase 1, which plan is recorded in the Adams County Recorder of Deeds' Office in Plat Book 67, Page 83.

SAID tract of land is subject to the protective covenants for Beaver Colony Estates dated July 28, 1995 and recorded in the Adams County Recorder of Deeds' Office in Record Book 1061, Page 205, which protective covenants were subsequently amended by protective covenants dated September 20, 1995 and recorded in the Recorder of Deeds' Office in Record Book 1091, Page 289.

Being known as: 134 Lodge Lane, East Berlin, PA 17316

Property ID No.: 9-5

TITLE TO SAID PREMISES IS VESTED IN Donald E. Myers, Jr., and Roxey A. Myers, husband and wife, as tenants by the entireties by deed from John J. Grim and Todd E. Grim, owners of an undivided one-half (1/2) interest, and James J. Kopenhaver and Elizabeth R. Kopenhaver, husband and wife, James A. Kopenhaver and Helen L. Kopenhaver, husband and wife, and Michael J. Kopenhaver and Lou Ann Kopenhaver, husband and wife, owners of an undivided one-half (1/2) interest, by John J. Grim and Todd E. Grim, their Attorneys-in-fact, by Power of Attorney dated September 20, 1995, and recorded on October 4, 1995, in Record Book 1091, at Page 296, in the Office of the Recorder of Deeds of Adams County, Pennsylvania, and S & A Custom Built Homes, Inc. dated 4/13/1999 recorded 5/7/1999 in Deed Book 1826 Page 318.

SEIZED and taken into execution as the property of **Donald E. Myers, Jr. & Roxey A. Myers** and to be sold by me.

James W. Muller-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 August 14, 2006, 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.

5/26, 6/2 & 9

NOTICE

In Re: Change of name of minor
Codi Michael Atkisson.

The Court will consider the petition of Courtney Hower for the change of name of minor Codi Michael Atkisson to Codi Michael Hower. The Court will consider the petition on June 12, 2006, at 9:00 o'clock a.m., in a courtroom to be designated. Any party having reason to object to granting of the petition is directed to appear. Failure to appear will result in relief being requested by the petition being granted.

6/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-746 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of July, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a post along the South side of an alley at corner of land now or formerly of Arch Reed; thence by the South side of said alley North 89-1/2 degrees East, 242.5 feet to an iron pin at the Southwest corner of the intersection of said alley and a 20 foot public alley; thence along the West side of the said last mentioned public alley South 24-1/2 degrees East, 61 feet to an iron pin along the West side of said last mentioned 20 foot public alley; thence along the West side of land now or formerly of Romaine Blocher South 3 degrees West, 329.5 feet to an iron pin at land now or formerly of Arch Reed; thence by land now or formerly of Arch Reed North 89-1/2 degrees West, 275 feet to an iron pin; thence by land now or formerly of Arch Reed North 3 degrees East 386 feet to a post, the place of BEGINNING.

CONTAINING 2 acres, 66 perches and 14 square feet.

Map 1, Parcel 2

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Shawn M. Beaman and Shelly J. Beaman by Deed from The Secretary of Housing and Urban Development dated 12/8/2000 and recorded 12/21/2000, in Record Book 2184, Page 105.

Premises being: 102 Rice Lane, Bendersville, PA (a/k/a 102 Apple Lane)

SEIZED and taken into execution as the property of **Shawn M. Beaman & Shelly J. Beaman** and to be sold by me.

James W. Muller-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 August 14, 2006, 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.

5/26, 6/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-286 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of July, 2006, 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 unimproved tract of land situate, lying and being in Hamilton Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point in the middle of a public road identified as Pennsylvania Legislative Route #01023, known as Dicks Dam Road, and at Lot #4; thence along the centerline of Dicks Dam Road, North sixty-four (64) degrees twenty-five (25) minutes fifty-nine (59) seconds West, one hundred four and sixty-four hundredths (104.64) feet to a point in the middle of Dicks Dam Road; thence along the middle of Dicks Dam Road, North fifty-four (54) degrees forty-six (46) minutes forty-three (43) seconds West, one hundred (100.00) feet to a point in the middle of said Dicks Dam Road and at Lot #2; thence along Lot #2, North thirty-nine (39) degrees fifty-one (51) minutes thirty-eight (38) seconds East, four hundred six and ninety-two hundredths (406.92) feet to a point at Lot #5; thence along Lot #5, South twenty-four (24) degrees forty-eight (48) minutes twenty-five (25) seconds East, fifty-seven (57.00) feet to a point at Lot #4; thence along Lot #4 and across one-half of Dicks Dam Road, South sixteen (16) degrees thirty-eight (38) minutes twenty-eight (28) seconds West, three hundred seventy-nine and thirty-three hundredths (379.33) feet to a point in the middle of the aforementioned public road identified as Pennsylvania Legislative Route #01023, known as Dicks Dam Road, the place of BEGINNING.

CONTAINING 1.1236 acres.

THE above described tract of land has been designated as Lot #3 on a plan of lots identified as "Subdivision for Gary L. Dull" as prepared by Dean R. Hemphing, registered surveyor, dated January 16, 1979, and identified as Drawing #A-253-80-D2A, said subdivision plan having been approved in keeping with the subdivision ordinance of Hamilton Township and the Adams County Planning Commission, and said plan having been recorded in the Recorder of Deeds Office in and for Adams County, Pennsylvania, in Plan Book 34 at Page 26.

THE above described lot is a part of a larger tract of land identified as Tract #2 of two (2) tracts of land which Gary L. Dull and Shirley J. Dull, his wife, by their deed dated May 2, 1973, which deed is recorded in the Recorder of Deeds Office in and for Adams County, Pennsylvania, in Deed Book Volume 307 at Page 439, granted and conveyed unto Gary L. Dull.

THE above described Lot #3 is subject to the Declaration of Protective Covenants and Conditions, dated August 28, 1980, which covenants and conditions are recorded in the Recorder of Deeds Office for Adams County, Pennsylvania, in Miscellaneous Book Volume 35 at Page 1051, said Declaration of Protective Covenants and Conditions were amended on July 2, 1981, and said amendment is recorded in the Recorder of Deeds Office in and for Adams County, Pennsylvania, in Miscellaneous Book Volume 38 at page 293.

Property being sold as subject to a first mortgage.

Being known as: 884 Dicks Dam Road (Hamilton Township), New Oxford, PA 17350

Property ID No.: 17-J-130

TITLE TO SAID PREMISES IS VESTED IN William J. Smith, Jr. and Sherry Smith, husband and wife, as tenants by the entireties by deed from Gary L. Dull and Frances H. Dull, husband and wife dated 5/30/1985 recorded 5/31/1985 in Deed Book 401 Page 381.

SEIZED and taken into execution as the property of **William J. Smith, Jr. & Sherry L. Smith a/k/a Sherry Smith** and to be sold by me.

James W. Muller-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 August 14, 2006, 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.

5/26, 6/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1136 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of July, 2006, 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 on the Northeast side of Legislative Route A-6810, in Village of Irishtown, Oxford Township, Adams County, Pennsylvania, being more particularly bounded and described as follows:

BEGINNING at a point in the State Highway, Legislative Route A-6810, in the Village aforesaid at other land now or formerly of Richard A. Shrader and Doris M. Shrader, husband and wife; thence by said lands and through a steel pin set back 25 feet along the line North 19 degrees 41 minutes East, 180 feet to a steel pin at lands now or formerly of William Elmer Shrader and Marie Elizabeth Shrader, his wife; thence by said lands South 49 degrees East 60 feet to a steel pin; thence by said lands South 39 degrees 41 minutes West, 180 feet through a steel pin set back 25 feet from the end of course to a point in the State Highway aforesaid; thence in said State Highway, North 49 degrees West 60 feet to a point, the place of BEGINNING.

CONTAINING 0.2479 Acres, more or less.

Tax Map #J12, Parcel #89 A

TITLE TO SAID PREMISES IS VESTED IN Mark A. Stapleton and Sharon L. Stapleton, his wife by Deed from Dennis G. Strickhouser and Veda J. Strickhouser, his wife dated 7/23/1997 and recorded 7/29/1997 in Record Book 1414 Page 155.

Premises being: 1071 Irishtown Rd., New Oxford, PA

SEIZED and taken into execution as the property of **Mark A. Stapleton & Sharon L. Stapleton** and to be sold by me.

James W. Muller-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 August 14, 2006, 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.

5/26, 6/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-316 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, 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, more particularly bounded and described as follows:

BEGINNING at a point in the center of Scotch Trail Extended at the Northern-most corner of Lot No. 3 on the hereinafter described plan of lots; thence by other land now or formerly of William H. Scott, Jr., through a steel rod set back 25 feet from the start of this course, which steel rod is located at the Southwestern corner of Lot No. 2 on the hereinafter described plan of lots; thence by said Lot No. 2, South 60 degrees 18 minutes 30 seconds East, 275 feet to a steel rod at the southeastern corner of Lot No. 2 on line of land now or formerly of Terry Stern; thence running by land now or formerly of Terry Stern, South 29 degrees 41 minutes 30 seconds West, 50 feet to a steel rod; thence continuing by the same, South 60 degrees 18 minutes 30 seconds East, 250 feet to an existing steel rod on line of land now or formerly of Douglas Flohr; thence running by land now or formerly of Douglas Flohr, South 29 degrees 41 minutes 30 seconds West, 100 feet to an existing steel rod; thence by the same, South 60 degrees 18 minutes 30 seconds East, 280.35 feet to a steel rod at the Northwestern corner of Lot No. 6 on the hereinafter described plan of lots; thence running by Lot No. 6 and crossing a dirt trail, South 29 degrees 41 minutes 30 seconds West, 542.21 feet to a steel rod at land now or formerly of William H. Scott, Jr.; thence running by land now or formerly of William H. Scott, Jr.,

North 60 degrees 18 minutes 30 seconds West, 466.32 feet to a steel rod at corner of Lot No. 4 on the hereinafter described plan of lots; thence running by Lot No. 4, North 29 degrees 41 minutes 30 seconds East, 374.71 feet to a steel rod; thence continuing by Lot No. 4 and through a steel rod set back 50 feet from the end of this course, North 13 degrees

00 minutes 00 seconds West, 500 feet to a point in the center of a cul-de-sac of Scotch Trail Extended and on line of Lot No. 3 on the hereinafter described plan of lots; thence running in the center of Scotch Trail Extended and by Lot No. 3 on the hereinafter described plan of lots, North 29 degrees 41 minutes 30 seconds East, 50 feet to a point in the center of Scotch Trail, the point and place of BEGINNING, CONTAINING 7.830 Acres, more or less.

THE ABOVE DESCRIPTION was taken from a draft of survey of J. Riley Redding, R. S., dated October 12, 1992 and recorded in Adams County Plat Book 63, Page 11. The tract described is Tract No. 5 on said plan of lots.

SUBJECT, NEVERTHELESS, to the conditions and restrictions as set forth on the plan of lots hereinbefore mentioned.

SUBJECT to the conditions that no trailers or mobile homes shall be permitted on the premises.

TOGETHER WITH and SUBJECT TO a right of way over Lot No. 128-I, Section BB of Charmita as shown on the plan of lots. Deed of Dedication recorded in Record Book 910, Page 56; and opening extension of Scotch Trail as recorded in Record Book 937, Page 140.

Being Known As: 7 Scotch Trail, (Hamiltonban Township), Fairfield, PA 17320

Property ID No.: (18) A17-91

TITLE TO SAID PREMISES IS VESTED IN Chester F. King and Peggy A. King, husband and wife by deed from Herman F. Haney, single, and Jill A. Kriss, single dated 4/15/03 recorded 4/30/03 in deed book 3080 page 76.

SEIZED and taken into execution as the property of **Chester F. King & Peggy A. King** and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-203 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the property line of Spruce Lane, a fifty (50.00) foot street, at corner of Lot No. 533 on the hereinafter referred plan of lots; thence by said lot, North eighty-six (86) degrees twelve (12) minutes forty-seven (47) seconds East, eighty-five (85.00) feet to a point at a rounded radius at the Southwestern corner of the intersection of Spruce Lane and Carly Drive, a fifty (50.00) foot street; thence by said radius by a curve to the right whose radius is fifteen (15.00) feet, an arc distance of twenty-three and fifty-six hundredths (23.56) feet, the long chord of which is South forty-eight (48) degrees forty-seven (47) minutes thirteen (13) seconds East, twenty-one and twenty-one hundredths (21.21) feet to a point on the Western property line of Carly Drive; thence by said street, South three (03) degrees forty-seven (47) minutes thirteen (13) seconds East, eighty-five (85.00) feet to a steel pin at other lands of Oxford Estates; thence by said lands, South Eighty-six (86) degrees twelve (12) minutes forty-seven (47) seconds West, one hundred (100.00) feet to a steel pin at Lot No. 533; thence by said lot, North three (03) degrees forty-seven (47) minutes thirteen (13) seconds West, one hundred (100.00) feet to the point and place of BEGINNING, (CONTAINING 9,952 square feet and being known as Lot No. 532 on a plan of lots of Oxford Estates, Tract II-Phase Three, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 53, page 66.)

VESTED BY: Deed dated 12/28/1993, given by Jeffrey L. Fissel, unmarried to Karen L. Sebright, unmarried recorded 1/3/1994 in Book: 0829, Page 0227, Instrument #: 39590

Tax Parcel: 35-010-0030-000

Premises Being: 1 Carly Drive, New Oxford, PA 17350

SEIZED and taken into execution as the property of Daniel W. Huss, Sr. & Karen L. Sebright a/k/a Karen L. Huss and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/2, 9 & 16

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION
NO. RT-7-06(A)

NOTICE

TO: JUAN GARCIA LOPEZ

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for July 27, 2006, at 9:00 a.m., prevailing time, in the Conference Room on the 4th Floor of the Adams County Courthouse, at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

You should contact 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
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone number: (717) 337-9846

Chester G. Schultz, Attorney at Law
145 Baltimore Street
Gettysburg, PA 17325

5/26, 6/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-323 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of July, 2006, 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 ground situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 195 on the 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 Plat Book 1 Page 1, and subject to all legal highways, easements, rights of way and restrictions of record.

TOGETHER with and subject to restrictions, easements, set back lines, conditions, etc., as may be of record.

AND the said grantor hereby covenants and agrees that it will warrant specially the property hereby conveyed.

Map and Parcel ID: (37) 11-44

Being Known As: 37 Pemberton Drive, East Berlin, PA 17316

To Be Sold As the Property of: Gary Carr

SEIZED and taken into execution as the property of Gary Carr and to be sold by me.

James W. Muller-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 August 14, 2006, 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.

5/26, 6/2 & 9

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 HERBERT L. NICHOLS, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executrices: Susan Smith, Kathy Nichols

Attorney: Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

ESTATE OF MARGIE R. SWIFT a/k/a MARJORIE R. SWIFT, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executors: Jeffrey W. Cline, 294 Creek Road, Aspers, PA 17304; Michele A. Compner, 9225 Highland Avenue, SW, Lakewood, WA 98498

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

ESTATE OF CHESTER M. THOMPSON, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Colleen E. Moore, 749 Poplar Road, New Oxford, PA 17350

Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF JOHN W. BREAM, JR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Ruth Jeanne Bream, 170 Bingaman Road, Orrtanna, PA 17353

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

ESTATE OF CHARLES E. FALK, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Ellen H. Falk, 246 High St., P.O. Box 7, Cashtown, PA 17310

Attorney: Andrea M. Singley, Esq., 63 West High St., Gettysburg, PA 17325

ESTATE OF BETTY J. MALONE, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executor: Adams County National Bank, Attn: Karen B. Arthur, Trust Officer, P.O. Box 4566, Gettysburg, PA 17325

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

ESTATE OF PAUL C. MAXWELL, JR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Clara L. Newell-Maxwell, 85 West Mountain Top Drive, Orrtanna, PA 17353

Attorney: Wendy Weikal-Beauchat, Esq., 63 West High St., Gettysburg, PA 17325

ESTATE OF HENRY R. SCHAEFER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Winifred S. Chesley, 495 Thayer Pond Road, Wilton, CT 06897

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

ESTATE OF HARRY J. TOMS, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Charlotte M. Toms, 50 W. King Street, Littlestown, PA 17340

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

ESTATE OF RHODA VIRGINIA WOLF, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Roger L. Green, 1116 Muller Road, Westminster, MD 21157

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

THIRD PUBLICATION

ESTATE OF SUSIE A. COLLINS a/k/a SUE A. COLLINS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: G. Lawrence Hartman, Jr., 158 Georgetown Road, Littlestown, PA 17340

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

ESTATE OF VERNA D. DENISAR, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Co-Executrices: Evelyn E. Hess, 1267 Locust Lane, Littlestown, PA 17340; Shirley M. Denisar, Box 104, McKnightstown, PA 17343

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

ESTATE OF EDNA M. HAINES, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executrix: Doris L. Haines, 19 Courier Drive, Taneytown, MD 21787

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

ESTATE OF HELEN FRANCES HOOPER a/k/a HELEN FRANCIS HOOPER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator c.t.a.: Patrick B. Cullison, 18911 Brickstore Road, Hampstead, MD 21074

Attorney: Arthur J. Becker, Jr., Esq., Arthur J. Becker, Jr., P.C., 544 Carlisle Street, Hanover, PA 17331

ESTATE OF SARA H. KELLER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Emma S. Carey, 1370 Coon Road, Aspers, PA 17304

Attorney: Wendy Weikal-Beauchat, Esq., 63 West High St., Gettysburg, PA 17325

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

DIVORCE ACTION - LAW
NO. 2006-S-91

ELEANOR C. BIGLES, Plaintiff

vs.

CARLOS ALBERTO BIGLES-PEREZ,
Defendant

NOTICE

YOU ARE NOTIFIED that the Plaintiff has commenced an action of Divorce against you by complaint filed to the above docket number on January 31, 2006 and reinstated on March 7, 2006, and on April 11, 2006, which action you are required to defend.

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

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

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

Katrina M. Luedtke, Esq.
Attorney for Plaintiff
Mooney & Associates
115 Carlisle Street
New Oxford, PA 17350
(717) 624-7054
ID#60831

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

ACTION TO QUIET TITLE
NO. 06-S-320

CECIL R. YOUNGBLOOD, Plaintiff

vs.

HANSON C. DEARDORFF, Deceased,
his heirs, devisees, personal representa-
tives, successors and assigns,
TAX CLAIM BUREAU OF ADAMS
COUNTY, its successors and assigns,
and
JOHN DOE, and all parties who may
have an interest in the subject premis-
es, their successors and assigns,
Defendants

IMPORTANT NOTICE

TO: Hanson C. Deardorff, Deceased, his
heirs, devisees, personal representa-
tives, successors and assigns, John
Doe, and all parties who may have an
interest in the subject premises, their
successors and assigns

DATE: June 2, 2006

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

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

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

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone number: (717) 337-9846

/s/George W. Swartz, II, Esquire
Attorney for Plaintiff
Mooney & Associates
230 York Street
Hanover, Pennsylvania 17331
(717) 632-4656
Attorney ID #94527

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Pennsylvania's "Fictitious Names Act", 54 Pa. C.S.A. §§ 301 et seq., of the filing of an Application for Registration of Fictitious Name under the said Act. The fictitious name is F & W BLACKTOP. The address of the principal office or place of business to be carried on under or through the fictitious name is 1310 Goldenville Road, Gettysburg, Adams County, Pennsylvania 17325. The name and address of the party to the registration is F & W Cancellation Shoes, Inc., of 1310 Goldenville Road, Gettysburg, Adams County, Pennsylvania 17325. An application for registration under the Fictitious Names Act of the said fictitious name was filed in the Office of the Secretary of the Commonwealth of Pennsylvania on May 10, 2006.

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

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Adams County Legal Journal

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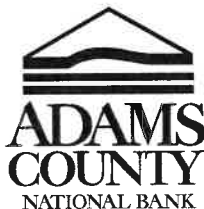
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COMMONWEALTH VS. VAUGHN

This opinion continued from last issue (6/2/2006)

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



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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. 06-S-68 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of July, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that improved tract of land situate in Straban Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of the York Road, being U.S. Route 30, at the Northwest corner of land now or formerly of Earl Leatherman; thence along said Leatherman land and through an existing reference pipe set back along the line 42.20 feet from the point of beginning, South 7 degrees 18 minutes 50 seconds East, 305 feet to an existing steel rod; thence by land now or formerly of Earl Leatherman and land now or formerly of Charles Scamack, North 77 degrees 35 minutes 00 seconds East, 272.44 feet to an existing steel rod; thence by land now or formerly of Jo Ann Gastley, South 13 degrees 23 minutes 50 seconds East, 356 feet to a point along said Gastley boundary; thence by land now or formerly of Clarence E. Boyd and wife, designated as Lot No. 3 on the plan from which this description is taken, South 80 degrees 39 minutes 00 seconds West, 435.83 feet to a point; thence by the same through a steel rod 315.33 feet from the beginning point, and through a reference steel rod set back 27 feet from the end of this line, North 10 degrees 52 minutes 00 seconds West, 645.57 feet to a point in the center of the Gettysburg-York Road (U.S. Route 30); thence in the center of said road, North 80 degrees 39 minutes 00 seconds East, 166.58 feet to a point in the center of said road, the place of BEGINNING, CONTAINING 4.493 acres.

Premises being: 1875 York Rd., Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Gettysburg Pretzel Company, Inc.** and to be sold by me.

James W. Muller-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 August 14, 2006, 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.

5/26, 6/2 & 9

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

NO. 05-S-1410
Action to Quiet Title

RANDALL B. INSKIP, Plaintiff
vs.

ESTATE OF MAE E. OLINGER by and through her Executrix PAULA D. OLINGER, PAULA D. OLINGER individually, BARTON W. OLINGER, and CLARENCE E. EYLER *et al* and their respective executors, heirs and/or assigns, Defendants

ORDER OF COURT

AND NOW, this 24th day of May, 2006, an Affidavit of Service of the Complaint by Publication together with a Notice to Plead having been filed and no Answer having been made by the Defendants, upon consideration of the Motion of the Plaintiff pursuant to Pa. R.C.P. 1066(a), it is hereby ORDERED that judgment shall be entered against the defendants unless the Defendants file an Answer to Plaintiff's Complaint within thirty (30) days of the date of this Order. If the Defendants fail to file an Answer within thirty (30) days of the date of this Order, the Prothonotary shall, upon Praecept, enter final judgment in the Plaintiff's favor directing that:

The Defendants, and any person or persons claiming under the Defendants, are permanently enjoined, restrained and forever barred from asserting any right, lien, title or interest in and to the

following real property or any part thereof: All that certain lot or piece of ground situate in Gettysburg Borough, County of Adams, Commonwealth of Pennsylvania, more particularly bounded and described as follows:

BEGINNING at the Northeast corner of other land now or formerly of George W. Olinger and wife on the South side of a public alley running from Franklin Street to West Street; thence along the South side of said public alley, South 85 degrees 10 minutes East, 30 feet to a point at the West side of a private alley where it intersects with the aforementioned public alley; thence along the West side of private alley, South 5 degrees West, 75 feet; thence along land now or formerly of Ruth R. Swope (formerly Thad S. Warren), North 85 degrees 10 minutes West, 30 feet to a point at other land now or formerly of George W. Olinger and wife, thence along said Olinger land, North 5 degrees East, 75 feet to a point at the South side of a public alley, the place of BEGINNING. This description taken from a draft of survey dated February 1957 by Leroy H. Winebrenner, County Surveyor.

The Court notes that original process was served on Defendants Clarence Eyer *et al* by publication. Therefore, the Plaintiff shall serve this order on Defendants Clarence Eyer *et al* by the same method. The Plaintiff shall serve Defendants Estate of Mae E. Olinger, Paula D. Olinger and Barton W. Olinger with a copy of this Order pursuant to Pa. R.C.P. 440 and proof of all served shall immediately be filed with the Prothonotary of Adams County.

By the Court:
/s/Michael A. George
Michael A. George, J.

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COMMONWEALTH VS. VAUGHN

Continued from last issue (6/2/2006)

On January 28, 2003, the case proceeded to a jury trial. During the trial, the victim testified to the incident on September 26, 2001. She also reported prior incidents of performing oral sex on Defendant and Defendant performing oral sex upon her. Troopers Duffy and Weaver described their interaction with Defendant and his admissions. A forensic chemist from the State Police Crime Laboratory discussed his examination of clothing Defendant was wearing on September 26, 2001, and his findings.

Again, at the close of the Commonwealth's presentation of evidence, Attorney Kulla attempted to place an offer of proof on the record that, if called, Dr. Blumberg would have testified to Defendant's intellectual ability to waive Miranda rights and make voluntary admissions in view of those intellectual limitations [N.T. 85]. Dr. Blumberg was not retained by Defendant and did not appear as a witness. Defendant's father, Roger Vaughn, testified that Defendant has good intelligence but is "slow" [N.T. 93]. It took Defendant 14 years to complete 12 years of school [N.T. 92]. He testified that if Defendant is under stress and someone keeps the pressure on him, he would admit anything to end the confrontation [N.T. 93]. Defendant testified and denied the allegations of sexual misconduct [N.T. 108, 109, 111, 112]. He accused his daughter and wife of making up the allegations to get rid of him [N.T. 108]. Defendant denied confessing to the police or that he would confess in order to stop police questioning [N.T. 111]. The jury returned verdicts of guilty on Counts I through VI, Involuntary Deviate Sexual Intercourse,⁹ Count VII, Indecent Assault,¹⁰ and Count VIII, Corruption of Minors.¹¹ Sentencing was deferred to allow for an evaluation by the Sexual Offenders Assessment Board.

On June 16, 2003, Attorney Kulla moved to withdraw as Defendant's counsel based upon a letter from Defendant discharging him. By Order dated June 18, 2003, Attorney Kulla was granted permission to withdraw upon entry of an appearance by a member of the Public Defender's Office. Sentencing scheduled for June 23, 2003, was continued at Defendant's request to July 14, 2003, and then to September 23, 2003. At that time, Defendant indicated he wanted Attorney Kulla to represent him through sentencing.

⁹ 18 Pa. C.S.A. §3123(6).

¹⁰ 18 Pa. C.S.A. §3126(a)(7).

¹¹ 18 Pa. C.S.A. §6301(a)(1).

Sentencing was finally held on October 8, 2003. On Counts I through VI, Defendant was sentenced to 12-1/2–25 years of imprisonment. No sentence was imposed on Count VII. Defendant received a concurrent sentence of 3–36 months on Count VIII.

On October 17, 2003, Attorney Kulla filed a Notice of Appeal on Defendant's behalf. Subsequently, on October 20, 2003, Assistant Public Defender Anthony Miley filed a Post-Sentence Motion, raising trial counsel's ineffectiveness. He also requested transcripts of relevant proceedings. On October 31, 2003, Attorney Kulla filed a praecipe discontinuing Defendant's appeal to allow for disposition of the post-sentence motion.

At Defendant's request, further proceedings were continued until May 21, 2004.¹² Meanwhile, on April 7, 2004, Defendant filed an Amended Post-Sentence Motion wherein he specifically claimed that Attorney Kulla was ineffective for not properly pursuing a mental health examination of Defendant as it related to the voluntariness of his confession.

At hearing on May 21, 2005, Defendant called Attorney Kulla to testify. He confirmed that after the Court denied the motion filed September 20, 2002, to appoint Dr. Blumberg to evaluate Defendant's ability to voluntarily confess, Defendant's family had no resources available to privately hire an expert. Knowing Defendant and his family did not have additional resources, Mr. Kulla succinctly stated why he did not pursue finding another expert on the confession issue:

. . . I was certainly aware I was very fortunate to have gotten the Court to appoint an expert for me on one occasion as it was a private matter and the Court did not have the need to do so. I was very lucky and I obtained the first order and I requested a second one, the judge denied it, and I believe that was certainly his discretion to do so and I proceeded accordingly without that expert and did the best effort we could possibly do to defend Mr. Vaughn, which caused the hearing to be held on the confession.
[N.T. 37].

¹² See Orders dated November 25, 2003; December 29, 2003; March 15, 2004; and April 8, 2004.

After Attorney Kulla completed his testimony, Attorney Miley requested that the record be kept open. The Court requested counsel to brief the issue whether privately retained counsel could be considered ineffective in a non-capital case for not pursuing an expert if the defendant did not have the financial resources to hire an expert and the court denied the use of public funds to pay for the expert.¹³

When examining claims of ineffective counsel in criminal cases, the trial court is guided by the principal that

Counsel is presumed to have rendered effective assistance and that a defendant has the burden of proving otherwise . . . In order to obtain relief based on counsel's ineffective assistance, the defendant must demonstrate that: (1) the underlying claim is of arguable merit; (2) counsel's course of conduct was without reasonable basis designed to effectuate his interest; and (3) he was prejudiced by counsel's ineffectiveness, i.e., if not for counsel's ineffectiveness, there is a reasonable probability that the outcome of the trial would have been different. . . Counsel's assistance is deemed constitutionally effective once this Court determines that the defendant has not established any one of the prongs of the ineffectiveness test. . .

Commonwealth v. Harvey, 812 A.2d 1190, 1196 (Pa. 2002) (citations omitted).

In this Opinion, I will only be evaluating the first two prongs of this test.

Presently, Defendant argues that Attorney Kulla was aware of his mental limitations and, therefore, had a duty to explore the voluntariness of any admissions he gave to the police. Although he acknowledges that counsel filed a motion to suppress his statements and

¹³ It was felt that resolving this threshold question was important. Ultimately for Defendant to succeed in his claim that Attorney Kulla was ineffective, he will have to establish prejudice. As such, he will need to produce an expert who will opine that Defendant's mental health and limitations on September 26, 2001, precluded him from voluntarily confessing to criminal behavior. Absent such an opinion, he will be unable to produce any more trial evidence than was presented by Attorney Kulla. However, before pursuing the expense related to such an expert, there is the threshold question to be resolved whether counsel could be considered ineffective under the circumstances of this case for not further pursuing the services of an expert.

requested funding for an expert from the court, he asserts that counsel 1) should have alerted Dr. Blumberg of this issue and asked that it be investigated as part of the initial evaluation, 2) should have explored other forensic psychiatrists who could have evaluated Defendant for a lesser fee than Dr. Blumberg; and 3) should have further explored Defendant's family's ability to pay for a less expensive expert.

First, I agree with Defendant that if a criminal defense attorney is aware of a relevant mental health issue and fails to take steps to support that issue with expert testimony, the failure to do so raises a claim of arguable merit. However, I disagree with Defendant's claim that counsel's course of conduct in this case was unreasonable.

Attorney Kulla clearly recognized two mental health issues; Defendant's competency to participate in the proceedings and Defendant's ability to utter voluntary confessions. He took steps to address both of those issues. However, he recognized that he was privately retained and that the right to public funding of expert witnesses was not absolute or guaranteed. It was reasonable for Attorney Kulla to attack the competency issue first. Obviously, if Defendant was not competent, the proceedings would be delayed. Furthermore, a finding that Defendant was incompetent may have been helpful in laying the groundwork for establishing the involuntariness of Defendant's inculpatory statements to the police. Within this context, he also realized the limited financial resources available to Defendant and his family. Accordingly, he filed a motion under the Mental Health Procedures Act and was successful in securing funding for the competency evaluation.

I disagree with Defendant's assertion that counsel should have initially alerted Dr. Blumberg to the voluntariness issue as well so that concern could also be explored. Evaluation of the voluntariness issue would have been outside the parameters of the Mental Health Procedures Act and would not have been authorized by the court. Section 7402 of the Act authorizes the court to appoint a psychiatrist to examine a defendant's competency and does not include within the scope of its provisions authority to explore other issues.

When Attorney Kulla received notice that Dr. Blumberg determined Defendant to be competent, he moved the court for additional court-approved funding for an expert to pursue the voluntariness issue.¹⁴

¹⁴Defendant faults counsel for the form as that Motion.

When reviewing that motion, I had several concerns including 1) that Defendant was still privately retaining counsel but requesting public funding for an expert; 2) that after expending \$2,000.00 for the competency evaluation, Dr. Blumberg was requesting an additional \$4,000 - \$5,000¹⁵ and 3) that Defendant was alleging that he never made any inculpatory statements but at the same time, was arguing that his confession was involuntary. Frankly, I did not express those concerns to counsel.

Attached to the Motion was a proposed Order with four options to consider: 1) grant the withdrawal of the request to find Defendant incompetent and appoint Dr. Blumberg as an expert for a fee of \$4,800 to \$5,200; 2) grant the withdrawal of the request to find Defendant incompetent and deny the request to appoint Dr. Blumberg as an expert; 3) deny the request to find Defendant incompetent and grant the appointment of Dr. Blumberg; or 4) deny both requests. I chose option two.

I should explain further my concerns about Dr. Blumberg's proposed appointment. Initially, it should be understood that at no time have I been concerned about Dr. Blumberg's credentials. However, I was extremely concerned about the amount of money Defendant was requesting in a case where he has privately retained counsel and he was claiming that he never made inculpatory admissions. When the competency motion was filed, Defendant requested \$3,500 as a retainer for Dr. Blumberg. When the court authorized \$2,000, Dr. Blumberg agreed to perform the evaluation. His nine-page report of August 26, 2002, indicated that he reviewed the criminal complaint, the affidavit of probable cause, the State Police incident report, a letter from Defendant, dated October 10, 2001, a Children & Youth Services report dated October 17, 2001, a report from the Department of Public Welfare, dated October 25, 2001, letters from Defendant's mother, Defendant's high school transcript, some medical records, and a report dated July 25, 2002, from Reggie Cullum, M.D. He also interviewed and examined Defendant for 4.25 hours and interviewed Defendant's father for one hour. The report discussed Defendant's family history, post-psychiatric history, current offense, mental status examination, and personality assessment. The second motion indicated that Dr. Blumberg needed an additional 13.0 hours to review police reports

¹⁵This included 13 hours of preparation, 3 hours travel and 8-10 hours of court time.

(presumably the same ones he already had), transcripts¹⁶ and records and to interview Defendant. It was extremely difficult to understand how this amount of extra time was needed in addition to that already performed on Defendant's mental health status.

Despite rejection of Defendant's request, counsel proceeded to the suppression hearing and trial and placed on each record his offer of proof for Dr. Blumberg in order to preserve the issue for appeal purposes. Under the circumstances, I find counsel's stewardship appropriate and reasonable. He recognized the issue, realized that private funding was insufficient, tried to obtain public funding for an expert, and when rejected, tried to preserve the issue. I cannot conclude that counsel was ineffective for not specifically trying to arrange a lesser fee schedule for Dr. Blumberg or another forensic psychiatrist and then return to the court with a revised request. Perhaps in retrospect, counsel could have taken those steps. Hindsight is a wonderful but dangerous tool by which to measure the appropriateness of counsel's actions. See *Commonwealth v. Hall*, 872 A.2d 1177, 1187 (Pa. 2005) citing *Commonwealth v. Pierce*, 527 A.2d 973 (Pa. 1987) (stating that in reviewing counsel's stewardship the court does not employ a hindsight evaluation of the record to determine whether other alternatives were more reasonable, rather counsel will be deemed effective so long as the course chosen by counsel had some reasonable basis designed to effectuate his client's interests.) One must keep in mind that for counsel's assistance to be constitutionally effective, the course taken must be reasonable, not perfect.

In analyzing the reasonableness of counsel's course of conduct, it is helpful to have some grasp of a court's role and responsibility in approving funding for a criminal defense. First, there is no obligation on the part of the Commonwealth to pay for the services of an expert. *Commonwealth v. Carter*, 643 A.2d 61, 73 (Pa. 1994). As discussed in *Commonwealth v. Gelormo*, 475 A.2d 765, 769 (Pa. Super. 1984),

Under the law of Pennsylvania, as in a majority of the states, the appointment of an expert witness or an investigator to assist in the preparation of a defense is vested in the sound discretion of the trial court.

¹⁶To my knowledge, there were no transcripts that could have been generated at that time except of the brief hearing held on March 6, 2002.

Furthermore, that court noted “there is no mandate, either federal or state, that experts be appointed at public expense to assist in the preparation of a defense whenever requested by one accused of crime.” 475 A.2d at 770. Instead, “[t]here must be some showing as to the content and relevancy of the proposed expert testimony before such a request will be granted.” *Commonwealth v. Curnutte*, 871 A.2d 839, 842 (Pa. Super. 2005). Absent such a showing, the trial court will not be found to have abused its discretion. *Commonwealth v. Bell*, 706 A.2d 855, 862 (Pa. Super. 1998).

Thus, in order for Attorney Kulla to reverse this court’s failure to approve funding for a forensic psychiatrist, he would have to establish that there was an abuse of discretion. Attorney Kulla took procedural steps to preserve that issue on appeal. Accordingly, his strategy was reasonable.

Finally, I will clarify my denial of funds based upon Defendant’s claim that he made no admissions of wrong doing to the police. Both at the suppression hearing and at trial, the Commonwealth had the burden of establishing 1) that Defendant made an admission and 2) it was made voluntarily. Once Defendant argues that he never made an admission, it is inconsistent for him to then state that even if he did make an admission, it was not voluntary because of his mental health limitations.¹⁷ Under such circumstances, one must question the relevancy of the proposed forensic psychiatric testimony.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 14th day of September, 2005, Defendant’s post-sentence motion, as amended, is denied.

¹⁷There may be some circumstances where such a position is not inconsistent. For example, if a defendant claims that he never spoke to the police because his mental limitations do not allow him to perceive or recall that interaction, he could use that disability to support his contention that any statements given were not voluntary. However, in the instant matter, Defendant did perceive and recall the interview. He simply has a dispute whether he made an admission.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-222 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 July, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point at High Street at Lot No. 3 now or formerly of George Hoffers; thence by the same North fourteen and one-fourth (14-1/4) degrees West one hundred eighty-one and five-tenths (181.5) feet to a point at fourteen (14) foot wide alley; thence along said alley North seventy-five and three-fourths (75-3/4) degrees East sixty-six (66) feet to a stone at another fourteen (14) foot wide alley; thence along the last mentioned alley South fourteen and one-fourth (14-1/4) degrees East one hundred eighty-one and five-tenths (181.5) feet to a stone at High Street aforesaid; thence along High Street South seventy-five and three-fourths (75-3/4) degrees to a point, the place of BEGINNING.

IT BEING known as Lot No. 4 on a plan of lots as laid out by Z. E. Craumer, Surveyor, on January 14, 1928, as the land of Grant Freed.

IT BEING the same tract of land which Carol M. Direnzo, Administratrix of the Estate of Adriana N. Direnzo, by deed dated April 30, 1997 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 1365, page 305, granted and conveyed unto David R. Kirby and Sandra L. Kirby, husband and wife, Grantors herein.

This is a conveyance between husband and wife.

AND the said grantors hereby covenant and agree that they and each of them will warrant specially the property hereby conveyed.

Being known as: 249 High Street, Abbottstown, PA 17301

Property ID No.: 1-3-20

TITLE TO SAID PREMISES IS VESTED IN David R. Kirby by Deed from David R. Kirby and Sandra L. Kirby, husband and wife dated 6/23/00 recorded 6/29/00 in Deed Book 2078 Page 20.

SEIZED and taken into execution as the property of **David R. Kirby** and to be sold by me.

James W. Muller-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 July 21, 2006, 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.

5/26, 6/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-280 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 July, 2006, 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.:

BEGINNING at a point in the Frederick Pike, Pennsylvania Route 194, at corner of lands now or formerly of William A. Parsons; thence by said lands now or formerly of William A. Parsons, South 55 degrees 19 minutes 52 seconds East, 182.48 feet to a steel pin; thence by same, South 45 degrees 24 minutes 18 seconds East, 203.04 feet to a steel pin at corner of lands now or formerly of the Township of Germany; thence by said lands now or formerly of the Township of Germany, South 34 degrees 40 minutes 08 seconds West, 255.00 feet to an existing steel pin along line of lands now or formerly of the Township of Germany and at corner of lands now or formerly of Jerry L. Stambaugh; thence by said lands now or formerly of Jerry L. Stambaugh and lands now or formerly of Kenneth L. Stambaugh, North 55 degrees 19 minutes 52 seconds West, 200 feet to an existing steel pin at corner of Lot No. 4; thence by said Lot No. 4 North 34 degrees 40 minutes 08 seconds East, 141.32 feet to a steel pin set; thence by same, North 55 degrees 19 minutes 52 seconds West, 214.98 feet to a point in the right of way line of Frederick Pike, Pennsylvania Route 194, thence in said Frederick Pike, Pennsylvania Route 194, North 49 degrees 41 minutes 22 seconds East, 84.06 feet to a point; thence by same, North 43 degrees 41 minutes 39 seconds East, 68.34 feet to a point at corner of other lands now or formerly of William A. Parsons, the point and place of BEGINNING. CONTAINING 1.923 Acres.

BEING Lot No. 3 on the plan of lots entitled "Final Subdivision Plan for: William A. & Sandra S. Parsons", prepared by Mort, Brown and Associates, dated February 12, 1990 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 55 at page 33.

This conveyance is made subject to coal, oil, gas, mineral and mining rights and all rights and privileges incident to the mining of coal heretofore conveyed or reserved of record. Further subject to all restrictions, reservations, rights of way, easements for public utilities and building line as may be shown on the recorded plan in prior instruments of record.

Being known as: 1360 Frederick Pike, Littlestown, PA 17340

Property ID No.: 15-118-16L

TITLE TO SAID PREMISES IS VESTED IN Mary L. Garrison and William Garrison, mother and son, as joint tenants with the right of survivorship by deed from Mary L. Garrison dated 11/21/02 recorded 12/2/02 in Deed Book 2893 Page 97.

SEIZED and taken into execution as the property of **Mary L. Garrison & William Garrison** and to be sold by me.

James W. Muller-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 July 21, 2006, 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.

5/26, 6/2 & 9

CERTIFICATE OF ORGANIZATION

NOTICE IS HEREBY GIVEN that a Certificate of Organization of a Limited Liability Company has been filed with the Department of State of the Commonwealth of Pennsylvania.

1. The name of the Limited Liability Company is: LATORIA - EISENHART, LLC
2. The Limited Liability Company has been filed under the provisions of the Business Corporation Law of 1988.

John M. Crabbs
Solicitor

6/9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-746 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of July, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a post along the South side of an alley at corner of land now or formerly of Arch Reed; thence by the South side of said alley North 89-1/2 degrees East, 242.5 feet to an iron pin at the Southwest corner of the intersection of said alley and a 20 foot public alley; thence along the West side of the said last mentioned public alley South 24-1/2 degrees East, 61 feet to an iron pin along the West side of said last mentioned 20 foot public alley; thence along the West side of land now or formerly of Romaine Blocher South 3 degrees West, 329.5 feet to an iron pin at land now or formerly of Arch Reed; thence by land now or formerly of Arch Reed North 89-1/2 degrees West, 275 feet to an iron pin; thence by land now or formerly of Arch Reed North 3 degrees East 386 feet to a post, the place of BEGINNING.

CONTAINING 2 acres, 66 perches and 14 square feet.

Map 1, Parcel 2

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Shawn M. Beaman and Shelly J. Beaman by Deed from The Secretary of Housing and Urban Development dated 12/8/2000 and recorded 12/21/2000, in Record Book 2184, Page 105.

Premises being: 102 Rice Lane, Bendersville, PA (a/k/a 102 Apple Lane)

SEIZED and taken into execution as the property of **Shawn M. Beaman & Shelly J. Beaman** and to be sold by me.

James W. Muller-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 August 14, 2006, 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.

5/26, 6/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-286 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of July, 2006, 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 unimproved tract of land situate, lying and being in Hamilton Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point in the middle of a public road identified as Pennsylvania Legislative Route #01023, known as Dicks Dam Road, and at Lot #4; thence along the centerline of Dicks Dam Road, North sixty-four (64) degrees twenty-five (25) minutes fifty-nine (59) seconds West, one hundred four and sixty-four hundredths (104.64) feet to a point in the middle of Dicks Dam Road; thence along the middle of Dicks Dam Road, North fifty-four (54) degrees forty-six (46) minutes forty-three (43) seconds West, one hundred (100.00) feet to a point in the middle of said Dicks Dam Road and at Lot #2; thence along Lot #2, North thirty-nine (39) degrees fifty-one (51) minutes thirty-eight (38) seconds East, four hundred six and ninety-two hundredths (406.92) feet to a point at Lot #5; thence along Lot #5, South twenty-four (24) degrees forty-eight (48) minutes twenty-five (25) seconds East, fifty-seven (57.00) feet to a point at Lot #4; thence along Lot #4 and across one-half of Dicks Dam Road, South sixteen (16) degrees thirty-eight (38) minutes twenty-eight (28) seconds West, three hundred seventy-nine and thirty-three hundredths (379.33) feet to a point in the middle of the aforementioned public road identified as Pennsylvania Legislative Route #01023, known as Dicks Dam Road, the place of BEGINNING.

CONTAINING 1.1236 acres.

THE above described tract of land has been designated as Lot #3 on a plan of lots identified as "Subdivision for Gary L. Dull" as prepared by Dean R. Hemphing, registered surveyor, dated January 16, 1979, and identified as Drawing #A-253-80-D2A, said subdivision plan having been approved in keeping with the subdivision ordinance of Hamilton Township and the Adams County Planning Commission, and said plan having been recorded in the Recorder of Deeds Office in and for Adams County, Pennsylvania, in Plan Book 34 at Page 26.

THE above described lot is a part of a larger tract of land identified as Tract #2 of two (2) tracts of land which Gary L. Dull and Shirley J. Dull, his wife, by their deed dated May 2, 1973, which deed is recorded in the Recorder of Deeds Office in and for Adams County, Pennsylvania, in Deed Book Volume 307 at Page 439, granted and conveyed unto Gary L. Dull.

THE above described Lot #3 is subject to the Declaration of Protective Covenants and Conditions, dated August 28, 1980, which covenants and conditions are recorded in the Recorder of Deeds Office for Adams County, Pennsylvania, in Miscellaneous Book Volume 35 at Page 1051, said Declaration of Protective Covenants and Conditions were amended on July 2, 1981, and said amendment is recorded in the Recorder of Deeds Office in and for Adams County, Pennsylvania, in Miscellaneous Book Volume 38 at page 293.

Property being sold as subject to a first mortgage.

Being known as: 884 Dicks Dam Road (Hamilton Township), New Oxford, PA 17350

Property ID No.: 17-J9-130

TITLE TO SAID PREMISES IS VESTED IN William J. Smith, Jr. and Sherry Smith, husband and wife, as tenants by the entireties by deed from Gary L. Dull and Frances H. Dull, husband and wife dated 5/30/1985 recorded 5/31/1985 in Deed Book 401 Page 381.

SEIZED and taken into execution as the property of **William J. Smith, Jr. & Sherry L. Smith a/k/a Sherry Smith** and to be sold by me.

James W. Muller-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 August 14, 2006, 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.

5/26, 6/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1136 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of July, 2006, 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 on the Northeast side of Legislative Route A-6810, in Village of Irishtown, Oxford Township, Adams County, Pennsylvania, being more particularly bounded and described as follows:

BEGINNING at a point in the State Highway, Legislative Route A-6810, in the Village aforesaid at other land now or formerly of Richard A. Shrader and Doris M. Shrader, husband and wife; thence by said lands and through a steel pin set back 25 feet along the line North 19 degrees 41 minutes East, 180 feet to a steel pin at lands now or formerly of William Elmer Shrader and Marie Elizabeth Shrader, his wife; thence by said lands South 49 degrees East 60 feet to a steel pin; thence by said lands South 39 degrees 41 minutes West, 180 feet through a steel pin set back 25 feet from the end of course to a point in the State Highway aforesaid; thence in said State Highway, North 49 degrees West 60 feet to a point, the place of BEGINNING.

CONTAINING 0.2479 Acres, more or less.

Tax Map #J12, Parcel #89 A

TITLE TO SAID PREMISES IS VESTED IN Mark A. Stapleton and Sharon L. Stapleton, his wife by Deed from Dennis G. Strickhouser and Veda J. Strickhouser, his wife dated 7/23/1997 and recorded 7/29/1997 in Record Book 1414 Page 155.

Premises being: 1071 Irishtown Rd., New Oxford, PA

SEIZED and taken into execution as the property of **Mark A. Stapleton & Sharon L. Stapleton** and to be sold by me.

James W. Muller-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 August 14, 2006, 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.

5/26, 6/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-316 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, 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, more particularly bounded and described as follows:

BEGINNING at a point in the center of Scotch Trail Extended at the Northernmost corner of Lot No. 3 on the hereinafter described plan of lots; thence by other land now or formerly of William H. Scott, Jr., through a steel rod set back 25 feet from the start of this course, which steel rod is located at the Southwestern corner of Lot No. 2 on the hereinafter described plan of lots; thence by said Lot No. 2, South 60 degrees 18 minutes 30 seconds East, 275 feet to a steel rod at the southeastern corner of Lot No. 2 on line of land now or formerly of Terry Stem; thence running by land now or formerly of Terry Stem, South 29 degrees 41 minutes 30 seconds West, 50 feet to a steel rod; thence continuing by the same, South 60 degrees 18 minutes 30 seconds East, 250 feet to an existing steel rod on line of land now or formerly of Douglas Flohr; thence running by land now or formerly of Douglas Flohr, South 29 degrees 41 minutes 30 seconds West, 100 feet to an existing steel rod; thence by the same, South 60 degrees 18 minutes 30 seconds East, 280.35 feet to a steel rod at the Northwestern corner of Lot No. 6 on the hereinafter described plan of lots; thence running by Lot No. 6 and crossing a dirt trail, South 29 degrees 41 minutes 30 seconds West, 542.21 feet to a steel rod at land now or formerly of William H. Scott, Jr.; thence running by land now or formerly of William H. Scott, Jr.,

North 60 degrees 18 minutes 30 seconds West, 466.32 feet to a steel rod at corner of Lot No. 4 on the hereinafter described plan of lots; thence running by Lot No. 4, North 29 degrees 41 minutes 30 seconds East, 374.71 feet to a steel rod; thence continuing by Lot No. 4 and through a steel rod set back 50 feet from the end of this course, North 13 degrees 00 minutes 00 seconds West, 500 feet to a point in the center of a cul-de-sac of

Scotch Trail Extended and on line of Lot No. 3 on the hereinafter described plan of lots; thence running in the center of Scotch Trail Extended and by Lot No. 3 on the hereinafter described plan of lots, North 29 degrees 41 minutes 30 seconds East, 50 feet to a point in the center of Scotch Trail, the point and place of BEGINNING. CONTAINING 7.830 Acres, more or less.

THE ABOVE DESCRIPTION was taken from a draft of survey of J. Riley Redding, R. S., dated October 12, 1992 and recorded in Adams County Plat Book 63, Page 11. The tract described is Tract No. 5 on said plan of lots.

SUBJECT, NEVERTHELESS, to the conditions and restrictions as set forth on the plan of lots hereinbefore mentioned.

SUBJECT to the conditions that no trailers or mobile homes shall be permitted on the premises.

TOGETHER WITH and SUBJECT TO a right of way over Lot No. 128-1, Section BB of Charnita as shown on the plan of lots. Deed of Dedication recorded in Record Book 910, Page 56; and opening extension of Scotch Trail as recorded in Record Book 937, Page 140.

Being Known As: 7 Scotch Trail, (Hamiltonban Township), Fairfield, PA 17320

Property ID No.: (18) A17-91

TITLE TO SAID PREMISES IS VESTED IN Chester F. King and Peggy A. King, husband and wife by deed from Herman F. Haney, single, and Jill A. Kriss, single dated 4/15/03 recorded 4/30/03 in deed book 3080 page 76.

SEIZED and taken into execution as the property of **Chester F. King & Peggy A. King** and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-203 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the property line of Spruce Lane, a fifty (50.00) foot street, at corner of Lot No. 533 on the hereinafter referred plan of lots; thence by said lot, North eighty-six (86) degrees twelve (12) minutes forty-seven (47) seconds East, eighty-five (85.00) feet to a point at a rounded radius at the Southwestern corner of the intersection of Spruce Lane and Carly Drive, a fifty (50.00) foot street; thence by said radius by a curve to the right whose radius is fifteen (15.00) feet, an arc distance of twenty-three and fifty-six hundredths (23.56) feet, the long chord of which is South forty-eight (48) degrees forty-seven (47) minutes thirteen (13) seconds East, twenty-one and twenty-one hundredths (21.21) feet to a point on the Western property line of Carly Drive; thence by said street, South three (03) degrees forty-seven (47) minutes thirteen (13) seconds East, eighty-five (85.00) feet to a steel pin at other lands of Oxford Estates; thence by said lands, South Eighty-six (86) degrees twelve (12) minutes forty-seven (47) seconds West, one hundred (100.00) feet to a steel pin at Lot No. 533; thence by said lot, North three (03) degrees forty-seven (47) minutes thirteen (13) seconds West, one hundred (100.00) feet to the point and place of BEGINNING, (CONTAINING 9,952 square feet and being known as Lot No. 532 on a plan of lots of Oxford Estates, Tract II-Phase Three, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 53, page 66.)

VESTED BY: Deed dated 12/28/1993, given by Jeffrey L. Fissel, unmarried to Karen L. Sebright, unmarried recorded 1/3/1994 in Book: 0829, Page 0227, Instrument #: 39590

Tax Parcel: 35-010-0030-000
Premises Being: 1 Carly Drive, New Oxford, PA 17350

SEIZED and taken into execution as the property of **Daniel W. Huss, Sr. &**

Karen L. Sebright a/k/a Karen L. Huss and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/2, 9 & 16

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
NO. RT-7-06(A)

NOTICE

TO: JUAN GARCIA LOPEZ

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for July 27, 2006, at 9:00 a.m., prevailing time, in the Conference Room on the 4th Floor of the Adams County Courthouse, at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

You should contact 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
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone number: (717) 337-9846

Chester G. Schultz, Attorney at Law
145 Baltimore Street
Gettysburg, PA 17325

5/26, 6/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-323 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of July, 2006, 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 ground situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 195 on the 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 Plat Book 1 Page 1, and subject to all legal highways, easements, rights of way and restrictions of record.

TOGETHER with and subject to restrictions, easements, set back lines, conditions, etc., as may be of record.

AND the said grantor hereby covenants and agrees that it will warrant specially the property hereby conveyed.

Map and Parcel ID: (37) 11-44

Being Known As: 37 Pemberton Drive, East Berlin, PA 17316

To Be Sold As the Property of: Gary Carr

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

James W. Muller-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 August 14, 2006, 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.

5/26, 6/2 & 9

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 CHARLES H. EICHELBERGER, JR. a/k/a CHARLES HENRY EICHELBERGER, JR., DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania

Administratrix: Linda A. Neubauer, c/o 135 North George Street, York, PA 17401

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

ESTATE OF LUCY J. FUHRMAN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Lauri L. Lehr, Randall L. Fuhrman and Lisa L. Fuhrman, c/o Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403

Attorney: Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403

ESTATE OF HELEN J. MILLAR a/k/a HELEN JOSEPHINE MILLAR, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Glenn W. Millar, 2359 Hunterstown-Hampton Road, New Oxford, PA 17350

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

ESTATE OF JOHN I. SMALL, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Thomas Lee Small, 1081 Beaver Creek Road, Hanover, PA 17331; John Richard Small, 7769 Gnatstown Road, Hanover, PA 17331

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

SECOND PUBLICATION

ESTATE OF HERBERT L. NICHOLS, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executrices: Susan Smith, Kathy Nichols

Attorney: Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

ESTATE OF MARGIE R. SWIFT a/k/a MARJORIE R. SWIFT, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executors: Jeffrey W. Cline, 294 Creek Road, Aspers, PA 17304; Michele A. Compher, 9225 Highland Avenue, SW, Lakewood, WA 98498

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

ESTATE OF CHESTER M. THOMPSON, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Colleen E. Moore, 749 Poplar Road, New Oxford, PA 17350

Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF JOHN W. BREAM, JR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Ruth Jeanne Bream, 170 Bingaman Road, Orrtanna, PA 17353

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

ESTATE OF CHARLES E. FALK, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Ellen H. Falk, 246 High St., P.O. Box 7, Cashtown, PA 17310

Attorney: Andrea M. Singley, Esq., 63 West High St., Gettysburg, PA 17325

ESTATE OF BETTY J. MALONE, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executor: Adams County National Bank, Attn: Karen B. Arthur, Trust Officer, P.O. Box 4566, Gettysburg, PA 17325

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

ESTATE OF PAUL C. MAXWELL, JR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Clara L. Newell-Maxwell, 85 West Mountain Top Drive, Orrtanna, PA 17353

Attorney: Wendy Weikal-Beauchat, Esq., 63 West High St., Gettysburg, PA 17325

ESTATE OF HENRY R. SCHAEFER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Winifred S. Chesley, 495 Thayer Pond Road, Wilton, CT 06897

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

ESTATE OF HARRY J. TOMS, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Charlotte M. Toms, 50 W. King Street, Littlestown, PA 17340

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

ESTATE OF RHODA VIRGINIA WOLF, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Roger L. Green, 1116 Muller Road, Westminster, MD 21157

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-242 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of July, 2006, 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 the Borough of East Berlin, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point along the Southerly right-of-way line of Lodge Lane and Lot No. 55 of the hereinafter referred to Subdivision Plan; thence along said Lot No. 55, South forty-six (46) zero (00) minutes eight (08) seconds East, one hundred twenty-five and zero hundredths (125.00) feet to a point at other lands now or formerly of the grantors herein; thence along said other lands now or formerly of the grantors herein, South forty-three (43) degrees fifty-nine (59) minutes fifty-two (52) seconds West, one hundred and zero hundredths (100.00) feet to a point at Lot No. 57; thence along said Lot No. 57, North forty-six (46) degrees zero (00) minutes eight (08) seconds West, one hundred twenty-five and zero hundredths (125.00) feet to a point along the Southerly right-of-way line of Lodge Lane; thence along the Southerly right-of-way line of Lodge Lane; North forty-three (43) degrees fifty-nine (59) minutes fifty-two (52) seconds East, one hundred and zero hundredths (100.00) feet to a point, the place of BEGINNING. CONTAINING 12,500 square feet and being identified as Lot No. 56 on the final subdivision plan of Beaver Colony Estates, Phase 1, which plan is recorded in the Adams County Recorder of Deeds' Office in Plat Book 67, Page 83.

SAID tract of land is subject to the protective covenants for Beaver Colony Estates dated July 28, 1995 and recorded in the Adams County Recorder of Deeds' Office in Record Book 1061, Page 205, which protective covenants were subsequently amended by protective covenants dated September 20, 1995 and recorded in the Recorder of Deeds' Office in Record Book 1091, Page 289.

Being known as: 134 Lodge Lane, East Berlin, PA 17316

Property ID No.: 9-5

TITLE TO SAID PREMISES IS VESTED IN Donald E. Myers, Jr., and Roxey A. Myers, husband and wife, as tenants by the entireties by deed from John J. Grim and Todd E. Grim, owners of an undivided one-half (1/2) interest, and James J. Kopenhaver and Elizabeth R.

Kopenhaver, husband and wife, James A. Kopenhaver and Helen L. Kopenhaver, husband and wife, and Michael J. Kopenhaver and Lou Ann Kopenhaver, husband and wife, owners of an undivided one-half (1/2) interest, by John J. Grim and Todd E. Grim, their Attorneys-in-fact, by Power of Attorney dated September 20, 1995, and recorded on October 4, 1995, in Record Book 1091, at Page 296, in the Office of the Recorder of Deeds of Adams County, Pennsylvania, and S & A Custom Built Homes, Inc. dated 4/13/1999 recorded 5/7/1999 in Deed Book 1826 Page 318.

SEIZED and taken into execution as the property of **Donald E. Myers, Jr. & Roxey A. Myers** and to be sold by me.

James W. Muller-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 August 14, 2006, 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.

5/26, 6/2 & 9

FICTITIOUS NAME NOTICE

NOTICE IS GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on May 17, 2006, pursuant to the Fictitious Name Act, setting forth that Babook, LLC, of 641 East Pittsburgh Street, Greensburg, PA 15601, is the only entity owning or interested in a business, the character of which is the manufacturing of animal bedding and that the name, style and designation under which said business is and will be conducted is ENVIROBED and the location where said business is and will be conducted is 331 Maple Avenue, Hanover, PA 17331.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

6/9

NOTICE

NOTICE IS HEREBY GIVEN, that the Council of the Borough of Bendersville, Adams County, Pennsylvania (the "Municipality"), has duly adopted a Resolution signifying the intention and desire of said Municipality to organize an authority under provisions of the Municipality Authorities Act, 53 Pa.C.S. Ch. 56 (the "Authorities Act"), and that the Articles of Incorporation will be filed with the Secretary of the Commonwealth of Pennsylvania on or about June 12, 2006.

Said Resolution sets forth the proposed Articles of Incorporation, which in substance: (1) specifies that the name of such Authority shall be "Bendersville Municipal Authority"; (2) states that such Authority is formed under provisions of the Authorities Act; (3) sets forth the name of the incorporating municipality; (4) authorizes the appropriate officers of the Borough to sign all documents to create the Authority and to do all that is necessary to file the Articles with the Secretary of the Commonwealth; and (5) sets forth that the Council of the Municipality reserves the right to specify the projects to be undertaken by Bendersville Municipal Authority.

Said Resolution also appoints the first members of the Board of such Authority and sets forth their names and initial terms of office as follows:

James Bergolios, 148 Liberty Lane, Bendersville, PA 17306, Term Expiring first Monday in January, 2007

Gregory Culp, 132 S. Main Street, Bendersville, PA 17306, Term Expiring first Monday in January, 2008

Rob Gochenauer, 119 Mt. Tabor Road, Bendersville, PA 17306, Term Expiring first Monday in January, 2009

Randy Kime, 590 Fairmont Road, Aspers, PA 17304, Term Expiring first Monday in January, 2010

Owen McKinney, Bendersville, PA 17306, Term Expiring first Monday in January, 2011

This Notice is authorized by the Resolution above mentioned.

BY ORDER OF THE COUNCIL OF
THE BOROUGH OF BENDERSVILLE,
ADAMS COUNTY, PENNSYLVANIA

Robert E. Campbell
Campbell & White, P.C.
112 Baltimore Street
Gettysburg, PA 17325
Solicitor

6/9

Adams County Legal Journal

Vol. 48

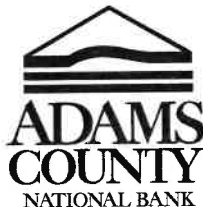
June 16, 2006

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CITIBANK VS. HUNTER

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)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-316 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, 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, more particularly bounded and described as follows:

BEGINNING at a point in the center of Scotch Trail Extended at the Northern-most corner of Lot No. 3 on the hereinafter described plan of lots; thence by other land now or formerly of William H. Scott, Jr., through a steel rod set back 25 feet from the start of this course, which steel rod is located at the Southwestern corner of Lot No. 2 on the hereinafter described plan of lots; thence by said Lot No. 2, South 60 degrees 18 minutes 30 seconds East, 275 feet to a steel rod at the southeastern corner of Lot No. 2 on line of land now or formerly of Terry Stem; thence running by land now or formerly of Terry Stem, South 29 degrees 41 minutes 30 seconds West, 50 feet to a steel rod; thence continuing by the same, South 60 degrees 18 minutes 30 seconds East, 250 feet to an existing steel rod on line of land now or formerly of Douglas Flohr; thence running by land now or formerly of Douglas Flohr, South 29 degrees 41 minutes 30 seconds West, 100 feet to an existing steel rod; thence by the same, South 60 degrees 18 minutes 30 seconds East, 280.35 feet to a steel rod at the Northwestern corner of Lot No. 6 on the hereinafter described plan of lots; thence running by Lot No. 6 and crossing a dirt trail, South 29 degrees 41 minutes 30 seconds West, 542.21 feet to a steel rod at land now or formerly of William H. Scott, Jr.; thence running by land now or formerly of William H. Scott, Jr.,

North 60 degrees 18 minutes 30 seconds West, 466.32 feet to a steel rod at corner of Lot No. 4 on the hereinafter described plan of lots; thence running by Lot No. 4, North 29 degrees 41 minutes 30 seconds East, 374.71 feet to a steel rod; thence continuing by Lot No. 4 and

through a steel rod set back 50 feet from the end of this course, North 13 degrees 00 minutes 00 seconds West, 500 feet to a point in the center of a cul-de-sac of Scotch Trail Extended and on line of Lot No. 3 on the hereinafter described plan of lots; thence running in the center of Scotch Trail Extended and by Lot No. 3 on the hereinafter described plan of lots, North 29 degrees 41 minutes 30 seconds East, 50 feet to a point in the center of Scotch Trail, the point and place of BEGINNING. CONTAINING 7.830 Acres, more or less.

THE ABOVE DESCRIPTION was taken from a draft of survey of J. Riley Redding, R. S., dated October 12, 1992 and recorded in Adams County Plat Book 63, Page 11. The tract described is Tract No. 5 on said plan of lots.

SUBJECT, NEVERTHELESS, to the conditions and restrictions as set forth on the plan of lots hereinbefore mentioned.

SUBJECT to the conditions that no trailers or mobile homes shall be permitted on the premises.

TOGETHER WITH and SUBJECT TO a right of way over Lot No. 128-1, Section BB of Charnita as shown on the plan of lots. Deed of Dedication recorded in Record Book 910, Page 56; and opening extension of Scotch Trail as recorded in Record Book 937, Page 140.

Being Known As: 7 Scotch Trail, (Hamiltonban Township), Fairfield, PA 17320

Property ID No.: (18) A17-91

TITLE TO SAID PREMISES IS VESTED IN Chester F. King and Peggy A. King, husband and wife by deed from Herman F. Haney, single, and Jill A. Kriss, single dated 4/15/03 recorded 4/30/03 in deed book 3080 page 76.

SEIZED and taken into execution as the property of **Chester F. King & Peggy A. King** and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/2, 9 & 16

OFFICE OF THE
PROTHONOTARY OF
ADAMS COUNTY, PENNSYLVANIA

NO. 06-NO-337

RUPA ENGINEER, Plaintiff/Creditor

vs.

ERSELL AND RUTH WITHROW,
Defendant/Debtor

NOTICE

TO: Ersell and Ruth Withrow, 54 Perrin Avenue, Gettysburg, PA 17325

Pursuant to requirements of Pennsylvania Rules of Civil Procedure, Rule 236, notice is hereby given that on May 2, 2006 a judgment was entered against you in this office in the proceeding as indicated above.

/s/Lori Ambrose
Deputy Prothonotary

6/16

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Names Act, Act No. 1982-295, of the filing with the Department of State of the Commonwealth of Pennsylvania on April 3, 2006, of an application for a certificate for the conducting of a business under the assumed or fictitious name of L & G CLEANING SERVICES, with its principal place of business at 201 Harbaugh Valley Road, Fairfield, Pennsylvania. The names and addresses of all persons interested in or owning said business are: Leona M. Wilders, 201 Harbaugh Valley Road, Fairfield, Pennsylvania.

Graham and Graham
223 Lincoln Way East
Chambersburg, PA 17201

6/16

CITIBANK VS. HUNTER

1. In determining the validity of an arbitration, courts must determine on the basis of contract provisions whether a party is bound to arbitrate and what issues it must arbitrate.
2. Because arbitration is a matter of contract, the courts must also decide whether an express agreement between the parties to arbitrate exists.
3. When deciding whether parties have agreed to arbitrate their disputes, courts have been guided by two principles:
 - (1) arbitration agreements are to be strictly construed and not extended by implication; and (2) when parties have agreed to arbitrate in a clear and unmistakable manner, every reasonable effort should be made to favor the agreement unless it may be said with positive assurance that the arbitration clause involved is not susceptible to an interpretation that covers the asserted dispute.
4. To maintain a promissory estoppel claim the following elements must be averred: (1) the promisor made a promise that it should have reasonably expected would induce action or forbearance on the part of the promisee; (2) the promisee actually took action or refrained from taking action in reliance on the promise; and (3) injustice can be avoided only by enforcing the promise.
5. The elements of an estoppel defense are 1) misleading words, conduct, or silence by the party against whom the estoppel is asserted; 2) unambiguous proof of reasonable reliance upon the misrepresentation by the party asserting the estoppel; and 3) the lack of duty to inquire on the party asserting the estoppel.
6. To invoke the doctrine of res judicata requires that both the former and latter suits possess the following elements: 1) identity in the thing sued upon; 2) identity in the cause of action; 3) identity of person and parties to the action; and 4) identity of the capacity of the parties suing or being sued.
7. The doctrine of collateral estoppel forecloses re-litigation in a later action, of an issue of fact or law which was actually litigated and which was necessary to the original judgment.
8. Collateral estoppel applies when the following elements are satisfied:
 - (1) An issue decided in a prior action is identical to the one presented in a later action; (2) The prior action resulted in a final judgment on the merits; (3) The party against whom collateral estoppel is asserted was a party to the prior action, or is in privity with a party to the prior action; and (4) The party against whom collateral estoppel is asserted had a full and fair opportunity to litigate the issue in the prior action.
9. A waiver is an abandonment or relinquishment of a known right.
10. A party waives all defenses and objections which are not presented either by preliminary objection, answer or reply.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, CIVIL ACTION NO. 04-S-763. CITIBANK
(SOUTH DAKOTA), N.A., VS. ROBERT HUNTER.

Burton Neil, Esq., for Plaintiff
Defendant *pro se*

Kuhn, P.J., September 20, 2005

OPINION ON PLAINTIFF'S MOTION FOR JUDGEMENT
ON THE PLEADINGS

On July 26, 2004, Plaintiff filed a Complaint against Defendant to recover the \$5,677.71 balance past due on Defendant's credit card account. Before the Court for disposition is Plaintiff's Motion for Judgment on the Pleadings filed May 9, 2005. The relevant pleadings consist of the Complaint, Defendant's Answer and New Matter, and Plaintiff's Reply to Defendant's New Matter.

Our Superior Court has set forth the standard for ruling on a motion for judgment on the pleadings as follows:

Entry of judgment on the pleadings is permitted under Pa. R.C.P. 1034 which provides for such judgment after the pleadings are closed, but within such time as not to delay trial. A motion for judgment on the pleadings is similar to a demurrer. It may be entered where there are no disputed issues of fact and the moving party is entitled to judgment as a matter of law. In determining if there is a dispute as to facts, the court must confine its consideration to the pleadings and relevant documents. *Vetter v. Fun Footwear Co.*, 447 Pa. Super. 84, 87, 668 A.2d 529, 530-31 (1995); alloc. Den. 676 A.2d 1199 (citations omitted).

The undisputed fact gleaned from the pleadings reveals that Plaintiff furnished consumer credit to the Defendant by means of a credit card. The terms and conditions of the credit card were set forth in the "Card Agreement." Within the "Card Agreement," there is an arbitration provision. The material portion of the arbitration provision is set forth as follows:

**ARBITRATION:
PLEASE READ THIS PROVISION OF THE
AGREEMENT CAREFULLY. IT PROVIDES THAT
ANY DISPUTE MAY BE RESOLVED BY BINDING
ARBITRATION. ARBITRATION REPLACES THE
RIGHT TO GO TO COURT, INCLUDING THE
RIGHT TO A JURY AND THE RIGHT TO PARTIC-
IPATE IN A CLASS ACTION OR SIMILAR PRO-
CEEDING. IN ARBITRATION, A DISPUTE IS
RESOLVED BY AN ARBITRATOR INSTEAD OF A**

JUDGE OR JURY. ARBITRATION PROCEDURES ARE SIMPLER AND MORE LIMITED THAN COURT PROCEDURES.

Agreement to Arbitrate:

Either you or we may, without the other's consent, elect mandatory, binding arbitration for any claim, dispute or controversy between you and us (called "Claims").

Claims Covered:

- **What Claims are subject to arbitration?** All Claims relating to your account, a prior related account, or our relationship are subject to arbitration, including Claims regarding the application, enforceability, or interpretation of this Agreement and this arbitration provision. All Claims are subject to arbitration, no matter what legal theory they are based on or what remedy (damages, or injunctive or declaratory relief) they seek. This includes Claims based on contract, tort (including intentional tort), fraud, agency, your or our negligence, statutory or regulatory provisions, or any other sources of law; Claims made as counterclaims, cross-claims, third-party claims, interpleaders or otherwise; and Claims made independently or with other claims. A party who initiates a proceeding in court may elect arbitration with respect to any Claim advanced in that proceeding by any other party. Claims and remedies sought as part of a class action, private attorney general or other representative action are subject to arbitration on an individual (non-class, non-representative) basis, and the arbitrator may award relief only on an individual (non-class, non representative) basis.

How Arbitration Works:

- **How does a party initiate arbitration?** The party filing an arbitration must choose one of the following three arbitration firms and follow its rules and procedures for initiating and pursuing an arbitration: America Arbitration Association, JAMS, and National Arbitration Forum. Any arbitration hearing that you attend will be held at a place chosen by the arbitration firm in the same city as the U.S. District Court closest to your then current

billing address, or at some other place to which you and we agree in writing. You may obtain copies of the current rules of each of three arbitration firms and forms and instruction for initiating an arbitration by contacting them as follows:

American Arbitration Association
335 Madison Avenue, Floor 10
New York, NY 10017-4605
Web site: www.adr.org

JAMS
1920 Main Street, Suite 300
Irvine, CA 92610
Web site: www.jamsadr.com

National Arbitration Forum
PO Box 50191
Minneapolis, MN 55405
Web site: www.arbitration-forum.com

At any time you or we may ask an appropriate court to compel arbitration of Claims, or to stay the litigation of Claims pending arbitration, even if such Claims are part of a lawsuit, unless a trial has begun or a final judgment has been entered. Even if a party fails to exercise these rights at any particular time, or in connection with any particular Claims, that party can still require arbitration at a later time or in connection with any other Claims.

Pursuant to the terms and conditions of the "Card Agreement," Plaintiff extended credit to Defendant in the amount of \$5,677.71. Plaintiff sought recovery of said amount and Defendant denied his liability, averring that the dispute over said amount had been decided in his favor by Solomon Arbitration Group (SAG), an arbitration forum that Defendant selected.

In paragraphs 2 and 4 of Defendant's Answer, Defendant explicitly admitted his status to the litigation and that Plaintiff furnished him

a credit card. Defendant responded to paragraphs 1, 3, 5, and 6 by a general denial and a demand for strict proof at the time of the trial.¹

Pa. R.C.P. 1029(b) provides:

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

Since Defendant did not specifically deny paragraphs 1, 3, 5, and 6, Defendant's responses constituted general denials. As a result, paragraphs 1, 3, 5, and 6 should be deemed admitted pursuant to Pa. R.C.P. 1029(b).

Assessing the validity of paragraphs 7 through 9 of Defendant's Answer and Defendant's New Matter is more complicated. In paragraphs 7 through 9 and in Defendant's New Matter, Defendant alleged that he was granted a valid arbitration award by SAG and that therefore, he owed Plaintiff nothing.

In determining the validity of an arbitration, courts must determine on the basis of contract provisions whether a party is bound to arbitrate and what issues it must arbitrate. *Schoellhammer's Hatboro Manor, Inc. v. Local Joint Executive Board*, 231 A.2d 160, 162 (Pa. 1967), quoting *Atkinson v. Sinclair Refining Co.*, 370 U.S. 238, 241 (1962). Because arbitration is a matter of contract, the courts must also decide whether an express agreement between the parties to arbitrate exists. *Emlenton Area Municipal Authority v. Miles*, 548 A.2d 623, 625 (Pa. Super. 1988), alloc. Den. 563 A.2d 498 (Pa. 1989). An express agreement to arbitrate a dispute submits oneself

¹In paragraph 1 of Plaintiff's Complaint, Plaintiff averred its identification and place of business. Paragraph 2 averred Defendant's identification and place of residency. Paragraph 3 averred that Plaintiff is a national banking association which engages in various types of banking business, including consumer lending through the issuance of credit cards. Paragraph 4 averred that Plaintiff furnished consumer credit to Defendant by means of a credit card with account number 5491130372649707. Paragraph 5 averred that Plaintiff maintained an accurate and running record of all debits and credits to the credit card account in its book of account. Paragraph 6 averred that Plaintiff mailed Defendant a written statement each month which accurately stated the debits and credits to the credit card account for the prior billing period.

as well as one's dispute to the arbitrators' jurisdiction. *Smith v. Cumberland Group*, 687 A.2d 1167, 1172 (Pa. Super. 1997). Therefore, absent an express agreement between parties to arbitrate their disputes, they cannot be compelled to arbitrate. *Schoellhammer's Hatboro Manor, Inc.*, 231 A.2d at 162.

When deciding whether parties have agreed to arbitrate their disputes, courts have been guided by two principles:

(1) arbitration agreements are to be strictly construed and not extended by implication; and (2) when parties have agreed to arbitrate in a clear and unmistakable manner, every reasonable effort should be made to favor the agreement unless it may be said with positive assurance that the arbitration clause involved is not susceptible to an interpretation that covers the asserted dispute. *Midomo Co., Inc. v. Presbyterian Hous. Dev. Co.*, 739 A.2d 180, 190-91 (Pa. Super. 1999).

Here, because arbitration is a matter of contract, the only agreement to arbitrate between Plaintiff and Defendant was laid out in the "Card Agreement." Within the "Card Agreement," Plaintiff and Defendant expressly agreed to arbitrate all disputes before one of the three arbitration forums designated in the arbitration provision. This arbitration agreement between Plaintiff and Defendant was agreed to in a clear and unmistakable manner. Consequently, said agreement should be favored, strictly construed, and not extended by implication.

In contrast to the clear and express arbitration agreement stated in the "Card Agreement," Defendant's alleged arbitration agreement between Plaintiff and Defendant to proceed before SAG is invalid. When viewing the arbitration provision within the "Card Agreement," SAG is not listed as one of the three arbitration forums. Because SAG is not listed as one of the three arbitration forums, it can clearly be inferred that the arbitration provision does not permit arbitrations to take place under SAG.

When Defendant chose to arbitrate before SAG and not before one of the three arbitration forums designated under the "Card Agreement," Plaintiff neither agreed to Defendant's alleged arbitration

agreement nor submitted itself to arbitration before SAG.² Evidence of Plaintiff's unwillingness to enter Defendant's alleged arbitration agreement was found in Exhibit 2 to Plaintiff's Reply to New Matter where Plaintiff, in a letter dated February 9, 2004, sent a letter to SAG explicitly stating that "the Bank has not agreed, and will not agree, to arbitrate any disputes before SAG." Thus, Defendant did not have an express arbitration agreement with Plaintiff and therefore, Plaintiff was not compelled to arbitrate the present dispute before SAG.

Ultimately, because there was no agreement between Plaintiff and Defendant to arbitrate before SAG, Defendant's arbitration award from SAG is void and Defendant's arbitration award affirmative defense to paragraphs 7 through 9 of the Answer lacks merit.

At the heart of Defendant's argument is his belief that the arbitration forums listed in the "Card Agreement" are biased in favor of creditors.³ However, regardless of the neutrality of the forums, arbitration agreements are matters of contract and consequently, the dispositive issue is whether creditors and debtors have agreed to arbitrate all of their disputes within particular forums. Here, Defendant and Plaintiff agreed to arbitrate all of their disputes according to the forums designated in the "Card Agreement." Therefore, Defendant is contractually bound to arbitrate all disputes within the designated forums and cannot choose to arbitrate disputes in his own forum on the theory that the forums designated are biased.

²Interestingly, in his Brief, Defendant contends that the choice of arbitrator clause is void on grounds of adhesion and unconscionability. He properly pleads no facts to support that defense. Nevertheless, he then points to a severability clause in the "Card Agreement," which he argues allowed him to proceed with his choice of arbitrator. However, in order for the choice of arbitrator provision to be severed and allow Defendant to propose the arbitrator, that provision must be "deemed invalid or unenforceable." An implied term of the contract would be that a court, rather than one party unilaterally, determine a provision invalid or unenforceable. That determination had not been made when Defendant unilaterally selected an arbitration forum. Furthermore, the "Card Agreement" expressly stated in the severability clause that "Any different agreement regarding arbitration must be agreed to in writing."

³Of particular interest is that Defendant, in order to avoid the alleged bias of the designated forums, chose to arbitrate the dispute at issue in an arbitration forum located in Montana. Defendant is a resident of Pennsylvania and therefore, Defendant's choice of arbitration forum is inherently suspect, leading one to conclude that Defendant was forum shopping to find an arbitration forum that was biased in *his* favor.

The invalidity of Defendant's arbitration award affirmative defense is also applicable to the allegations made in Defendant's New Matter. Additionally, the allegations made in Defendant's New Matter relating to defenses and claims hold no merit for a number of reasons.

First, Defendant avers that the alleged arbitration agreement between Plaintiff and Defendant before SAG and the arbitration itself act as a promissory estoppel and bar Plaintiff's attempt to proceed with its civil action. To maintain a promissory estoppel claim the following elements must be averred:

'(1) the promisor made a promise that [it] should have reasonably expected would induce action or forbearance on the part of the promisee; (2) the promisee actually took action or refrained from taking action in reliance on the promise; and (3) injustice can be avoided only by enforcing the promise.' *Sullivan v. Chartwell Investment Partners*, 872 A.2d 710, 717-18 (Pa. Super. 2005).

Here, Defendant's allegations constitute nothing more than conclusions of law, lacking any specificity as to the material facts on which the claim is based. This method of pleading is in violation of Pa. R.C.P. 1019(a) which provides that "[t]he material facts on which a cause of action or defense is based shall be stated in a concise and summary form." As a result, the alleged arbitration agreement and the arbitration itself do not act as a promissory estoppel and therefore, do not bar Plaintiff's Motion for Judgment on the Pleadings.

Second, Defendant avers that the arbitration and award acts as an estoppel through arbitration and award and res judicata and bars Plaintiff's attempt to proceed with its civil action. The elements of an estoppel defense are: 1) misleading words, conduct, or silence by the party against whom the estoppel is asserted; 2) unambiguous proof of reasonable reliance upon the misrepresentation by the party asserting the estoppel; and 3) the lack of duty to inquire on the party asserting the estoppel. *Chester Extended Car Center v. Commonwealth, Dept. of Public Welfare*, 586 A.2d 379, 282 (Pa. 1991).

Moreover, the doctrine of res judicata bars any future suit on the same cause of action between the same parties where there has previously been rendered a final judgment on the merits by a court of competent jurisdiction. *See*, 10 Standard Pennsylvania Practice 2d § 65:32. To invoke the doctrine of res judicata requires that both the

former and latter suits possess the following elements: “ 1) identity in the thing sued upon; 2) identity in the cause of action; 3) identity of person and parties to the action; and 4) identity of the capacity of the parties suing or being sued.” *Chada v. Chada*, 756 A.2d 39, 42 (Pa. Super. 2000).

Again, Defendant’s allegations amount to nothing more than conclusions of law, lacking any specificity as to the material facts on which the defense is based. This method of pleading is in violation of Pa. R.C.P. 1019(a) which provides that “[t]he material facts on which a cause of action or defense is based shall be stated in a concise and summary form.” Consequently, the arbitration and award does not act as an estoppel through arbitration and award and *res judicata*, and therefore, does not bar Plaintiff’s Motion for Judgment on the Pleadings.

Additionally, Defendant avers that the arbitration and award acts as a collateral estoppel and bars Plaintiff’s attempt to proceed with the present civil action. The doctrine of collateral estoppel “forecloses re-litigation in a later action, of an issue of fact or law which was actually litigated and which was necessary to the original judgment” *Id.* Collateral estoppel applies when the following elements are satisfied:

- (1) An issue decided in a prior action is identical to the one presented in a later action;
- (2) The prior action resulted in a final judgment on the merits;
- (3) The party against whom collateral estoppel is asserted was a party to the prior action, or is in privity with a party to the prior action;
- and (4) The party against whom collateral estoppel is asserted had a full and fair opportunity to litigate the issue in the prior action. *Columbia Med. Group, Inc. v. Herring & Roll, P.C.*, 829 A.2d 1184, 1190 (Pa. Super. 2003).

In the present case, Defendant’s allegations qualify as mere conclusions of law, lacking any specificity as to the material facts on which the defense is based. This method of pleading is in violation of Pa. R.C.P. 1019(a) which provides that “[t]he material facts on which a cause of action or defense is based shall be stated in a concise and summary form.” Therefore, the arbitration and award does not act as a collateral estoppel and therefore, does not bar Plaintiff’s Motion for Judgment on the Pleadings.

Finally, Defendant avers that Plaintiff's lack of participation during the alleged arbitration acts as a waiver and bars Plaintiff's attempt to proceed with the present civil action. A waiver is an abandonment or relinquishment of a known right. *Curry v. Bacharach Quality Shops, Inc.*, 117 A. 435, 438 (Pa. 1921).

Here, Plaintiff never abandoned or relinquished any of his rights in failing to participate in the alleged arbitration before SAG. Plaintiff did not abandon or relinquish any rights because it never agreed to arbitrate the alleged dispute before SAG. As previously stated, this fact was evidenced by Plaintiff's letter to SAG on February 9, 2004. Furthermore, Plaintiff, knowing that it had not agreed to arbitrate before SAG, made a tactical decision to not participate in the arbitration before SAG because it did not want to acknowledge SAG's power to decide the dispute. Therefore, because Plaintiff purposely chose to not avail itself of Defendant's forum for the reasons stated, Plaintiff's lack of participation before SAG does not waive any of its rights to proceed with the present civil action and does not bar Plaintiff's Motion for Judgment on the Pleadings.

In response to Plaintiff's Motion for Judgment on the Pleadings, Defendant filed an "Argument Brief Demonstrating the Ultra Vires Nature of the Parties Agreement." Of particular importance is that Defendant did not assert his Ultra Vires defense in his Answer or New Matter.

Under Pa. R.C.P. 1032(a), "[a] party waives all defenses and objections which are not presented either by preliminary objection, answer or reply...." Because Defendant did not raise his Ultra Vires defense until after his Answer and New Matter, he thereby waived this defense by failing to properly raise it in conformity with Pa. R.C.P. 1032(a). As a result, Defendant's Ultra Vires defense is not properly before the Court.⁴

⁴It is to be acknowledged that Defendant proceeded *pro se* and offered a voluminous brief supporting his ultra vires defense. However, as explained above, Defendant's attempt to raise his ultra vires defense was in violation of Pa. R.C.P. 1032(a). Even though Defendant chose to proceed *pro se*, he is not absolved from complying with procedural rules, entitled to any particular advantage because he lacks legal training, or unable to assume the risk that his lack of expertise and legal training will work to his disadvantage. See, *Hoover v. Davila, et al.*, 862 A.2d 591, 595 (Pa. Super. 2004); *Kovalev v. Sowell*, 839 A.2d 359, 367, n.7 (Pa. Super. 2003).

Because Defendant did effectively plead admissions in paragraphs 1 through 6 of his Answer, his arbitration award defense lacks merit, his averments in New Matter violate the Pa. R.C.P., and his ultra vires defense violates the Pa. R.C.P., there are no factual or legal issues in dispute and Plaintiff is entitled to judgment as a matter of law.

Accordingly, the attached Order is entered.

ORDER

AND NOW, this 20th day of September, 2005, in accordance with the discussion set forth in the attached Opinion, this Court grants Plaintiff's Motion for Judgment on the Pleadings filed May 9, 2005. Judgment is hereby entered in favor of Plaintiff and against Defendant in the amount of \$5,677.71, together with costs.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-203 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the property line of Spruce Lane, a fifty (50.00) foot street, at corner of Lot No. 533 on the hereinafter referred plan of lots; thence by said lot, North eighty-six (86) degrees twelve (12) minutes forty-seven (47) seconds East, eighty-five (85.00) feet to a point at a rounded radius at the Southwestern corner of the intersection of Spruce Lane and Carly Drive, a fifty (50.00) foot street; thence by said radius by a curve to the right whose radius is fifteen (15.00) feet, an arc distance of twenty-three and fifty-six hundredths (23.56) feet, the long chord of which is South forty-eight (48) degrees forty-seven (47) minutes thirteen (13) seconds East, twenty-one and twenty-one hundredths (21.21) feet to a point on the Western property line of Carly Drive; thence by said street, South three (03) degrees forty-seven (47) minutes thirteen (13) seconds East, eighty-five (85.00) feet to a steel pin at other lands of Oxford Estates; thence by said lands, South Eighty-six (86) degrees twelve (12) minutes forty-seven (47) seconds West, one hundred (100.00) feet to a steel pin at Lot No. 533; thence by said lot, North three (03) degrees forty-seven (47) minutes thirteen (13) seconds West, one hundred (100.00) feet to the point and place of BEGINNING, (CONTAINING 9,952 square feet and being known as Lot No. 532 on a plan of lots of Oxford Estates, Tract II-Phase Three, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 53, page 66.)

VESTED BY: Deed dated 12/28/1993, given by Jeffrey L. Fissel, unmarried to Karen L. Sebright, unmarried recorded 1/3/1994 in Book: 0829, Page 0227, Instrument #: 39590

Tax Parcel: 35-010-0030-000

Premises Being: 1 Carly Drive, New Oxford, PA 17350

SEIZED and taken into execution as the property of Daniel W. Huss, Sr. & Karen L. Sebright a/k/a Karen L. Huss and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-284 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, 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.:

The following two tracts of land in Reading Township, Adams County:

TRACT NO. 1:

ALL that certain lot of land, situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 681 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 Plan Book 1, Page 5, and subject to all legal highways, easements, rights of way and restrictions of record.

IT BEING the same premises which Lake Meade, Inc., by Deed dated the 21st day of June, 1967, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Land Record Book 262, Page 681, granted and conveyed unto Kenneth E. Eisenhour and Dorothy I. Eisenhour, husband and wife. The said Kenneth E. Eisenhour died on the 27th day of May, 1995, thereby vesting title to the hereinabove described premises in Dorothy I. Eisenhour, surviving spouse, by operation of law. The said Dorothy I. Eisenhour, widow, is the Grantor herein.

TRACT NO. 2:

ALL that certain half lot of ground situate in Reading Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the Eastern property line of Lake Meade Drive at the Southwest corner of half lot now or formerly of William F. Lerew, et al; thence

along the Eastern property line of Lake Meade Drive by a curve to the right whose radius is 713.52 feet, an arc distance of 42.24 feet and having a long chord bearing of North 29 degrees 08 minutes 50 seconds West, 42.23 feet to a point at the Southwest corner of Lot No. 681 being Tract No. 1 hereinabove described; thence by such Lot No. 681 North 65 degrees 56 minutes 27 seconds East, 308.00 feet to a point in or at Lake Meade; thence in or at Lake Meade South 18 degrees 05 minutes 36 seconds East, 24.31 feet to a point at the Northeast corner of half lot now or formerly of William F. Lerew, et al; thence by same South 62 degrees 32 minutes 56 seconds West, 304.76 feet to a point, the place of BEGINNING. CONTAINING 10,165 square feet and being the northern half of Lot No. 680 in the Lake Meade Subdivision, such description being taken from draft of survey prepared by Larue Surveys Inc., dated July 18, 1975.

Being Known As: 476 Lake Meade Drive (Reading Township) East Berlin, PA 17316

Property ID No.: 37-13-115

TITLE TO SAID PREMISES IS VESTED IN Donald E. Eisenhour, single man by deed from Dorothy I. Eisenhour, widow dated 9/12/1997 recorded 1/16/1998 in Deed Book 1507 Page 23.

SEIZED and taken into execution as the property of Donald E. Eisenhour and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-98 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the middle of the Littlestown-Gettysburg State Highway, thence by land now or formerly of Earl and Louise Feeser, North 52 degrees East, 195 feet to a post thence by land now or formerly of William and Ida Golden, South 42-1/4 degrees East, 50 feet to an iron pin; thence by land now or formerly of Sylvester J. Collins, South 43-1/4 degrees West, 182 feet to a point in the middle of said State Highway, thence by land now or formerly of Mrs. D.C. Rudisill, North 51-1/2 degrees West, 80 feet to the place of BEGINNING.

CONTAINING 49 perches, more or less.

BEING the same premises which Richard L. Slick and Mary Louise Slick, husband and wife, by their deed dated March 14, 2002, and recorded in the office of the Recorder of Deeds in and for Adams County in Record Book 2597, Page 188, granted and conveyed to Mary Louise Slick and Teresa L. Slick, Trustees of the Slick Family Irrevocable Trust, the Grantors herein.

TITLE TO SAID PREMISES IS VESTED IN Anthony D. Astorino, a single person and Kristine E. Kristoffersen, a single person, by Deed from Mary Louise Slick and Teresa L. Slick, Trustees of the Slick Family Irrevocable Trust, dated 10-31-03, recorded 11-13-03 in Deed Book 3379, page 245.

TITLE TO SAID PREMISES IS VESTED IN Mary Louise Slick and Teresa L. Slick, Trustees of the Slick Family Irrevocable Trust, by Deed from Richard L. Slick and Mary Louise Slick, husband and wife, dated 3-14-02, recorded 3-21-02 in Deed Book 2597, page 188.

Premises being: 3348 Baltimore Pike, Littlestown, PA 17340

Tax Parcel No. 30-H16-0019-000

SEIZED and taken into execution as the property of **Anthony D. Astorino & Kristine E. Kristoffersen** and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-1140 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, 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 lying and situate in Straban Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING for a point at a p.k. nail near the Eastern edge of Shivers Corner Road and other lands of the Grantors herein; thence along said Shivers Corner Road, North thirty (30) degrees thirty-seven (37) minutes five (05) seconds West, fifty-three and sixty-three hundredths (53.63) feet to a p.k. nail near the Eastern edge of Shivers Corner Road at Lot No. 1 of the hereinafter referenced subdivision plan; thence along same, the following six courses and distances: 1) North thirty-eight (38) degrees ten (10) minutes zero (00) seconds East, nine hundred sixty-nine and seventy-four hundredths (969.74) feet to a steel rod; thence 2) North thirty-four (34) degrees three (03) minutes thirty-five (35) seconds East, one hundred forty-three and eighty hundredths (143.80) feet to a steel rod; thence 3) North thirty-six (36) degrees forty-five (45) minutes forty-five (45) seconds West, seventy-two and seventeen hundredths (72.17) feet to a pin; thence 4) North forty-four (44) degrees thirty-eight (38) minutes thirty-five (35) seconds East, two hundred thirteen and fifty-eight hundredths (213.58) feet to a steel rod; thence 5) North seven (07) degrees eight (08) minutes ten (10) seconds West, one hundred eighty-four and eighty-two hundredths (184.82) feet to a pipe; thence 6) North forty-six (46) degrees thirty (30) minutes zero (00) seconds East, eight hundred ninety-three and eight hundredths (893.08) feet

to a point at lands now or formerly of Joseph Kaminskas; thence along same, South forty-nine (49) degrees one (01) minute fifty-five (55) seconds East, seven hundred nineteen and thirty hundredths (719.30) feet to an existing pipe at a corner post at lands now or formerly of Sarah A. Kulp; thence along same, South thirty-eight (38) degrees four (04) minutes thirty (30) seconds West, one thousand two hundred eight and eleven hundredths (1,208.11) feet to a steel pin at other lands of the Grantors herein; thence along same, the following two courses and distances: 1) North sixty-five (65) degrees eight (08) minutes zero (00) seconds West, six hundred twenty-nine and forty-three hundredths (629.43) feet to a steel rod; thence 2) South thirty-eight (38) degrees ten (10) minutes zero (00) seconds West, nine hundred eighty-nine and fifteen hundredths (989.15) feet to a p.k. nail near the eastern edge of Shivers Corner Road, the point and place of BEGINNING, CONTAINING 24.116 acres and identified as Lot 2 on a plan of lots, which plan is recorded in the Recorder of Deeds Office in and for Adams County, Pennsylvania, in Plat Book 66, at page 40.

BEING the same tract of land which Elizabeth A. MacFarlane and Debra R. Weverink, by deed dated April 28, 1999, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1828 at page 16, granted and conveyed unto Heinz J. Weverink and Debra R. Weverink, husband and wife, the Defendants herein.

Improved with a single family dwelling with several outbuildings and known as 404 Shivers Corner Road, Gettysburg, Pennsylvania.

SEIZED and taken into execution as the property of **Heinz Weverink & Debra R. Weverink** and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/16, 23 & 30

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 CATHERINE E. MILLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executors: Doris Witherow, 126 York Street, Gettysburg, PA 17325; Jean Greenwald, 253 Chambersburg Road, Gettysburg, PA 17325
 Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

ESTATE OF BLANCHE L. MOOG, DEC'D
 Late of Oxford Township, Adams County, Pennsylvania

Executrix: Andrea W. Jones, 750 Old Cabin Hollow Road, Dillsburg, PA 17019
 Attorney: Matthew L. Guthrie, Esq., Guthrie, Nonemaker, Yingst & Hart, 40 York Street, Hanover, PA 17331

ESTATE OF LOIS J. REAGLE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executor: Theodore Kopey, Jr., 270 C Park St., Seven Valleys, PA 17360

ESTATE OF RUTHANNA B. STARNER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania
 Executor: Albert Milton Starnier, 44 West King Street, Littlestown, PA 17340
 Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF CHARLES H. EICHELBERGER, JR. a/k/a CHARLES HENRY EICHELBERGER, JR., DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania
 Administratrix: Linda A. Neubauer, c/o 135 North George Street, York, PA 17401
 Attorney: Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, PC, 135 North George Street, York, PA 17401

ESTATE OF LUCY J. FUHRMAN, DEC'D
 Late of Oxford Township, Adams County, Pennsylvania

Executors: Lauri L. Lehr, Randall L. Fuhrman and Lisa L. Fuhrman, c/o Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403
 Attorney: Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403

ESTATE OF HELEN J. MILLAR a/k/a HELEN JOSEPHINE MILLAR, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executor: Glenn W. Millar, 2359 Hunterstown-Hampton Road, New Oxford, PA 17350
 Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

ESTATE OF JOHN I. SMALL, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
 Executors: Thomas Lee Small, 1081 Beaver Creek Road, Hanover, PA 17331; John Richard Small, 7769 Gnatstown Road, Hanover, PA 17331
 Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Yingst & Hart, 40 York Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF HERBERT L. NICHOLS, DEC'D

Late of Germany Township, Adams County, Pennsylvania
 Executrices: Susan Smith, Kathy Nichols
 Attorney: Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

ESTATE OF MARGIE R. SWIFT a/k/a MARJORIE R. SWIFT, DEC'D

Late of Franklin Township, Adams County, Pennsylvania
 Executors: Jeffrey W. Cline, 294 Creek Road, Aspers, PA 17304; Michele A. Compher, 9225 Highland Avenue, SW, Lakewood, WA 98498
 Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

ESTATE OF CHESTER M. THOMPSON, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Colleen E. Moore, 749 Poplar Road, New Oxford, PA 17350
 Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION
NO. RT-8-06

NOTICE

TO: DEMAURA JESTINE BROWN

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for August 3, 2006, at 9:00 a.m., prevailing time, in the Conference Room on the 4th Floor of the Adams County Courthouse, at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

You should contact 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
111-117 Baltimore Street
Gettysburg, PA 17325

Telephone number: (717) 337-9846

Chester G. Schultz, Attorney at Law
145 Baltimore Street
Gettysburg, PA 17325

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-341 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of August, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land Situate on the northerly right of way line of Abbots Drive in the Borough of Abbottstown, County of Adams and State of Pennsylvania known and numbered as Lot NO. 38 on a plan of lots for Abbots Manor Phase II recorded in the Office of the Recorder of Deeds in and for Adams County, PA in subdivision Plot 73, page 43, more fully bounded and described as follows, to wit:

BEGINNING at a point on the northerly right of way line of Abbots Drive at a corner of Lot No. 37 on a final plan of lots for Abbots Manor Phase I recorded in the aforesaid Recorder's Office in Plot Book 69, page 95; thence extending

along the said Lot No. 37 North 30 degrees 02 minutes 10 seconds West 277.24 feet to a point; thence North 64 degrees 04 minutes 00 seconds East 62.30 feet to a point or a corner of Lot No. 39 on a plan of Lots for Abbots Manor Phase II recorded in the aforesaid Recorder of Deeds Office in Plot Book 73, page 43; thence extending along the said Lot No. 39 South 35 degrees 47 minutes 14 seconds East 202.48 feet to a point; thence extending along the said right of way of Abbots Drive on a line curving to the right having a radius of 170 feet, an arc distance of 86.06 feet with a chord bearing South 45 degrees 27 minutes 41 seconds West 85.14 feet to the point and place of BEGINNING. CONTAINING 15,888 Sq. Ft.

BEING THE SAME PREMISES WHICH First Horizon Home Loan Corporation by deed dated 4/4/01 and recorded 4/17/01 in the Office of the Recorder of Deeds of Adams County in deed book 2258, page 0056, granted and conveyed unto The Secretary of Housing and Urban Development.

BEING the same property acquired by the Grantor pursuant to the provisions of the National Housing Act, as amended (12 U.S.C. 1701 et seq.) And the Department of Housing and Urban Development Act (42 U.S.C. 3531).

TITLE TO SAID PREMISES IS VESTED IN David A. Lex and Angela M. Lex, by Deed from Mel Martinez, the Secretary of Housing & Urban Development, dated 7/24/01, recorded 8/7/01 in Book 2365, page 251.

TITLE TO SAID PREMISES IS VESTED IN Mel Martinez, the Secretary of Housing & Urban Development, by Deed from First Horizon Home Loan Corporation, dated 4/4/01, recorded 4/17/01 in Book 2258, page 56.

Premises being: 173 Abbots Drive, Abbottstown, PA 17301

Tax Parcel No. 01-005-0052-000

SEIZED AND TAKEN INTO EXECUTION as the property of **David A. Lex & Angela M. Lex a/k/a Angela M. Myers** and to be sold by me.

James W. Muller-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 August 28, 2006, 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.

6/16, 23 & 30

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION
NO. RT-9-06(B)

NOTICE

TO: DEMAURA JESTINE BROWN

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for August 3, 2006, at 9:00 a.m., prevailing time, in the Conference Room on the 4th Floor of the Adams County Courthouse, at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

You should contact 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
111-117 Baltimore Street
Gettysburg, PA 17325

Telephone number: (717) 337-9846

Chester G. Schultz, Attorney at Law
145 Baltimore Street
Gettysburg, PA 17325

6/16, 23 & 30

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 311 of the Act of December 16, 1982, P.L. 1309, No. 295, codified as amended (54 Pa. C.S.A. §311), there was filed in the Office of the Secretary of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on May 10, 2006, an Application for Registration of Fictitious Name for MOM'S COFFEEPT, the address of the principal place of business being 65 West Middle Street, Gettysburg, Pennsylvania 17325. The name and address of the person who is a party to said registration is: Mary M. Eastman, 65 West Middle Street, Gettysburg, Pennsylvania 17325.

Puhl, Eastman & Thrasher
Attorneys

6/16

Adams County Legal Journal

Vol. 48

June 23, 2006

No. 5, pp. 30-36

IN THIS ISSUE

WALCK VS. APPLER ET AL

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-284 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, 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.:

The following two tracts of land in Reading Township, Adams County:

TRACT NO. 1:

ALL that certain lot of land, situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 681 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 Plan Book 1, Page 5, and subject to all legal highways, easements, rights of way and restrictions of record.

IT BEING the same premises which Lake Meade, Inc., by Deed dated the 21st day of June, 1967, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Land Record Book 262, Page 681, granted and conveyed unto Kenneth E. Eisenhour and Dorothy I. Eisenhour, husband and wife. The said Kenneth E. Eisenhour died on the 27th day of May, 1995, thereby vesting title to the hereinabove described premises in Dorothy I. Eisenhour, surviving spouse, by operation of law. The said Dorothy I. Eisenhour, widow, is the Grantor herein.

TRACT NO. 2:

ALL that certain half lot of ground situate in Reading Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the Eastern property line of Lake Meade Drive at the Southwest corner of half lot now or formerly of William F. Lerew, et al; thence along the Eastern property line of Lake Meade Drive by a curve to the right whose radius is 713.52 feet, an arc distance of 42.24 feet and having a long chord bearing of North 29 degrees 08 minutes 50 seconds West, 42.23 feet to

a point at the Southwest corner of Lot No. 681 being Tract No. 1 hereinabove described; thence by such Lot No. 681 North 65 degrees 56 minutes 27 seconds East, 308.00 feet to a point in or at Lake Meade; thence in or at Lake Meade South 18 degrees 05 minutes 36 seconds East, 24.31 feet to a point at the Northeast corner of half lot now or formerly of William F. Lerew, et al; thence by same South 62 degrees 32 minutes 56 seconds West, 304.76 feet to a point, the place of BEGINNING. CONTAINING 10,165 square feet and being the northern half of Lot No. 680 in the Lake Meade Subdivision, such description being taken from draft of survey prepared by Larue Surveys Inc., dated July 18, 1975.

Being Known As: 476 Lake Meade Drive (Reading Township) East Berlin, PA 17316

Property ID No.: 37-13-115

TITLE TO SAID PREMISES IS VESTED IN Donald E. Eisenhour, single man by deed from Dorothy I. Eisenhour, widow dated 9/12/1997 recorded 1/16/1998 in Deed Book 1507 Page 23.

SEIZED and taken into execution as the property of **Donald E. Eisenhour** and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/16, 23 & 30

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION
NO. RT-9-06(B)

NOTICE

TO: DEMAURA JESTINE BROWN

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for August 3, 2006, at 9:00 a.m., prevailing time, in the Conference Room on the 4th Floor of the Adams County Courthouse, at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

You should contact 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
111-117 Baltimore Street
Gettysburg, PA 17325

Telephone number: (717) 337-9846

Chester G. Schultz, Attorney at Law
145 Baltimore Street
Gettysburg, PA 17325

6/16, 23 & 30

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for OX PAPER TUBE - MIDWEST, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on May 30, 2006, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

6/23

WALCK VS. APPLER ET AL

1. Preliminary objections that seek the dismissal of a cause of action should be sustained only in cases in which it is clear and free from doubt that the pleader will be unable to prove facts legally sufficient to establish a right to relief.
2. A restrictive covenant is a restriction in an instrument relating to real estate by which the parties pledge that something will not be done. Although Pennsylvania law does not favor restrictive covenants and they are strictly construed against those seeking to enforce them, they are legally enforceable.
3. It is a general rule of contract interpretation that the intention of the parties at the time the contract is entered into governs. This rule also holds true in the interpretation of restrictive covenants.
4. The law's antipathy for restrictive covenants does not permit the Court to disregard the plain meaning of words contained in a covenant.
5. An agreement is an enforceable contract when the parties intended to conclude a binding agreement and the essential terms of that agreement are certain enough to provide the basis for providing an appropriate remedy. If the essential terms of an agreement are so uncertain that there is no basis for determining whether the agreement has been kept or broken, there is no enforceable contract.
6. Restrictive covenants run with the land, when not only the original parties or their representatives, but each successive owner of the land, will be entitled to its benefit, or be liable as the case may be to its obligation. The difference between personal covenants and covenants that run with the land is that a personal covenant binds only the person who made the covenant and not future successors in title.
7. The test for determining whether a particular covenant runs with the land is the intention of the parties and to ascertain such intent resort may be had to the words of the covenant read in the light of the surroundings of the parties and the subject of the grant.
8. A benefit conferred in a restrictive covenant must be in the physical use or enjoyment of the land by him, and must in some way make the use or enjoyment more satisfactory to his physical senses. It is not enough that the income from the restrictive covenant is increased by virtue of it.
9. Pa.R.C.P. 126 does not require the Court to disregard procedural defects; rather, it permits the Court, in the exercise of its discretion, to do so where the substantive rights of the opposing party has not been prejudiced.
10. The doctrine of unconscionability is both a statutory and a common law defense to the enforcement of an allegedly unfair provision in a contract. Whether a contract or clause is unconscionable is a question of law for the court. Unconscionability has generally been recognized to include an absence of meaningful choice on the part of one of the parties together with contract terms which are unreasonably favorable to the other party.
11. "Standing" requires that the person bringing a cause of action be adversely affected by the matter in order to assure that the person is the appropriate party to bring the matter to judicial resolution.
12. The concept of "standing" is concerned only with the question of who is entitled to make a legal challenge to the matter involved.
13. As a general matter, the core of standing is that a person who is not adversely affected in any way by the matter he seeks to challenge is not aggrieved thereby and has no right to obtain a judicial resolution of his challenge.
14. A defendant who is served with a civil action does not have to assert standing as he is not the party initiating the action and requesting relief in a legal setting.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, CIVIL ACTION NO. 05-S-210. JEFFREY L.
WALCK AND CINDY S. WALCK, HUSBAND AND WIFE, VS.
DOUGLAS R. APPLER AND JOAN T. APPLER, HUSBAND AND
WIFE, AND DALE E. WILLIAMS AND LENORAH C.
WILLIAMS, HUSBAND AND WIFE, AND ERIC JONES AND
JANE JONES, HUSBAND AND WIFE.

Robert L. McQuaide, Esq., for Plaintiffs
Robert L. Buzzendore, Esq., for Defendant Applers
Defendant Williams *pro se*
Defendant Jones *pro se*
Kuhn, P.J., September 21, 2005

OPINION PURSUANT TO DEFENDANTS’
DOUGLAS R. APPLER AND JOAN T. APPLER
PRELIMINARY OBJECTIONS

Before this Court are the Preliminary Objections to Plaintiffs’
Complaint of Defendants Douglas R. Appler and Joan T. Appler
(“the Applers”). For the reasons set forth herein, said objections are
GRANTED IN PART AND DENIED IN PART.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiffs filed their Complaint for Declaratory Judgment on
February 24, 2005. Therein, they allege the following facts: The
Applers were the fee simple record holder of property in Highland
Township, Adams County, which was subdivided into three lots by
an approved subdivision plan. They conveyed by deed lots 1, 2 and
3 to Plaintiffs, Defendants Williams, and Defendants Jones, respec-
tively. Each of the deeds contained “restrictions, conditions, and
protective covenants,” numbered 1-15, which purport to be
“covenants running with the land.” Covenant No. 14 provides,
“Construction of the initial residential dwelling shall be completed
by Developer, unless such requirement is waived in writing by the
Developer.” Covenant No. 15 states, in relevant part, “In the event
of any violation or attempt to violate these . . . covenants, the
owner(s) of any lot in this subdivision . . . may prosecute”

Plaintiffs discussed building a residential dwelling on their lot with the Applers. However, the parties were not able to reach an agreement as to the terms under which the Applers would build the dwelling. Subsequently, Plaintiffs listed the lot for sale and during the Spring and Summer of 2004 multiple persons expressed interest in purchasing the lot. Each potential buyer was told that Appler was the “exclusive builder” for the lot. When Appler was contacted by these interested buyers, he told them that he could not build until at least Fall 2005 and that he would commit to no price of construction until Fall 2005.

On August 15, 2004, Plaintiffs entered into a written Agreement of Sale with third-party buyers for the lot. The agreement was contingent upon the buyers and the “exclusive builder” reaching an agreement to build a house. Yet, the buyers and the Applers failed to reach an agreement and the Agreement of Sale was voided.

Plaintiffs allege that Covenant 14 in the deed “creates a cloud on Plaintiffs’ title and renders the title unmarketable.” They request this Court to declare the covenant invalid, unenforceable, null, void and of no further force and effect as to them for the reasons that:

- a. The deed covenant is, on its face, so ambiguous and obscure, that no one can be sure of its meaning, and it is therefore incapable of enforcement;
- b. The deed covenant, if unambiguous and enforceable, is of a personal nature securing, at most, a personal privilege, which does not create a real covenant running with the land;
- c. The deed covenant, on its face, and in practice, is an unreasonable restraint on trade or competition in violation of public policy;
- d. The deed covenant, on its face and in practice, would be unconscionable if enforced by [the Applers] against Plaintiffs.
- e. If the deed is, on its face, enforceable, [the Applers] have made the deed covenant unenforceable by failing or refusing to enter into an agreement with any of the several parties interested in buying lot No. 1.

Plaintiffs further request the Court to declare that the Applers have no standing to attempt to enforce the covenants because the Applers are not owners of any lot in the subdivision.

On March 28, 2005, the Applers filed their Preliminary Objections to Plaintiffs' Complaint. The Applers argue that pursuant to Pa.R.C.P. 1028(a)(4) the Complaint is legally insufficient for the following reasons:

- A. Covenant 14 is unambiguous and enforceable against Plaintiffs.
- B. The deed establishing the covenant proves that the covenants run with the land.
- C. The covenant is not an unreasonable restraint on trade or a violation of public policy.
- D. The deed covenant is a valid covenant enforceable against the Plaintiffs and it is not an unconscionable covenant.
- E. The Complaint fails to establish any unreasonable or invalid actions on behalf of the [Applers] to render the covenant unenforceable.
- F. [The Applers] have standing to enforce the covenant.

LEGAL STANDARDS

Preliminary objections in the nature of a demurrer test the legal sufficiency of a complaint. *Hykes v. Hughes*, 835 A.2d 382, 383 (Pa. Super. 2003) (citing *White v. PennDOT*, 738 A.2d 27, 31 (Pa. Commw. 1999)). When considering preliminary objections, all material facts set forth in the challenged pleadings are admitted as true, as well as all inferences reasonably deducible therefrom. Preliminary objections should be sustained only in cases in which it is clear and free from doubt that the pleader will be unable to prove facts legally sufficient to establish the right to relief. *Hykes*, 835 A.2d at 383 (citations omitted). Preliminary objections that seek the dismissal of a cause of action should be sustained only in cases in which it is clear and free from doubt that the pleader will be unable to prove facts legally sufficient to establish a right to relief. *Id.* (citing *Pacurariu v. Commonwealth*, 744 A.2d 389, 391 n.1 (Pa. Commw. 2000); *White*, 738 A.2d at 31). If any doubt exists as to whether a demurrer should be sustained, it should be resolved in favor of overruling the preliminary objections. *Hykes*, 835 A.2d at 383 (citing *Edwards v. Germantown Hosp.*, 736 A.2d 612, 614 (Pa. Super. 1999)).

A restrictive covenant is a restriction in an instrument relating to real estate by which the parties pledge that something will not be done. *Doylestown Twp. v. Teeling*, 635 A.2d 657, 661 (Pa. Commw. 1993). Although Pennsylvania law does not favor restrictive covenants and they are strictly construed against those seeking to enforce them, they are legally enforceable. *Id.*

ANALYSIS

Appler argues that six reasons justify dismissing Plaintiffs' Complaint. Each reason is discussed individually below.

A. Is Covenant 14 ambiguous?

Plaintiffs claim Covenant 14 is so ambiguous and obscure that it cannot be enforced as no one can be sure of its meaning. (Pls.' Compl. at ¶ 15(a)). Appler argues that Covenant 14 is unambiguous and enforceable against Plaintiffs.

It is a general rule of contract interpretation that the intention of the parties at the time the contract is entered into governs. *Berger v. Ackerman*, 439 A.2d 200, 202 (Pa. Super. 1981) (citing *Heidt v. Aughenbaugh Coal Co.*, 176 A.2d 400 (Pa. 1962)). This rule also holds true in the interpretation of restrictive covenants. *Berger*, 439 A.2d at 202 (citing *Baederwood, Inc. v. Moyer*, 87 A.2d 246 (Pa. 1952); *McCandless v. Burns*, 104 A.2d 123 (Pa. 1954)). As indicated above, however, restrictive covenants are not favored in the law, are strictly construed, and nothing will be deemed a violation of such a restriction that is not in plain disregard of its express words *Berger*, 439 A.2d at 202 (citing *Great Atlantic and Pacific Tea Co., Inc. v. Bailey*, 220 A.2d 1, 2-3 (Pa. 1966)).

The law's antipathy for restrictive covenants does not permit the Court to disregard the plain meaning of words contained in a covenant. *Tucker v. Howe*, 88 A.2d 713, 715 (Pa. 1952). The intent of the parties in a contract must be ascertained from the language of a written agreement. *Gallagher v. Fidelcor, Inc.*, 657 A.2d 31, 33 (Pa. Super. 1995) (citations omitted). In the absence of technical terminology, the Court must give the words used in the agreement their plain and ordinary meaning. *Id.*

Plaintiffs essentially admit in their Complaint that Covenant 14 is *unambiguous*. Plaintiffs' Complaint shows that Plaintiffs understood

Covenant 14 as requiring the Applers to have the exclusive right to build the residential dwelling on the lot. Plaintiffs therefore negotiated with the Applers to build such a dwelling. When that failed, Plaintiffs continued to interpret Covenant 14 as requiring the Applers to build the initial dwelling as they told each potential purchaser of this requirement. Plaintiffs also understood the Agreement of Sale to be contingent upon Appler building the initial dwelling on the lot.

Additionally, Plaintiffs did not have a problem interpreting Covenant 14. They consistently interpreted it to mean that Covenant 14 required the Applers be given the right to build the initial dwelling on the lot. Because Plaintiffs could not negotiate an agreement with the Applers to build on the lot and their potential purchaser could not as well, Plaintiffs claim the title to the lot is unmarketable. (Pls.' Compl. at ¶ 14). Plaintiffs therefore assert their title to the lot is unmarketable precisely because they understand Covenant 14's terms to require that the Applers be given the right to build the initial dwelling on the lot.

Plaintiffs also argue in their brief that Covenant 14 is ambiguous because it fails to include more specific terms. Plaintiffs argue that Covenant 14 fails to include a time for performance, fails to include a limitation on how much "Developer" can charge, fails to define who the "Developer" is, and fails to set forth standards or guidelines regarding the type of house to be built. (Pls.' Br. at pp. 3-4).

It is true that the acknowledgement of an agreement by a court does not require its enforcement. *Linnet v. Hitchcock*, 471 A.2d 537, 540 (Pa. Super. 1984). An agreement is an enforceable contract when the parties intended to conclude a binding agreement and the essential terms of that agreement are certain enough to provide the basis for providing an appropriate remedy. *Id.* (citations omitted). If the essential terms of an agreement are so uncertain that there is no basis for determining whether the agreement has been kept or broken, there is no enforceable contract. *Id.* (citing Restatement (Second) of Contracts § 33, Comments a, b).

Although Plaintiffs did aver in their Complaint that the lot in question is unmarketable because Covenant 14 required the Applers be given the right to build the initial dwelling on the lot, Plaintiffs did not specifically aver in their Complaint that Covenant 14 fails to

include a time for performance, fails to include a limitation on how much “Developer” can charge, fails to define who the “Developer” is, and fails to set forth standards or guidelines regarding the type of house to be built.¹

Most importantly, the Applers’ demurrer only challenges the legal sufficiency of the Complaint, *Hykes*, 835 A.2d at 383, and not Plaintiffs’ additional arguments first made in response to the Applers’ demurrer. As a result, Plaintiff’s new arguments are irrelevant at this stage of the litigation.

It appears that the intention of Plaintiffs and the Applers was to give the Applers the right to build the initial dwelling on the lot. There may have been economic considerations exchanged for that right. For example, the Applers may have charged a lesser price for the lot in exchange for the belief that they would reap economic benefits from a guaranteed construction project.

From the pleadings, the Court cannot determine if the Applers have the technical ability to construct a dwelling. However, as set forth above, Plaintiffs essentially admit in their Complaint that they understood Covenant 14 to require that the Applers be given the right to build the initial dwelling on the lot. Thus, the intention of the parties is clear in that regard. The Applers’ preliminary objection will therefore be granted and paragraph 15(a) of Plaintiffs’ Complaint will be stricken.²

Continued to next issue (6/30/2006)

¹The closest Plaintiffs came to averring these deficiencies is in Paragraph 15(a) wherein they contend that Covenant 14 is invalid because “the deed covenant is, on its face, so ambiguous and obscure, that no one can be sure of its meaning, and it is therefore incapable of enforcement”. The Applers did not object to the lack of specificity in that averment. However, the Court will not read more into the averment than is written. Even though Paragraph 15(a) will be stricken, Plaintiffs will be given an opportunity to file an amended complaint.

²Even if Covenant 14 is considered ambiguous, imprecision in language is not fatal to a covenant in a deed. *Leh v. Burke*, 331 A.2d 755, 759 (Pa. Super. 1974) (citing *Mishkin v. Temple Beth El*, 239 A.2d 800 (Pa. 1968); *Di Carlo v. Petrillo*, 127 A.2d 657 (Pa. 1956)). The rule is that if an agreement is not clearly expressed, an effort is made by the court interpreting the language to give effect to the intention of the parties as expressed at that time. *Leh*, 331 A.2d at 759. If the language of a deed or restriction is unclear, then in order to ascertain the intention of the parties, its language should be interpreted in the light of the subject matter, the apparent object or purpose of the parties, and the conditions existing when it was made. *Id.* (citing *Parker v. Hough*, 215 A.2d 667, 670 (Pa. 1966)). Accordingly, more specifics need to be averred in order to overcome a demurrer.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-98 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the middle of the Littlestown-Gettysburg State Highway, thence by land now or formerly of Earl and Louise Feeser, North 52 degrees East, 195 feet to a post thence by land now or formerly of William and Ida Golden, South 42-1/4 degrees East, 50 feet to an iron pin; thence by land now or formerly of Sylvester J. Collins, South 43-1/4 degrees West, 182 feet to a point in the middle of said State Highway; thence by land now or formerly of Mrs. D.C. Rudisill, North 51-1/2 degrees West, 80 feet to the place of BEGINNING.

CONTAINING 49 perches, more or less.

BEING the same premises which Richard L. Slick and Mary Louise Slick, husband and wife, by their deed dated March 14, 2002, and recorded in the office of the Recorder of Deeds in and for Adams County in Record Book 2597, Page 188, granted and conveyed to Mary Louise Slick and Teresa L. Slick, Trustees of the Slick Family Irrevocable Trust, the Grantors herein.

TITLE TO SAID PREMISES IS VESTED IN Anthony D. Astorino, a single person and Kristine E. Kristoffersen, a single person, by Deed from Mary Louise Slick and Teresa L. Slick, Trustees of the Slick Family Irrevocable Trust, dated 10-31-03, recorded 11-13-03 in Deed Book 3379, page 245.

TITLE TO SAID PREMISES IS VESTED IN Mary Louise Slick and Teresa L. Slick, Trustees of the Slick Family Irrevocable Trust, by Deed from Richard L. Slick and Mary Louise Slick, husband and wife, dated 3-14-02, recorded 3-21-02 in Deed Book 2597, page 188.

Premises being: 3348 Baltimore Pike, Littlestown, PA 17340

Tax Parcel No. 30-H16-0019-000

SEIZED and taken into execution as the property of **Anthony D. Astorino & Kristine E. Kristoffersen** and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-1140 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, 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 lying and situate in Straban Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING for a point at a p.k. nail near the Eastern edge of Shrivvers Corner Road and other lands of the Grantors herein; thence along said Shrivvers Corner Road, North thirty (30) degrees thirty-seven (37) minutes five (05) seconds West, fifty-three and sixty-three hundredths (53.63) feet to a p.k. nail near the Eastern edge of Shrivvers Corner Road at Lot No. 1 of the hereinafter referenced subdivision plan; thence along same, the following six courses and distances: 1) North thirty-eight (38) degrees ten (10) minutes zero (00) seconds East, nine hundred sixty-nine and seventy-four hundredths (969.74) feet to a steel rod; thence 2) North thirty-four (34) degrees three (03) minutes thirty-five (35) seconds East, one hundred forty-three and eighty hundredths (143.80) feet to a steel rod; thence 3) North thirty-six (36) degrees forty-five (45) minutes forty-five (45) seconds West, seventy-two and seventeen hundredths (72.17) feet to a pin; thence 4) North forty-four (44) degrees thirty-eight (38) minutes thirty-five (35) seconds East, two hundred thirteen and fifty-eight hundredths (213.58) feet to a steel rod; thence 5) North seven (07) degrees eight (08) minutes ten (10) seconds West, one hundred eighty-four and eighty-two hundredths (184.82) feet to a pipe; thence 6) North forty-six (46) degrees thirty (30) minutes zero (00) seconds East, eight hundred ninety-three and eight hundredths (893.08) feet

to a point at lands now or formerly of Joseph Kaminskas; thence along same, South forty-nine (49) degrees one (01) minute fifty-five (55) seconds East, seven hundred nineteen and thirty hundredths (719.30) feet to an existing pipe at a corner post at lands now or formerly of Sarah A. Kulp; thence along same, South thirty-eight (38) degrees four (04) minutes thirty (30) seconds West, one thousand two hundred eight and eleven hundredths (1,208.11) feet to a steel pin at other lands of the Grantors herein; thence along same, the following two courses and distances: 1) North sixty-five (65) degrees eight (08) minutes zero (00) seconds West, six hundred twenty-nine and forty-three hundredths (629.43) feet to a steel rod; thence 2) South thirty-eight (38) degrees ten (10) minutes zero (00) seconds West, nine hundred eighty-nine and fifteen hundredths (989.15) feet to a p.k. nail near the eastern edge of Shrivvers Corner Road, the point and place of BEGINNING, CONTAINING 24.116 acres and identified as Lot 2 on a plan of lots, which plan is recorded in the Recorder of Deeds Office in and for Adams County, Pennsylvania, in Plat Book 66, at page 40.

BEING the same tract of land which Elizabeth A. MacFarlane and Debra R. Weverink, by deed dated April 28, 1999, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1828 at page 16, granted and conveyed unto Heinz J. Weverink and Debra R. Weverink, husband and wife, the Defendants herein.

Improved with a single family dwelling with several outbuildings and known as 404 Shrivvers Corner Road, Gettysburg, Pennsylvania.

SEIZED and taken into execution as the property of **Heinz Weverink & Debra R. Weverink** and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-341 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of August, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land Situate on the northerly right of way line of Abbotts Drive in the Borough of Abbottstown, County of Adams and State of Pennsylvania known and numbered as Lot NO. 38 on a plan of lots for Abbotts Manor Phase II recorded in the Office of the Recorder of Deeds in and for Adams County, PA in subdivision Plot 73, page 43, more fully bounded and described as follows, to wit:

BEGINNING at a point on the northerly right of way line of Abbotts Drive at a corner of Lot No. 37 on a final plan of lots for Abbotts Manor Phase I recorded in the aforesaid Recorder's Office in Plot Book 69, page 95; thence extending along the said Lot No. 37 North 30 degrees 02 minutes 10 seconds West 277.24 feet to a point; thence North 64 degrees 04 minutes 00 seconds East 62.30 feet to a point or a corner of Lot No. 39 on a plan of Lots for Abbotts Manor Phase II recorded in the aforesaid Recorder of Deeds Office in Plot Book 73, page 43; thence extending along the said Lot No. 39 South 35 degrees 47 minutes 14 seconds East 202.48 feet to a point; thence extending along the said right of way of Abbotts Drive on a line curving to the right having a radius of 170 feet, an arc distance of 86.06 feet with a chord bearing South 45 degrees 27 minutes 41 seconds West 85.14 feet to the point and place of BEGINNING. CONTAINING 15,888 Sq. Ft.

BEING THE SAME PREMISES WHICH First Horizon Home Loan Corporation by deed dated 4/4/01 and recorded 4/17/01 in the Office of the Recorder of Deeds of Adams County in deed book 2258, page 0056, granted and conveyed unto The Secretary of Housing and Urban Development.

BEING the same property acquired by the Grantor pursuant to the provisions of the National Housing Act, as amended (12 U.S.C. 1701 et seq.) And the Department of Housing and Urban Development Act (42 U.S.C. 3531).

TITLE TO SAID PREMISES IS VESTED IN David A. Lex and Angela M. Lex, by Deed from Mel Martinez, the Secretary of Housing & Urban Development, dated 7/24/01, recorded 8/7/01 in Book 2365, page 251.

TITLE TO SAID PREMISES IS VESTED IN Mel Martinez, the Secretary of Housing & Urban Development, by Deed from First Horizon Home Loan Corporation, dated 4/4/01, recorded 4/17/01 in Book 2258, page 56.

Premises being: 173 Abbotts Drive, Abbottstown, PA 17301

Tax Parcel No. 01-005-0052-000

SEIZED AND TAKEN INTO EXECUTION as the property of **David A. Lex & Angela M. Lex a/k/a Angela M. Myers** and to be sold by me.

James W. Muller-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 August 28, 2006, 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.

6/16, 23 & 30

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 May 10, 2006 for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

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

Quik Stop Cafe, Inc.
819 Brickcrafter Road
New Oxford, Pennsylvania 17350

6/23

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
NO. RT-8-06

NOTICE

TO: DEMAURA JESTINE BROWN

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for August 3, 2006, at 9:00 a.m., prevailing time, in the Conference Room on the 4th Floor of the Adams County Courthouse, at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

You should contact 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
111-117 Baltimore Street
Gettysburg, PA 17325

Telephone number: (717) 337-9846

Chester G. Schultz, Attorney at Law
145 Baltimore Street
Gettysburg, PA 17325

6/16, 23 & 30

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN of the filing in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, of the application for registration under the Fictitious Name Act. The name of the business is HARVEST FIELD COMMUNITY CHURCH, with its principal place of business at 1110 Fairfield Road, Gettysburg, Pennsylvania 17325. The registrant is Gettysburg Church of the Nazarene, a non-profit corporation with an address of 1110 Fairfield Road, Gettysburg, Pennsylvania 17325.

Wendy Weikal-Beauchat
Beauchat & Beauchat, LLC
63 West High Street
Gettysburg, PA 17325
(717) 334-4515

6/23

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—EQUITY
NO. 06-SU-198
Action to Quiet Title

MARY ELIZABETH BUCKHAM, Plaintiff
vs.

MARYLAND BIVENS, his heirs, administrators, successors and assigns,
Defendant

TO: Maryland Bivens, his heirs, administrators, successors and assigns.

TAKE NOTICE that on February 22, 2006, Mary Elizabeth Buckham filed a Complaint in Action to Quiet Title, against Maryland Bivens, his heirs, administrators, successors and assigns, averring that Mary Elizabeth Buckham is the owner of the real property described herein. The Complaint requests the Court to extinguish any possible interest you may have in said real estate. The subject property is a tract of land situate in Carroll Valley Borough, Adams County, Pennsylvania, being Lot No. RI-215, Charnita Subdivision, more particularly bounded and described as follows:

BEGINNING at a point in the center of Cross View Trail (formerly Cross Trail) at Lot No. 214; thence by said lot, North 68 degrees 50 minutes East, 303.06 feet to lands now or formerly of Mabel P. Mahoney; thence by said lands, South 8 degrees 41 minutes 20 seconds West, 150 feet to Lot No. 216; thence by said lot, South 80 degrees 47 minutes 20 seconds West, 247.70 feet to a point in the center of said Cross View Trail; thence in said Cross View Trail, North 11 degrees 7 minutes 40 seconds West, 80 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section RI, 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., a Pennsylvania corporation, by deed dated November 18, 1971, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book 371 at page 16, sold and conveyed Maryland Bivens and Linda Marie Bivens, his wife; Maryland Bivens being the 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 June 5, 2006, 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. 06-SU-198 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

/s/Gary E. Hartman, Esq.
Hartman & Yannetti
Attorney for Plaintiff
126 Baltimore Street
Gettysburg, PA 17325
(717) 334-3105

6/23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-635 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of August, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground situate in Franklin Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin on the right-of-way line of Oak Drive at the corner of Lot No. 15 of the hereinafter referred to subdivision plan; thence from said iron pin running along right-of-way line of Oak Drive by a curve to the left, the radius of

which is 825 feet, having an arc of 218.78 feet and a long chord bearing and distance of South 64 degrees 20 minutes 00 seconds West, 218.14 feet to an iron pin on the right-of-way line of Oak Drive at corner of Lot No. 13 of hereinafter referred to subdivision plan; thence along Lot No. 13, North 33 degrees 15 minutes 50 seconds West, 183.49 feet to an iron pin at corner of Lot No. 17 of hereinafter referred to subdivision plan; thence along Lot No. 17, North 63 degrees 01 minute 00 seconds East, 267.58 feet to an iron pin at above mentioned Lot No. 15; thence along said Lot No. 15, South 18 degrees 04 minutes 10 seconds East, 189.71 feet to an iron pin on the right-of-way line of Oak Drive, the point and place of BEGINNING. CONTAINING 1.007 Acres.

The above description was taken from draft of survey entitled "Recreational Real Estate Co.," prepared by Boyer-Price Surveys, Inc. on March 19, 1974 recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 4 at Page 50 and designated on said plat as Lot No. 14.

HAVING THEREON ERECTED a dwelling house known as: 240 Oak Drive, Orrtanna, Pennsylvania 17353-9522

BEING THE SAME PREMISES WHICH G. Robert Deatrick et al by deed dated 1/11/94 and recorded in Adams County Deed Book 0834 Page 0109 granted and conveyed unto Bryan C. Clevenger and Kimberly A. Clevenger.

SEIZED IN EXECUTION as the property of Kimberly Clevenger (a/k/a Kimberly A. Clevenger) and Bryan C. Clevenger under Adams County Judgment No. 03-S-635

Map & Parcel 12-B9-191

SEIZED and taken into execution as the property of **Kimberly Clevenger & Bryan C. Clevenger** and to be sold by me.

James W. Muller-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 August 28, 2006, 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.

6/23, 30 & 7/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-340 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of August, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land, together with improvements thereon erected, situate on the east side of Jacobs Street in the Borough of East Berlin, Adams County, Pennsylvania, being the southern half of Lot #25 and all of Lots #26 & #27 on a plan of lots as laid out by Paul E. Jacobs, and being known and numbered as 210 Jacobs Street, more fully bounded and described as follows:

BEGINNING at a stake at the intersection of the east side of Jacobs Street with the North side of Walnut Street; thence by Jacobs Street, North 22 degrees 50 minutes East, 131 feet to a stake on the center line of Lot #25; thence through the center of Lot #25, South 67 degrees 10 minutes East, 180 feet to a stake on the west side of a 20 foot alley; thence along the west side of said alley, South 22 degrees 50 minutes West, 131 feet to a stake on the north side of Walnut Street; thence along the north side of Walnut Street, North 67 degrees 10 minutes West, 180 feet to the first mentioned stake on the East side of Jacobs Street, and the place of BEGINNING.

BEING the same which Genevieve L. Tate, widow, by her deed dated February 22, 1984 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book 375 at page 393, sold and conveyed unto Robert A. Brodbeck and Patricia J. Rabine, as joint tenants with the right of survivorship, the Grantors herein.

TITLE TO SAID PREMISES IS VESTED IN Robert A. Brodbeck and Patricia J. Brodbeck, husband and wife, as Tenants of an Estate by the Entireties, by Deed from Robert A. Brodbeck and Patricia J. Rabine, dated 9-26-84, recorded 9-27-84 in Deed Book 387, page 449.

Premises being: 210 Jacobs Street, East Berlin, PA 17316

Tax Parcel No. 10-006-0052-000

SEIZED and taken into execution as the property of **Robert A. Brodbeck & Patricia J. Brodbeck** and to be sold by me.

James W. Muller-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 August 28, 2006, 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.

6/23, 30 & 7/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-396 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of August, 2006, 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 Reading and Straban Townships, Adams County, Pennsylvania, bounded and described in accord with the final subdivision plan of Earl J. Sipe prepared by Thomas and Associates Surveyors, E. L. Mart R. S., dated October 13, 1978 as follows, to wit:

BEGINNING at a point in Township Road T-328 thence across said road and through an iron pipe set back twenty-five (25) feet from the beginning of this course North fifty-six degrees (56°) eleven minutes (11') twelve seconds (12") West, one hundred nineteen and thirty-nine hundredths feet (119.39) to a point in the stream bed of Conewago Creek as shown on said plan; thence along and through creek bed of said Conewago Creek on the aforesaid plan the following seven (7) courses and distances; North fifteen degrees (15°) forty minutes (40') zero seconds (00") East, two hundred seventy feet (270.00) to a point; thence by same North sixty-five degrees (65°) nine minutes (9') zero seconds (00") West, three hundred feet (300.00) to a point; thence by same North fifty-one degrees (51°) ten minutes (10') zero seconds (00") West, two hundred fifty feet (250.00) to a point; thence by same South sixty-seven degrees (67°) twenty-one minutes (21') forty-six seconds (46") West, one hundred ninety-six and seventy-four hundredths feet (196.74) to a point; thence by same South thirty-seven degrees (37°) fifty minutes (50') zero seconds (00") East, one hundred seventy-five feet (175.00) to a point; thence by same North eighty degrees (80°) fifteen minutes (15') zero seconds (00") West, three hundred forty-four and eighty-six hundredths feet (344.86) to a point; thence by same

North sixty-four degrees (64°) zero minutes (00') zero seconds (00") West, three hundred forty-seven and ninety hundredths feet (347.90) to a point on the south side of said Conewago Creek; thence through said Conewago Creek and through an iron pipe set back two hundred feet (200.00) from the beginning of this course and along land now or formerly of Ronald Mundy North seventy-three degrees (73°) twenty-two minutes (22') twenty-one seconds (21") East, one thousand ninety and twenty-five hundredths feet (1,090.25) to a point at a fence post at land now or formerly of Ronald Mundy; thence by same and through an iron pipe set back twenty-five feet (25.00) from the terminus of this course South fifty-six degrees (56°) thirty-three minutes (33') fifty-four seconds (54") East, five hundred sixty-one feet (561.00) to a point in the West edge of Township Road T-328; thence along said Township Road T-328 South twenty-five degrees (25°) forty minutes (40') sixteen seconds (16") West, six hundred seventy-five and seventy-nine hundredths feet (675.79) to a point in Township Road T-328, the point and place of BEGINNING.

CONTAINING 11.332 Acres.

HAVING ERECTED THEREON a dwelling known as 327 Group Mill Road, New Oxford, Pennsylvania 17350.

BEING the same premises which Earl J. Sipe, single and Pearl Minella and Joseph Minella, her husband, granted and conveyed unto Michael J. Sneringer, single, by deed dated December 13, 1978, and recorded on December 22, 1978 in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book Volume 342, page 906.

Tax ID No. J9-2A

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

James W. Muller-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 August 28, 2006, 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.

6/23, 30 & 7/7

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 MARGARET A. ALLEN-
DER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Raymond A. Williams, 122 Valley View Drive, Hanover, PA 17331; Robert H. Webb, 217 Grant Drive, Hanover, PA 17331

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

ESTATE OF HAROLD E. FREED,
DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Toni K. Sterner, 29 Heritage Drive, Hanover, PA 17331

Attorney: Daniel M. Frey, Esq., Barley Snyder, 14 Center Square, Hanover, PA 17331

ESTATE OF LOUISE M. KUMP, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Clair M. Kump, 451 Silo Road, Orttanna, PA 17353

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

ESTATE OF JOHN P. LUCABAUGH,
DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Sterling L. Lucabaugh, 9082 Yellow Church Rd., Seven Valleys, PA 17360; David E. Lucabaugh, 3339 Sunnyside Lane, Spring Grove, PA 17362; Darlene F. Hershey, 1703 KBS Road, Spring Grove, PA 17362

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

ESTATE OF EZEKIEL R. MOXLEY,
DEC'D

Late of Germany Township, Adams County, Pennsylvania

Bonita A. Reaver, 1379 Frederick Pike, Littlestown, PA 17340; Gary J. Moxley, 1365B Frederick Pike, Littlestown, PA 17340

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

ESTATE OF MARY E. MOXLEY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Bonita A. Reaver, 1379 Frederick Pike, Littlestown, PA 17340; Gary J. Moxley, 1365B Frederick Pike, Littlestown, PA 17340

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

ESTATE OF BEULAH M. SMITH, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Jack Owens a/k/a John R. Owens, Jr., 31 Sawmill Road, Chepachet, RI 02814

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

SECOND PUBLICATION

ESTATE OF CATHERINE E. MILLER,
DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Doris Witherow, 126 York Street, Gettysburg, PA 17325; Jean Greenwald, 253 Chambersburg Road, Gettysburg, PA 17325

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

ESTATE OF BLANCHE L. MOOG, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Andrea W. Jones, 750 Old Cabin Hollow Road, Dillsburg, PA 17019

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

ESTATE OF LOIS J. REAGLE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Theodore Kopey, Jr., 270 C Park St., Seven Valleys, PA 17360

ESTATE OF RUTHANNA B. STARNER,
DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Albert Milton Starner, 44 West King Street, Littlestown, PA 17340

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

THIRD PUBLICATION

ESTATE OF CHARLES H. EICHEL-
BERGER, JR. a/k/a CHARLES HENRY
EICHELBERGER, JR., DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania

Administratrix: Linda A. Neubauer, c/o 135 North George Street, York, PA 17401

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

ESTATE OF LUCY J. FUHRMAN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Lauri L. Lehr, Randall L. Fuhrman and Lisa L. Fuhrman, c/o Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403

Attorney: Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403

ESTATE OF HELEN J. MILLAR a/k/a
HELEN JOSEPHINE MILLAR, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Glenn W. Millar, 2359 Hunterstown-Hampton Road, New Oxford, PA 17350

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

ESTATE OF JOHN I. SMALL, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Thomas Lee Small, 1081 Beaver Creek Road, Hanover, PA 17331; John Richard Small, 7769 Gnatstown Road, Hanover, PA 17331

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-155 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of August, 2006, 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 Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in a public road leading from the Biglerville Highway to the Mummasburg Highway, which point is South 23 degrees 52 minutes West 200 feet from an iron pin; thence by lands now or formerly of Leo Kuhn, North 66 degrees 8' West 356.123 feet to a point; thence North 24 degrees East, 100 feet to a point at land now or formerly of Buford, Inc.; thence by said last mentioned land, South 66 degrees 8; East, 355.866 feet to a point in the public road leading from the Biglerville Highway to the Mummasburg Highway, thence in said last mentioned road, South 29 degrees 52; West, 100 feet to a point, the place of BEGINNING.

HAVING ERECTED THEREON a dwelling known as 715 HERS RIDGE ROAD, GETTYSBURG, PENNSYLVANIA 17325.

BEING the same premises which Elton M. Shelton, Jr. and Theresa M. Shelton, husband and wife, granted and conveyed unto Elton M. Shelton, Jr., by deed dated July 17, 1997, and recorded on August 14, 1997 in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book Volume 1423, page 185.

Tax ID No. F11-102

SEIZED and taken into execution as the property of Elton M. Shelton, Jr. and to be sold by me.

James W. Muller-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 August 28, 2006, 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.

6/23, 30 & 7/7

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 29 CATTLE COMPANY, INC.

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

6/23

FICTITIOUS NAME NOTICE

NOTICE IS GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on May 17, 2006, pursuant to the Fictitious Name Act, setting forth that Ox Paper Tube & Core, Inc., of 331 Maple Avenue, Hanover, PA 17331, is the only entity owning or interested in a business, the character of which is the manufacturing of animal bedding and that the name, style and designation under which said business is and will be conducted is ENVIROBED and the location where said business is and will be conducted is 331 Maple Avenue, Hanover, PA 17331.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

6/23

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on May 4, 2006.

The name of the corporation is DAY ONE VENTURES, INC. The corporation has been incorporated under the Pennsylvania Business Corporation Law of 1988.

John R. White
Campbell & White, P.C.
112 Baltimore Street
Gettysburg, PA 17325
Attorneys for the Corporation

6/23

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on April 3, 2006, with the Department of State of the Commonwealth of Pennsylvania, for the incorporation of THE DALMORE GROUP, INC., under the provisions of the Pennsylvania Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The corporation shall engage in the business of all activities related to real estate, together with any legal function of a corporation under PA law. The registered office of the corporation is 1965 Upper Bermudian Road, Gardners, PA 17324. The names and addresses of all persons owning or interested in said business are: Dale Guise of 17921 Hickman Street, Poolesville, MD 20837; Todd Guise of 570 Brysonia Road, Biglerville, PA 17307; and Tim Guise of 1720 Potato Road, Biglerville, PA 17307.

Jonathan Patrono, Esq.
Patrono & Associates, LLC
30 W. Middle Street
Gettysburg, PA 17325
(717) 334-8098

6/23

CERTIFICATE OF ORGANIZATION

NOTICE IS HEREBY GIVEN that an application for a Certificate of Organization was filed with the Department of State of the Commonwealth of Pennsylvania for the purpose of obtaining a Certificate of Organization for a Limited Liability Company.

The name of the company is LEASING BY M & B, LLC with the principal place of business at 500 HERS RIDGE ROAD, GETTYSBURG, PA 17325.

Wendy Weikal-Beauchat, Esq.
Beauchat & Beauchat, L.L.C.
63 W. High Street
Gettysburg, PA 17325

6/23

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for H & L TOOLS, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on May 24, 2006, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

6/23

Adams County Legal Journal

Vol. 48

June 30, 2006

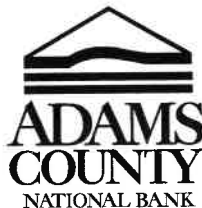
No. 6, pp. 37-42

IN THIS ISSUE

WALCK VS. APPLER ET AL

This opinion continued from last issue (6/23/2006)

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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Business Office - 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 337-9812

Periodicals postage paid at Gettysburg, PA 17325.

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-284 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, 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.:

The following two tracts of land in Reading Township, Adams County:

TRACT NO. 1:

ALL that certain lot of land, situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 681 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 Plan Book 1, Page 5, and subject to all legal highways, easements, rights of way and restrictions of record.

IT BEING the same premises which Lake Meade, Inc., by Deed dated the 21st day of June, 1967, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Land Record Book 262, Page 681, granted and conveyed unto Kenneth E. Eisenhour and Dorothy I. Eisenhour, husband and wife. The said Kenneth E. Eisenhour died on the 27th day of May, 1995, thereby vesting title to the hereinabove described premises in Dorothy I. Eisenhour, surviving spouse, by operation of law. The said Dorothy I. Eisenhour, widow, is the Grantor herein.

TRACT NO. 2:

ALL that certain half lot of ground situate in Reading Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the Eastern property line of Lake Meade Drive at the Southwest corner of half lot now or formerly of William F. Lerew, et al; thence along the Eastern property line of Lake Meade Drive by a curve to the right whose radius is 713.52 feet, an arc distance of 42.24 feet and having a long chord bearing of North 29 degrees 08 minutes 50 seconds West, 42.23 feet to

a point at the Southwest corner of Lot No. 681 being Tract No. 1 hereinabove described; thence by such Lot No. 681 North 65 degrees 56 minutes 27 seconds East, 308.00 feet to a point in or at Lake Meade; thence in or at Lake Meade South 18 degrees 05 minutes 36 seconds East, 24.31 feet to a point at the Northeast corner of half lot now or formerly of William F. Lerew, et al; thence by same South 62 degrees 32 minutes 56 seconds West, 304.76 feet to a point, the place of BEGINNING. CONTAINING 10,165 square feet and being the northern half of Lot No. 680 in the Lake Meade Subdivision, such description being taken from draft of survey prepared by Larue Surveys Inc., dated July 18, 1975.

Being Known As: 476 Lake Meade Drive (Reading Township) East Berlin, PA 17316

Property ID No.: 37-13-115

TITLE TO SAID PREMISES IS VESTED IN Donald E. Eisenhour, single man by deed from Dorothy I. Eisenhour, widow dated 9/12/1997 recorded 1/16/1998 in Deed Book 1507 Page 23.

SEIZED and taken into execution as the property of **Donald E. Eisenhour** and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/16, 23 & 30

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
NO. RT-9-06(B)

NOTICE

TO: DEMAURA JESTINE BROWN

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for August 3, 2006, at 9:00 a.m., prevailing time, in the Conference Room on the 4th Floor of the Adams County Courthouse, at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

You should contact 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
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone number: (717) 337-9846

Chester G. Schultz, Attorney at Law
145 Baltimore Street
Gettysburg, PA 17325

6/16, 23 & 30

B. Does Covenant 14 run with the land?

Plaintiffs claim Covenant 14 does not run with the land, but only “is of a personal nature securing, at most, a personal privilege.” (Pls.’ Compl. at ¶ 15(b)). The Applers argue that Covenant 14 runs with the land.

Restrictive covenants run with the land, when not only the original parties or their representatives, but each successive owner of the land, will be entitled to its benefit, or be liable as the case may be to its obligation. *Teeling*, 635 A.2d at 661 (citing Black’s Law Dictionary 329 (5th ed. 1979)). The difference between personal covenants and covenants that run with the land is that a personal covenant binds only the person who made the covenant and not future successors in title. *Logston v. Penndale, Inc.*, 576 A.2d 59, 61-62 (Pa. Super. 1990). Covenants that run with the land are personally binding on the current holder, as well as any future successors in title. *Id.*; see also *Hartzfeld v. Green Glen Corp.*, 552 A.2d 306, 309 (Pa. Super. 1989).

The test for determining whether a particular covenant runs with the land is the intention of the parties and to ascertain such intent resort may be had to the words of the covenant read in the light of the surroundings of the parties and the subject of the grant. *De Sanno v. Earle*, 117 A. 200, 202 (Pa. 1922) (citations omitted). If the language is ambiguous and the parties have put their construction on it in the past, such construction is considered the best evidence of their intent. *Id.*

The plain language of the deed and the plain language of Covenant 14 appear to indicate Covenant 14 runs with the land. The deed is explicitly clear that all “conditions shall be covenants running with the land.” (Deed at p. 3). Consequently, Covenant 14’s requirement that the Applers be given the right to build the initial dwelling runs with the land as to both Plaintiffs and future purchasers.

If the language is considered ambiguous, the construction the parties placed on Covenant 14 indicates that they intended it to run with the land. Plaintiffs essentially admit this in their Complaint since they instructed all potential purchasers that the Applers had the right to build the initial dwelling and their Agreement of Sale of the lot to a purchaser was contingent upon the purchaser entering into an

agreement with the Applers to build the initial dwelling. (Pls.' Compl. at ¶ 11-13).

However, that does not end the analysis because a benefit conferred in a restrictive covenant must be in the “‘physical use or enjoyment of the land possessed by him,’” *Schulman v. Serrill*, 246 A.2d 643, 647 (Pa. 1968) (quoting Restatement of Property § 537), and “‘must in some way make the use or enjoyment more satisfactory to his physical senses.’” *Schulman*, 246 A.2d at 647 (quoting Restatement of Property § 537, Comment f). It is not enough that the income from the restrictive covenant is increased by virtue of it. *Price v. Anderson*, 56 A.2d 215, 221 (Pa. 1948).

Covenant 14 does not provide any benefit in the physical use or enjoyment of the land, nor does it make use of the lot more satisfactory to the physical senses. All Covenant 14 does is secure the Applers with the right to build the initial dwelling on the lot. While the Applers' eventual construction of the initial lot may provide a benefit in the physical use or enjoyment of the land, Covenant 14's restriction only deals with securing *who* may create this potential benefit, not the benefit itself. Securing the Applers' right to provide a potential benefit in the physical use or enjoyment of the land benefits the Applers economically, but does not secure any physical use or enjoyment of the land for successive owners. The Applers' preliminary objection in this regard will therefore be denied and paragraph 15(b) of Plaintiff's Complaint will remain.

C. Is Covenant 14 an unreasonable restraint on trade or competition, thus, violating public policy?

Plaintiffs claim Covenant 14 creates “an unreasonable restraint on trade or competition in violation of public policy.” (Pls.' Compl. at ¶ 15(c)). The Applers argue that Plaintiffs have not pled a material fact to state a cause of action that Covenant 14 is an unreasonable restraint on trade or a violation of public policy. Alternatively, the Applers argue that if Plaintiffs pled a material fact, Covenant 14 does not create an unreasonable restraint on trade or a violation of public policy.

The Pennsylvania Rules of Civil Procedure are to be liberally construed. Pa.R.C.P. 126. Rule 126 does not require the Court to disregard procedural defects; rather, it permits the Court, in the exercise of its discretion, to do so where the substantive rights of the opposing party has not been prejudiced. *Id.*, see also *Slaughter v. Allied*

Heating, 636 A.2d 1121, 1125 (Pa. Super. 1993) (citing *Anderson v. Centennial Homes, Inc.*, 594 A.2d 737, 739 (Pa. Super. 1991)).

A liberal construction of Plaintiffs' pleading reveals they sufficiently pled a claim that Covenant 14 creates an unreasonable restraint on trade or competition. Based upon Plaintiffs' pled facts, which must be accepted as true at this point in the litigation, Covenant 14 may have placed an unreasonable restraint on trade or competition as the initial dwelling has yet to be built on the lot, Plaintiffs have not been able to subsequently sell the lot, and no other entities have the ability to compete to build the initial dwelling on the lot. Since Plaintiffs specifically asserted that Covenant 14 is an unreasonable restraint on trade or competition and Plaintiffs' pled facts are enough to support such a claim, the Applers' preliminary objection in this regard will therefore be denied and paragraph 15(c) of Plaintiffs' Complaint will remain.³

D. Is Covenant 14 unconscionable?

Plaintiffs argue that Covenant 14 on its face, and in practice, is unconscionable. (Pls.' Compl. at ¶ 15(d)). The Applers argue that Plaintiffs accepted Covenant 14 as part of the bargain and it is not unconscionable.

The doctrine of unconscionability is both a statutory and a common law defense to the enforcement of an allegedly unfair provision in a contract. *Wagner v. Estate of Rummel*, 571 A.2d 1055, 1058 (Pa. Super. 1990). Whether a contract or clause is unconscionable is a question of law for the court. *Bishop v. Washington*, 480 A.2d 1088, 1094 (Pa. Super. 1984). Unconscionability has generally been recognized to include an absence of meaningful choice on the part of one of the parties together with contract terms which are unreasonably favorable to the other party. *Witmer v. Exxon Corp.*, 434 A.2d 1222, 1228 (Pa. 1981).

Plaintiffs have failed to develop a legal argument that Covenant 14 is unconscionable in that they cited no legal authority to support their argument. *See, Treasure Lake Prop. Owners Ass'n, Inc. v.*

³The Court notes that while Plaintiffs jumped the preliminary objections hurdle at this juncture in regard to their claim that Covenant 14 is an unreasonable restraint on trade or competition, pleading more specific facts in this Complaint would have been more desirable.

Meyer, 832 A.2d 477, 481 (Pa. Super. 2003). Regarding the absence of choice prong, Plaintiffs do not plead anything in their Complaint that would support an argument that Plaintiffs did not have free choice to enter into the agreement with Covenant 14 included within it. Regarding whether the contract is unreasonably favorable to the Applers, Plaintiffs are essentially asking this Court to immunize them from what they believe is an unfortunate business decision and/or the vagaries of the real estate market. *Id.* Courts generally do not have the power to correct these perceived errors after parties agreed to them in a contract for deed. *Id.*

Further, it is not clear that Covenant 14 unreasonably favors the Applers. As previously indicated, there may have been economic considerations exchanged for that right. Moreover, the Applers also only have the right to build the initial dwelling; they do not have a right beyond that. The Applers' preliminary objection in this regard will therefore be granted and paragraph 15(d) of Plaintiffs' Complaint will be stricken.

E. Is Covenant 14 unreasonable?

In their brief, Plaintiffs argue that Covenant 14 is unreasonable. While they do not make this argument in their Complaint, they do argue that Covenant 14 is unenforceable because the Applers refused to enter into an agreement with any of the several parties interested in buying the lot. (Pls.' Compl. at ¶ 15(e)). The Applers argue that Plaintiffs have not pled facts sufficient in this regard. Alternatively, the Applers argue Covenant 14 is reasonable and can be enforced.

In accordance with Pa.R.C.P. 126, a liberal construction of Plaintiffs' pleadings reveals they sufficiently pled a claim that Covenant 14 is unreasonable and cannot be enforced. Based upon Plaintiffs' pled facts, which must be accepted as true at this point in the litigation, Covenant 14 may be unreasonable in practice and thus cannot be enforced as the initial dwelling has yet to be built on the lot, Plaintiffs have not been able to subsequently sell the lot, and no other entities have the ability to compete to build the initial dwelling on the lot. Since Plaintiffs asserted that Covenant 14 cannot be enforced because of its practical effect, the facts articulated in Plaintiffs' Complaint are enough to support such a claim. The Applers' preliminary objection in this regard will therefore be denied and paragraph 15(e) of Plaintiffs' Complaint will remain.

F. Do Applers have standing to enforce the covenant?

Plaintiffs claim that the Applers do not have standing to enforce the deed's covenants, especially Covenant 14. (Pls.' Compl. at ¶ 17). The Applers argue that they have standing to enforce Covenant 14.

“Standing” requires that the person bringing a cause of action be adversely affected by the matter in order to assure that the person is the appropriate party to bring the matter to judicial resolution. *Koresko v. Farley*, 844 A.2d 607, 616 (Pa. Commw. 2004) (citing *Drummond v. Univ. of Pa.*, 651 A.2d 572, 577 (Pa. Commw. 1994) (citing *Pa. Game Comm'n v. Dep't of Envtl. Resources*, 555 A.2d 812 (Pa. 1989)). The concept of “standing” is concerned only with the question of *who* is entitled to make a legal challenge to the matter involved. *Pa. Game Comm'n*, 555 A.2d at 815 (emphasis in original) (citing *Sprague v. Casey*, 550 A.2d 184 (Pa. 1988); *Application of Biester*, 409 A.2d 848 (Pa. 1979); *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269 (Pa. 1975); *Keystone Raceway Corp. v. State Harness Racing Comm'n*, 173 A.2d 97 (Pa. 1961); *Dep't of Labor and Industry v. Unemployment Comp. Review Bd.*, 67 A.2d 114 (Pa. 1949)). As a general matter, the core of standing is that a person who is not adversely affected in any way by the matter *he seeks to challenge* is not aggrieved thereby and has no right to obtain a judicial resolution of his challenge. *See generally Pa. Game Comm'n*, 555 A.2d at 815 (citing *Indep. State Store Union v. Pa. Liquor Control Bd.*, 432 A.2d 1375 (Pa. 1981); *Pierro v. Pierro*, 252 A.2d 652 (Pa. 1969); *Louden Hill Farm, Inc. v. Milk Control Comm'n*, 217 A.2d 735 (Pa. 1966); *Dep't of Labor and Industry*, cited above) (emphasis added).

Plaintiffs' argument that the Applers do not have standing is incorrect. Plaintiffs brought this action against the Applers. The issue of standing would therefore only concern whether Plaintiffs have standing to bring this action. Plaintiffs argue that the Applers do not have standing because the deed only allows “owner(s) of any lot in this subdivision” to “prosecute any person(s) violating or attempting to violate the same.” (Deed at ¶ 15). The Applers are not attempting to “prosecute” anyone in this litigation; they are being prosecuted by Plaintiffs. A defendant who is served with a civil action does not have to assert standing as he is not the party initiating the action and

requesting relief in a legal setting. The Applers' preliminary objection in this regard will therefore be granted and paragraph 17 of Plaintiff's Complaint will be stricken.⁴

CONCLUSION

For the reasons stated above, the Applers' Preliminary Objections will be granted in part and denied in part. Paragraphs 15(a), 15(d), and 17 of Plaintiffs' Complaint will be stricken. Paragraphs 15(b), 15(c), and 15(e) will remain. The Applers are directed to file an answer to Plaintiffs' Complaint within twenty (20) days of the date of mailing of this Opinion and accompanying Order.

ORDER

AND NOW, this 21st day of September, 2005, in consideration of Defendants' Preliminary Objections filed on March 28, 2005, said objections are granted as to paragraphs 15(a), 15(d), and 17 of Plaintiff's Complaint and denied as to paragraphs 15(b), 15(c), and 15(e).

⁴If the Applers' standing was an issue, the Applers would appear to have standing. To establish standing, parties must show that they have an interest in the outcome of the litigation that is substantial, direct, and immediate. *Koresko*, 844 A.2d at 616 (citing *William Penn Parking Garage, Inc.*, 346 A.2d 269). An interest is substantial if there is a discernible adverse effect to an interest other than that of the general citizenry. *Koresko*, 844 A.2d at 616 (citing *William Penn Parking Garage, Inc.*, 346 A.2d at 282). It is direct if the petitioner can show harm to his interest. *Koresko*, 844 A.2d at 616 (citing *William Penn Parking Garage, Inc.*, 346 A.2d at 282). It is immediate if it is not a remote consequence of the judgment. *Koresko*, 844 A.2d at 616 (citing *William Penn Parking Garage, Inc.*, 346 A.2d at 283).

The Applers have a substantial, direct and immediate interest in this litigation as Plaintiffs are attempting to strike Covenant 14. Striking Covenant 14 would eliminate the Applers' right to build the initial dwelling on the lot, which would necessarily create an adverse effect on the Applers' interest as their interest in this litigation would be eliminated.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-98 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the middle of the Littlestown-Gettysburg State Highway; thence by land now or formerly of Earl and Louise Feeser, North 52 degrees East, 195 feet to a post thence by land now or formerly of William and Ida Golden, South 42-1/4 degrees East, 50 feet to an iron pin; thence by land now or formerly of Sylvester J. Collins, South 43-1/4 degrees West, 182 feet to a point in the middle of said State Highway; thence by land now or formerly of Mrs. D.C. Rudisill, North 51-1/2 degrees West, 80 feet to the place of BEGINNING.

CONTAINING 49 perches, more or less.

BEING the same premises which Richard L. Slick and Mary Louise Slick, husband and wife, by their deed dated March 14, 2002, and recorded in the office of the Recorder of Deeds in and for Adams County in Record Book 2597, Page 188, granted and conveyed to Mary Louise Slick and Teresa L. Slick, Trustees of the Slick Family Irrevocable Trust, the Grantors herein.

TITLE TO SAID PREMISES IS VESTED IN Anthony D. Astorino, a single person and Kristine E. Kristoffersen, a single person, by Deed from Mary Louise Slick and Teresa L. Slick, Trustees of the Slick Family Irrevocable Trust, dated 10-31-03, recorded 11-13-03 in Deed Book 3379, page 245.

TITLE TO SAID PREMISES IS VESTED IN Mary Louise Slick and Teresa L. Slick, Trustees of the Slick Family Irrevocable Trust, by Deed from Richard L. Slick and Mary Louise Slick, husband and wife, dated 3-14-02, recorded 3-21-02 in Deed Book 2597, page 188.

Premises being: 3348 Baltimore Pike, Littlestown, PA 17340

Tax Parcel No. 30-H16-0019-000

SEIZED and taken into execution as the property of **Anthony D. Astorino & Kristine E. Kristoffersen** and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-1140 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of July, 2006, 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 lying and situate in Straban Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING for a point at a p.k. nail near the Eastern edge of Shrivvers Corner Road and other lands of the Grantors herein; thence along said Shrivvers Corner Road, North thirty (30) degrees thirty-seven (37) minutes five (05) seconds West, fifty-three and sixty-three hundredths (53.63) feet to a p.k. nail near the Eastern edge of Shrivvers Corner Road at Lot No. 1 of the hereinafter referenced subdivision plan; thence along same, the following six courses and distances: 1) North thirty-eight (38) degrees ten (10) minutes zero (00) seconds East, nine hundred sixty-nine and seventy-four hundredths (969.74) feet to a steel rod; thence 2) North thirty-four (34) degrees three (03) minutes thirty-five (35) seconds East, one hundred forty-three and eighty hundredths (143.80) feet to a steel rod; thence 3) North thirty-six (36) degrees forty-five (45) minutes forty-five (45) seconds West, seventy-two and seventeen hundredths (72.17) feet to a pin; thence 4) North forty-four (44) degrees thirty-eight (38) minutes thirty-five (35) seconds East, two hundred thirteen and fifty-eight hundredths (213.58) feet to a steel rod; thence 5) North seven (07) degrees eight (08) minutes ten (10) seconds West, one hundred eighty-four and eighty-two hundredths (184.82) feet to a pipe; thence 6) North forty-six (46) degrees thirty (30) minutes zero (00) seconds East, eight hundred ninety-three and eight hundredths (893.08) feet

to a point at lands now or formerly of Joseph Kaminkas; thence along same, South forty-nine (49) degrees one (01) minute fifty-five (55) seconds East, seven hundred nineteen and thirty hundredths (719.30) feet to an existing pipe at a corner post at lands now or formerly of Sarah A. Kulp; thence along same, South thirty-eight (38) degrees four (04) minutes thirty (30) seconds West, one thousand two hundred eight and eleven hundredths (1,208.11) feet to a steel pin at other lands of the Grantors herein; thence along same, the following two courses and distances: 1) North sixty-five (65) degrees eight (08) minutes zero (00) seconds West, six hundred twenty-nine and forty-three hundredths (629.43) feet to a steel rod; thence 2) South thirty-eight (38) degrees ten (10) minutes zero (00) seconds West, nine hundred eighty-nine and fifteen hundredths (989.15) feet to a p.k. nail near the eastern edge of Shrivvers Corner Road, the point and place of BEGINNING, CONTAINING 24.116 acres and identified as Lot 2 on a plan of lots, which plan is recorded in the Recorder of Deeds Office in and for Adams County, Pennsylvania, in Plat Book 66, at page 40.

BEING the same tract of land which Elizabeth A. MacFarlane and Debra R. Weverink, by deed dated April 28, 1999, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1828 at page 16, granted and conveyed unto Heinz J. Weverink and Debra R. Weverink, husband and wife, the Defendants herein.

Improved with a single family dwelling with several outbuildings and known as 404 Shrivvers Corner Road, Gettysburg, Pennsylvania.

SEIZED and taken into execution as the property of **Heinz Weverink & Debra R. Weverink** and to be sold by me.

James W. Muller-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 August 21, 2006, 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.

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-341 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of August, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land Situate on the northerly right of way line of Abbotts Drive in the Borough of Abbottstown, County of Adams and State of Pennsylvania known and numbered as Lot NO. 38 on a plan of lots for Abbotts Manor Phase II recorded in the Office of the Recorder of Deeds in and for Adams County, PA in subdivision Plot 73, page 43, more fully bounded and described as follows, to wit:

BEGINNING at a point on the northerly right of way line of Abbotts Drive at a corner of Lot No. 37 on a final plan of lots for Abbotts Manor Phase I recorded in the aforesaid Recorder's Office in Plot Book 69, page 95; thence extending along the said Lot No. 37 North 30 degrees 02 minutes 10 seconds West 277.24 feet to a point; thence North 64 degrees 04 minutes 00 seconds East 62.30 feet to a point or a corner of Lot No. 39 on a plan of Lots for Abbotts Manor Phase II recorded in the aforesaid Recorder of Deeds Office in Plot Book 73, page 43; thence extending along the said Lot No. 39 South 35 degrees 47 minutes 14 seconds East 202.48 feet to a point; thence extending along the said right of way of Abbotts Drive on a line curving to the right having a radius of 170 feet, an arc distance of 86.06 feet with a chord bearing South 45 degrees 27 minutes 41 seconds West 85.14 feet to the point and place of BEGINNING. CONTAINING 15,888 Sq. Ft.

BEING THE SAME PREMISES WHICH First Horizon Home Loan Corporation by deed dated 4/4/01 and recorded 4/17/01 in the Office of the Recorder of Deeds of Adams County in deed book 2258, page 0056, granted and conveyed unto The Secretary of Housing and Urban Development.

BEING the same property acquired by the Grantor pursuant to the provisions of the National Housing Act, as amended (12 U.S.C. 1701 et seq.) And The Department of Housing and Urban Development Act (42 U.S.C. 3531).

TITLE TO SAID PREMISES IS VESTED IN David A. Lex and Angela M. Lex, by Deed from Mel Martinez, the Secretary of Housing & Urban Development, dated 7/24/01, recorded 8/7/01 in Book 2365, page 251.

TITLE TO SAID PREMISES IS VESTED IN Mel Martinez, the Secretary of Housing & Urban Development, by Deed from First Horizon Home Loan Corporation, dated 4/4/01, recorded 4/17/01 in Book 2258, page 56.

Premises being: 173 Abbotts Drive, Abbottstown, PA 17301

Tax Parcel No. 01-005-0052-000

SEIZED AND TAKEN INTO EXECUTION as the property of **David A. Lex & Angela M. Lex a/k/a Angela M. Myers** and to be sold by me.

James W. Muller-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 August 28, 2006, 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.

6/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-635 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of August, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground situate in Franklin Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin on the right-of-way line of Oak Drive at the corner of Lot No. 15 of the hereinafter referred to subdivision plan; thence from said iron pin running along right-of-way line of Oak Drive by a curve to the left, the radius of which is 825 feet, having an arc of 218.78 feet and a long chord bearing and distance of South 64 degrees 20 minutes 00 seconds West, 218.14 feet to an iron pin on the right-of-way line of Oak Drive at corner of Lot No. 13 of hereinafter referred to subdivision plan; thence along Lot No. 13, North 33 degrees 15 minutes 50 seconds West, 183.49 feet to an iron pin at corner of Lot No. 17 of hereinafter referred to subdivision plan;

thence along Lot No. 17, North 63 degrees 01 minute 00 seconds East, 267.58 feet to an iron pin at above mentioned Lot No. 15; thence along said Lot No. 15, South 18 degrees 04 minutes 10 seconds East, 189.71 feet to an iron pin on the right-of-way line of Oak Drive, the poin and place of BEGINNING. CONTAINING 1.007 Acres.

The above description was taken from draft of survey entitled "Recreational Real Estate Co.," prepared by Boyer-Price Surveys, Inc. on March 19, 1974 recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 4 at Page 50 and designated on said plat as Lot No. 14.

HAVING THEREON ERECTED a dwelling house known as: 240 Oak Drive, Orrtanna, Pennsylvania 17353-9522

BEING THE SAME PREMISES WHICH G. Robert Deatrick et al by deed dated 1/11/94 and recorded in Adams County Deed Book 0834 Page 0109 granted and conveyed unto Bryan C. Clevenger and Kimberly A. Clevenger.

SEIZED IN EXECUTION as the property of Kimberly Clevenger (a/k/a Kimberly A. Clevenger) and Bryan C. Clevenger under Adams County Judgment No. 03-S-635

Map & Parcel 12-B9-191

SEIZED and taken into execution as the property of **Kimberly Clevenger & Bryan C. Clevenger** and to be sold by me.

James W. Muller-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 August 28, 2006, 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.

6/23, 30 & 7/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-340 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of August, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land, together with improvements thereon erected, situate on the east side of Jacobs Street in the Borough of East Berlin, Adams County, Pennsylvania, being the southern half of Lot #25 and all of Lots #26 & #27 on a plan of lots as laid out by Paul E. Jacobs, and being known and numbered as 210 Jacobs Street, more fully bounded and described as follows:

BEGINNING at a stake at the intersection of the east side of Jacobs Street with the North side of Walnut Street; thence by Jacobs Street, North 22 degrees 50 minutes East, 131 feet to a stake on the center line of Lot #25; thence through the center of Lot #25, South 67 degrees 10 minutes East, 180 feet to a stake on the west side of a 20 foot alley; thence along the west side of said alley, South 22 degrees 50 minutes West, 131 feet to a stake on the north side of Walnut Street; thence along the north side of Walnut Street, North 67 degrees 10 minutes West, 180 feet to the first mentioned stake on the East side of Jacobs Street, and the place of BEGINNING.

BEING the same which Genevieve L. Tate, widow, by her deed dated February 22, 1984 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book 375 at page 393, sold and conveyed unto Robert A. Brodbeck and Patricia J. Rabine, as joint tenants with the right of survivorship, the Grantors herein.

TITLE TO SAID PREMISES IS VESTED IN Robert A. Brodbeck and Patricia J. Brodbeck, husband and wife, as Tenants of an Estate by the Entireties, by Deed from Robert A. Brodbeck and Patricia J. Rabine, dated 9-26-84, recorded 9-27-84 in Deed Book 387, page 449.

Premises being: 210 Jacobs Street, East Berlin, PA 17316

Tax Parcel No. 10-006-0052-000

SEIZED and taken into execution as the property of **Robert A. Brodbeck & Patricia J. Brodbeck** and to be sold by me.

James W. Muller-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 August 28, 2006, 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.

6/23, 30 & 7/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-396 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of August, 2006, 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 Reading and Straban Townships, Adams County, Pennsylvania, bounded and described in accord with the final subdivision plan of Earl J. Sipe prepared by Thomas and Associates Surveyors, E. L. Mart R. S., dated October 13, 1978 as follows, to wit:

BEGINNING at a point in Township Road T-328 thence across said road and through an iron pipe set back twenty-five (25) feet from the beginning of this course North fifty-six degrees (56°) eleven minutes (11') twelve seconds (12") West, one hundred nineteen and thirty-nine hundredths feet (119.39) to a point in the stream bed of Conewago Creek as shown on said plan; thence along and through creek bed of said Conewago Creek on the aforesaid plan the following seven (7) courses and distances; North fifteen degrees (15°) forty minutes (40') zero seconds (00") East, two hundred seventy feet (270.00) to a point; thence by same North sixty-five degrees (65°) nine minutes (9') zero seconds (00") West, three hundred feet (300.00) to a point; thence by same North fifty-one degrees (51°) ten minutes (10') zero seconds (00") West, two hundred fifty feet (250.00) to a point; thence by same South sixty-seven degrees (67°) twenty-one minutes (21') forty-six seconds (46") West, one hundred ninety-six and seventy-four hundredths feet (196.74) to a point; thence by same South thirty-seven degrees (37°) fifty minutes (50') zero seconds (00") East, one hundred seventy-five feet (175.00) to a point; thence by same North eighty degrees (80°) fifteen minutes (15') zero seconds (00") West, three hundred forty-four and eighty-six hundredths feet (344.86) to a point; thence by same

North sixty-four degrees (64°) zero minutes (00') zero seconds (00") West, three hundred forty-seven and ninety hundredths feet (347.90) to a point on the south side of said Conewago Creek; thence through said Conewago Creek and through an iron pipe set back two hundred feet (200.00) from the beginning of this course and along land now or formerly of Ronald Mundy North seventy-three degrees (73°) twenty-two minutes (22') twenty-one seconds (21") East, one thousand ninety and twenty-five hundredths feet (1,090.25) to a point at a fence post at land now or formerly of Ronald Mundy; thence by same and through an iron pipe set back twenty-five feet (25.00) from the terminus of this course South fifty-six degrees (56°) thirty-three minutes (33') fifty-four seconds (54") East, five hundred sixty-one feet (561.00) to a point in the West edge of Township Road T-328; thence along said Township Road T-328 South twenty-five degrees (25°) forty minutes (40') sixteen seconds (16") West, six hundred seventy-five and seventy-nine hundredths feet (675.79) to a point in Township Road T-328, the point and place of BEGINNING.

CONTAINING 11.332 Acres.

HAVING ERECTED THEREON a dwelling known as 327 Group Mill Road, New Oxford, Pennsylvania 17350.

BEING the same premises which Earl J. Sipe, single and Pearl Minella and Joseph Minella, her husband, granted and conveyed unto Michael J. Sneeinger, single, by deed dated December 13, 1978, and recorded on December 22, 1978 in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book Volume 342, page 906.

Tax ID No. J9-2A

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

James W. Muller-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 August 28, 2006, 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.

6/23, 30 & 7/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-155 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of August, 2006, 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 Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in a public road leading from the Biglerville Highway to the Mummasburg Highway, which point is South 23 degrees 52 minutes West 200 feet from an iron pin; thence by lands now or formerly of Leo Kuhn, North 66 degrees 8' West 356.123 feet to a point; thence North 24 degrees East, 100 feet to a point at land now or formerly of Buford, Inc.; thence by said last mentioned land, South 66 degrees 8; East, 355.866 feet to a point in the public road leading from the Biglerville Highway to the Mummasburg Highway, thence in said last mentioned road, South 29 degrees 52; West, 100 feet to a point, the place of BEGINNING.

HAVING ERECTED THEREON a dwelling known as 715 HARRIS RIDGE ROAD, Gettysburg, Pennsylvania 17325.

BEING the same premises which Elton M. Shelton, Jr. and Theresa M. Shelton, husband and wife, granted and conveyed unto Elton M. Shelton, Jr., by deed dated July 17, 1997, and recorded on August 14, 1997 in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book Volume 1423, page 185.

Tax ID No. F11-102

SEIZED and taken into execution as the property of **Elton M. Shelton, Jr.** and to be sold by me.

James W. Muller-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 August 28, 2006, 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.

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
CASE NO. 06-S-663
Action to Quiet Title

JEFFREY B. KELLER and MARY M. KELLER, husband and wife, Plaintiffs

vs.

THOMAS O. FEESER, a/k/a T. O. FEESER, and LYDIA C. FEESER, husband and wife, their respective heirs, executors, administrators, successors and assigns, Defendants

and

JAMES R. COLLINS, JR., Defendant

TO: Thomas O. Feeser a/k/a T. O. Feeser, and Lydia C. Feeser, husband and wife, their respective heirs, executors, administrators, successors and assigns:

NOTICE

You are notified that the Plaintiffs have commenced an action to quiet title against you by complaint filed to the above docket number on June 14, 2006, which action you are required to defend.

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

If you wish to defend, you must 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 Plaintiffs. You may lose money or property or other rights important to you.

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

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

Court Administrator
Adams County Courthouse
Gettysburg, PA 17325
Telephone Number 717-337-9846
Toll Free Number 1-888-337-9846

6/30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-219 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of August, 2006, 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 the Borough of Bonneauville, Adams County, Pennsylvania, being more particularly described as Lot No. 79 on a plan of lots of Bonnie Field, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 9, at Page 24, and subject to all legal highways, easements, rights-of-way and restrictions of record.

UNDER AND SUBJECT to restrictions and conditions as now appear of record.

Map 9 Parcel 93

Premises being: 4 West Bonniefield Drive, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Rick D. Leese & Catherine M. Leese** and to be sold by me.

James W. Muller-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 August 28, 2006, 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.

6/30, 7/7 & 14

ESTATE NOTICES

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

FIRST PUBLICATION**ESTATE OF MARY NATALIE CONOVER, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Willis M. Conover, Jr., 110 Hemlock Drive, Clarks Summit, PA 18411

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

ESTATE OF RUTH E. HARTLAUB, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Co-Executors: Tina M. Smith & Ronald E. Wolford, c/o Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

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

ESTATE OF ROSALIE M. KNOWLES, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Administrators C.T.A.: Judy R. Sechrist, 200 Woodland View Dr., York, PA 17402; John D. Berkheimer, 2040 Sandalwood Court, York, PA 17404

Attorney: Charles J. Long, Esq., Smith, Anderson, Baker & Long, 25 North Duke Street, 2nd Fl., York, PA 17401

ESTATE OF BRENT E. LeTERSKEY, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administratrix: Lisa M. Toomey, 32 McAllister Street, Unit 2, Hanover, PA 17331

Attorney: John James Mooney, III, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF MARION H. LITTLE, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executrix: C. Kay Kime, 604 W. Myrtle Street, Littlestown, PA 17340

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

ESTATE OF TERRY L. ZUMBRUM, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Co-Executors: Clair J. Zumbrum, Jr., 350 S. Center St., Hanover, PA 17331; Darlene M. Eckert, 1200 Galatco Lodge Rd., Hanover, PA 17331

Attorney: John James Mooney, III, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

SECOND PUBLICATION**ESTATE OF MARGARET A. ALLEN-DEER, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executors: Raymond A. Williams, 122 Valley View Drive, Hanover, PA 17331; Robert H. Webb, 217 Grant Drive, Hanover, PA 17331

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

ESTATE OF HAROLD E. FREED, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Toni K. Sterner, 29 Heritage Drive, Hanover, PA 17331

Attorney: Daniel M. Frey, Esq., Barley Snyder, 14 Center Square, Hanover, PA 17331

ESTATE OF LOUISE M. KUMP, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Clair M. Kump, 451 Silo Road, Ortanna, PA 17353

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

ESTATE OF JOHN P. LUCABAUGH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Sterling L. Lucabaugh, 9082 Yellow Church Rd., Seven Valleys, PA 17360; David E. Lucabaugh, 3339 Sunnyside Lane, Spring Grove, PA 17362; Darlene F. HERSHEY, 1703 KBS Road, Spring Grove, PA 17362

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

ESTATE OF EZEKIEL R. MOXLEY, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Bonita A. Reaver, 1379 Frederick Pike, Littlestown, PA 17340; Gary J. Moxley, 1365B Frederick Pike, Littlestown, PA 17340

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

ESTATE OF MARY E. MOXLEY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Bonita A. Reaver, 1379 Frederick Pike, Littlestown, PA 17340; Gary J. Moxley, 1365B Frederick Pike, Littlestown, PA 17340

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

ESTATE OF BEULAH M. SMITH, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Jack Owens a/k/a John R. Owens, Jr., 31 Sawmill Road, Chepachet, RI 02814

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

THIRD PUBLICATION**ESTATE OF CATHERINE E. MILLER, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Doris Witherow, 126 York Street, Gettysburg, PA 17325; Jean Greenwald, 253 Chambersburg Road, Gettysburg, PA 17325

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

ESTATE OF BLANCHE L. MOOG, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Andrea W. Jones, 750 Old Cabin Hollow Road, Dillsburg, PA 17019

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

ESTATE OF LOIS J. REAGLE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Theodore Kopey, Jr., 270 C Park St., Seven Valleys, PA 17360

ESTATE OF RUTHANNA B. STARNER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Albert Milton Stamer, 44 West King Street, Littlestown, PA 17340

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

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
NO. RT-8-06

NOTICE

TO: DEMAURA JESTINE BROWN

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for August 3, 2006, at 9:00 a.m., prevailing time, in the Conference Room on the 4th Floor of the Adams County Courthouse, at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

You should contact 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
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone number: (717) 337-9846

Chester G. Schultz, Attorney at Law
145 Baltimore Street
Gettysburg, PA 17325

6/16, 23 & 30

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 June 8, 2006 under the Pennsylvania Business Corporation Law for MANVILLE MANUFACTURING SOLUTIONS, INC. The address of the Corporation is 83 Dickinson Drive, Hanover, PA 17331.

6/30