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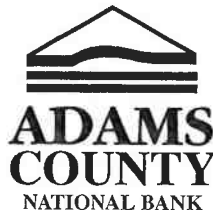
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HOLSINGER VS. CARROLL VALLEY ET AL

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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. 02-S-1235 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of Harney Road at lands now or formerly of Esh; thence in the center of said Harney Road, South seventy-seven (77) degrees eight (08) minutes fifty-four (54) seconds East, one hundred sixty-three and forty-four hundredths (163.44) feet to a point at other lands now or formerly of Lake Weant; thence by said lands and through a steel pin set thirty (30) feet back on the line, South seventeen (17) degrees forty-one (41) minutes thirty-two (32) seconds West, two hundred seventy-three and sixty-seven hundredths (273.67) feet to a flange axle; thence continuing by lands, North seventy-seven (77) degrees sixteen (16) minutes eighteen (18) seconds West, one hundred eighteen and eighty-four hundredths (118.84) feet to a flange axle; thence continuing by said lands, South twenty-one (21) degrees eleven (11) minutes twenty-eight (28) seconds West, two hundred sixty-six and sixteen hundredths (266.16) feet to a flange axle; thence continuing by said lands, North seventy-four (74) degrees fifty-five (55) minutes twenty-two (22) seconds West, twenty-seven and ninety-two hundredths (27.92) feet to a flange axle at lands now or formerly of Esh; thence by said land, North seventeen (17) degrees thirty-nine (39) minutes twenty-five (25) seconds East, five hundred thirty-seven and ten hundredths (537.10) feet to the place of BEGINNING.

CONTAINING 1.2419 acres, neat measure.

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

TITLE TO SAID PREMISES IS VESTED IN Brian Scott Boese by Deed from

Tony R. Forbes and Bonnie S. Forbes, his wife dated 10/29/1999 and recorded 11/4/1999 in Record Book 1947 Page 126.

Tax Parcel: H-18-13A

Premises Being: 1655 Harney Road, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Brian Scott Boese** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 5, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/24, 31 & 11/7

SHERIFF'S SALE

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

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

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

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

CONTAINING 6.7478 acres.

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

PROPERTY ID NO: D11-95A

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

SEIZED and taken into execution as the property of **Stephan H. Reaver & Cindy L. Reaver** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 5, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/24, 31 & 11/7

HOLSINGER VS. CARROLL VALLEY ET AL

1. Municipal corporations do not have inherent powers and may do only those things that the legislature has expressly, or by necessary implication, placed within their power to do. The absence of a specific authority is not conclusive as it is well-settled that a municipality may possess powers that are incidental to those expressly granted.

2. It is clear that the legislature has granted the governing body of a municipality the power to enact laws and regulate land use pursuant to police powers.

3. The Borough's efforts, through the storm water management ordinance, to regulate obstructions in its streets and sewers is clearly within its specific grant of authority.

4. The test to determine whether a state's statute preempts local legislation is well established in this Commonwealth. Either the statute must expressly forbid local legislation or indicate an intention on the part of the legislature that it should not be supplemented by municipal bodies.

5. The Storm Water Management Act generally calls for each county to prepare a water shed storm water management plan to allow for a comprehensive program of storm water management.

6. Where a county has adopted and approved a storm water management plan, the only requirement from the municipality is that ordinances be adopted or amended in a manner consistent with the applicable plan.

7. The Municipalities Planning Code is inapplicable to a consideration as to the legality of "in lieu of" fees.

8. A court may not consider a theoretical challenge to an ordinance where there has been no harm.

9. The common-law rules relating to surface water are derived from the maxim that "water must flow as it is wont to flow." The "common-law" rule follows the fundamental rule of nature that because water is descendable, the owner of a higher ground has an easement in lower land for the discharge of all waters that naturally rise in or flow or fall upon the lower land from the higher land.

10. In limited circumstances, the owner of higher ground may be held accountable for the affects of surface water where the water has been diverted from its natural channel by artificial means or where the quantity of the surface water has been unreasonably or unnecessarily increased.

11. The Equal Protection Clause does not forbid classifications. It simply keeps governmental decisionmakers from treating differently persons who are in all relevant aspects alike. Where there is no fundamental right at stake and no inherently suspect classification present, the Equal Protection Clause requires only that the classification rationally further a legitimate state interest. In such cases governmental decisions are presumptively constitutional. Since it has been held that a municipality's enactment of storm water legislation affecting property owners does not infringe upon a fundamental right, the Ordinance need only be rationally related to a legitimate municipal interest to survive the scrutiny of the Equal Protection Clause.

12. The Court will not sit as a superlegislature to judge the wisdom or desirability of legislative policy determinations made in areas that neither affect fundamental rights nor proceed along suspect lines. It is only the wholly arbitrary act which cannot stand consistently with the Fourteenth Amendment.

13. Government action, short of acquisition of title or occupancy, may amount to compensative taking of property "if its effects are so complete as to deprive the owner of all or most of his interest in the subject matter. On the other hand, governmental agencies may impose land-use regulations so long as they substantially advance legit-

imate governmental interests and do not deny the owner's economically viable use of the land.

14. Placing limits on the use of property does not obligate the government to compensate owners even where severe diminution in property value results if the limitations are imposed in a reasonable non-arbitrary manner by legislative regulations enacted for public health, morals and safety.

15. 42 U.S.C. §1983 (2002) authorizes a cause of action for "the deprivation of any rights, privileges or immunities secured by the Constitution and laws." A municipality, or local government, is not wholly immune from suit under §1983. A §1983 claim, however, is a separate cause of action and is not properly raised as a zoning appeal.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 01-S-537, DANNIE W. HOLSINGER AND ANNA M. HOLSINGER VS. CARROLL VALLEY BOROUGH COUNCIL AND CARROLL VALLEY ZONING HEARING BOARD

Lisa M. DiBernardo, Esq., for Plaintiffs

Matthew R. Battersby, Esq., for Defendants

George, J., December 9, 2002

OPINION

This land use appeal presents a challenge to the validity of the Carroll Valley Borough Storm Water Management Ordinance, Ordinance #6-2000 (hereinafter referred to as "Ordinance"). The purpose of the Ordinance is to regulate storm water runoff by providing for certain erosion, sedimentation control and storm water management measures within the Borough of Carroll Valley. Ordinance § 101. The Ordinance essentially requires that before a building permit can be issued, a storm water management plan in compliance with the Ordinance must be approved by the Borough Engineer and a soil erosion and sedimentation control plan must be approved by the Adams County Conservation District. Ordinance § 104. The Ordinance sets forth a number of requirements and storm water design standards. Notably, the Ordinance provides that where the standards of the Ordinance cannot be met an "in lieu of" fee shall be charged against the property owner. *See generally*, Ordinance, Part 3, Letter C.

Appellants, Dannie W. Holsinger and Anna M. Holsinger (hereinafter collectively referred to as "Holsingers"), are owners of Lot W-54, 8 Anna Trail, Carroll Valley Borough, Adams County, Pennsylvania, (hereinafter referred to as "Property"). The Holsingers were interested in building upon their undeveloped property, however, were denied a building permit based upon their failure

to comply with the Ordinance.¹ The Holsingers timely challenged the denial of the building permit by filing an appeal with the Carroll Valley Borough Zoning Hearing Board (hereinafter referred to as “Board”). After hearing on the matter, the Board denied the Holsingers’ appeal and upheld the validity of the Ordinance by written decision dated April 27, 2001. The Holsingers have now appealed to this Court raising a number of substantive and constitutional challenges to Carroll Valley Ordinance #6-2000.²

For purposes of clarity, each issue will be addressed separately in the order in which they are raised in the Holsingers’ brief.

Carroll Valley Borough’s Authority for Adopting the Storm Water Management Ordinance

The Holsingers initially challenge the authority of the Borough to enact the Ordinance. Specifically, they argue that neither the Municipalities Planning Code, nor the Borough Code, authorizes enactment of such an Ordinance.³

¹The parties before the Board have stipulated that the Holsingers applied for a building permit and that the permit was not acted upon because Holsinger did not comply with Ordinance #6-2000. N.T., pp. 6-7 (Jan. 25, 2001).

²Since the Court has not received additional evidence, my review of the decision of the zoning hearing board is limited to whether the Board committed an abuse of discretion or error of law. *Hill District Project Area Comm., Inc. v. Zoning Bd. of Adjustment of City of Pittsburgh*, 638 A.2d 278, 280 n.1 (Pa. Commw. Ct. 1994).

³The Holsingers’ Notice of Land Use Appeal raises the issue as follows: “Appellants assert that said Ordinance is a violation of the Municipal Planning Code in that no authority is granted to boroughs to enact any type of storm water ordinance nor is any such authority contained in the Borough Code” Holsingers’ Notice of Land Use Appeal, ¶ 9. However, Holsingers’ Brief raises the issue as the Ordinance being “invalid pursuant to the Pennsylvania Municipal Planning Code.” Holsingers’ Br., p. 3. It is, therefore, unclear whether the issue turns on a lack of authority by the municipality or rather violates a specific provision of a state statute. The latter argument apparently stems from the Holsingers’ belief that the municipality cannot add additional conditions to the obtaining of a building permit on properties for which a subdivision was previously approved. In support of this argument, they argue that the subject property is part of a previously approved subdivision. The subdivision approval in question, well known locally as “Charnita”, was approved in the early 1970’s. Unfortunately for the Holsingers, their argument in this regard is contrary to existing law. PA. STAT. ANN. tit. 53, § 10508(4)(ii) (West 1997) (after plat approval, additional conditions due to subsequent change in ordinance prohibited only for five (5) years from date of approval); *Allland v. Sprankle*, 427 A.2d 275 (Pa. Commw. Ct. 1981)(building permit properly denied for failure to conform with requirements of new zoning ordinance where subdivision approval obtained nineteen (19) years earlier). Therefore, I will address the issue raised in their appeal only in terms of whether the Borough acted within their authority in adopting the Ordinance.

Municipal corporations are creatures of the State and the authority of the legislature over their powers is supreme, *Denbow v. Borough of Leetsdale*, 729 A.2d 1113, 1118 (Pa. 1999). Consequently, municipal corporations do not have inherent powers and may do only those things that the legislature has expressly, or by necessary implication, placed within their power to do. *Naylor v. Township of Hellam*, 773 A.2d 770, 773-74 (Pa. 2001). The absence of a specific authority is not conclusive as it is well-settled that a municipality may possess powers that are incidental to those expressly granted. *Id.* at 777, n.7.

The Ordinance describes its authority as being derived from Pennsylvania's Municipalities Planning Code, Act of 1968 (PA. STAT. ANN. tit. 53, § 10101 (West 1997)), as amended⁴, and the Borough Code of the Commonwealth of Pennsylvania, Act of February 1, 1966 (PA. STAT. ANN. tit. 53, § 45101 (West 1966), as amended. The Borough argues that their Ordinance is legislatively authorized by the specific mandates set forth in these statutes. Accordingly, I will begin my analysis by examining the relevant provisions of the Borough Code. In doing so, I recognize that enabling legislation must be liberally construed in order to effect its purposes. *Middletown Township v. Abel*, 297 A.2d 525, 528 n.2 (Pa. Commw. Ct. 1972).

The Borough Code sets forth the specific powers which the legislature has bestowed upon a borough. A number of those vested powers in the Borough are particularly relevant to the instant matter. For instance, boroughs have the power “[t]o regulate the streets, sewers, . . . , common grounds, sidewalks, curbs, gutters, culverts and drains, . . . and to prohibit the erection or construction of any building or other obstruction to the convenient use of the same.” PA. STAT. ANN. tit. 53, § 4602(17) (West 2002). Moreover, boroughs have been specifically granted the power “[t]o enact and enforce ordinances relating to buildings and housing, their construction, alteration, extension, repair and maintenance and all facilities and services in or about such buildings or housing, to require that, before any work of construction, alteration, extension or repair of any building is begun, approval of the plans and specifications therefor be secured; . . . [and] [t]o enact suitable ordinances relating to property maintenance” PA. STAT. ANN. tit. 53, § 46202(24) (West

⁴Ordinance § 102.

2002). These specific grants of power are complemented by the Legislature's authorization to boroughs "[t]o make and adopt all such ordinances, bylaws, rules and regulations. . . as may be expedient or necessary for the proper management, care and control of the borough and its finances, and the maintenance of peace, good government, safety and welfare of the borough and its trade, commerce and manufactures." PA. STAT. ANN. tit. 53, § 46202 (West 2002). From these provisions, it is clear that the legislature has granted the governing body of a municipality the power to enact laws and regulate land use pursuant to police powers. *Hill v. Zoning Hearing Bd. of Maxatawny Township*, 597 A.2d 1245, 1248 (Pa. Commw. Ct. 1991). As such, Carroll Valley Borough acted within its authority in adopting the Storm Water Management Ordinance.⁵

⁵The Borough also argues that authorization for their Ordinance is found in the Municipalities Planning Code. They rely upon authority in that Statute which authorizes municipalities to regulate subdivisions and land developments within the municipality. See PA. STAT. ANN. tit. 53, § 10501 (West 2002). A complete reading of that Code implicitly, if not specifically, authorizes a municipal authority to regulate storm water management (*see generally*, PA. STAT. ANN. tit. 53, §§ 10503(2), (3) and (4)) (West 2002), however, by the express language of the statute that authority is limited to the regulation of "subdivisions" and "land development." Those terms are defined by that same statute as follows:

"Land development," [means] any of the following activities:

- (1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - (i) a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - (ii) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (2) A Subdivision of land.
- (3) Development in accordance with section 503(1.1) (provisions for the exclusion of certain land development).

"Sub-division" [means] the division or re-division of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, building or lot development . . .

PA. STAT. ANN. tit. 53, § 10107 (West 2002). On the other hand, the Ordinance is applicable to "any person engaging in activities which disturb the natural topography and vegetation of their land or the land of others." Ordinance § 103(1). Therefore, the

Testimony before the Zoning Hearing Board reinforces the clear link between the legislature's grant of authority in the Borough Code and Carroll Valley's adoption of the Ordinance. Carl Bower, the Borough's Zoning Officer, summarized the "growing problem" in regard to storm water in the Borough as follows:

The reason being is that as mentioned here numerous times we have half acre lots. The half acre lot is approximately a hundred feet wide, two hundred feet long. By the time you remove all the trees to place the house on the lot, to put a sandmound on the lot, also to drill the well and the trees being the major contributor to the absorption of water and when you remove all that, you disturb a lot of soil and all these factors taken into consideration you create a tremendous amount of erosion from that. You're increasing the amount of water runoff so, therefore, if some controls aren't placed on it, you get a **substantial amount of sedimentation that will run off of the property in the gutter . . .**"

N.T., p. 54 (Jan. 25, 2001) (emphasis added).

Later, Mr. Bower referenced photographs that were admitted as exhibits which depicted a typical example of a property construction site resulting in muddy water running down the Borough's roads. *See generally Id.* at 58-59, including Borough Ex. I & II. The Borough's efforts, through the storm water management ordinance, to regulate obstructions in its streets and sewers is clearly within its specific grant of authority. Therefore, Holsingers' challenge to the Ordinance on this basis will be denied.⁶

Ordinance has greater application than the authority granted in the Municipalities Planning Code. It is applicable to activity on a single lot without consideration as to whether that lot is part of a larger "subdivision" or "land development" plan. If the provisions of the Ordinance had been limited to "subdivisions" and "land development" as defined in the Municipalities Planning Code, the authority of Carroll Valley would be clear. However, due to its broad application, the Ordinance cannot rely upon the Municipalities Planning Code as authority for its genesis as it affects a single lot.

⁶The Borough, in their brief, also argues that authorization for their Ordinance is found in sections of the Borough Code authorizing borough regulation of nuisances and dangerous structures, PA. STAT. ANN. tit. 53, § 46202(5) (West 2002), and health and cleanliness regulations, PA. STAT. ANN. tit. 53, § 46202(6) (West 2002). I am not convinced that authority for their Ordinance can be found in these sections.

Pennsylvania's Storm Water Management Act

The Holsingers argue that the state legislature's enactment of the Storm Water Management Act preempts local legislation in the area of storm water management. In order to preempt a field in which it has legislated, the general assembly must clearly show its intent to do so. *Retail Master Bakers Ass'n v. Allegheny County*, 161 A.2d 36 (Pa. 1960). The test to determine whether a state's statute preempts local legislation is well established in this Commonwealth. Either the statute must expressly forbid local legislation or indicate an intention on the part of the legislature that it should not be supplemented by municipal bodies. *Western Pennsylvania Restaurant Ass'n v. Pittsburgh*, 77 A.2d 616, 620 (Pa. 1951). Although a municipal ordinance may not contradict a state statute, *Bussone v. Blatchford*, 67 A.2d 587, 588 (Pa. Super. Ct. 1949), a municipal corporation may make additional regulations in furtherance of the purpose of the statutory law which are not, in themselves, unreasonable. *Western Pennsylvania Restaurant Ass'n*, supra. However, "absent a clear statement of legislative intent to preempt, a state legislation will not generally preempt local legislation on the same issue." *Mars Emergency Medical Serv., Inc. v. Adams Township*, 740 A.2d 193, 196 (Pa. 1999).

A review of the Storm Water Management Act indicates that the legislature did not intend to preempt local ordinances such as that adopted by Carroll Valley Borough. Indeed, the Act specifically lists among its purposes the encouragement of the "local administration and management of storm water consistent with the Commonwealth's duty as trustee of natural resources, . . ." PA. STAT. ANN. tit. 32, § 680.3(3) (West 1997). The Act generally calls for each county to prepare a water shed storm water management plan to allow for a comprehensive program of storm water management. This statute not only requires the County to seek municipal participation in forming the plan, *see* PA. STAT. ANN. tit. 32, § 680.6 (West 1997), but also requires that the water shed storm water plan consider and be consistent with other existing municipal, county, regional and state environmental and land use plans. PA. STAT. ANN. tit. 32, § 680.5(c)(2) (West 1997). Rather than forbid local legislation in the area of storm water management, the Act anticipates that zoning, subdivision, land development, building code, and erosion and sedimentation ordinances will co-exist with the state statute. Where a county has

adopted and approved a storm water management plan, the only requirement from the municipality is that ordinances be adopted or amended in a manner consistent with the applicable plan. *See* PA. STAT. ANN. tit. 32, § 680.11(a) (West 1997).

The record reveals that Adams County has not yet implemented the plan contemplated by the Storm Water Management Act. In moving forward with their Ordinance, Carroll Valley sought and obtained the approval of the Adams County Planning Commission, the Pennsylvania Department of Environmental Resources and the local Conservation District. N.T., Carl Bower, p. 64 (Jan. 25, 2001). Clearly, there is nothing in the Carroll Valley Ordinance which contradicts the efforts of the State or the County in this regard. Since there is no direct or inherent conflict between the Carroll Valley Ordinance and the Storm Water Management Act, it is clear that the local municipality is not preempted in this area. In fact, it may be argued that the Storm Water Management Act expressly authorizes the sharing of regulatory power concerning the management of storm water runoff. The Holsingers challenge in this regard will, therefore, be denied.

Continued to next issue (11/14/2003)

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-1232 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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 Highland Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to-wit:

TRACT NO. 1

BEGINNING at a point for a corner, in the center of the State Highway leading from Gettysburg to Fairfield marked by an iron pin set on the North side of said highway; thence running by land now or formerly of J.J. Spence, North eight and three-fourths (8-3/4) degrees West, two hundred and fourteen (214) feet to an iron pin; thence running by land of the same, North eighty-one and one-fourth (81-1/4) degrees East, one hundred and fifty-four (154) feet to an iron pin; thence running by land of the same, South eight and three-fourths (8-3/4) degrees East, two hundred and fourteen (214) feet to a point in the center of the above mentioned highway marked by an iron pin set on the North side of said highway; thence running in the center of said highway, South eighty-one and one-fourth (81-1/4) degrees West, one hundred fifty-four (154) feet to a point in the center of said highway, the place of BEGINNING. CONTAINING one hundred and twenty-one perches and fourteen square feet.

TRACT NO. 2

BEGINNING at a spike in the center of Pennsylvania Route #116 leading from Gettysburg to Fairfield at Southwest corner of land of the Estate of Allen L. Mallow, said spike being South 8 degrees 45 minutes East from an iron pin set back 21.1 feet along the line; thence in the center of said road, South 81 degrees 15 minutes West, 10 feet to a spike in the center of said road; thence along other land now or formerly of J.J. Spence and Ruth J. Spence, husband and wife, through an iron pin set back 21.1 feet along the line, North 8 degrees 45 minutes West, 214 feet through a small stream to an iron pin, thence along other land now or formerly of J.J. Spence, husband and wife, North 81 degrees 15 minutes East, 10 feet to an iron pin; thence by other land of Estate of Allen L. Mallow, back across the small stream, South 8 degrees 45 minutes East, 214 feet

through an iron pin set back 21.1 feet to a spike in the center of the highway, the place of BEGINNING. CONTAINING 7 perches and 204.11 square feet.

TRACT NO. 3

BEGINNING at a point in the center of Pennsylvania Route #116 leading from Gettysburg to Fairfield at Southeast corner of lot of the Estate of Allen L. Mallow; thence by other land of the Estate of Allen L. Mallow through an iron pin set back along the line, North 8 degrees 45 minutes West, 214 feet across small stream to an iron pin; thence by other land now or formerly of J.J. Spence and Ruth J. Spence, husband and wife, North 81 degrees 15 minutes East, 60 feet to an iron pin; thence by other land now or formerly of J.J. Spence and Ruth J. Spence, husband and wife, to be conveyed to John E. and Mary V. McDannell, South 8 degrees 45 minutes East, 214 feet through an iron pin set back 21.1 feet along the line to a point in the center of said State Highway; thence along the center of said State Highway, South 82 degrees 15 minutes West, 60 feet to a point, the place of BEGINNING. CONTAINING 47 perches and 44.25 square feet.

The description of Tract Nos. 2 and 3 were taken from draft of survey made June 7th, 1958, by Wilbur V. Redding, Registered Surveyor.

TITLE TO SAID PREMISES IS VESTED IN Michael L. Glynn by Deed from Dennis J. Baldwin and Roxann M. Baldwin, husband and wife dated 11/6/96, recorded 11/20/96, in Deed Book Volume 1291, page 224.

Tax Parcel: D-14-22
Premises Being: 3115 Fairfield Road, Gettysburg, PA 17325

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-N-24 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a stone for a corner on line of land now or formerly of Susan Crum; thence by said line, North 30-1/2 degrees West, 8 perches to a stone at a 20 foot alley; thence along said alley, North 40-3/4 degrees East, 5 perches to a stone at corner of a 10 foot alley; thence along said alley, South 30-1/2 degrees East, 8 perches to a stone; thence by the Whitestown Road, South 40-3/4 degrees West, 5 perches to the place of BEGINNING. CONTAINING 40 perches, neat measure.

BEING the same which Nancy L. Southerly and Frances L. Orner, Administratrices d.b.n.c.t.a. of the Estate of Arnold A. Southerly, deceased, by their deed dated September 8, 1988, which said deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 500 at page 487, sold and conveyed unto Steven W. Poland and Debora K. Poland, husband and wife.

SEIZED and taken into execution as the property of **Steven W. Poland & Debora K. Poland** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 29, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-990 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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.:

Parcel No: (17) K-09; 8B

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

BEGINNING for a point in the center of a public road leading to Brown's Dam; thence along lands of Criswell South eighty-three and one-half (83-1/2) degrees West, four hundred fifty-seven and five-tenths (457.5) feet to a point; thence along lands of J.L. Myers North twenty-one (21) degrees East, five hundred eighty-two (582) feet to an iron pin; thence along lands of Guy Haverstick North seventy-nine and three-fourth (79-3/4) degrees East, three hundred twenty-six and seven-tenths (326.7) feet to an iron bolt in the center of the aforementioned public road; thence along and through the center of said public road South seven and three-fourth (7-3/4) degrees West, five hundred fifty-one and six-tenths (551.6) feet to an iron bolt, place of BEGINNING. CONTAINING 4 acres, one hundred twelve and fifty-three hundredths (112.53) square perches as per survey of C.A. Wentz, Reg. Surveyor, dated May 7, 1966.

BEING the same premises which Melissa M. Wonder Sneeringer a/k/a Melissa M. Sneeringer, by Deed dated December 12, 2001, and recorded December 21, 2001, in Book 2505, Page 56, granted and conveyed unto Melissa M. Sneeringer and Michael G. Freet, in fee.

SEIZED and taken into execution as the property of **Melissa M. Sneeringer & Michael G. Freet** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the

purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

11/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-N-23 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, 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 Romayne 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.

The above description was taken from a draft of survey made August 27, 1942, by P.S. Orner, Registered Surveyor.

BEING the same which the Secretary of Housing and Urban Development of Washington, D.C., by Dale Albertelli, its Attorney-in-Fact, by deed dated December 8, 2000, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2184 at page 105, sold and conveyed unto Shawn M. Beaman and Shelly J. Beaman.

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

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

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

accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

NOTICE

NOTICE IS HEREBY GIVEN, that Matthew E. Teeter intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania on December 2, 2003 at 9:00 A.M. in Courtroom No. 1 of the Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania. He intends to practice law with the law firm of Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, Adams County, Pennsylvania.

11/7, 14 & 21

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of a Fictitious Name has been filed with the Department of State of the Commonwealth of Pennsylvania in Harrisburg, Pennsylvania, on August 25, 2003, pursuant to the Fictitious Name Act, Act No. 1982-295, setting forth that Timothy R. Knoebel and Gilbert J. Picarelli are the only individuals engaged or interested in a business, the character of which is for the purchase and sale of real estate and that the name, style and designation under which said business is and will be conducted is ANNSAN PARTNERSHIP, and the principal office or place of business is 143 Carlisle Street, Gettysburg, Pennsylvania 17325.

Miller & Shultis, P.C.
Timothy J. Shultis, Esq.
Solicitor

11/7

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF NELLIE S. BAIR, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executrix: Lorraine R. Pfaff a/k/a Loraine R. Pfaff, 200 Villa Vista Avenue, Hanover, PA 17331

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

ESTATE OF MARY V. CROUSE, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Clyde W. Crouse, 1215 Frederick Pike, Littlestown, PA 17340

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

ESTATE OF WILMER D. MILLER, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Administrators: Donald E. Miller, 4708 Oxford Rd., York Springs, PA 17372; Melvin L. Miller, 4671 Oxford Rd., York Springs, PA 17372

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

ESTATE OF E. CATHERINE PHELPS, DEC'D

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

Executor: William C. Phelps, 26 Robin Trail, Fairfield, PA 17320

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

ESTATE OF HELMI E. WOLFORD, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administrator: John C. Zepp, III, P.O. Box 204, York Springs, PA 17372

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

SECOND PUBLICATION

ESTATE OF CAROL LYNN CIEPIELA a/k/a CAROL LYNN RUTH, DEC'D

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

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

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

ESTATE OF ROSE M. FERRARA, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

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

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

ESTATE OF CHARLES F. LIVELSBERGER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

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

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

ESTATE OF ESTHER M. MILLER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

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

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

ESTATE OF ROBERT JAMES STORM, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

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

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

THIRD PUBLICATION

ESTATE OF EDNA L. HILBERT, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

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

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

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

Late of Mount Pleasant Township, Adams County, Pennsylvania

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

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



ESTATE OF RUTHANNA M. STAHL, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

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

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-22 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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 in Tyrone Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin located in Schoolhouse Road (Township Route T-566) at corner of Tract #1 set forth on the subdivision plan referred to below; thence by said Tract #1, and running through a reference iron pin located 94.41 feet from the beginning of this line,



East side of the aforementioned road; thence continuing by same, and in the aforementioned Schoolhouse Road, South 60 degrees 45 minutes 00 seconds West 467.31 feet to an iron pin in road, the place of BEGINNING. CONTAINING 3.272 acres, and being designated as Tract No. 3 on the subdivision plan prepared by Marian Anne Jones by Boyer-Price Surveys, Inc. dated August 21, 1974, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 7 at page 22.

BEING known as 310 Rock Valley Road, Aspers, PA 17304

Property ID No: H6-24C

TITLE TO SAID PREMISES IS VESTED IN James Craig Johnson and Sandra R. Johnson, husband and wife, as tenants by the entireties by Deed from Samuel B. Stoner and Alana M. Stoner, husband and wife dated 10/31/97, recorded 11/6/97, in Deed Book 1470, Page 131.

SEIZED and taken into execution as the property of James Craig Johnson & Sandra Lee Johnson a/k/a Sandra R. Johnson and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless

exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-565 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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, with any improvements thereon erected, situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a mark in the concrete on the inside edge of the sidewalk at the Southeastern corner of West Middle Street and South Washington Street; thence along the South edge of the sidewalk along West Middle Street, South 84 degrees 40 minutes East, 60.4 feet to a point on the Southern edge of the sidewalk at corner of buildings at lands now or formerly of George Lower; thence by said lands, South 5 degrees West, 105 feet to a point; thence through the original tract and by lands now or formerly of A.E. Hutchinson, et al, North 84 degrees 40 minutes West, 60.4 feet to a mark in the concrete on the eastern edge of the sidewalk along South Washington Street; thence along the eastern edge of the sidewalk on South Washington Street, North 5 degrees East, 105 feet to the place of BEGINNING.

The above description was taken from a draft of survey dated February 5, 1974 prepared by Leroy H. Winebrenner, R.S.

TITLE TO SAID PREMISES IS VESTED IN James G. Edge by deed from Paula D. Olinger, Executrix of the Estate of Mae E. Olinger dated 10/5/95 recorded 10/5/95 in the County of Adams in Deed Book 1092 page 182.

SEIZED and taken into execution as the property of James G. Edge and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004,

and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on September 8, 2003, an Order was issued on the Petition of Darlene Laughman and Tiffany Kay Hoffman, a minor, in the Court of Common Pleas of Adams County, Pennsylvania, praying for a decree to change Tiffany Kay Hoffman's name to Tiffany Kay Laughman.

The Court has fixed December 2, 2003 at 9:00 a.m. in Courtroom No. 1, 2 or 3 of the Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania, 17325, as the time and place for the hearing of said Petition, when and where all persons interested may appear and show cause, if any of them have, why the prayer of the said Petition should not be granted.

Amy E. W. Ehrhart, Esq.
Solicitor

11/7

Adams County Legal Journal

Vol. 45

November 14, 2003

No. 25, pp. 145-152

IN THIS ISSUE

HOLSINGER VS. CARROLL VALLEY ET AL

This opinion continued from last issue (11/7/2003)

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



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-947 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground situate on the West side of the Hanover-Carlisle State Highway in Conewago Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of the State Highway aforesaid at lands now or formerly of Rodney C. Rider; thence by the center of said State Highway South twenty-three (23) degrees East, forty-five (45) feet to a point at lands now or formerly of Lamar E. Null; thence by said lands South sixty-seven (67) degrees West one hundred fifty (150) feet to a point at lands now or formerly of Edward P. Emerson; thence by said lands North twenty-three (23) degrees West, forty-five (45) feet to a point at lands now or formerly of Rodney C. Rider aforesaid; thence by said lands North sixty-seven (67) degrees East, one hundred fifty (150) feet to a point in the center of the State Highway aforesaid, the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Michael P. Leonard and Nancy A. Leonard, husband and wife, as tenants by the entireties by Deed from Michael P. Leonard and Nancy A. Leonard, husband and wife dated 3/24/1978 and recorded 3/31/1978, in Deed Book 336, page 693.

Premises being: 1474 Carlisle Pike, Hanover, PA 17331

Tax Parcel No. L13-18

SEIZED and taken into execution as the property of **Michael P. Leonard & Nancy A. Leonard** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in

accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1080 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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 on the West side of Route 94 in Reading Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of the State Highway to lands of C. Edgar King; thence by said lands and through a steel pin at the side of said highway, South 57 degrees 20 minutes West, 162.5 feet to a steel pin; thence continuing by lands of C. Edgar King and Leroy G. Little, North 67 degrees 27 minutes West, 516 feet to a 12-inch elm; thence by lands of Leroy G. Little and through a steel pin; North 32 degrees 20 minutes East, 423.9 feet to a steel pin; thence continuing by lands of same South 24 degrees 3 minutes East, 74 feet to a steel pin; thence continuing by the same, North 73 degrees East, 197.9 feet thru a steel pin at the side of the highway to a point in the center of said State Highway; thence by the center of said State Highway South 20 degrees East, 488.8 feet to a point, the place of BEGINNING.

CONTAINING 4.571 Acres, neat measure, less exception

LESS, HOWEVER, a certain 3,991 square feet of land which Clarence P. McKOnly, by his Deed dated January 21,

1964, and recorded in Adams County Deed Book 255, at Page 214, sold and conveyed unto Richard C. Heusner and Janet B. Heusner, husband and wife.

TITLE TO SAID PREMISES IS VESTED IN Maybelle E. Jacoby by Deed from Anthony J. Batoha and Margaret M. Batoha, husband and wife, etal dated 12/8/84 and recorded 12/11/84 in Record Book 391 Page 1058.

Premises being: 5736 Carlisle Pike, New Oxford, PA 17350

Tax Parcel No. J7-29

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

NOTICE

NOTICE IS HEREBY GIVEN, that Matthew E. Teeter intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania on December 2, 2003 at 9:00 A.M. in Courtroom No. 1 of the Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania. He intends to practice law with the law firm of Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, Adams County, Pennsylvania.

11/7, 14 & 21

In Lieu of Fees

The Carroll Valley Ordinance includes provision for the payment of “in lieu of” fees. *See* Ordinance, Part 3, Letter C. § 321. These provisions indicate that the Borough, in its sole discretion, may require the payment of a fee in lieu of compliance with the provisions of the Ordinance. The amount of the fee is not specified but rather is to be established by resolution of the Borough Council. Money paid into the Borough as a result of payment of the fee is to be kept in a Capital Reserve Fund to be used for the acquisition of land, construction of facilities, or maintenance of facilities for storm water management purposes. Ordinance § 322(4).

The Holsingers argue that Sections 321 and 322 of the Ordinance violate Pennsylvania’s Municipalities Planning Code. Specifically, they claim that these provisions of the Ordinance authorize “in lieu of fees” which are prohibited in land development or sub-division ordinances unless otherwise specifically authorized by the Municipalities Planning Code. *See* PA. STAT. ANN. tit. 53, § 10503-A (West 2002). The Holsingers correctly point out that there is no such specific authorization in the Municipalities Planning Code.

Although the Municipalities Planning Code does not authorize the collection of in lieu of fees, as noted above, the Ordinance does not derive its authority from the Municipalities Planning Code. The Ordinance is not a “Land use ordinance” as defined in the Code and as applied to the Holsingers. *See* Footnote 5, *supra*. Accordingly, the Municipalities Planning Code is inapplicable to a consideration as to the legality of “in lieu of” fees.

The issue that remains unresolved, therefore, is whether the municipality has authority pursuant to the Borough Code to assess “in lieu of” fees. Initial research in this area indicates that it does not. However, resolution of that issue will not be reached since it is not properly before me. The Holsingers did not raise this issue before the Board. Neither was the issue specifically raised in the Holsingers’ Notice of Land Use Appeal. Even if the issue may be implied from the allegations in the Holsingers’ Notice of Appeal, it has not been properly identified, briefed or argued before this Court. Under these circumstances, the issue is waived. *See Hill v. Lower Saucon Township Hearing Bd.*, 456 A.2d 667 (Pa. Commw. Ct. 1983); PA. STAT. ANN. tit. 53, § 11003-A (West 1997) (notice of

land use appeal is to concisely set forth grounds appellant relies upon).

Moreover, this appeal comes before the Court upon a stipulation between the parties that the Holsingers applied for a building permit and that no action was taken upon the permit due to its failure to comply with the subject Ordinance. *See*, N.T., pp. 6-7 (Jan. 25, 2001). There is no indication of any attempt by the municipality to impose a “in lieu of” fee in this case nor of a denial by the Board based upon failure to pay an “in lieu of” fee. The Holsingers attack on the Ordinance relies upon a challenge to a section of the Ordinance which is not applicable to the current appeal. A court may not consider a theoretical challenge to an ordinance where there has been no harm. *Commonwealth v. Bucks County*, 302 A.2d 897, 901 (Pa. Commw. Ct. 1973). Accordingly, this issue is not yet ripe for disposition and is not a basis to overturn the decision of the Board.

Pennsylvania Common Law Rights Concerning Surface Waters

The Holsingers next raise the issue of whether the Ordinance violates long-standing Pennsylvania common law regarding property rights to surface waters. They argue that “[p]rivate property rights, including the right to be free from restrictions as to storm water and surface water runoff are part of Pennsylvania’s common law tradition that is beyond the reach of local municipal mandates” *Holsingers’ Br.*, p. 14.

The Holsingers raise this argument for the first time in their Brief to this Court. Neither the litigation before the Board nor Holsingers’ Notice of Land Use Appeal addresses the issue. Under these circumstances, the issue is waived. *Sunset Developers v. Bd. of Supervisors of East Pikeland Township*, 600 A.2d 641, 646 (Pa. Commw. Ct. 1991). Moreover, the argument misapplies the factual background of this case and is contrary to law.

The common-law rules relating to surface water are derived from the maxim that “[w]ater must flow as it is wont to flow.” *LaForm v. Bethlehem Township*, 499 A.2d 1373, 1377 (Pa. Super. Ct. 1985). The “common-law” rule follows the fundamental rule of nature that because water is descendable, the owner of higher ground has an easement in lower land for the discharge of all waters that naturally rise in or flow or fall upon the lower land from the higher land. *See*

Id., citing *Kauffman v. Driesemer*, 26 Pa. 407 (1856). Thus, “only where the water is diverted from its natural channel or where it is unreasonably or unnecessarily changed in quantity or quality has the lower owner received a legal injury.” *Chamberlin v. Ciaffoni*, 96 A.2d 140, 143 (Pa. 1953). Therefore, in limited circumstances, the owner of higher ground may be held accountable for the affects of surface water where the water has been diverted from its natural channel by artificial means, see *Rau v. Wilden Acres, Inc.*, 103 A.2d 422 (Pa. 1954) or where the quantity of the surface water has been unreasonably or unnecessarily increased. See *Piekarski v. Club Overlook Estates, Inc.*, 421 A.2d 1198 (Pa. Super. Ct. 1980). It is precisely these artificial diversions and substantial increases in quantity of surface water flow which the Ordinance attempts to address.⁷ Since the Legislature has recognized the need for legislation in the area of storm water management, see PA. STAT. ANN. tit. 32, §§ 680.1, 680.2 (West 1997), and has granted authority to municipalities to adopt ordinances in this area, see PA. STAT. ANN. tit. 32, § 680.11 (West 1997),⁸ this objection to the Board’s decision will be dismissed.

Fourteenth Amendment Equal Protection Claim

The Holsingers argue that the Ordinance discriminates against property owners building new homes and, consequently, violates the Fourteenth Amendment of the United States Constitution.⁹

⁷ Interestingly, the Ordinance allows the following exemptions from its requirements: a) gardening primarily for home consumption; b) agricultural use of land; c) application of topsoil to lawns and garden areas, which do not essentially change the grade or direction of run-off; and d) activities that would add less than a thousand (1,000) square feet of additional impervious area to the site. See Ordinance § 103.2.

⁸ Although courts are required to give narrow construction to acts of the legislature adopted prior to September 1, 1937, which are in derogation of the common law, *Jenkins v. Jenkins*, 371 A.2d 925, 929 (Pa. Super. Ct. 1977), this Court is unaware of any authority that the common law trumps and, thus, supersedes statutory law. In fact, the line of cases requiring strict construction in such instances implicitly recognizes that strictly-construed statutory laws supersede the common law. Moreover, the Borough Code, in its current form, was adopted subsequent to September 1, 1937, and, therefore, is not subject to this statutory requirement. Compare, however, *Commonwealth v. Chiappini*, 782 A.2d 490, 492 (Pa. 2001) which recognizes that re-enactment of a statute which existed prior to September 1, 1937, requires strict construction.

⁹ The Fourteenth Amendment of the United States Constitution provides that “no State shall . . . deny to any person within its jurisdiction the equal protection of the laws.”

The Equal Protection Clause of the Fourteenth Amendment is essentially a guarantee that those similarly situated will be afforded equal treatment. *General Textile Printing and Process Corp. v. City of Rocky Mount*, 908 F. Supp. 1295, 1308 (E.D. N.C. 1995). According to the Supreme Court, “[t]he Equal Protection Clause does not forbid classifications. It simply keeps governmental decisionmakers from treating differently persons who are in all relevant aspects alike.” *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992). Where there is no fundamental right at stake and no inherently suspect classification present, the Equal Protection Clause requires only that the classification rationally further a legitimate state interest. *Id.* In such instances, governmental decisions are presumptively constitutional. *Christopher Lake Dev. Co. v. J. H. Berra Constr. Co., Inc.*, 35 F.3d 1269, 1274 (8th Cir. 1994). Since it has been held that a municipality’s enactment of storm water legislation affecting property owners does not infringe upon a fundamental right, see *Vandergriff v. City of Chattanooga*, 44 F. Supp. 2d 927, 939 (E.D. Tenn. 1998), the current Ordinance need only be rationally related to a legitimate municipal interest to survive the scrutiny of the Equal Protection Clause. See generally *Christopher Lake Dev. Co.*, 35 F.3d at 1274.¹⁰

¹⁰The Holsingers argue that they are part of a “suspect classification” consisting of new home builders. Although it is true that the Fourteenth Amendment forbids discrimination in application of the laws due to a person’s membership in a particular class, the classification must be one which trammels upon fundamental personal rights or is drawn upon inherently suspect distinctions such as race, religion, or alienage. See generally *New Orleans v. Dukes*, 427 U.S. 297, 303 (1976). The Holsingers have failed to cite any authority supporting their argument that “new home builders” fit within the definition of a “suspect classification.” Government entities are accorded wide latitude in adopting regulations pursuant to their police powers and rational distinctions may be made with substantially less than mathematical exactitude. *Id.* Although Pennsylvania cases have recognized membership in an existing class as a prerequisite to invalidating an ordinance on equal protection grounds, see *Ignelzi v. Zoning Bd. of Adjustment of the City of Pittsburgh*, 495 A.2d 634, 636-37 (Pa. Commw. Ct. 1985), a more recent decision has acknowledged that, notwithstanding lack of membership in a suspect class, a person may still claim protection under the Equal Protection Clause. *Knipple v. Geistown Borough*, 624 A.2d 766, 768 (Pa. Commw. Ct. 1993). *Knipple*, however, instructs that although a single person may be afforded the protections of the Fourteenth Amendment, the lack of a suspect class reduces the level of scrutiny to which an apparent uneven application of the law will be subjected. *Id.* at 768, citing *Three Rivers Cable Vision, Inc. v. City of Pittsburgh*, 502 F. Supp. 1118 (W.D. Pa. 1980). Thus, the appropriate test in this situation is whether or not the Ordinance is rationally related to a legitimate state interest. *Christopher Lake Dev. Co.*, supra.

The Borough's interest in enacting the Ordinance is set forth in its preamble which reads:

Inadequate management of accelerated run-off of storm water resulting from development throughout the Borough of Carroll Valley water sheds increasing flood flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control storm water, undermines floodplain management and flood control efforts in downstream communities, reduces groundwater recharges and threatens public health and safety

Ordinance #6-2000, Preamble.

Testimony at the zoning hearing provides ample support for the Borough's interest in addressing this issue. For instance, Carroll Valley Zoning Officer, Carl Bower, testified quite extensively about the problems caused throughout the Borough as a result of the increasing amount of storm water run-off. *See generally* N.T., Carl Bower, pp. 54-56 (Jan. 25, 2001). This testimony was reinforced by the testimony of Borough Manager, Virginia Ciliotta. She testified that during her fourteen (14) years as Borough Manager the storm water problems throughout the Borough increased. N.T., Virginia Ciliotta, pp. 87-88 (Jan. 25, 2001). Both witnesses highlighted the increased difficulties caused by new construction.

Finally, the Borough Engineer, Joshua George,¹¹ testified that the Ordinance would reduce the amount of run-off generated by new construction, would prevent erosion and should reduce the amount of sediment pollution directed to adjoining properties and the Borough's water resources. *See generally* N.T., pp. 26-27 (Mar. 13, 2001), *see also* Report of Joshua George, P. E. The Holsingers' expert, Rex Benschoff, P.E., acknowledged that the risk of storm water run-off issues is increased with new construction over the risk generally associated with existing homes. N.T., p. 31 (Jan. 25, 2001).

Under these circumstances, I cannot find that the Board committed an abuse of discretion or an error of law in rejecting the equal

¹¹Other than sharing a common last name, there is no relationship between your undersigned and this witness.

protection claim of the Holsingers. The Court will not sit as a super-legislature to judge the wisdom or desirability of legislative policy determinations made in areas that neither affect fundamental rights nor proceed along suspect lines. *Ferguson v. Skrupa*, 372 U.S. 726, 729-731 (1963). It is only the wholly arbitrary act which cannot stand consistently with the Fourteenth Amendment. See generally *Dukes*, 427 U.S. at 303-04. The Holsingers' challenge on this basis is denied.

Fifth Amendment Claim

The Holsingers complain that the Ordinance in effect is a "taking" of their property without just compensation in violation of the Fifth Amendment of the United States Constitution.¹² I find that this argument lacks merit.

The Fifth Amendment of the United States Constitution requires that the federal government pay "just compensation" if private property is taken for public use. U.S. CONST. amend. V. This provision is made applicable to state governments under the Fourteenth Amendment. *DeSalvo v. Arkansas Louisiana Gas Co.*, 239 F. Supp. 312 (E.D. Ark. 1965). Government action, short of acquisition of title or occupancy, may amount to compensative taking of property "if its effects are so complete as to deprive the owner of all or most of his interest in the subject matter . . ." *United States v. General Motors Corp.*, 323 U.S. 373, 378 (1945). On the other hand, governmental agencies may impose land-use regulations so long as they substantially advance legitimate governmental interests and do not deny the owner's economically viable use of the land. *Leroy Land Dev. v. Tahoe Reg'l Planning Agency*, 939 F. 2d 696 (9th Cir. 1991). Restrictions on the use of property are not **per se** unreasonable solely because they may limit the use of the property. *Miller & Son Paving, Inc. v. Wrightstown Township*, 451 A.2d 1002, 1006 (Pa. 1982). Moreover, placing limits on the use of property does not obligate the government to compensate owners even where severe diminution in property value results if the limitations are imposed in a reasonable non-arbitrary manner by legislative regulations enacted

¹²The Holsingers also raise this issue in conjunction with Article I, Section I, of the Pennsylvania Constitution. Their Brief, however, addresses the issue primarily as a federal constitutional issue. More importantly, the challenge under the Pennsylvania Constitution is raised for the first time in the Holsingers' Brief and, thus, is not properly raised before this Court. *Hill*, 456 A.2d 667.

for public health, morals and safety. *Pope v. City of Atlanta*, 418 F. Supp. 665, 668 (N.D. Ga. 1976). See also *Redevelopment Auth. of Oil City v. Woodring*, 445 A.2d 724, 727 (Pa. 1982). For instance, zoning regulations commonly involve a taking of property in the sense that the owner is not completely free to use their property as they choose. However, such a taking does not entitle the owner to relief unless the owner's rights have been unreasonably restricted. *Miller & Son Paving, Inc.*, 451 A.2d at 1006.

As discussed above, testimony before the Board described the rationale for the Ordinance and provided a reasonable basis for its adoption. On the other hand, there is no indication in the record that the Holsingers have been substantially deprived of the use of their property. There is no allegation that compliance with the Ordinance is impossible or even creates a substantial hardship. Rather, the Holsingers have simply chosen not to comply with the Ordinance provisions. The lack of a record in this regard is fatal to the Holsingers since the property owner bears a heavy burden in establishing that exceptional circumstances exist which substantially deprive that person of the use of their property. *Elster v. Commonwealth, Dep't of Transp.*, 651 A.2d 567, 570 (Pa. Commw. Ct. 1994). This burden of proof, coupled with the presumption as to the constitutionality of the Ordinance, *Upper Salford Township v. Collins*, 669 A.2d 335, 336 (Pa. 1995), leads me to the conclusion that this claim is without merit.

42 U.S.C. § 1983 (2002) Civil Rights Claim

The Holsingers seek monetary damages against Carroll Valley Borough alleging that the Ordinance has violated their civil rights. They rely on the provisions of 42 U.S.C. § 1983 (2002) to argue that they are entitled to approximately \$37,333.82 in compensatory damages and legal fees.

Initially, I note that the 42 U.S.C. § 1983 (2002) authorizes a cause of action for "the deprivation of any rights, privileges, or immunities secured by the Constitution and laws." 42 U.S.C. § 1983 (2002). A municipality, or local government, is not wholly immune from suit under § 1983. *Monell v. Dept. of Soc. Servs. of the City of New York*, 436 U.S. 658, 663 (1978). A § 1983 claim, however, is a separate cause of action and is not properly raised as part of a zoning appeal. The jurisdiction of this Court from a decision of the Board

is limited by the Municipalities Planning Code. *See* PA. STAT. ANN. tit. 53, § 11002-A (West 1997). There is neither a proper record laid in support of a § 1983 claim nor has procedural due process been afforded to the Municipality. Pursuant to the statutory language of 42 U.S.C. § 1983 (2002), in combination with the Pennsylvania Rules of Civil Procedure, the Municipality is entitled to having the issues defined through proper pleadings; to the opportunity to conduct meaningful discovery; and to the right to have a jury determine its respective liability, if any. *See Devore v. Edgefield County Sch. Dist.*, 68 F.R.D. 423 (D. S.C. 1975) (A civil rights suit is no different from any other civil action). *See also City of Monterey v. Del Monte Dunes at Monterey, Ltd.*, 526 U.S. 687 (1999) (an action under § 1983 is an “action at law”). The Holsingers’ attempt at an end run on these fundamental fibers of civil litigation is not acceptable and is contrary to law. Therefore, this Court will dismiss this claim as being improperly procedurally raised and outside the scope of the Court’s consideration of the decision of the Board.

Moreover, in light of my finding above that the Ordinance has not violated any constitutional rights of the Holsingers, their claim is without merit.

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 9th day of December, 2002, the Holsingers’ Appeal from the Decision of the Carroll Valley Zoning Hearing Board is denied. Costs are to be paid by the Appellants.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-1232 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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 Highland Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to-wit:

TRACT NO. 1

BEGINNING at a point for a corner, in the center of the State Highway leading from Gettysburg to Fairfield marked by an iron pin set on the North side of said highway; thence running by land now or formerly of J.J. Spence, North eight and three-fourths (8-3/4) degrees West, two hundred and fourteen (214) feet to an iron pin; thence running by land of the same, North eighty-one and one-fourth (81-1/4) degrees East, one hundred and fifty-four (154) feet to an iron pin; thence running by land of the same, South eight and three-fourths (8-3/4) degrees East, two hundred and fourteen (214) feet to a point in the center of the above mentioned highway marked by an iron pin set on the North side of said highway; thence running in the center of said highway, South eighty-one and one-fourth (81-1/4) degrees West, one hundred fifty-four (154) feet to a point in the center of said highway, the place of BEGINNING. CONTAINING one hundred and twenty-one perches and fourteen square feet.

TRACT NO. 2

BEGINNING at a spike in the center of Pennsylvania Route #116 leading from Gettysburg to Fairfield at Southwest corner of land of the Estate of Allen L. Mallow, said spike being South 8 degrees 45 minutes East from an iron pin set back 21.1 feet along the line; thence in the center of said road, South 81 degrees 15 minutes West, 10 feet to a spike in the center of said road; thence along other land now or formerly of J.J. Spence and Ruth J. Spence, husband and wife, through an iron pin set back 21.1 feet along the line, North 8 degrees 45 minutes West, 214 feet through a small stream to an iron pin, thence along other land now or formerly of J.J. Spence, husband and wife, North 81 degrees 15 minutes East, 10 feet to an iron pin; thence by other land of Estate of Allen L. Mallow, back across the small stream, South 8 degrees 45 minutes East, 214 feet

through an iron pin set back 21.1 feet to a spike in the center of the highway, the place of BEGINNING. CONTAINING 7 perches and 204.11 square feet.

TRACT NO. 3

BEGINNING at a point in the center of Pennsylvania Route #116 leading from Gettysburg to Fairfield at Southeast corner of lot of the Estate of Allen L. Mallow; thence by other land of the Estate of Allen L. Mallow through an iron pin set back along the line, North 8 degrees 45 minutes West, 214 feet across small stream to an iron pin; thence by other land now or formerly of J.J. Spence and Ruth J. Spence, husband and wife, North 81 degrees 15 minutes East, 60 feet to an iron pin; thence by other land now or formerly of J.J. Spence and Ruth J. Spence, husband and wife, to be conveyed to John E. and Mary V. McDannell, South 8 degrees 45 minutes East, 214 feet through an iron pin set back 21.1 feet along the line to a point in the center of said State Highway; thence along the center of said State Highway, South 82 degrees 15 minutes West, 60 feet to a point, the place of BEGINNING. CONTAINING 47 perches and 44.25 square feet.

The description of Tract Nos. 2 and 3 were taken from draft of survey made June 7th, 1958, by Wilbur V. Redding, Registered Surveyor.

TITLE TO SAID PREMISES IS VESTED IN Michael L. Glynn by Deed from Dennis J. Baldwin and Roxann M. Baldwin, husband and wife dated 11/6/96, recorded 11/20/96, in Deed Book Volume 1291, page 224.

Tax Parcel: D-14-22

Premises Being: 3115 Fairfield Road, Gettysburg, PA 17325

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-N-24 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a stone for a corner on line of land now or formerly of Susan Crum; thence by said line, North 30-1/2 degrees West, 8 perches to a stone at a 20 foot alley; thence along said alley, North 40-3/4 degrees East, 5 perches to a stone at corner of a 10 foot alley; thence along said alley, South 30-1/2 degrees East, 8 perches to a stone; thence by the Whitestown Road, South 40-3/4 degrees West, 5 perches to the place of BEGINNING. CONTAINING 40 perches, neat measure.

BEING the same which Nancy L. Southerly and Frances L. Orner, Administratrices d.b.n.c.t.a. of the Estate of Arnold A. Southerly, deceased, by their deed dated September 8, 1988, which said deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 500 at page 487, sold and conveyed unto Steven W. Poland and Debora K. Poland, husband and wife.

SEIZED and taken into execution as the property of **Steven W. Poland & Debora K. Poland** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 29, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-990 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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.:

Parcel No: (17) K-09; 8B

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

BEGINNING for a point in the center of a public road leading to Brown's Dam; thence along lands of Criswell South eighty-three and one-half (83-1/2) degrees West, four hundred fifty-seven and five-tenths (457.5) feet to a point; thence along lands of J.I. Myers North twenty-one (21) degrees East, five hundred eighty-two (582) feet to an iron pin; thence along lands of Guy Haverstick North seventy-nine and three-fourth (79-3/4) degrees East, three hundred twenty-six and seven-tenths (326.7) feet to an iron bolt in the center of the aforementioned public road; thence along and through the center of said public road South seven and three-fourth (7-3/4) degrees West, five hundred fifty-one and six-tenths (551.6) feet to an iron bolt, place of BEGINNING. CONTAINING 4 acres, one hundred twelve and fifty-three hundredths (112.53) square perches as per survey of C.A. Wentz, Reg. Surveyor, dated May 7, 1966.

BEING the same premises which Melissa M. Wonder Sneeringer a/k/a Melissa M. Sneeringer, by Deed dated December 12, 2001, and recorded December 21, 2001, in Book 2505, Page 56, granted and conveyed unto Melissa M. Sneeringer and Michael G. Freet, in fee.

SEIZED and taken into execution as the property of **Melissa M. Sneeringer & Michael G. Freet** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the

purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

11/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-N-23 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, 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 Romyay 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.

The above description was taken from a draft of survey made August 27, 1942, by P.S. Omer, Registered Surveyor.

BEING the same which the Secretary of Housing and Urban Development of Washington, D.C., by Dale Albertelli, its Attorney-in-Fact, by deed dated December 8, 2000, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2184 at page 105, sold and conveyed unto Shawn M. Beaman and Shelly J. Beaman.

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

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

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

accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of Sec. 311 of the Act of Assembly of December 16, 1982, 54 PA C.S.A. 311, that an application for registration of a fictitious name was filed on September 10, 2003 with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the conducting of a business under the fictitious name of REDDING'S HANDYMAN SERVICE, LLC with its principal office or place of business at 160 Rake Factory Road, Biglerville, PA 17307. The name and address of all persons owning or interested in said business is: David A. Redding, 160 Rake Factory Road, Biglerville, PA 17307.

Alan K. Patrono, Esq.

11/14

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that pursuant to the provisions of the Fictitious Name Act, 54 Pa. C.S.A. §311, that an Application to conduct business in Pennsylvania under the assumed or fictitious name, style or designation of SHADOW'S ON SOUTH MOUNTAIN was filed with the Department of State, Commonwealth of Pennsylvania, in Harrisburg, Pennsylvania. The business is located at 6210-6220 Chambersburg Road, Fayetteville, Adams County, Pennsylvania. The name and address of the person who is a party to the registration is: Daniel I. Keys, 2100 Chambersburg Road, McKnightstown, PA.

Robert L. McQuaide
Solicitor
Suite 204
18 Carlisle Street
Gettysburg, PA 17325

11/14

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-22 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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 in Tyrone Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin located in Schoolhouse Road (Township Route T-566) at corner of Tract #1 set forth on the subdivision plan referred to below; thence by said Tract #1, and running through a reference iron pin located 94.41 feet from the beginning of this line, North 12 degrees 56 minutes 50 seconds West, 404.26 feet to an iron pin; thence by same, North 83 degrees 12 minutes 10 seconds East, 464.17 feet to a railroad spike located in the aforementioned Schoolhouse Road; thence in said Schoolhouse Road, and by land now or formerly of Philip H. Tarpley, South 09 degrees 37 minutes 20 seconds East, 223.73 feet to an existing post on the East side of the aforementioned road; thence continuing by same, and in the aforementioned Schoolhouse Road, South 60 degrees 45 minutes 00 seconds West 467.31 feet to an iron pin in road, the place of BEGINNING. CONTAINING 3.272 acres, and being designated as Tract No. 3 on the subdivision plan prepared by Marian Anne Jones by Boyer-Price Surveys, Inc. dated August 21, 1974, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 7 at page 22.

BEING known as 310 Rock Valley Road, Aspers, PA 17304

Property ID No: H6-24C

TITLE TO SAID PREMISES IS VESTED IN James Craig Johnson and Sandra R. Johnson, husband and wife, as tenants by the entireties by Deed from Samuel B. Stoner and Alana M. Stoner, husband and wife dated 10/31/97, recorded 11/6/97, in Deed Book 1470, Page 131.

SEIZED and taken into execution as the property of **James Craig Johnson & Sandra Lee Johnson a/k/a Sandra R. Johnson** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless

exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-565 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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, with any improvements thereon erected, situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a mark in the concrete on the inside edge of the sidewalk at the Southeastern corner of West Middle Street and South Washington Street; thence along the South edge of the sidewalk along West Middle Street, South 84 degrees 40 minutes East, 60.4 feet to a point on the Southern edge of the sidewalk at corner of buildings at lands now or formerly of George Lower; thence by said lands, South 5 degrees West, 105 feet to a point; thence through the original tract and by lands now or formerly of A.E. Hutchinson, et al, North 84 degrees 40 minutes West, 60.4 feet to a mark in the concrete on the eastern edge of the sidewalk along South Washington Street; thence along the eastern edge of the sidewalk on South Washington Street, North 5 degrees East, 105 feet to the place of BEGINNING.

The above description was taken from a draft of survey dated February 5, 1974 prepared by Leroy H. Winebrenner, R.S.

TITLE TO SAID PREMISES IS VESTED IN James G. Edge by deed from Paula D. Olinger, Executrix of the Estate of Mae E. Olinger dated 10/5/95 recorded 10/5/95 in the County of Adams in Deed Book 1092 page 182.

SEIZED and taken into execution as the property of **James G. Edge** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004,

and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

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 HUNTERSREPORT.COM, INC.

Kelly M. Dilts, Esq.
Suite 204
18 Carlisle Street
Gettysburg, PA 17325

11/14

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that a petition was filed in the Court of Common Pleas of Adams County, Pennsylvania to No. 03-S-1071 on October 17, 2003, requesting that a decree be entered changing the name of McKenzie Alexis Wherley to McKenzie Alexis Easter. The Court has fixed Tuesday, December 2, 2003 at 9:00 A.M. in a Courtroom of the Adams County Courthouse, 111-117 Baltimore St., Gettysburg, Pennsylvania, as the time and place for hearing on such request and for any person opposed to the petition to show cause why such request should not be granted.

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

11/14

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1122 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of January, 2004, 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 Menallen Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of a private road 50 feet in width at the Westernmost corner of the lot designated as Lot No. 1 on the plan of lots referred to below; thence by said Lot No. 1 and running through an iron pin located 25 feet from the place of Beginning South 48 degrees 23 minutes 38 seconds East, 183.56 feet to an iron pin; thence by land now or formerly of Charles E. Ott and wife South 41 degrees 5 minutes 37 seconds West, 353.01 feet to an iron pin; thence by the lot designated as Lot No. 5 on the plan of lots referred to below and running through an iron pin located 25 feet from the end of this line North 48 degrees 23 minutes 38 seconds West, 186.72 feet to a point in the center of the aforementioned private road; thence in the center of said private road and by the lot designated as Lot No. 4 on the plan of lots referred to below North 41 degrees 36 minutes 22 seconds East, 353 feet to a point in the center of said private road, the place of BEGINNING.

TOGETHER WITH the right to use the 50-foot private road referred to in the foregoing description as a means of ingress, egress and regress from Legislative Route 01041 to the lot hereby conveyed.

SUBJECT, HOWEVER, to the restrictions and responsibilities contained in a deed recorded in the aforementioned Recorder's Office in Deed Book 356 at Page 654.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof, Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-856 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of January, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE lots situate, lying and being in Union Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1 - BEGINNING at a point in the center of a public road known as State Highway Route No. 01030, said point of beginning, being South 43 degrees 36 minutes East, 455.30 feet from a point driven in the center of said Route No. 01030 where said highway center intersects the Eastern edge of the right of way of the Littlestown-Hanover State Highway; thence running through the original tract of Harry C. Worley, et al., and running through an iron pin 20 feet from the beginning of this course, North 45 degrees 30 minutes East, 150 feet to an iron pin; thence continuing along the original tract, South 44 degrees 30 minutes East, 100 feet to an iron pin; thence continuing through the original tract South 45 degrees 30 minutes West, 150 feet through an iron pin 20 feet from the end of this course to a point in the center of said State Highway Route No. 01030; thence running in the center of said State Highway, North 44 degrees 30 minutes West 100 feet to the above described place of BEGINNING. CONTAINING 15,000 square feet, more or less.

THE above description was taken from a draft of survey made by D. W. Resh, Registered Surveyor, dated August 27, 1955 and further identified by the legend "Plan of Property to Harry C. Worley situated in Union Township, Adams County, PA."

TRACT NO. 2 - BEGINNING at a point at corner of land now or formerly of John C. Steich and corner of land now or formerly of Charles E. Smench; thence by land about to be conveyed to Charles E. Smench North 45 degrees 30 minutes East 50 feet to a steel pin at other lands now or formerly of Harry C. Worley; thence by said lands of Worley South 44 degrees 30 minutes East 100 feet to a steel pin; thence by the same South 45

degrees 30 minutes West 50 feet to a point at other land now or formerly of John C. Steich; thence by said Steich's land North 44 degrees 30 minutes West 100 feet to a point, the place of BEGINNING. CONTAINING 5,000 square feet.

THE above description was taken from a draft survey prepared by J.H. Rife, R.E., dated April 30, 1970.

SUBJECT nevertheless, to the restrictions of record.

Being Parcel No. (41)-K-17, Parcel 8

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

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 BERNICE M. ALBRIGHT, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executor: William G. Albright, 2410 Lake Meade Rd., East Berlin, PA 17316

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

ESTATE OF CHARLOTTE W. BONHAM, DEC'D

Late of Straban Township, Adams County, Pennsylvania

George C. Bonham, Jr., 1025 Taneytown Rd., Gettysburg, PA 17325

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

ESTATE OF RUTH A. MESSINGER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrices: Frances L. Renoll and Doris T. von Staden, c/o Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

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

ESTATE OF MELVIN G. MILLER, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Donald G. Miller, 830 Rentzel Road, Biglerville, PA 17307; Owen L. Miller, 6098 Winding Lane, East Berlin, PA 17316

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

ESTATE OF IVONNE M. SALAZAR, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator: Luiggy J. Salazar, 65 North Street, Apt. #40, McSherrystown, PA 17344

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

ESTATE OF ANGEL JUAN SANCHEZ, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Administratrix: Vicky J. Squires, 4820 Old Harrisburg Road, Lot No. 74, Gettysburg, PA 17325

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

ESTATE OF RUTH E. WAGNER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Elizabeth J. Manifold, 26 Northwind Drive, Hanover, PA 17331

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

SECOND PUBLICATION

ESTATE OF NELLIE S. BAIR, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executrix: Lorraine R. Pfaff a/k/a Loraine R. Pfaff, 200 Villa Vista Avenue, Hanover, PA 17331

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

ESTATE OF MARY V. CROUSE, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Clyde W. Crouse, 1215 Frederick Pike, Littlestown, PA 17340

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

ESTATE OF WILMER D. MILLER, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Administrators: Donald E. Miller, 4708 Oxford Rd., York Springs, PA 17372; Melvin L. Miller, 4671 Oxford Rd., York Springs, PA 17372

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

ESTATE OF E. CATHERINE PHELPS, DEC'D

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

Executor: William C. Phelps, 26 Robin Trail, Fairfield, PA 17320

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

ESTATE OF HELMI E. WOLFORD, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administrator: John C. Zepp, III, P.O. Box 204, York Springs, PA 17372

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

THIRD PUBLICATION

ESTATE OF CAROL LYNN CIEPIELA a/k/a CAROL LYNN RUTH, DEC'D

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

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

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

ESTATE OF ROSE M. FERRARA, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

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

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

ESTATE OF CHARLES F. LIVELSBERGER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

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

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

ESTATE OF ESTHER M. MILLER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

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

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

ESTATE OF ROBERT JAMES STORM, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

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

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-693 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of January, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those two (2) lots of ground, situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

LOT NO. 1: BEGINNING at the Southeastern corner of the bridge crossing Miney Creek on the Cove Hollow (township public) road, being the point of intersection of the Eastern side of said road and the Southern side of Miney Creek, said point of beginning being approximately 96 feet South of the intersection of said Cove Hollow Road with Route 16; thence running along the Southern bank of said Miney Creek, South 70 degrees 29 minutes East, 97.97 feet to an iron pipe driven at the point of intersection of the Southern bank of Miney Creek with the Western bank of a small stream intersecting from the South; thence for the next two courses running along the Western bank of said small intersecting stream, and by lands now or formerly of Charles P. Thalheim, South 48 degrees 45 minutes West, 109.55 feet to a pipe driven in the Western bank of said small stream; thence by same, South 21 degrees 37 minutes West, 103.68 feet to a pipe driven on the Northern side of a 22 foot side private road; thence by the Northern side of said private road, North 67 degrees 35 minutes West, 115.90 feet to a spike driven in the Eastern side of said Road, North 40 degrees 45 minutes East, 207.34 feet to the above described place of BEGINNING. CONTAINING 68.25 perches, more or less.

LOT NO. 2: BEGINNING at a spike driven in the Eastern side of said Cove Hollow Road, located at its point of intersection with the Southern side of the aforesaid 22 foot wide private road; thence running along the Southern side of said private road, South 67 degrees 35 minutes East, 124.50 feet to a pipe driven in the Western bank of the small intersecting stream aforesaid; thence running along the Western bank thereof and by said lands now or formerly of Charles E. Thalheim, South 38 degrees 34 minutes West, 84.87 feet to a pipe driven in said Western bank; thence continuing for the next five courses along the Western bank of said small stream and by lands now or formerly of Elmer Tressler, North 79 degrees 1 minute West, 26.10 feet to a pipe; thence South

9 degrees 57 minutes West, 28.60 feet to a pipe; thence South 66 degrees 5 minutes West, 60.26 feet to a pipe; thence North 69 degrees 17 minutes West, 39.10 feet to a pipe; thence by same, South 77 degrees 56 minutes West, 41.62 feet to a pipe driven on the bank of the Western side of said small stream; thence leaving said stream, North 60 degrees 26 minutes West, 10 feet to a spike driven in the Eastern side of said Cove Hollow Road; thence running in the Eastern side of said Cove Hollow Road, North 35 degrees 46 minutes East, 186.87 feet to the above-described place of BEGINNING.

CONTAINING 66.42 perches, more or less.

The above description was taken from a draft of survey dated December 5, 1964, made by Wilbur V. Redding, registered Surveyor, for the use of Ralph E. Musselman and Helen M. Musselman, and identified by the legend: "Charles W. and Myrtle M. Hankey property, situate in Liberty Twp., Adams Co., Pa"

Map and Parcel ID: Map B17, Parcel 87

BEING KNOWN AS: 40 Cove Hollow Road, Fairfield, PA 17320

SEIZED and taken into execution as the property of **Tammie S. Morris** and to be sold by me,

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-870 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of January, 2004, 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 Latimore Township, Adams

County, Pennsylvania being more particularly described as Lot No. 1467 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, Pennsylvania, in Plat Book 1, Page 23 and subject to all legal highways, easements, rights-of-way and restrictions of record.

SUBJECT, nevertheless to the covenants, restrictions and reservations which run with the land and are binding upon and inure to the benefit of the Grantees, their heirs and assigns, and which covenants, restrictions and reservations are set forth of record.

HAVING thereon erected a dwelling house known as: 1 Howard Drive, East Berlin, Pennsylvania 17316

BEING THE SAME PREMISES WHICH John C. Berwager and Yvonne V. Berwager, by Deed dated 4/28/00 and recorded 5/12/00 in Adams County Deed Book 2048, Page 247, granted and conveyed unto Michael M. Krull and Vanessa C. Kelly-Krull.

SEIZED IN EXECUTION AS THE PROPERTY OF VANESSA C. KELLY-KRULL AND MICHAEL M. KRULL UNDER ADAMS COUNTY JUDGMENT NO. 03-S-870

Map & Parcel 24-1-13A

SEIZED and taken into execution as the property of **Michael M. Krull & Vanessa C. Kelly-Krull** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

Adams County Legal Journal

Vol. 45

November 21, 2003

No. 26, pp. 153-161

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-990 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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.:

Parcel No: (17) K-09; 8B

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

BEGINNING for a point in the center of a public road leading to Brown's Dam; thence along lands of Criswell South eighty-three and one-half (83-1/2) degrees West, four hundred fifty-seven and five-tenths (457.5) feet to a point; thence along lands of J.I. Myers North twenty-one (21) degrees East, five hundred eighty-two (582) feet to an iron pin; thence along lands of Guy Haverstick North seventy-nine and three-fourth (79-3/4) degrees East, three hundred twenty-six and seven-tenths (326.7) feet to an iron bolt in the center of the aforementioned public road; thence along and through the center of said public road South seven and three-fourth (7-3/4) degrees West, five hundred fifty-one and six-tenths (551.6) feet to an iron bolt, place of BEGINNING. CONTAINING 4 acres, one hundred twelve and fifty-three hundredths (112.53) square perches as per survey of C.A. Wentz, Reg. Surveyor, dated May 7, 1966.

BEING the same premises which Melissa M. Wonder Sneeringer a/k/a Melissa M. Sneeringer, by Deed dated December 12, 2001, and recorded December 21, 2001, in Book 2505, Page 56, granted and conveyed unto Melissa M. Sneeringer and Michael G. Freet, in fee.

SEIZED and taken into execution as the property of **Melissa M. Sneeringer & Michael G. Freet** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a

schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-N-23 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, 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 Romayne 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.

The above description was taken from a draft of survey made August 27, 1942, by P.S. Orner, Registered Surveyor.

BEING the same which the Secretary of Housing and Urban Development of Washington, D.C., by Dale Albertelli, its Attorney-in-Fact, by deed dated December 8, 2000, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2184 at page 105, sold and conveyed unto Shawn M. Beaman and Shelly J. Beaman.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 25, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

NOTICE

NOTICE IS HEREBY GIVEN, that Matthew E. Teeter intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania on December 2, 2003 at 9:00 A.M. in Courtroom No. 1 of the Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania. He intends to practice law with the law firm of Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, Adams County, Pennsylvania.

11/7, 14 & 21

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-947 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground situate on the West side of the Hanover-Carlisle State Highway in Conewago Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of the State Highway aforesaid at lands now or formerly of Rodney C. Rider; thence by the center of said State Highway South twenty-three (23) degrees East, forty-five (45) feet to a point at lands now or formerly of Lamar E. Null; thence by said lands South sixty-seven (67) degrees West one hundred fifty (150) feet to a point at lands now or formerly of Edward P. Emerson; thence by said lands North twenty-three (23) degrees West, forty-five (45) feet to a point at lands now or formerly of Rodney C. Rider aforesaid; thence by said lands North sixty-seven (67) degrees East, one hundred fifty (150) feet to a point in the center of the State Highway aforesaid, the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Michael P. Leonard and Nancy A. Leonard, husband and wife, as tenants by the entireties by Deed from Michael P. Leonard and Nancy A. Leonard, husband and wife dated 3/24/1978 and recorded 3/31/1978, in Deed Book 336, page 693.

Premises being: 1474 Carlisle Pike, Hanover, PA 17331

Tax Parcel No. L13-18

SEIZED and taken into execution as the property of **Michael P. Leonard & Nancy A. Leonard** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the

Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1080 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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 on the West side of Route 94 in Reading Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of the State Highway to lands of C. Edgar King; thence by said lands and through a steel pin at the side of said highway, South 57 degrees 20 minutes West, 162.5 feet to a steel pin; thence continuing by lands of C. Edgar King and Leroy G. Little, North 67 degrees 27 minutes West, 516 feet to a 12-inch elm; thence by lands of Leroy G. Little and through a steel pin; North 32 degrees 20 minutes East, 423.9 feet to a steel pin; thence continuing by lands of same South 24 degrees 3 minutes East, 74 feet to a steel pin; thence continuing by the same, North 73 degrees East, 197.9 feet thru a steel pin at the side of the highway to a point in the center of said State Highway; thence by the center of said State Highway South 20 degrees East, 488.8 feet to a point, the place of BEGINNING.

CONTAINING 4.571 Acres, neat measure, less exception

LESS, HOWEVER, a certain 3,991 square feet of land which Clarence P. McKonly, by his Deed dated January 21, 1964, and recorded in Adams County Deed Book 255, at Page 214, sold and conveyed unto Richard C. Heusner and Janet B. Heusner, husband and wife.

TITLE TO SAID PREMISES IS VESTED IN Maybelle E. Jacoby by Deed from Anthony J. Batoha and Margaret M. Batoha, husband and wife, etal dated 12/8/84 and recorded 12/11/84 in Record Book 391 Page 1058.

Premises being: 5736 Carlisle Pike, New Oxford, PA 17350

Tax Parcel No. J7-29

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

INCORPORATION NOTICE

Articles of Incorporation were filed for **YELLOW CANARY MARKET, INC.** on September 29, 2003, pursuant to the Business Corporation Law of 1988.

Walton V. Davis
Solicitor

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LITTLE VS. KOONTZ

1. The decision to grant a new trial based upon a challenge to the weight of the evidence is within the sound discretion of the trial court. The critical determination in considering whether or not the verdict is against the weight of the evidence is whether the jury's verdict is so contrary to the evidence as to shock one's sense of justice.

2. The mere happening of an accident does not presume negligence or liability on the part of either party. Rather, before liability attaches, there must be evidence presented establishing that the defendant deviated in some way from the duty of reasonable care under the existing circumstances.

3. Generally, if a term is not defined in a statute, it must be given its common and approved usage and meaning. Appellate courts have held that dictionaries are a proper source to assist in the determination of the common and approved usage of the term.

4. In order for a jury instruction to grant a basis for a new trial, it must be shown not only to have been erroneous but also harmful to the party complaining.

5. A violation of a provision of the Pennsylvania Motor Vehicle Code is negligence per se.

6. Whenever a general provision in a statute conflicts with a special provision in another or the same statute, the two should be construed, if possible, so that both may have effect. However, if the conflict between the respective statutes is irreconcilable, the special provision shall prevail over the general provision.

7. In interpreting a statute, all plain and unambiguous language in the statute is to be given meaning.

8. The Court cannot be found to have erred in a ruling which was never presented to it for consideration.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 99-S-721, DONALD J. LITTLE AND ELLEN J. LITTLE
VS. LINDSAY ANN KOONTZ

Wayne C. Parsil, Esq., for Plaintiffs

Robert A. Lerman, Esq., for Defendant

George, J., December 20, 2002

OPINION

Plaintiffs Donald J. Little and Ellen J. Little (hereinafter referred to as "Little") have filed post-trial motions contesting a jury verdict entered after a two-day trial held on September 16 and 17, 2002. At the close of the trial, the jury returned a verdict in favor of Defendant Lindsay Ann Koontz (hereinafter referred to as "Koontz"), finding Koontz free from negligence in a motor vehicle accident occurring on April 28, 1998, at the intersection of Hanover Pike and Mt. Pleasant Road in Conewago Township. Little's post-trial motions raise four (4) grounds for relief which will be addressed separately hereinbelow.

The first ground raised by Little is an allegation that the verdict was so contrary to the evidence presented that the Court should set aside the verdict.

The decision to grant a new trial based upon a challenge to the weight of the evidence is within the sound discretion of the trial court. *Thompson v. City of Philadelphia*, 493 A.2d 669, 672 (Pa. 1985). The critical determination in considering whether or not the verdict is against the weight of the evidence is whether the jury's verdict is so contrary to the evidence as to shock one's sense of justice. *In re New 12th Ward Republican Club*, 603 A.2d 205, 207 (Pa. Super. Ct. 1992). A new trial should not be granted because of a mere conflict in testimony or because a trial judge considering the same facts would have arrived at a different conclusion. *Burrell v. Philadelphia Elec. Co.*, 265 A.2d 516, 518 (Pa. 1970). Mindful of guidance from our appellate courts, it is necessary to evaluate the testimony at trial to determine whether or not the verdict is against the weight of the evidence.

The testimony at trial was consistent in establishing that the accident occurred when Koontz attempted to make a left-hand turn from the eastbound lane on Hanover Pike onto Mt. Pleasant Road. At that time, Donald Little¹ was proceeding on his motorcycle westbound on Hanover Pike. A third vehicle, operated by Leroy Johns, (hereinafter referred to as "Johns vehicle") was stopped in front of Little in the westbound lane of Hanover Pike for the purpose of making a left-hand turn in a direction opposite Koontz's intended path of travel. As Little passed the Johns vehicle on the right, he collided with the Koontz vehicle which had turned in front of the Johns vehicle and, consequently, his motorcycle. Little pursued several theories of negligence, however, all of those theories presupposed that Koontz, with the exercise of reasonable care, observed, or should have observed, Little's motorcycle travelling towards the intersection. Koontz, on the other hand, claims that despite having looked prior to making any turn, she did not see the Little motorcycle at any time prior to Little's motorcycle striking her car. T.R. p. 132. She claims that prior to making her turn, she had completely stopped her vehicle and activated

¹ Plaintiff Donald J. Little was the sole occupant of the motorcycle at the time of the accident. Plaintiff Ellen J. Little's claim is based upon a loss of consortium, however, this claim was not pursued at trial.

her left turn signal. T.R. p. 130. She further testified that despite her exercise of reasonable care, the Little motorcycle must have been blocked from her vision by the Johns vehicle on the roadway. T.R. p. 132. Although cross-examination of Koontz explored the distance of her unobstructed view of Hanover Pike, Koontz consistently maintained that the Johns vehicle on the roadway obstructed any view or ability to observe Little's approaching motorcycle. Koontz's testimony is corroborated by her sister who was a passenger in the Koontz vehicle at the time of the accident. T.R. p. 148. Finally, Johns indicated that the height of his Dodge Dakota was a "bit over five foot" and would have been higher than both the motorcycle and the car involved in the accident. T.R. p. 59-60. The jury apparently found this testimony credible.

The mere happening of an accident does not presume negligence or liability on the part of either party. *Miller v. Hickey*, 81 A.2d 910, 914 (Pa. 1951); *McDonald v. Aliquippa Hospital*, 606 A.2d 1218, 1220 (Pa. Super. Ct. 1992). Rather, before liability attaches, there must be evidence presented establishing that the defendant deviated in some way from the duty of reasonable care under the existing circumstances. *Aliquippa Hosp.*, 606 A.2d at 1220. Clearly, the plaintiff bears the burden of proving the defendant's duty or obligation, a breach of that duty and causal connection between the defendant's conduct and the resulting injury. *Estate of Swift v. Northeastern Hosp. of Philadelphia*, 690 A.2d 719, 722 (Pa. Super. Ct. 1997), appeal denied, 701 A.2d 577 (Pa. 1997).

The evidence presented at trial, and apparently accepted by the jury, allows for the conclusion that Koontz exercised reasonable care under the circumstances as they occurred on the date of the accident. After a review of the trial testimony, my conscience is not shocked by the jury's verdict and, therefore, a new trial will not be granted on this basis.

Little next argues that the Court erred in instructing the jury that, as a matter of law, the westbound lane in which Little was travelling is a single lane of travel. The determination of whether Little was travelling in a single lane of travel is significant in light of the statutory provisions of the Pennsylvania Motor Vehicle Code. Specifically, Section 3523(b) of the Pennsylvania Motor Vehicle Code prohibits the operator of a motor vehicle from overtaking or passing another vehicle in the same lane in which the motorcycle is

being operated. 75 PA. CONS. STAT. ANN. § 3523(b) (West 1996). At trial, Little argued against the applicability of this section alleging that the area on Hanover Pike where the accident occurred was not a single lane of travel within the meaning of Section 3523(b). This argument was rejected and the Court instructed the jury as a matter of law that the Johns vehicle, which Little was overtaking, was in the same lane of travel as Little's motorcycle. Since Koontz had raised the defense of contributory negligence, the jury was instructed concerning the application of the theory of "negligence per se".²

Pennsylvania's Motor Vehicle Code does not specifically define the term "lane". Generally, if a term is not defined in a statute, it must be given its common and approved usage and meaning. *Commonwealth v. Lawson*, 759 A.2d 1, 4 n.3 (Pa. Super. Ct. 2000). Appellate courts have held that dictionaries are a proper source to assist in the determination of the common and approved usage of the term. *Id.*; *Fogle v. Malvern Courts, Inc.*, 722 A.2d 680, 682 (Pa. 1999). Miriam-Webster's Collegiate Dictionary, 10th Edition (2000) defines the word "lane" as "a strip of roadway for a single line of vehicles". *Id.* at 652. The Pennsylvania Department of Transportation, pursuant to the authority given to it by the Pennsylvania Motor Vehicle Code, has promulgated specific regulations concerning the designation of lanes upon roadways and trafficways. *See* 67 PA. CODE § 211.1131 (2002). For instance, the Code requires that white lines delineate the separation of traffic flows in the same direction. 67 PA. CODE § 211.1136(2) (2002); *see also* 67 PA. CODE § 211.1154 (2002). The interpretation that a roadway consists of a single lane of travel absent road markings to the contrary is confirmed by an overall reading of terms which are defined in both the Pennsylvania Motor Vehicle Code and regulations adopted by the Department. *See* 75 PA. CONS. STAT. ANN. § 102 (West); 67 PA. CODE § 211.1 (2002). Both of those authorities contain definitions that distinguish the terms "roadway" from "laned roadway". Significantly, a "laned roadway" is one which is "divided into two or more clearly marked lanes" for vehicular traffic.

²Where a statutory act dictates the duty of care required of a person and there is a violation of that act, the violating party is negligent as a matter of law. *Gaskill v. Mellella*, 18 A.2d 455, 457 (Pa. Super. Ct. 1941). Of course, the violation must also be found to be a substantial factor in bringing about the injury in order for liability to attach. *Majors v. Brodhead Hotel*, 205 A.2d 873 (Pa. 1965).

Testimony at trial was consistent in establishing that Hanover Pike is a two-lane road with one lane travelling east and one lane travelling west. N.T. pp. 56-57, Testimony of Leroy Johns; N.T. p. 88, Testimony of Conewago Township Officer Hartlaub; N.T. pp. 111-112, Testimony of Donald Little; N.T. pp. 127-128, Testimony of Lindsay Koontz; N.T. p. 149, Testimony of Lauren Koontz. The testimony established that there were two lanes of travel in opposite directions which were designated by two yellow lines down the center of the road, T.R. p. 56; that there were no markings on the roadway for a designated turn lane, T.R. p. 57; that the lane in the direction in which Little was travelling was designated by a double yellow line on the left and a yellow curb on the right, T.R. pp. 58-59; that there were no lane designations between the double yellow line and the yellow curb, T.R. p. 86, including a lack of markings designating a fog line or a shoulder, T.R. p. 85; and finally, that the asphalt on the roadway was level and tight from “curb to curb”, T.R. p. 87. This testimony was consistent among all witnesses and trial testimony on this issue lacked any indication of contradiction.

Little argues that because the width of the roadway between the double yellow line and the yellow curb could accommodate two vehicles travelling in the same direction, the Court erred in instructing that this portion of the roadway was a single lane. Little’s interpretation of the statute would allow individual vehicles to make their own determination of the number of lanes existing between two clearly designated borders which, ultimately, would lead to complete chaos on our roadways. Such an interpretation essentially allows two vehicles to ride abreast of each other travelling in the same direction upon Hanover Pike or, even more dangerously, to allow vehicles to pass on the right other vehicles travelling in the same direction along this roadway at their unfettered discretion. Clearly, the legislature did not intend such an absurd interpretation of the Pennsylvania Motor Vehicle Code as it relates to the safe management of traffic flow.³ Accordingly, the Court’s instruction in this regard was consistent with both the uncontradicted evidence and the common and ordinary meaning of the term “lane”.

³When interpreting a statute, it is presumed that the legislature did not intend an absurd or unreasonable result. *Commonwealth v. Berryman*, 649 A.2d 961, 966 (Pa. Super. Ct. 1994).

In addressing this issue it is important to keep in mind that the Court's instruction in this regard related only to Little's alleged contributory negligence. The jury in this case never reached that issue, but rather, found a lack of negligence on the part of Koontz. In order for a jury instruction to grant a basis for a new trial, it must be shown not only to have been erroneous but also harmful to the party complaining. *Mickey v. Ayers*, 485 A.2d 1199, 1201 (Pa. Super. Ct. 1984). In light of the jury's finding of lack of negligence on the part of Koontz, I find it difficult to ascertain how the instruction, even if presumed to be erroneous, caused any harm to Little. Notably, Little's argument in this regard lacks any showing of harm as a result of the instruction. Little, therefore, will not be granted relief on this basis.

In an argument similar to that just addressed, Little urges that the Court's instruction on Little's duty of care under 75 PA. CONS. STAT. ANN. § 3523(b) (West 1996) was in error. This argument is subtly different than his attack on the Court's interpretation of "lane" in that he now argues that the legislature did not intend to prohibit the type of act which he committed on the date of the accident.

Before specifically addressing this argument, I note once again that, as with the previous argument, Little fails to make any showing of harm caused him by the Court's instruction in this regard. All instructions in regard to Little's duty of care related only to contributory negligence. However, before Little could prevail at trial, he was required to establish by a preponderance of the evidence Koontz's negligence. Since he was unable to do so, this issue he currently raises is immaterial. *See Mickey v. Ayers*, supra. Nevertheless, I will consider the merits of Little's challenge.

It is hornbook law that a violation of a provision of the Pennsylvania Motor Vehicle Code is negligence per se. *See* Footnote 2. Little argues that it was improper for the Court to instruct the jury on the statutory section which prohibits motorcycles from passing a vehicle which is in the motorcycle's same lane of travel. *See* 75 PA. CONS. STAT. ANN. § 3523(b) (West 1996). Little goes on to argue that this particular statutory provision was not intended to supersede Section 3304 of the Pennsylvania Motor Vehicle Code which addresses all motorists' duty of care in overtaking and passing vehicles. Specifically, Section 3304 allows a vehicle which is in the process of making a left-hand turn to be overtaken on the right. *See*

75 PA. CONS. STAT. ANN. § 3304 (West 1996). Little argues that a motorcyclist is entitled to this same right. His argument, however, contradicts the express language of the Motor Vehicle Code.

75 PA. CONS. STAT. ANN. § 3521 (West 1996) indicates that a motorcycle is entitled to all the rights and subject to all the duties applicable to the driver of any other vehicle **except as specially provided** in the subchapter which includes Section 3523. The Statutory Construction Act, 1 PA. CONS. STAT. ANN. § 1933 (West 1995), provides that whenever a general provision in a statute conflicts with a special provision in another or the same statute, the two should be construed, if possible, so that both may have effect. *Id.* However, if the conflict between the respective statutes is irreconcilable, the special provision shall prevail over the general provision. *See* 1 PA. CONS. STAT. ANN. § 1933 (West 1995); *Hamilton v. Unionville-Chadds Ford Sch. Dist.*, 714 A.2d 1012 (Pa. 1998). A plain reading of the two statutes in question indicates that they are not irreconcilable and may be read so that both have effect. Such a reading leads to the conclusion that, unlike other motor vehicles, a motorcycle may not pass or overtake a vehicle in the same lane of travel.

Little suggests a more restrictive reading of the interplay between the two sections. Specifically, he interprets Section 3523(b) “to prohibit motorcycles from passing in the same lane in situations where motorcycles attempt to take advantage of the maneuverability of a motorcycle to avoid waiting in traffic.” Pl. Br., p. 5. I do not find this argument persuasive.

Appellate authority instructs that in interpreting a statute, all plain and unambiguous language in the statute is to be given meaning. *Kramer v. W.C.A.B.*, 794 A.2d 953, 958 (Pa. Commw. Ct. 2002). This instruction is critical in light of the fact that the interpretation which Little attempts to place on Section 3523(b) is expressly provided for in a different subsection of the same provision. Specifically, Section 3523(c) prohibits the operation of motorcycles between lanes of traffic or between adjacent lines or rows of vehicles. 75 PA. CONS. STAT. ANN. § 3523(c) (West 1996). Therefore, Subsection (b), in order to have meaning, must be aimed at addressing circumstances in addition to those raised by Little.

It is likely that the dangerous circumstances intended to be addressed by Section 3523(b) is exactly the circumstance which was

presented to this jury. Motorcycles, due to their size, are unlike other vehicles in that they are able to pass other vehicles where a full-sized vehicle may be unable to do so. This mobility, however, presents a dangerous disadvantage in that the lack of size makes a motorcycle more difficult to observe. As Koontz indicated in the trial, the presence of other vehicles may totally obstruct the view of a motorcycle travelling in the same lane of travel. Whether the lane of travel is sufficient to accommodate two standard vehicles is immaterial to the danger presented under these circumstances. Moreover, to allow a motorcyclist the discretion to determine whether passing in the same lane of travel is safe or dangerous is essentially no standard at all nor mitigates the dangers inherent in the operation of a motorcycle. The clear language of the statute recognizes this in prohibiting a motorcycle under all circumstances from passing another vehicle in the same lane occupied by the vehicle which is being overtaken. There is no confusion about this standard or the express language of the statute. Accordingly, the Court's instruction to the jury in this regard was accurate.

The final issue raised by Little challenges the Court's preclusion of proffered testimony regarding other vehicles passing stopped vehicles on the right at the intersection in question. In addressing this issue, it is important to define the exact proffer of the proposed testimony. Initially, the Court considered Koontz's Pre-trial Motion in Limine which addressed whether witnesses would be permitted to testify considering their personal observation of vehicles passing other vehicles at the intersection in question at a time **other than** the time of this specific accident. By Order dated August 28, 2002, I concluded that the limited relevance of this testimony is greatly outweighed by its potential prejudice. After review of that Opinion, I believe it to be legally correct and will not currently rule to the contrary. Accordingly, for the reasons set forth in that Opinion, this portion of Koontz's Motion is denied.

At trial during the examination of Leroy Johns, a slightly different issue was presented to the Court. Little's counsel attempted to elicit testimony that at the time of the accident, a vehicle was passing the Koontz vehicle on the right-hand side. At that time, the testimony was ruled to be inadmissible. During a pre-trial discussion of this testimony, the Court was advised that there was no indication that the vehicle passing Koontz on the right presented a distraction or an

obstruction to the view of any party. Accordingly, I determined that the probative value of the evidence was outweighed by the danger of unfair prejudice and confusion on issues before the jury and that it had the potential to mislead the jury as to the applicable standards of care of the respective parties. As noted above, vehicles other than motorcycles are statutorily permitted to pass another vehicle on the right when the other vehicle is stopped and making a left-hand turn provided the passing vehicle does not leave the berm of the road. The standard of care in regard to a motorcycle is somewhat different. For this reason, precluding the admission of the testimony does not constitute an abuse of discretion and a new trial will not be granted. *Thompson*, 493 A.2d at 672.

In denying Little's Motion in regard to the ruling at issue, it is important to note that the Court was never presented with the factual circumstance that a vehicle in Little's lane of travel passed the Johns vehicle in his same lane of travel immediately prior to him attempting his pass. To the Court's knowledge, such a factual circumstance did not exist and was never presented to the Court in any offer of proof. The Court's rulings were specifically limited to the two factual circumstances presented as set forth hereinabove. If Little is pursuing relief based upon some other alleged circumstance, such relief is denied. The Court cannot be found to have erred in a ruling which was never presented to it for consideration. *Meholiff v. River Transit Co.*, 20 A.2d 762, 764 (Pa. 1941); *Weiskircher v. Connelly*, 100 A. 965 (Pa. 1917).

For the foregoing reasons, Little's Motion for Post-trial Relief is denied.

ORDER OF COURT

AND NOW, this 20th day of December, 2002, the Plaintiffs' Motion for Post-trial Relief is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-565 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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, with any improvements thereon erected, situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a mark in the concrete on the inside edge of the sidewalk at the Southeastern corner of West Middle Street and South Washington Street; thence along the South edge of the sidewalk along West Middle Street, South 84 degrees 40 minutes East, 60.4 feet to a point on the Southern edge of the sidewalk at corner of buildings at lands now or formerly of George Lower; thence by said lands, South 5 degrees West, 105 feet to a point; thence through the original tract and by lands now or formerly of A.E. Hutchinson, et al, North 84 degrees 40 minutes West, 60.4 feet to a mark in the concrete on the eastern edge of the sidewalk along South Washington Street; thence along the eastern edge of the sidewalk on South Washington Street, North 5 degrees East, 105 feet to the place of BEGINNING.

The above description was taken from a draft of survey dated February 5, 1974 prepared by Leroy H. Winebrenner, R.S.

TITLE TO SAID PREMISES IS VESTED IN James G. Edge by deed from Paula D. Olinger, Executrix of the Estate of Mae E. Olinger dated 10/5/95 recorded 10/5/95 in the County of Adams in Deed Book 1092 page 182.

SEIZED and taken into execution as the property of **James G. Edge** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-1232 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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 Highland Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to-wit:

TRACT NO. 1

BEGINNING at a point for a corner, in the center of the State Highway leading from Gettysburg to Fairfield marked by an iron pin set on the North side of said highway; thence running by land now or formerly of J.J. Spence, North eight and three-fourths (8-3/4) degrees West, two hundred and fourteen (214) feet to an iron pin; thence running by land of the same, North eighty-one and one-fourth (81-1/4) degrees East, one hundred and fifty-four (154) feet to an iron pin; thence running by land of the same, South eight and three-fourths (8-3/4) degrees East, two hundred and fourteen (214) feet to a point in the center of the above mentioned highway marked by an iron pin set on the North side of said highway; thence running in the center of said highway, South eighty-one and one-fourth (81-1/4) degrees West, one hundred fifty-four (154) feet to a point in the center of said highway, the place of BEGINNING. CONTAINING one hundred and twenty-one perches and fourteen square feet.

TRACT NO. 2

BEGINNING at a spike in the center of Pennsylvania Route #116 leading from Gettysburg to Fairfield at Southwest corner of land of the Estate of Allen L. Mallow, said spike being South 8 degrees 45 minutes East from an iron pin set back 21.1 feet along the line; thence in the center of said road, South 81 degrees 15 minutes West, 10 feet to a spike in the center of said road; thence along other land now or formerly of J.J. Spence and Ruth J. Spence, husband and wife, through an iron pin set back 21.1 feet along the line, North 8 degrees 45 minutes West, 214 feet through a small stream to an iron pin, thence along other land now or formerly of J.J. Spence, husband and wife, North 81 degrees 15 minutes East, 10 feet to an iron pin; thence by other land of Estate of Allen L. Mallow, back across the small stream, South 8 degrees 45 minutes East, 214 feet through an iron pin set back 21.1 feet to a spike in the center of the highway, the

place of BEGINNING. CONTAINING 7 perches and 204.11 square feet.

TRACT NO. 3

BEGINNING at a point in the center of Pennsylvania Route #116 leading from Gettysburg to Fairfield at Southeast corner of lot of the Estate of Allen L. Mallow; thence by other land of the Estate of Allen L. Mallow through an iron pin set back along the line, North 8 degrees 45 minutes West, 214 feet across small stream to an iron pin; thence by other land now or formerly of J.J. Spence and Ruth J. Spence, husband and wife, North 81 degrees 15 minutes East, 60 feet to an iron pin; thence by other land now or formerly of J.J. Spence and Ruth J. Spence, husband and wife, to be conveyed to John E. and Mary V. McDannell, South 8 degrees 45 minutes East, 214 feet through an iron pin set back 21.1 feet along the line to a point in the center of said State Highway; thence along the center of said State Highway, South 82 degrees 15 minutes West, 60 feet to a point, the place of BEGINNING. CONTAINING 47 perches and 44.25 square feet.

The description of Tract Nos. 2 and 3 were taken from draft of survey made June 7th, 1958, by Wilbur V. Redding, Registered Surveyor.

TITLE TO SAID PREMISES IS VESTED IN Michael L. Glynn by Deed from Dennis J. Baldwin and Roxann M. Baldwin, husband and wife dated 11/6/96, recorded 11/20/96, in Deed Book Volume 1291, page 224.

Tax Parcel: D-14-22

Premises Being: 3115 Fairfield Road, Gettysburg, PA 17325

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-22 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an iron pin located in Schoolhouse Road (Township Route T-566) at corner of Tract #1 set forth on the subdivision plan referred to below; thence by said Tract #1, and running through a reference iron pin located 94.41 feet from the beginning of this line, North 12 degrees 56 minutes 50 seconds West, 404.26 feet to an iron pin; thence by same, North 83 degrees 12 minutes 10 seconds East, 464.17 feet to a railroad spike located in the aforementioned Schoolhouse Road; thence in said Schoolhouse Road, and by land now or formerly of Philip H. Tarpley, South 09 degrees 37 minutes 20 seconds East, 223.73 feet to an existing post on the East side of the aforementioned road; thence continuing by same, and in the aforementioned Schoolhouse Road, South 60 degrees 45 minutes 00 seconds West 467.31 feet to an iron pin in road, the place of BEGINNING. CONTAINING 3.272 acres, and being designated as Tract No. 3 on the subdivision plan prepared by Marian Anne Jones by Boyer-Price Surveys, Inc. dated August 21, 1974, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 7 at page 22.

BEING known as 310 Rock Valley Road, Aspers, PA 17304

Property ID No: H6-24C

TITLE TO SAID PREMISES IS VESTED IN James Craig Johnson and Sandra R. Johnson, husband and wife, as tenants by the entireties by Deed from Samuel B. Stoner and Alana M. Stoner, husband and wife dated 10/31/97, recorded 11/6/97, in Deed Book 1470, Page 131.

SEIZED and taken into execution as the property of **James Craig Johnson & Sandra Lee Johnson a/k/a Sandra R. Johnson** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless

exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/7, 14 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-693 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of January, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those two (2) lots of ground, situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

LOT NO. 1: BEGINNING at the Southeastern corner of the bridge crossing Miney Creek on the Cove Hollow (township public) road, being the point of intersection of the Eastern side of said road and the Southern side of Miney Creek, said point of beginning being approximately 96 feet South of the intersection of said Cove Hollow Road with Route 16; thence running along the Southern bank of said Miney Creek, South 70 degrees 29 minutes East, 97.97 feet to an iron pipe driven at the point of intersection of the Southern bank of Miney Creek with the Western bank of a small stream intersecting from the South; thence for the next two courses running along the Western bank of said small intersecting stream, and by lands now or formerly of Charles P. Thalheim, South 48 degrees 45 minutes West, 109.55 feet to a pipe driven in the Western bank of said small stream; thence by same, South 21 degrees 37 minutes West, 103.68 feet to a pipe driven on the Northern side of a 22 foot side private road; thence by the Northern side of said private road, North 67 degrees 35 minutes West, 115.90 feet to a spike driven in the Eastern side of said Road, North 40 degrees 45 minutes East, 207.34 feet to the above described place of BEGINNING. CONTAINING 68.25 perches, more or less.

LOT NO. 2: BEGINNING at a spike driven in the Eastern side of said Cove Hollow Road, located at its point of intersection with the Southern side of the aforesaid 22 foot wide private road; thence running along the Southern side of said private road, South 67 degrees

35 minutes East, 124.50 feet to a pipe driven in the Western bank of the small intersecting stream aforesaid; thence running along the Western bank thereof and by said lands now or formerly of Charles E. Thalheim, South 38 degrees 34 minutes West, 84.87 feet to a pipe driven in said Western bank; thence continuing for the next five courses along the Western bank of said small stream and by lands now or formerly of Elmer Tressler, North 79 degrees 1 minute West, 26.10 feet to a pipe; thence South 9 degrees 57 minutes West, 28.60 feet to a pipe; thence South 66 degrees 5 minutes West, 60.26 feet to a pipe; thence North 69 degrees 17 minutes West, 39.10 feet to a pipe; thence by same, South 77 degrees 56 minutes West, 41.62 feet to a pipe driven on the bank of the Western side of said small stream; thence leaving said stream, North 60 degrees 26 minutes West, 10 feet to a spike driven in the Eastern side of said Cove Hollow Road; thence running in the Eastern side of said Cove Hollow Road, North 35 degrees 46 minutes East, 186.87 feet to the above-described place of BEGINNING.

CONTAINING 66.42 perches, more or less.

The above description was taken from a draft of survey dated December 5, 1964, made by Wilbur V. Redding, registered Surveyor, for the use of Ralph E. Musselman and Helen M. Musselman, and identified by the legend: "Charles W. and Myrtle M. Hankey property, situate in Liberty Twp., Adams Co., Pa"

Map and Parcel ID: Map B17, Parcel 87

BEING KNOWN AS: 40 Cove Hollow Road, Fairfield, PA 17320

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

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 TREVA M. CHRONISTER, DEC'D

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

Co-Executors: Kathy Mellott & Jerry R. Leathery, c/o Craig A. Diehl, Esq., 119 W. Hanover St., Spring Grove, PA 17362

Attorney: Craig A. Diehl, Esq., C.P.A., 119 W. Hanover St., Spring Grove, PA 17362

ESTATE OF WILLIAM B. JOHNS, III, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Administratrix: Lucy J. Bassin, 640 W. Conway St., Baltimore, MD 21230

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

ESTATE OF DALE R. McCLEAF, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Grover H. McCleaf, P.O. Box 45, Cashtown, PA 17310; Anna M. Swope, 100 Confederate Drive, Gettysburg, PA 17325

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

ESTATE OF RICHARD C. SHEALER, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executor: Richard G. Shealer, 65 Memory Lane, Aspers, PA 17304; Dianne S. Peterson, 3276 Old Harrisburg Rd., Gettysburg, PA 17325

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

ESTATE OF MARION C. ZHEA, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Linda Ella Zhea, 300 N. Stratton St., Gettysburg, PA 17325

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

SECOND PUBLICATION

ESTATE OF BERNICE M. ALBRIGHT, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executor: William G. Albright, 2410 Lake Meade Rd., East Berlin, PA 17316

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

ESTATE OF CHARLOTTE W. BONHAM, DEC'D

Late of Straban Township, Adams County, Pennsylvania

George C. Bonham, Jr., 1025 Taneytown Rd., Gettysburg, PA 17325

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

ESTATE OF RUTH A. MESSINGER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrices: Frances L. Renoll and Doris T. von Staden, c/o Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

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

ESTATE OF MELVIN G. MILLER, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Donald G. Miller, 830 Rentzel Road, Biglerville, PA 17307; Owen L. Miller, 6098 Winding Lane, East Berlin, PA 17316

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

ESTATE OF IVONNE M. SALAZAR, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administratrix: Luiggy J. Salazar, 65 North Street, Apt. #40, McSherrystown, PA 17344

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

ESTATE OF ANGEL JUAN SANCHEZ, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Administratrix: Vicky J. Squires, 4820 Old Harrisburg Road, Lot No. 74, Gettysburg, PA 17325

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

ESTATE OF RUTH E. WAGNER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Elizabeth J. Manifold, 26 Northview Drive, Hanover, PA 17331

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

THIRD PUBLICATION

ESTATE OF NELLIE S. BAIR, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executrix: Lorraine R. Pfaff a/k/a Loraine R. Pfaff, 200 Villa Vista Avenue, Hanover, PA 17331

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

ESTATE OF MARY V. CROUSE, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Clyde W. Crouse, 1215 Frederick Pike, Littlestown, PA 17340

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

ESTATE OF WILMER D. MILLER, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Administrators: Donald E. Miller, 4708 Oxford Rd., York Springs, PA 17372; Melvin L. Miller, 4671 Oxford Rd., York Springs, PA 17372

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

ESTATE OF E. CATHERINE PHELPS, DEC'D

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

Executor: William C. Phelps, 26 Robin Trail, Fairfield, PA 17320

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

ESTATE OF HELMI E. WOLFORD, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administrator: John C. Zepp, III, P.O. Box 204, York Springs, PA 17372

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1122 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of January, 2004, 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 Menallen Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of a private road 50 feet in width at the Westernmost corner of the lot designated as Lot No. 1 on the plan of lots referred to below; thence by said Lot No. 1 and running through an iron pin located 25 feet from the place of Beginning South 48 degrees 23 minutes 38 seconds East, 183.56 feet to an iron pin; thence by land now or formerly of Charles E. Ott and wife South 41 degrees 5 minutes 37 seconds West, 353.01 feet to an iron pin; thence by the lot designated as Lot No. 5 on the plan of lots referred to below and running through an iron pin located 25 feet from the end of this line North 48 degrees 23 minutes 38 seconds West, 186.72 feet to a point in the center of the aforementioned private road; thence in the center of said private road and by the lot designated as Lot No. 4 on the plan of lots referred to below North 41 degrees 36 minutes 22 seconds East, 353 feet to a point in the center of said private road, the place of BEGINNING.

TOGETHER WITH the right to use the 50-foot private road referred to in the foregoing description as a means of ingress, egress and regress from Legislative Route 01041 to the lot hereby conveyed.

SUBJECT, HOWEVER, to the restrictions and responsibilities contained in a deed recorded in the aforementioned Recorder's Office in Deed Book 356 at Page 654.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-856 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of January, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE lots situate, lying and being in Union Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1 - BEGINNING at a point in the center of a public road known as State Highway Route No. 01030, said point of beginning, being South 43 degrees 36 minutes East, 455.30 feet from a point driven in the center of said Route No. 01030 where said highway center intersects the Eastern edge of the right of way of the Littlestown-Hanover State Highway; thence running through the original tract of Harry C. Worley, et al., and running through an iron pin 20 feet from the beginning of this course, North 45 degrees 30 minutes East, 150 feet to an iron pin; thence continuing along the original tract, South 44 degrees 30 minutes East, 100 feet to an iron pin; thence continuing through the original tract South 45 degrees 30 minutes West, 150 feet through an iron pin 20 feet from the end of this course to a point in the center of said State Highway Route No. 01030; thence running in the center of said State Highway, North 44 degrees 30 minutes West 100 feet to the above described place of BEGINNING. CONTAINING 15,000 square feet, more or less.

THE above description was taken from a draft of survey made by D. W. Resh, Registered Surveyor, dated August 27, 1955 and further identified by the legend "Plan of Property to Harry C. Worley situated in Union Township, Adams County, PA."

TRACT NO. 2 - BEGINNING at a point at corner of land now or formerly of John C. Steich and corner of land now or formerly of Charles E. Smench; thence by land about to be conveyed to Charles E. Smench North 45 degrees 30 minutes East 50 feet to a steel pin at other lands now or formerly of Harry C. Worley; thence by said lands of Worley South 44 degrees 30 minutes East 100 feet to a steel pin; thence by the same South 45

degrees 30 minutes West 50 feet to a point at other land now or formerly of John C. Steich; thence by said Steich's land North 44 degrees 30 minutes West 100 feet to a point, the place of BEGINNING. CONTAINING 5,000 square feet.

THE above description was taken from a draft survey prepared by J.H. Rife, R.E., dated April 30, 1970.

SUBJECT nevertheless, to the restrictions of record.

Being Parcel No. (41)-K-17, Parcel 8

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

NOTICE BY THE ADAMS COUNTY
CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, December 2, 2003, at 9:00 a.m.

BIGHAM—Orphans' Court Action Number OC-125-03. The First and Final Account of Eva Trostle, Executrix of the Will of John M. Bigham, deceased, late of Highland Township, Adams County, Pennsylvania.

HAGIE—Orphans' Court Action Number OC-128-03. The First and Final Account of Susan H. Crouse, Executrix of the Last Will and Testament of Anne N. Hagie, deceased, late of Franklin Township, Adams County, Pennsylvania.

Clerk of Courts

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Adams County Legal Journal

Vol. 45

November 26, 2003

No. 27, pp. 162-169

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COMMONWEALTH VS. ALAMO

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-947 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground situate on the West side of the Hanover-Carlisle State Highway in Conewago Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of the State Highway aforesaid at lands now or formerly of Rodney C. Rider; thence by the center of said State Highway South twenty-three (23) degrees East, forty-five (45) feet to a point at lands now or formerly of Lamar E. Null; thence by said lands South sixty-seven (67) degrees West one hundred fifty (150) feet to a point at lands now or formerly of Edward P. Emerson; thence by said lands North twenty-three (23) degrees West, forty-five (45) feet to a point at lands now or formerly of Rodney C. Rider aforesaid; thence by said lands North sixty-seven (67) degrees East, one hundred fifty (150) feet to a point in the center of the State Highway aforesaid, the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Michael P. Leonard and Nancy A. Leonard, husband and wife, as tenants by the entireties by Deed from Michael P. Leonard and Nancy A. Leonard, husband and wife dated 3/24/1978 and recorded 3/31/1978, in Deed Book 336, page 693.

Premises being: 1474 Carlisle Pike, Hanover, PA 17331

Tax Parcel No. L13-18

SEIZED and taken into execution as the property of **Michael P. Leonard & Nancy A. Leonard** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the

Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1080 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of January, 2004, 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 on the West side of Route 94 in Reading Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of the State Highway to lands of C. Edgar King; thence by said lands and through a steel pin at the side of said highway, South 57 degrees 20 minutes West, 162.5 feet to a steel pin; thence continuing by lands of C. Edgar King and Leroy G. Little, North 67 degrees 27 minutes West, 516 feet to a 12-inch elm; thence by lands of Leroy G. Little and through a steel pin; North 32 degrees 20 minutes East, 423.9 feet to a steel pin; thence continuing by lands of same South 24 degrees 3 minutes East, 74 feet to a steel pin; thence continuing by the same, North 73 degrees East, 197.9 feet thru a steel pin at the side of the highway to a point in the center of said State Highway; thence by the center of said State Highway South 20 degrees East, 488.8 feet to a point, the place of BEGINNING.

CONTAINING 4.571 Acres, neat measure, less exception

LESS, HOWEVER, a certain 3,991 square feet of land which Clarence P. McKonly, by his Deed dated January 21, 1964, and recorded in Adams County Deed Book 255, at Page 214, sold and conveyed unto Richard C. Heusner and Janet B. Heusner, husband and wife.

TITLE TO SAID PREMISES IS VESTED IN Maybelle E. Jacoby by Deed from Anthony J. Batoha and Margaret M. Batoha, husband and wife, etal dated 12/8/84 and recorded 12/11/84 in Record Book 391 Page 1058.

Premises being: 5736 Carlisle Pike, New Oxford, PA 17350

Tax Parcel No. J7-29

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for DE-JA, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on October 17, 2003, 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

11/26

COMMONWEALTH VS. ALAMO

1. A police officer may stop a vehicle when he or she has reasonable and articulable grounds to suspect a violation of the Vehicle Code. The reasonable suspicion necessary to justify a vehicular stop is less stringent than probable cause, but the officer must have more than a hunch as a basis for a stop.

2. A prima facie case consists of evidence, read in a light most favorable to the Commonwealth, that sufficiently establishes both the commission of a crime and that the accused is probably the perpetrator of that crime.

3. In determining the presence or absence of a prima facie case, inferences reasonably drawn from the evidence of record that would support a verdict of guilty are to be given effect, but suspicion and conjecture are not evidence and are unacceptable as such.

4. When no bodily injury results from one's conduct, the Commonwealth must prove that he attempted to cause such injuries.

5. One "attempts" to commit a criminal act when with the intent to commit a specific crime, he does any act which constitutes a substantial step towards the commission of the crime.

6. To sustain a charge of attempt, the prosecution must establish beyond a reasonable doubt that it was Defendant's conscious goal to at least cause bodily injury. This intent may be shown by circumstances which reasonably suggest that a defendant intended to cause injury.

7. An actor can be responsible for the "natural and probable consequences of his actions to result therefrom."

In the Court of Common Pleas of Adams County, Pennsylvania,
Criminal, No. CC-698-02, COMMONWEALTH VS. FELIX JOSE
ALAMO

Paul Dean, Esq., District Attorney, for Commonwealth

Karl Rominger, Esq., for Defendant

Kuhn, P.J., December 27, 2002

OPINION ON DEFENDANT'S OMNIBUS PRETRIAL MOTION TO SUPPRESS

Before the Court is a pre-trial motion filed by Defendant on August 26, 2002 wherein he seeks suppression of all evidence emanating from a vehicular stop and dismissal of all aggravated assault charges. For reasons set forth below, the motion is denied.

The only record presented to the Court from which to decide the motion is a transcript of the preliminary hearing held June 27, 2002 and a stipulation. The background is as follows:

At or about 10:30 p.m. on May 4, 2002, Officer William Hartlaub of the Conewago Township Police Department was sitting in his patrol vehicle at Myers' Meat Market facing Third Street and speaking to Officer Gary Baumgardner. Officer Hartlaub noticed a Honda Accord

traveling East on Third Street in a 25 m.p.h. speed zone at what he estimated to be in excess of 50 m.p.h. The vehicle also had very dark tinted windows. Officer Hartlaub activated his lights and siren and the vehicle pulled over. As Officer Hartlaub exited his vehicle and got to his left front fender, the Honda (one car length in front) accelerated rapidly in reverse causing the officer to jump aside. The Honda came within two feet of the officer and then took off, and a chase ensued.

The chase which began on Third Street in Conewago Township ended on Brown's Dam Road in Reading Township. In between, the Honda was in parts of the Borough of Hanover, Oxford Township, New Oxford Borough, Hamilton Township, and Reading Township. The Honda ran through at least seven stop signs and two red lights. Several times he improperly passed other vehicles and at one point reached speeds between 70-80 m.p.h.

At a location in Oxford Township, the Honda stopped in a pull-off area. When Officer Hartlaub pulled in to block the Honda, it accelerated straight toward him, then turned and proceeded to the north. The officer believed he was going to be hit.

On another occasion, the Honda passed a tractor trailer going North on S.R. 94 and came within inches of striking Officer Clement Smith of the Reading Township Police Department who was traveling South with his overhead lights and siren on.

Finally, the Honda pulled off S.R. 94 and onto Browns Dam Road which is a dead end paved country roadway, not much wider than a single lane. He was followed, in turn, by Officers Hartlaub, Baumgardner, Ogle and Smith. At the dead end, the Honda turned into a field, then turned in front of Hartlaub's vehicle and hit its front end. The Honda returned to the paved roadway and struck Smith's vehicle head on. The Honda then went into reverse, hit the left front of Baumgardner's cruiser and went sideways into Hartlaub's vehicle. At that point, the Honda was wedged between the police cars and Defendant exited from the vehicle's driver side.

The only injury actually sustained by an officer was a tendon injury to Officer Hartlaub's finger as he hit it on the cup holder in his cruiser when the last impact with the Honda occurred.

Defendant first argues that the initial stop on Third Street was illegal and therefore any evidence of criminal behavior occurring thereafter must be suppressed. I disagree.

The initial stop occurred as a result of Defendant's high rate of speed and the tinted windows. Our Superior Court in *Commonwealth v. Baumgardner*, 767 A.2d 1065, 1067 (2001) stated:

A police officer may stop a vehicle when he or she has reasonable and articulable grounds to suspect a violation of the Vehicle Code, 75 Pa.C.S.A. § 6308(b). "The reasonable suspicion necessary to justify a vehicular stop is less stringent than probable cause, but the officer must have more than a hunch as a basis for a stop."... Moreover, an officer need not establish an actual violation of the Vehicle Code before stopping a vehicle. (citations omitted).

Here, the officer had reasonable suspicion to justify the stop on two bases.

First, driving at a speed in excess of 50 m.p.h. in a 25 m.p.h. speed zone is sufficient to effectuate a vehicle stop. Although an officer's estimate of speed standing alone is not sufficient to sustain a conviction for speeding, it may constitute a reasonable and articulable ground to suspect speeding or driving at an unsafe speed. Such was the situation in *Commonwealth v. McElroy*, 630 A.2d 35 (Pa.Super. 1993) where it was held that the officer had the requisite reasonable suspicion to effectuate a stop where he opined that McElroy was operating his vehicle at 80 m.p.h. in a 35 m.p.h. speed zone when he passed the officer going in the opposite direction. Here, an opinion of speed in excess of 50 m.p.h. in a 25 m.p.h. zone justifies the same conclusion.

Second, operating a vehicle with improperly tinted windows violates Section 4524 of the Vehicle Code, 75 Pa.C.S.A. § 4524. That section provides that no person shall drive a vehicle with a non-transparent material on the windows which obscures or impairs the driver's clear view of the highway. Regulations have been adopted which guide what is considered improper. 67 Pa.Code § 175.67(d)(4) and § 175.263. This Court knows from a prior proceeding, *Commonwealth v. Raper*, CC-727-01 (see Order of Court dated May 30, 2002), that Officer Hartlaub has attended inspection schools and was aware of the regulations.

Instantly, the Court has no need to determine whether Defendant's windows would have been legally acceptable. The sole issue is

whether observing very dark tinted windows in this case is a reasonable and articulable reason to suspect a Vehicle Code violation. This Court concludes that the officer had sufficient basis to justify a brief detention to investigate the suspected violation.

Therefore, on the first question, I find that there was reasonable suspicion to justify the initial stop. Consequently, no evidence obtained after the stop is tainted or suppressable.

Next, Defendant argues that he is entitled to dismissal of all aggravated assault charges based upon insufficient evidence. Defendant has been charged with 8 counts of aggravated assault. In Counts I-IV he is charged under Section 2702(a)(2) which makes it a crime if an individual

(2) attempts to cause or intentionally, knowingly, or recklessly causes serious bodily injury to any of the officers... enumerated in subsection (c)...

Under Counts VI-IX he is charged under Section 2702(a)(3) which makes it a crime if an individual

(3) attempts to cause or intentionally or knowingly causes bodily injury to any of the officers... enumerated in subsection (c)...

Subsection (c) identifies a "police officer" as one of the enumerated persons referred to in subsections (a)(2) and (3).

Defendant's pre-trial motion is in the form of a petition for habeas corpus relief where the court is to determine whether a prima facie case was established.

A prima facie case consists of evidence, read in a light most favorable to the Commonwealth, that sufficiently establishes both the commission of a crime and that the accused is probably the perpetrator of that crime... In determining the presence or absence of a prima facie case, inferences reasonably drawn from the evidence of record that would support a verdict of guilty are to be given effect, but suspicion and conjecture are not evidence and are unacceptable as such...

Stated another way, a prima facie case in support of an accused's guilt consists of evidence that, if accepted as true, would warrant submission of the case to a jury...

Therefore, proof of the accused's guilt beyond a reasonable doubt need not be established at this stage.

Commonwealth v. Packard, 767 A.2d 1068, 1071 (Pa.Super. 2001) (citations omitted).

Initially, it is alleged that Defendant "attempted to cause serious bodily injury" to Officers Hartlaub (Count I), Smith (Count II), and Baumgardner (Count III). Next, it is alleged that he "intentionally, knowingly, or recklessly caused serious bodily injury" to Officer Hartlaub (Count IV). Finally, it is alleged that Defendant "attempted to cause bodily injury" to Officers Hartlaub (Counts VI and IX), Smith (Count VII) and Baumgardner (Count VIII).

When no bodily injury results from one's conduct, "the Commonwealth must prove that he attempted to cause such injuries." *Commonwealth v. Lopez*, 654 A.2d 1150, 1154 (Pa.Super. 1995). Defendant suggests there is no evidence that he "attempted" to cause bodily injury or serious bodily injury to any officer. Instead, he argues that, at most, the record shows he was trying "to get away". One "attempts" to commit a criminal act when

... with the intent to commit a specific crime, he does any act which constitutes a substantial step towards the commission of the crime.

Section 901(a) of the Crimes Code, 18 Pa.C.S.A. § 901(a).

Of course, a person acts intentionally when it is his "conscious object to engage in conduct of that nature." 18 Pa.C.S.A. § 302(b). Thus, to sustain a charge of attempt, the prosecution must establish beyond a reasonable doubt that it was Defendant's conscious goal to at least cause bodily injury. Establishing intent is often difficult. Therefore, "this intent may be shown by circumstances which reasonably suggest that a defendant intended to cause injury." *Commonwealth v. Marti*, 779 A.2d 1177, 1183 (Pa.Super. 2001).

A review of several cases is illustrative of the analysis utilized in this type of case.

In *Commonwealth v. Padden*, 483 A.2d 950 (Pa.Super. 1984) the defendant was involved in a 20 mile high speed chase with pursuing police in which he ran through road blocks, rammed a police car and forced it off the road, and several times struck, bumped or rammed

another police car engaged in a rolling road block. There Padden was convicted of Aggravated Assault for his conduct against each police cruiser. The issue on appeal did not involve an analysis of the sufficiency of the evidence, but the case does illustrate that, in circumstances similar to those in the matter sub judice, a jury can find the defendant guilty of an attempt.

In *Commonwealth v. Burns*, 568 A.2d 974 (Pa.Super. 1990) the defendant, while being detained by police, left the scene in his tractor trailer and led police on an hour long chase. During the chase, Burns informed another person that he would not stop for anyone and would run over whomever got in his way. When officers tried to pass him, he would force them off the roadway. When a cruiser got in front of Burns, he drove at the vehicle so that the officer had to accelerate to avoid being hit. Finally, when a road block was set up, Burns drove at it with no apparent intention of stopping, causing the officer to move his car to avoid being hit. No injuries were sustained by anyone. Burns was convicted of four counts of Aggravated Assault, 18 Pa.C.S.A. § 2702(a)(1). The Superior Court determined that the circumstantial evidence was sufficient to establish that Burns' intent was to cause serious bodily injury.

In *Commonwealth v. Fierst*, 620 A.2d 1196 (Pa.Super. 1993) the defendant was involved in an incident wherein he evidenced suicidal intentions. He then drove his vehicle on an expressway. At one point, he swerved into the oncoming lane forcing a vehicle in that lane to swerve off the roadway to avoid being hit. Shortly thereafter, he swerved into the path of another car and a collision resulted. Fierst was convicted of Aggravated Assault for his conduct toward each vehicle.

In *Commonwealth v. Comer*, 716 A.2d 593 (Pa. 1998), charges of Aggravated Assault, 18 Pa.C.S.A. § 2702(a)(1), for attempting to cause serious bodily injury were dismissed where the prosecution could not establish that the driver "possessed the state of mind equivalent to that which seeks to cause injury." 716 A.2d at 596. There Comer was driving at an excessive speed after drinking 4-5 beers and taking a "downer". He left the roadway, hit a bus stand injuring two persons, and stopped when the vehicle hit a brick wall.

In *Commonwealth v. Packard*, supra, the defendant crossed the median line into the wrong lane of traffic and struck an elderly pedestrian who had confronted her for littering. Packard was

traveling approximately 15 m.p.h. and applied her brakes about one foot from the victim. The trial court granted the defendant's pre-trial motion to dismiss, inter alia, a charge of Aggravated Assault under Section 2702(a)(4) because it felt the braking action demonstrated a lack of intent to cause the requisite injury. In speaking to the relationship between the defendant's evasive action and her intent, the Superior Court reasoned that

Though a jury may find... that Packard's braking demonstrated her renunciation of the intent, objective, or knowledge requisite to the charges at hand, the totality of Packard's pernicious conduct may reasonably lead a jury to find instead that Packard braked for other reasons, such as concern for herself or for her car. Thus, it would not be incongruous with the evidence for a jury to find that Packard...consciously set out to cause, or knew that her conduct would cause, Transue serious bodily injury. Therefore, we reject the trial court's opinion that Packard's last second braking necessarily exculpates her as a matter of law. To hold otherwise would create rules of law with regard to... aggravated assault not contemplated by the Legislature.

Packard, 767 A.2d at 1071-2.

With regard to Officer Hartlaub, the Information alleges that the substantial step taken toward the commission of Aggravated Assault was by backing towards him and attempting to strike his patrol vehicle (Count I), attempting to strike the officer by backing toward him (Count III), and by actually striking the patrol vehicle (Count IX).

From the initial stop to the final impact, it is clear that Defendant was trying to avoid apprehension. However, we cannot say that a jury would not conclude that he was attempting to inflict injury upon Officer Hartlaub in order to effectuate his escape. At the initial stop, he rapidly backed toward the officer at a time when nothing was in front of him which required such a movement in order to escape. Defendant's actions evidence an utter disregard for the safety of others. His action on Brown's Dam Road when he turned into the path of and hit Officer Hartlaub's vehicle, and his actions of backing into the officer's vehicle demonstrated what could be seen as a callous effort to inflict whatever harm was necessary in order to get away.

With regard to Officer Baumgardner, it is alleged that Defendant attempted an assault by backing into and striking the officer's car while attempting to escape. (Count III and VIII). This sequence also occurred on Brown's Dam Road and again could be seen as a willingness to inflict whatever harm was necessary in order to avoid apprehension.

With regard to Officer Smith, it is alleged that Defendant rammed the front of his cruiser on Brown's Dam Road. (Count II and VII). Evidence indicated that Defendant had ample time to stop or pull off the road in order to avoid the collision. Instead, a jury could view his action as intentionally colliding with Officer Smith in order to harm him and effectuate his escape.

Under Count IV, it is alleged that Defendant knowingly or recklessly caused serious bodily injury to Officer Hartlaub when he actually struck the officer's cruiser. There is no question that Defendant, at least, acted recklessly under the circumstances. The scant description of the injury received is inadequate at this time to render any opinion as to whether it involved serious bodily injury or just bodily injury. Furthermore, the fact that the nature of the injury may have been unusual or unexpected is of no consequence. An actor can be responsible for the "natural and probable consequences of his actions to result therefrom." *Commonwealth v. Lopez*, 654 A.2d 1150, 1155 (Pa.Super. 1995).

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 27th day of December, 2002, Defendant's Omnibus Pre-Trial Motion to Suppress filed August 26, 2002 is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1122 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of January, 2004, 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 Menallen Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of a private road 50 feet in width at the Westernmost corner of the lot designated as Lot No. 1 on the plan of lots referred to below; thence by said Lot No. 1 and running through an iron pin located 25 feet from the place of Beginning South 48 degrees 23 minutes 38 seconds East, 183.56 feet to an iron pin; thence by land now or formerly of Charles E. Ott and wife South 41 degrees 5 minutes 37 seconds West, 353.01 feet to an iron pin; thence by the lot designated as Lot No. 5 on the plan of lots referred to below and running through an iron pin located 25 feet from the end of this line North 48 degrees 23 minutes 38 seconds West, 186.72 feet to a point in the center of the aforementioned private road; thence in the center of said private road and by the lot designated as Lot No. 4 on the plan of lots referred to below North 41 degrees 36 minutes 22 seconds East, 353 feet to a point in the center of said private road, the place of BEGINNING.

TOGETHER WITH the right to use the 50-foot private road referred to in the foregoing description as a means of ingress, egress and regress from Legislative Route 01041 to the lot hereby conveyed.

SUBJECT, HOWEVER, to the restrictions and responsibilities contained in a deed recorded in the aforementioned Recorder's Office in Deed Book 356 at Page 654.

SEIZED and taken into execution as the property of Patricia Slaybaugh and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-856 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of January, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE lots situate, lying and being in Union Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1 - BEGINNING at a point in the center of a public road known as State Highway Route No. 01030, said point of beginning, being South 43 degrees 36 minutes East, 455.30 feet from a point driven in the center of said Route No. 01030 where said highway center intersects the Eastern edge of the right of way of the Littlestown-Hanover State Highway; thence running through the original tract of Harry C. Worley, et al., and running through an iron pin 20 feet from the beginning of this course, North 45 degrees 30 minutes East, 150 feet to an iron pin; thence continuing along the original tract, South 44 degrees 30 minutes East, 100 feet to an iron pin; thence continuing through the original tract South 45 degrees 30 minutes West, 150 feet through an iron pin 20 feet from the end of this course to a point in the center of said State Highway Route No. 01030; thence running in the center of said State Highway, North 44 degrees 30 minutes West 100 feet to the above described place of BEGINNING. CONTAINING 15,000 square feet, more or less.

THE above description was taken from a draft of survey made by D. W. Resh, Registered Surveyor, dated August 27, 1955 and further identified by the legend "Plan of Property to Harry C. Worley situated in Union Township, Adams County, PA."

TRACT NO. 2 - BEGINNING at a point at corner of land now or formerly of John C. Steich and corner of land now or formerly of Charles E. Smench; thence by land about to be conveyed to Charles E. Smench North 45 degrees 30 minutes East 50 feet to a steel pin at other lands now or formerly of Harry C. Worley; thence by said lands of Worley South 44 degrees 30 minutes East 100 feet to a steel pin; thence by the same South 45

degrees 30 minutes West 50 feet to a point at other land now or formerly of John C. Steich; thence by said Steich's land North 44 degrees 30 minutes West 100 feet to a point, the place of BEGINNING. CONTAINING 5,000 square feet.

THE above description was taken from a draft survey prepared by J.H. Rife, R.E., dated April 30, 1970.

SUBJECT nevertheless, to the restrictions of record.

Being Parcel No. (41)-K-17, Parcel 8

SEIZED and taken into execution as the property of Michael L. Walte and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

NOTICE BY THE ADAMS COUNTY
CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, December 2, 2003, at 9:00 a.m.

BIGHAM—Orphans' Court Action Number OC-125-03. The First and Final Account of Eva Trostle, Executrix of the Will of John M. Bigham, deceased, late of Highland Township, Adams County, Pennsylvania.

HAGIE—Orphans' Court Action Number OC-128-03. The First and Final Account of Susan H. Crouse, Executrix of the Last Will and Testament of Anne N. Hagie, deceased, late of Franklin Township, Adams County, Pennsylvania.

Clerk of Courts

11/21 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-693 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of January, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those two (2) lots of ground, situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

LOT NO. 1: BEGINNING at the Southeastern corner of the bridge crossing Miney Creek on the Cove Hollow (township public) road, being the point of intersection of the Eastern side of said road and the Southern side of Miney Creek, said point of beginning being approximately 96 feet South of the intersection of said Cove Hollow Road with Route 16; thence running along the Southern bank of said Miney Creek, South 70 degrees 29 minutes East, 97.97 feet to an iron pipe driven at the point of intersection of the Southern bank of Miney Creek with the Western bank of a small stream intersecting from the South; thence for the next two courses running along the Western bank of said small intersecting stream, and by lands now or formerly of Charles P. Thalheim, South 48 degrees 45 minutes West, 109.55 feet to a pipe driven in the Western bank of said small stream; thence by same, South 21 degrees 37 minutes West, 103.68 feet to a pipe driven on the Northern side of a 22 foot side private road; thence by the Northern side of said private road, North 67 degrees 35 minutes West, 115.90 feet to a spike driven in the Eastern side of said Road, North 40 degrees 45 minutes East, 207.34 feet to the above described place of BEGINNING. CONTAINING 68.25 perches, more or less.

LOT NO. 2: BEGINNING at a spike driven in the Eastern side of said Cove Hollow Road, located at its point of intersection with the Southern side of the aforesaid 22 foot wide private road; thence running along the Southern side of said private road, South 67 degrees 35 minutes East, 124.50 feet to a pipe driven in the Western bank of the small intersecting stream aforesaid; thence running along the Western bank thereof and by said lands now or formerly of Charles E. Thalheim, South 38 degrees 34 minutes West, 84.87 feet to a pipe driven in said Western bank; thence continuing for the next five courses along the Western bank of said small stream and by lands now or formerly of Elmer Tressler, North 79 degrees 1 minute West, 26.10 feet to a pipe; thence South

9 degrees 57 minutes West, 28.60 feet to a pipe; thence South 66 degrees 5 minutes West, 60.26 feet to a pipe; thence North 69 degrees 17 minutes West, 39.10 feet to a pipe; thence by same, South 77 degrees 56 minutes West, 41.62 feet to a pipe driven on the bank of the Western side of said small stream; thence leaving said stream, North 60 degrees 26 minutes West, 10 feet to a spike driven in the Eastern side of said Cove Hollow Road; thence running in the Eastern side of said Cove Hollow Road, North 35 degrees 46 minutes East, 186.87 feet to the above-described place of BEGINNING.

CONTAINING 66.42 perches, more or less.

The above description was taken from a draft of survey dated December 5, 1964, made by Wilbur V. Redding, registered Surveyor, for the use of Ralph E. Musselman and Helen M. Musselman, and identified by the legend: "Charles W. and Myrtle M. Hankey property, situate in Liberty Twp., Adams Co., Pa"

Map and Parcel ID: Map B17, Parcel 87

BEING KNOWN AS: 40 Cove Hollow Road, Fairfield, PA 17320

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/14, 21 & 26

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 purpose of obtaining a Certificate of Incorporation pursuant to the provisions of the Business Corporation Law of 1988, as amended.

The name of the corporation is: **CATEGORY10, INC.**

Christopher M. Cicconi, Esq.
Stevens & Lee
P.O. Box 11670
Harrisburg, PA 17108-1670

11/26

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. BANGE, JR., DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Edith Speak, 2119 Feeser Road North, Taneytown, MD 21787; Ralph M. Fritz, 40 Ocelot Drive, Hanover, PA 17331; Dorothy Ann Fritz, 40 Ocelot Drive, Hanover, PA 17331

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

ESTATE OF GEORGE E. BARR, DEC'D

Late of Mount Joy Township, Adams County, Pennsylvania

Executor: Millard George Barr, 39 Mary Lou Lane, Shokan, NY 12481

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

ESTATE OF FRANCIS J. BOWLING, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Janet Currens, 2890 Fairfield Road, Gettysburg, PA 17325

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

ESTATE OF DAVID C. BURNITE, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Martha B. Alston, 10 Carissa Court, Owing Mills, MD 21117

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

ESTATE OF RUTH E. GRIM, DEC'D

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

Personal Representatives: Paul A. Grim, 301 Abbottstown Street, East Berlin, PA 17316; Susan A. Spangler, 305 West King Street, East Berlin, PA 17316

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

ESTATE OF CATHERINE L. HIMES, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Sandra M. Riley, 2531 Ermitsburg Road, Gettysburg, PA 17325

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

ESTATE OF RUTH M. MOORE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Donald P. Moore, 749 Poplar Road, New Oxford, PA 17350; Francis B. Moore, Jr., 25 Pleasant View Drive, Hanover, PA 17331

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

ESTATE OF NEVIN H. SEITZ, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Sally Rebecca Seitz Pritt, c/o Daniel Carn, Esq., 221 W. Philadelphia Street, Suite 45, York, PA 17404

Attorney: Daniel Carn, Esq., 221 W. Philadelphia Street, Suite 45, York, PA 17404

ESTATE OF VELMA V. STRAYER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Robert C. Baker & Jane A. Baker, c/o William W. Hafer, Esq., 215 Baltimore Street, Hanover, PA 17331

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

SECOND PUBLICATION

ESTATE OF TREVA M. CHRONISTER, DEC'D

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

Co-Executors: Kathy Mellott & Jerry R. Leathery, c/o Craig A. Diehl, Esq., 119 W. Hanover St., Spring Grove, PA 17362

Attorney: Craig A. Diehl, Esq., C.P.A., 119 W. Hanover St., Spring Grove, PA 17362

ESTATE OF WILLIAM B. JOHNS, III, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Administratrix: Lucy J. Bassin, 640 W. Conway St., Baltimore, MD 21230

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

ESTATE OF DALE R. McCLEAF, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Grover H. McCleaf, P.O. Box 45, Cashtown, PA 17310; Anna M. Swope, 100 Confederate Drive, Gettysburg, PA 17325

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

ESTATE OF RICHARD C. SHEALER, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executor: Richard G. Shealer, 65 Memory Lane, Aspers, PA 17304; Dianne S. Peterson, 3276 Old Harrisburg Rd., Gettysburg, PA 17325

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

ESTATE OF MARION C. ZHEA, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Linda Ella Zhea, 300 N. Stratton St., Gettysburg, PA 17325

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

THIRD PUBLICATION

ESTATE OF BERNICE M. ALBRIGHT, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executor: William G. Albright, 2410 Lake Meade Rd., East Berlin, PA 17316

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

ESTATE OF CHARLOTTE W. BONHAM, DEC'D

Late of Straban Township, Adams County, Pennsylvania

George C. Bonham, Jr., 1025 Taneytown Rd., Gettysburg, PA 17325

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

ESTATE OF RUTH A. MESSINGER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrices: Frances L. Renoll and Doris T. von Staden, c/o Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

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

(continued on page 6)

THIRD PUBLICATION (continued)

ESTATE OF MELVIN G. MILLER, DEC'D

Late of Butler Township, Adams
County, Pennsylvania

Executor: Donald G. Miller, 830
Rentzel Road, Biglerville, PA 17307;
Owen L. Miller, 6098 Winding Lane,
East Berlin, PA 17316

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

ESTATE OF IVONNE M. SALAZAR,
DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Administrator: Luigy J. Salazar, 65
North Street, Apt. #40, McSherrystown,
PA 17344

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

ESTATE OF ANGEL JUAN SANCHEZ,
DEC'D

Late of Tyrone Township, Adams
County, Pennsylvania

Administratrix: Vicky J. Squires, 4820
Old Harrisburg Road, Lot No. 74,
Gettysburg, PA 17325

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

ESTATE OF RUTH E. WAGNER, DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Executrix: Elizabeth J. Manifold, 26
Northview Drive, Hanover, PA 17331

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