

Adams County Legal Journal

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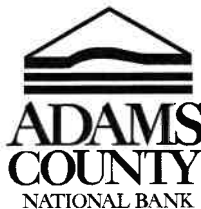
September 1, 2006

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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. 04-S-1128 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

Lot No. 553 on a Plan of Lots of Lake Heritage Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 4, at Page 665 and subject to all legal highways, easements, rights of way and restrictions of record.

Map 5, Parcel 81

TITLE TO SAID PREMISES IS VESTED IN Harold L. Doty and Charlotte A. Doty, his wife by Deed from Journey E. Henderson and Patricia S. Henderson, his wife, dated 4/26/1994 and recorded 5/2/1994 in Record Book 879 Page 157.

Premises being: 553 Hooker Drive, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Harold L. Doty & Charlotte A. Doty** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 3, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

8/18, 25 & 9/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-41 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Reading Township, Adams County, Pennsylvania, being designated as Lot No. 1 on the final subdivision plan prepared for Edward C. Wallen, Sr., dated December 29, 1998, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 76 at page 5, more particularly bounded and described as follows:

BEGINNING at a steel pin set in Miller Road (T-572) and corner of land now or formerly of Gene H. Shenberger; thence continuing along Miller Road North 40 degrees 19 minutes 42 seconds East 160.00 feet to a steel pin set; thence along land now or formerly of Edward Kopp and Edward C. Wallen and through an existing iron pipe set back 24.91 feet from the beginning of this course South 49 degrees 40 minutes 18 seconds East 281.50 feet to a steel pin set at corner of Lot No. 2; thence along Lot No. 2 South 40 degrees 19 minutes 42 seconds West 160.00 feet to a steel pin set; thence along land now or formerly of Gene H. Shenberger and through an existing iron pipe set back 24.65 feet from the terminus of this course North 49 degrees 40 minutes 18 seconds West 281.50 feet to a steel pin set in Miller Road, the point and place of BEGINNING. CONTAINING 1.034 acres.

Being part of the same tract of land which Home Bange, widower, by his deed dated the 12th day of October, 1993, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 791 at page 264, granted and conveyed unto Edward C. Wallen, Sr. and Darlene K. Wallen, husband and wife, grantors herein.

TOGETHER WITH the right to use the stone driveway as it is extended across Lot No. 1 as shown on the aforesaid subdivision plan. The rights and responsibilities related to the use and

maintenance of the driveway as between owners of Lots 1 and 2 are set forth in a Declaration of Right-of-Way and Responsibilities recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1784 at page 159.

This conveyance is realty transfer tax exempt as it is from parents to daughter and son-in-law.

And the said grantor does hereby specially warrant the property hereby conveyed.

IN WITNESS WHEREOF, said grantors have hereunto set their hand and seal the day and year first above written.

TITLE TO SAID PREMISES IS VESTED IN Ronald L. McDannell and Michelle L. McDannell, husband and wife, in deed from Edward C. Wallen, Sr. and Darlene K. Wallen, husband and wife, dated 9-28-00, recorded 9-29-00, in Book #2136, Page #056.

Tax Parcel: 36-J07-0053-000

Premises Being: 24 Miller Road, New Oxford, PA 17350

SEIZED and taken into execution as the property of **Ronald L. McDannell & Michelle L. McDannell** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 3, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

8/18, 25 & 9/1

HANOVER ARCHITECTURAL VS. U. S. FILTER

1. It is left to the sound discretion of the trial court to permit a late filing of a pleading where the opposing party will not be prejudiced and justice so requires.

2. Where the untimely filing of preliminary objections is not excused and would prejudice the opponent, those objections must be dismissed as waived.

3. Sufficient prejudice which would justify waiver of the issues must be such prejudice that flows from the fact that the allegations are offered late rather than on time, and not such prejudice as results from the fact that the opponent may lose the case on the merits if the pleading is allowed.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, CIVIL ACTION NO. O5-S-436. HANOVER
ARCHITECTURAL PRODUCTS, INC. VS. U. S. FILTER/JWI,
INC.

Paul W. Minnich, Esq., for Plaintiff

George J. Mongell, Esq., for Defendant

George, J., October 27, 2005

OPINION

On July 5, 2005, Hanover Architectural Products, Inc. ("Plaintiff") filed a Complaint against U.S. Filter for Breach of Contract (Count I), Breach of Express Warranty (Count II) and Breach of Implied Warranty (Count III). Plaintiff's claims arise out of its purchase of a sludge filter press from U.S. Filter, which is more specifically described in a proposal submitted by U.S. Filter to Plaintiff on September 11, 2003. The Complaint alleges that U.S. Filter breached the terms of the parties' agreement by failing to provide a filtration system that could be properly utilized by Plaintiff. Additionally, Plaintiff alleges that U.S. Filter breached an express warranty because the filtration/discharge system does not filter the water from the sludge produced by Plaintiff's manufacturing operation and compress the sludge into cakes for easy disposal as allegedly warranted. Finally, Plaintiff sues U.S. Filter for breach of an implied warranty alleging the same facts. As a result of these alleged breaches, Plaintiff seeks damages in the amount of \$120,942.36, which consists of the purchase price in the amount of \$92,564.36 plus the cost of erecting a structure to house the system in the amount of \$28,378.00.

After obtaining permission from the Court to extend the time period for filing an answer or otherwise responding to Plaintiff's

Complaint, U.S. Filter filed Preliminary Objections on August 25, 2005.¹ U.S. Filter's Preliminary Objections demur to Count III on the basis of a disclaimer in the original terms of sale, a copy of which is attached to Plaintiff's Complaint. U.S. Filter demurs to Count II on the basis that the only express warranty contained in the terms of sale warrants material and workmanship, neither of which constitute the underlying basis for Plaintiff's claim. U.S. Filter's third preliminary objection is to Count I on the basis that the allegations in the Complaint reference malfunctions in equipment that was not provided by U.S. Filter. Finally, U.S. Filter seeks to strike a portion of the damages on the basis that the contract limits U.S. Filter's liability to the purchase price paid for the equipment.

On September 13, 2005, Plaintiff filed Preliminary Objections to U.S. Filter's Preliminary Objections. Essentially, Plaintiff objects to U.S. Filter's Preliminary Objections on the basis that the objections were not timely filed as required by the Pennsylvania Rules of Civil Procedure and the extension Order granted by this Court. U.S. Filter has filed a reply to Plaintiff's Preliminary Objections; therefore, this matter is now ripe for disposition.

Initially, I will address Plaintiff's Preliminary Objections to U.S. Filter's Preliminary Objections.

Although Pennsylvania Rule of Civil Procedure 1026(a) states that all pleadings subsequent to the Complaint must be filed within twenty (20) days after service of the preceding pleading, this rule has been interpreted as permissive rather than mandatory. *Francisco v. Ford Motor Co.*, 580 A.2d 374, 376 (Pa.Super. 1990) allocatur denied, 592 A.2d 1301 (1991). "It is left to the sound discretion of the trial court 'to permit a late filing of a pleading where the opposing party will not be prejudiced and justice so requires.'" *Gale v. Mercy Catholic Med. Ctr. Eastwick, Inc.*, 698 A.2d 647, 649 (Pa.Super. 1997) (quoting *Ambrose v. Cross Creek Condominiums*, 602 A.2d 864, 868 (Pa.Super. 1992)). "Where the untimely filing of preliminary objections is not excused and would prejudice the opponent, those objections must be dismissed as waived." *McCullough v. Clark*, 784 A.2d 156, 158 (Pa.Super. 2001). Sufficient prejudice which would justify waiver of the issues must be such prejudice that

¹The Extension Order granted by this Court was entered July 28, 2005, and permitted the defendant to file a responsive pleading by August 15, 2005.

“flows from the fact that the allegations are offered *late* rather than on time, and not such prejudice as results from the fact that the opponent may lose the case on the merits if the pleading is allowed.” *Ambrose*, 602 A.2d at 868.

Undoubtedly, U.S. Filter’s tardiness is aggravated by its failure to comply with a Court Order specifying a precise time period within which to file a responsive pleading. On the other hand, I am unable to discern any prejudice to Plaintiff. In balancing the various considerations, I note that the Preliminary Objections address critical issues, which if not resolved currently, will likely result in future dispositive motions for either judgment on the pleadings or summary judgment. In light of this reality, and the lack of prejudice to Plaintiff, I will deny Plaintiff’s Preliminary Objections to U.S. Filter’s Preliminary Objections in favor of a prompt resolution of the issues critical to this litigation. In doing so, I note that a different result may likely have followed had the Preliminary Objections not addressed fundamental issues to the litigation. U.S. Filter is cautioned that a future pattern of dilatory actions may result in the waiver of issues or the preclusion of evidence.

Having dismissed Plaintiff’s Preliminary Objections to U.S. Filter’s Preliminary Objections, U.S. Filter’s Preliminary Objections are now ripe for disposition. Nevertheless, I note that Plaintiff has not filed a brief in opposition to U.S. Filter’s Preliminary Objections. Since the absence of a brief is likely attributable to Plaintiff’s reliance on its Preliminary Objections, having dismissed the same, I will give Plaintiff the opportunity to file a responsive brief on the substance of U.S. Filter’s Preliminary Objections.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 27th day of October, 2005, the Plaintiff’s Preliminary Objections to the Defendant’s Preliminary Objections are denied. The Plaintiff is granted fourteen (14) days from the date of this Order to file a brief in opposition to the Defendant’s Preliminary Objections.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-562 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Hamiltonban Township, (previously cited as Orrtanna) Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the Fairfield Road, running thence in center of said road, North sixty-three and one-half (63-1/2) degrees East, two and four-tenths (2.4) perches; thence by Lot No. 4, South twenty-six (26) degrees East, six and five-tenths (6.5) perches to a stake; thence by lands now or formerly of Peter Kready, South fifty-four (54) degrees West, two and five-tenths (2.5) perches to center of Mill Race; thence by Lot No. 2, North twenty-five and one-quarter (25-1/4) degrees West, seven (7) perches to the place of BEGINNING. CONTAINING sixteen (16) perches of land neat measure.

TITLE TO SAID PREMISES IS VESTED IN John A. Hendrickson, single and Glenn A. Hendrickson, single, as joint tenants with the right of survivorship and not as tenants in common, by Deed from Alvah L. Stonesifer, Jr., Executor of the Last Will and Testament of Edith B. Stonesifer, late, dated 04/17/1991, recorded 04/18/1991, in Deed Book 584, page 913.

Premises being: 1855 Carroll Tract Road, Orrtanna, PA 17353

Tax Parcel No. 18-C12-0042-000

By virtue of the death of John A. Hendrickson on 02/10/2001, Defendant Glenn A. Hendrickson a/k/a Glenn Alan Hendrickson, became sole owner of the mortgaged premises as surviving joint tenant with right of survivorship.

SEIZED and taken into execution as the property of **Glenn A. Hendrickson a/k/a Glenn Alan Hendrickson** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 3, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

8/18, 25 & 9/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-617 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece or parcel of land situate in the Township of Latimore, County of Adams and Commonwealth of Pennsylvania, more particular bounded and described as follows, to wit:

BEGINNING at a stone adjoining lands now or formerly of Glen Sowers; thence by said lands now or formerly of Glen Sowers, North thirty-seven and one-half (37-1/2) degrees East, fifty-three and two tenths (53.2) perches to a stone in a public road; thence along the same South sixty-two and three quarters (62-3/4) degrees East, one hundred twenty-one (121) feet to a point; thence along other lands now or formerly of John M. Grissinger and Myrtle M. Grissinger, his wife, South thirty-seven and one-half (37-1/2) degrees West, fifty-four and two tenths (54.2) perches to a point at line of lands now or formerly of the George Johnson Estate; thence by the same lands now or formerly of the George Johnson Estate, North fifty-four and one-half (54-1/2) degrees West, one hundred twenty (120) feet to a stone and the place of BEGINNING.

CONTAINING 1.00 acre

IT BEING the same premises which Oscar F. Spicer, President Judge of the Court of Common Pleas of Adams County, Orphans' Court Division by his Order And Decree Awarding Real Estate dated May 30, 1990 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 557, Page 233, granted and conveyed unto Mary H. Fortney, Grantor herein.

Premises: 2204 County Line Road, York Springs, PA 17372, Latimore, Adams County, Pennsylvania

PARCEL IDENTIFICATION NO.: 23-101-0007-000

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN William L. Hoffman, III, single man, by Deed from Mary H. Fortney, single woman, dated 07/31/2002, recorded

08/01/2002, in Deed Book 2751, page 157.

PRIOR DEED INFORMATION

TITLE TO SAID PREMISES IS VESTED IN Mary H. Fortney, by Deed from Jane M. Alexander, Esq., Attorney for Mary H. Fortney, Administratrix of the Estate of Paul Fortney, dated 05/30/1990, recorded 06/01/1990, in Deed Book 557, page 233.

SEIZED and taken into execution as the property of **William L. Hoffman, III** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 3, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

8/25, 9/1 & 8

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, for the purpose of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the Business Corporation Law of the Commonwealth of Pennsylvania, 1988, December 21, P.L. 1444, No. 177, and its amendments and supplements. The name of the corporation is: GLOBAL MEDICAL SERVICES, INC.

Hursh & Hursh, P.C.
60 North Union Street
Middletown, PA 17057

9/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-578 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described two (2) tracts of land, situate, lying and being in Conewago Township, Adams County, Pennsylvania, more specifically bounded, limited and described as follows, to-wit:

TRACT NO. 1 - BEGINNING for a point on a macadam road leading to McSherrystown, Adams County, Pennsylvania, at an iron pin at lands now or formerly of the John L. Jenkins Estate; thence along said macadam road South forty-one (41) degrees fifteen (15) minutes East, one hundred twenty-five and six-tenths (125.6) feet to an iron pin at Lot No. 4, said plot being lands now or formerly of Herbert P. Helmer et ux.; thence by said last mentioned lands North thirty-one (31) degrees forty-five (45) minutes East, two hundred sixty-six (266) feet to an iron pin at lands now or formerly of the John L. Jenkins Estate; thence by said last mentioned lands North fifty-seven (57) degrees West one hundred twenty (120) feet to an iron pin; thence by same South thirty-one (31) degrees forty-five minutes West, two hundred thirty (230) feet to an iron pin at the macadam road first above mentioned, and the place of BEGINNING; being Lots Nos. 5 and 6 on a plot laid out by Herbert Helmer, as surveyed by J.H. Rife, Surveyor, on February 1, 1947.

TRACT NO. 2 - BEGINNING for a point on a macadam road leading to McSherrystown, Adams County, Pennsylvania, at an iron pin at other lands of Joseph Herbert Helmer et ux.; thence along said macadam road South forty-eight (48) degrees East, sixty-one (61) feet to an iron pin at Lot No. 3, being now or formerly of Raymond and Pauline Todt; thence by said last mentioned lands North thirty-one (31) degrees forty-five (45) minutes East, two hundred seventy-six and four tenths (276.4) feet to an iron pin at lands now or formerly of the John L. Jenkins Estate; thence by said last mentioned lands North fifty-seven (57) degrees West, sixty (60) feet to an iron pin at other lands of Joseph Herbert Helmer et ux.; thence by said lands South thirty-one (31) degrees forty-five (45) minutes West, two hundred sixty-six (266) feet to an iron pin at the aforesaid macadam road, the place of BEGINNING; being known as Lot No. 4 on a plan of lots laid out by Herbert Helmer, as surveyed by J.H. Rife, Surveyor, February 1, 1947.

IT BEING the same tracts of land which Joseph Herbert Helmer and Beverly Ann Helmer, husband and wife, by their deed dated February 5, 1963, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 243, page 814, granted and conveyed unto Henry E. Larkin and Geraldine E. Larkin. The said Geraldine E. Larkin having died on January 6, 2004, title in and to the said premises vested in said Henry E. Larkin during his lifetime by operation of law.

AND IT BEING the same tracts of land of which the said Dana M. Sauers and Alan J. Larkin, Grantors herein and Executors as aforesaid, executes and delivers this Deed under the authority of Section 3351 of the Probate, Estates and Fiduciaries Code.

TITLE TO SAID PREMISES IS VESTED IN Charles L. Ricketts and Mary E. Ricketts, husband and wife, as Tenants in Common or by the Entireties, by Deed from Alan J. Larkin and Dana M. Sauers, Executors under the Last Will and Testament of Henry E. Larkin, Deceased, dated 06-16-05, recorded 06-23-05 in Deed Book 4016, page 106.

Premises being: 520 Edgegrove Road, Hanover, PA 17331

Tax Parcel No. 8-K13-27

SEIZED and taken into execution as the property of **Charles L. Ricketts & Mary E. Ricketts** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 3, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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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.

8/25, 9/1 & 8

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for BLK-RAK, INC. on August 17, 2006. The said corporation has been incorporated under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

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

9/1

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that a business corporation known as EAST BERLIN FOOT AND ANKLE CENTER, PC has been incorporated under the provisions of The Pennsylvania Business Corporation Law of 1988.

Jeffrey L. Rehmeyer II, Esq.
CGA Law Firm
135 North George Street
York, PA 17401

9/1

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 ERMA V. BEARD, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: PNC Bank, NA, P.O. Box 308, Camp Hill, PA 17001-0308

Attorney: David C. Smith, Esq., 754 Edgegrove Rd., Hanover, PA 17331

ESTATE OF PHILIP DeCHICO, JR., a/k/a REV. PHILIP DECHICO, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executor: John G. Allen, 701 Stone Gate Court, York, PA 17404

Attorney: David C. Smith, Esq., 754 Edgegrove Rd., Hanover, PA 17331

ESTATE OF ALLEN ARMOR DUBBS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Robert A. Dubbs, 605 Meyers Dr., Baltimore, MD 21228

ESTATE OF LUCILLE V. FISHER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Sandra Lee Martin, 260 Martin Road, Gettysburg, PA 17325

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

ESTATE OF CLARA FLENNER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Nina Jean Garretson, 1185 Hoffman Road, Gettysburg, PA 17325

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

ESTATE OF LOUISE EMMA LENHART, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Personal Representative: PNC Bank NA, 4242 Carlisle Pike, Camp Hill, PA 17011

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

ESTATE OF VIOLA S. MILLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Robert Berwager, 4525 York Road, New Oxford, PA 17350; James Berwager, 2335 Baltimore Pike, Gettysburg, PA 17325

Attorney: Donald W. Dorr, Esq., Buchen, Wise & Dorr, 846 Broadway, Hanover, PA 17331

ESTATE OF MARY L. RIFE, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Co-Executrices: Sherry Dennis and Phyllis H. Kitzmiller, c/o Thomas E. Flower, Esq., Saidis, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

Attorney: Thomas E. Flower, Esq., Saidis, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

ESTATE OF FRANK W. SOWERS, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: Joyce Irvin, 86 White Oak Tree Road, York Springs, PA 17372

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

ESTATE OF DOROTHY M. STRALEY, DEC'D

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

Administrator: Becky Fengfish, c/o Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, PC, 135 North George Street, York, PA 17401

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

ESTATE OF LAREDA T. TAYLOR, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: Robert E. Miller, 155 South Howard Avenue, Gettysburg, PA 17325; Joyce E. Miller, 155 South Howard Avenue, Gettysburg, PA 17325

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

ESTATE OF JEFFREY A. WARREN-FELTZ, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Co-Administrators: Donna L. Fox, 82 Hunters Trail, Gettysburg, PA 17325; Robert E. Warrenfeltz, 2425 East Berlin Road, East Berlin, PA 17316

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

ESTATE OF JANICE BROWN WHERLEY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: David L. Hibbs, Sr., 8A Colonial Crest Circle, Hanover, PA 17331

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

SECOND PUBLICATION

ESTATE OF LOUIS F. BARAL, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Executor: Fred E. Baral, c/o Eric R. Dutcher, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

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

ESTATE OF ROSEMARIE H. BOWMAN a/k/a ROSEMARIE J. BOWMAN a/k/a ROSE MARIE BOWMAN, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

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

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

ESTATE OF JAMES W. BRACEY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Margaret B. LeGay, 33 South Street, Gettysburg, PA 17325

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

ESTATE OF CARMELITA M. CRUTCHFIELD, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Richard C. Crutchfield, Jr., 202 Longstreet Drive, Gettysburg, PA 17325; Dennis M. Crutchfield, 16087 Parque Lane, Naples, FL 34110

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

THIRD PUBLICATION

ESTATE OF CHARLES WILLIAM
BROUGH, JR., DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Administrator: Andrew Y. Brough, 6895
East Moulstown Road, Hanover, PA
17331

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

ESTATE OF MARY M. SHARRAH,
DEC'D

Late of Straban Township, Adams
County, Pennsylvania

J. Richard Sharrah, P.O. Box 81,
Cashtown, PA 17310; Joseph
Sharrah, P.O. Box 81, Cashtown, PA
17310

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

Adams County Legal Journal

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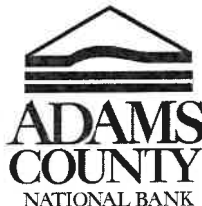
September 8, 2006

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WASHINGTON MUTUAL VS. CARR

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-578 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described two (2) tracts of land, situate, lying and being in Conewago Township, Adams County, Pennsylvania, more specifically bounded, limited and described as follows, to-wit:

TRACT NO. 1 - BEGINNING for a point on a macadam road leading to McSherrystown, Adams County, Pennsylvania, at an iron pin at lands now or formerly of the John L. Jenkins Estate; thence along said macadam road South forty-one (41) degrees fifteen (15) minutes East, one hundred twenty-five and six-tenths (125.6) feet to an iron pin at Lot No. 4, said plot being lands now or formerly of Herbert P. Helmer et ux.; thence by said last mentioned lands North thirty-one (31) degrees forty-five (45) minutes East, two hundred sixty-six (266) feet to an iron pin at lands now or formerly of the John L. Jenkins Estate; thence by said last mentioned lands North fifty-seven (57) degrees West one hundred twenty (120) feet to an iron pin; thence by same South thirty-one (31) degrees forty-five minutes West, two hundred thirty (230) feet to an iron pin at the macadam road first above mentioned, and the place of BEGINNING; being Lots Nos. 5 and 6 on a plot laid out by Herbert Helmer, as surveyed by J.H. Rife, Surveyor, on February 1, 1947.

TRACT NO. 2 - BEGINNING for a point on a macadam road leading to McSherrystown, Adams County, Pennsylvania, at an iron pin at other lands of Joseph Herbert Helmer et ux.; thence along said macadam road South forty-eight (48) degrees East, sixty-one (61) feet to an iron pin at Lot No. 3, being now or formerly of Raymond and Pauline Todt; thence by said last mentioned lands North thirty-one (31) degrees forty-five (45) minutes East, two hundred seventy-six and four tenths (276.4) feet to an iron pin at lands now or formerly of the John L. Jenkins Estate; thence by said

last mentioned lands North fifty-seven (57) degrees West, sixty (60) feet to an iron pin at other lands of Joseph Herbert Helmer et ux.; thence by said lands South thirty-one (31) degrees forty-five (45) minutes West, two hundred sixty-six (266) feet to an iron pin at the aforesaid macadam road, the place of BEGINNING; being known as Lot No. 4 on a plan of lots laid out by Herbert Helmer, as surveyed by J.H. Rife, Surveyor, February 1, 1947.

IT BEING the same tracts of land which Joseph Herbert Helmer and Beverly Ann Helmer, husband and wife, by their deed dated February 5, 1963, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 243, page 814, granted and conveyed unto Henry E. Larkin and Geraldine E. Larkin. The said Geraldine E. Larkin having died on January 6, 2004, title in and to the said premises vested in said Henry E. Larkin during his lifetime by operation of law.

AND IT BEING the same tracts of land of which the said Dana M. Sauers and Alan J. Larkin, Grantors herein and Executors as aforesaid, executes and delivers this Deed under the authority of Section 3351 of the Probate, Estates and Fiduciaries Code.

TITLE TO SAID PREMISES IS VESTED IN Charles L. Ricketts and Mary E. Ricketts, husband and wife, as Tenants in Common or by the Entireties, by Deed from Alan J. Larkin and Dana M. Sauers, Executors under the Last Will and Testament of Henry E. Larkin, Deceased, dated 06-16-05, recorded 06-23-05 in Deed Book 4016, page 106.

Premises being: 520 Edgegrove Road, Hanover, PA 17331
Tax Parcel No. 8-K13-27

SEIZED and taken into execution as the property of **Charles L. Ricketts & Mary E. Ricketts** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 3, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

8/25, 9/1 & 8

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

NOTICE

TO: SPENCER JULIUS WILLIAMS

YOU ARE HEREBY NOTIFIED that the Court of Common Pleas of Adams County, Pennsylvania, entered an Order of Court dated August 21, 2006, terminating your parental rights. You are hereby notified that you have the right to appeal this decision to the Superior Court of Pennsylvania by filing a Notice of Appeal within 30 days from the date of this notice by publication.

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

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

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

9/8

WASHINGTON MUTUAL VS. CARR

1. It is well known that a party is allowed to litigate as a real party in interest after becoming the assignee of a mortgage.
2. A real party in interest is simply defined as a party who has the legal right under the applicable substantive law to enforce the claim in question.
3. It is imperative that the assignee detail its relationship to (the original real party in interest).

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA. CIVIL ACTION NO. 05-S-1183. WASHINGTON
MUTUAL BANK f/k/a PNC MORTGAGE CORP. OF AMERICA
VS. CHRISTOPHER S. CARR.

Mark J. Udren, Esq., for Plaintiff
Dusan Bratic, Esq., for Defendant
George, J., January 18, 2006

OPINION

This action was commenced when Washington Mutual Bank (“Bank”) filed a Complaint in Mortgage Foreclosure against Christopher S. Carr (“Carr”). The Complaint was met by Preliminary Objections, which raised Bank’s lack of capacity to sue and improper verification of the Complaint. Following the filing of Preliminary Objections, Bank filed a Praecipe to Substitute Verification thereby making Carr’s second preliminary objection moot. For the reasons set forth below, Carr’s preliminary objection on the basis of lack of capacity to sue is granted.

Carr’s preliminary objection, alleging lack of capacity to sue, recognizes that PNC Mortgage Corporation was the original mortgagee on the instrument at issue. Carr further points out that the Complaint indicates that the mortgage was never assigned. Finally, Carr observes that even though the caption identifies the Plaintiff as “Washington Mutual Bank FA, f/k/a PNC Mortgage Corp. of America,” the Complaint fails to contain any allegation as to the relationship between PNC Mortgage Corporation of America and Bank.

Pennsylvania Rule of Civil Procedure 2002 states, “[e]xcept as otherwise provided in clauses (b), (c) and (d) of this rule, all actions shall be prosecuted by and in the name of the real party in interest, without distinction between contracts under seal and parol contracts.” Pa.R.C.P. 2002. It is well known that a party is allowed to litigate as a real party in interest after becoming the assignee of a

mortgage. *American Soc’y for Testing & Materials v. Corpro Companies, Inc.*, 292 F.Supp.2d 713, 718 (E.D. Pa. 2003) (where an assignment is effective, the assignee stands in the shoes of the assignor and assumes all of his rights). It should be noted, however, that a real party in interest is simply defined as a party who “has the legal right under the applicable substantive law to enforce the claim in question.” See *Cole v. Boyd*, 719 A.2d 311, 313 (Pa.Super. 1998) (quoting Black’s Law Dictionary 874 (6th ed. 1991)); See also *American Soc’y for Testing & Materials*, 292 F.Supp.2d at 718 (defining a real party in interest as someone who, by substantive law of the state, has the duty or right sought to be enforced). There are several exceptions listed in Pennsylvania Rule of Civil Procedure 2002, aside from the assignor/assignee rule, which can be utilized so that a party may be considered a real party in interest. See *Cole*, 719 A.2d at 313 (finding that the general rule that all actions shall be prosecuted by and in the name of the real party in interest shall not be mandatory where a subrogee is a real party in interest; where there is no evidence of a subrogation agreement, none will be presumed); *Bizmart Inc. v. Facility Constr. Mgmt.*, 65 Pa. D. & C.4th 359, 366 (C.P. Schuylkill 2004) (allowing a subsidiary of a parent corporation to be considered a party in interest where the subsidiary’s litigious cause was for the benefit of the parent corporation); *Manor Bldg. Corp. v. Manor Complex Assocs.*, 645 A.2d 843, 848 (Pa.Super. 1994) (allowing a corporation, which was a successor in interest to the corporation initially involved in the suit, to be considered a party in interest where an assignment was effectuated). However, in order for one of these exceptions to apply in the instant case, it is imperative that the Plaintiff detail its relationship to PNC Mortgage Corporation in its pleadings.

While the Plaintiff, in the Complaint, specifically stated that the mortgage was not assigned from PNC Mortgage Corporation to Washington Mutual Bank, it failed to clarify exactly how the mortgage was transferred from PNC Mortgage Corporation to Washington Mutual Bank. In the Plaintiff’s Reply to Defendant’s Preliminary Objections, the Plaintiff merely stated that “[a]n assignment is not required as Washington Mutual Bank is not the assignee but is the successor in interest to PNC Mortgage Corp. of America.” While the Plaintiff may, in fact, be qualified to bring suit as a real party in interest as a result of his status as “successor in interest,” the

Plaintiff failed to aver any facts that show that the Defendant had a duty to pay the Plaintiff, Washington Mutual Bank, rather than PNC Mortgage Corporation.

Pennsylvania Rule of Civil Procedure 1019 requires that “material facts on which a cause of action or defense is based shall be stated in a concise and summary form.” Pa.R.C.P. 1019. The instant Complaint appears to be a form complaint that has failed to accommodate the allegations concerning the status or legal relationship between the original mortgagee and the current Plaintiff. Although it is likely that this deficiency can be cured, I cannot presume the same under the guise of promoting the prompt and efficient resolution of the claim between the parties. Since this Court cannot ignore reasonable compliance with the Pennsylvania Rules of Civil Procedure, the preliminary objection is granted. Bank, however, will be given the opportunity to amend its Complaint.

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 18th day of January, 2006, the Defendant’s Preliminary Objection based upon lack of capacity to sue is granted. The Plaintiff is given twenty (20) days from the date of this Order to file an Amended Complaint.

SHERIFF S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-617 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff s Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece or parcel of land situate in the Township of Latimore, County of Adams and Commonwealth of Pennsylvania, more particular bounded and described as follows, to wit:

BEGINNING at a stone adjoining lands now or formerly of Glen Sowers; thence by said lands now or formerly of Glen Sowers, North thirty-seven and one-half (37-1/2) degrees East, fifty-three and two tenths (53.2) perches to a stone in a public road; thence along the same South sixty-two and three quarters (62-3/4) degrees East, one hundred twenty-one (121) feet to a point; thence along other lands now or formerly of John M. Grissinger and Myrtle M. Grissinger, his wife, South thirty-seven and one-half (37-1/2) degrees West, fifty-four and two tenths (54.2) perches to a point at line of lands now or formerly of the George Johnson Estate; thence by the same lands now or formerly of the George Johnson Estate, North fifty-four and one-half (54-1/2) degrees West, one hundred twenty (120) feet to a stone and the place of BEGINNING.

CONTAINING 1.00 acre

IT BEING the same premises which Oscar F. Spicer, President Judge of the Court of Common Pleas of Adams County, Orphans Court Division by his Order And Decree Awarding Real Estate dated May 30, 1990 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 557, Page 233, granted and conveyed unto Mary H. Fortney, Grantor herein.

Premises: 2204 County Line Road, York Springs, PA 17372, Latimore, Adams County, Pennsylvania

PARCEL IDENTIFICATION NO.: 23-101-0007-000

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN William L. Hoffman, III, single man, by Deed from Mary H. Fortney, single woman, dated 07/31/2002, recorded 08/01/2002, in Deed Book 2751, page 157.

PRIOR DEED INFORMATION

TITLE TO SAID PREMISES IS VESTED IN Mary H. Fortney, by Deed from

Jane M. Alexander, Esq., Attorney for Mary H. Fortney, Administratrix of the Estate of Paul Fortney, dated 05/30/1990, recorded 06/01/1990, in Deed Book 557, page 233.

SEIZED and taken into execution as the property of William L. Hoffman, III and to be sold by me.

James W. Muller-Sheriff Sheriff s Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 3, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

8/25, 9/1 & 8

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

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

NOTICE

TO: DEMAURA JESTINE BROWN

YOU ARE HEREBY NOTIFIED that the Court of Common Pleas of Adams County, Pennsylvania, entered an Order of Court dated August 21, 2006, terminating your parental rights. You are hereby notified that you have the right to appeal this decision to the Superior Court of Pennsylvania by filing a Notice of Appeal within 30 days from the date of this notice by publication.

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

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

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

9/8

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

ORPHANS COURT DIVISION NO. RT-8-06

NOTICE

TO: DEMAURA JESTINE BROWN

YOU ARE HEREBY NOTIFIED that the Court of Common Pleas of Adams County, Pennsylvania, entered an Order of Court dated August 21, 2006, terminating your parental rights. You are hereby notified that you have the right to appeal this decision to the Superior Court of Pennsylvania by filing a Notice of Appeal within 30 days from the date of this notice by publication.

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

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

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

9/8

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

ORPHANS COURT DIVISION
NO. RT-8-06(A)

NOTICE

TO: RICHARD JULIEN

YOU ARE HEREBY NOTIFIED that the Court of Common Pleas of Adams County, Pennsylvania, entered an Order of Court dated August 21, 2006, terminating your parental rights. You are hereby notified that you have the right to appeal this decision to the Superior Court of Pennsylvania by filing a Notice of Appeal within 30 days from the date of this notice by publication.

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

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

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

9/8

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on July 17, 2006.

The name of the corporation is: BARTHOLOMEW CHIDOG VETERINARY ACUPUNCTURE INC. The corporation has been incorporated under the Pennsylvania Business Corporation Law of 1988.

Bartholomew Chidog
Veterinary Acupuncture Inc.
P.O. Box 201
265 Old Route 30
McKnightstown, PA 17343

9/8

IN THE COURT OF
COMMON PLEAS OF
LUZERNE COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
CASE NO. 6972 OF 2006

LINDA LUCAS and ANDREW MICHAEL
LUCAS, her husband, Plaintiffs

vs.

JASON SCHRIVER and GET, INC.,
Defendants

NOTICE TO JASON SCHRIVER

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

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

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

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

Christopher B. Slusser, Esq.
The Slusser Law Firm
1620 North Church Street, Suite 1
Hazleton, PA 18202
(570) 453-0463

9/8

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

ORPHANS COURT DIVISION
NO. RT-8-06(B)

NOTICE

TO: THOMAS REEVES

YOU ARE HEREBY NOTIFIED that the Court of Common Pleas of Adams County, Pennsylvania, entered an Order of Court dated August 21, 2006, terminating your parental rights. You are hereby notified that you have the right to appeal this decision to the Superior Court of Pennsylvania by filing a Notice of Appeal within 30 days from the date of this notice by publication.

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

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

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

9/8

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF RICHARD L. BYERS a/k/a RICHARD LEROY BYERS, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executors: Kimberly Jean Byers, 785 East Berlin Rd., York Springs, PA 17372; Patricia Jean Byers, 358 East York St., Biglerville, PA 17307

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

ESTATE OF ELIZABETH C. HAHN, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Sandra R. Wentz, 4 Pine Lane, New Oxford, PA 17350

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

ESTATE OF ELDA M. PETERS a/k/a ELDA MAYBERT PETERS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Sandra W. Peter, c/o Christina M. Simpson, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

Attorney: Christina M. Simpson, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

ESTATE OF MICHELLE D. STAMBAUGH, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Administrators: E. Matthew Stambaugh and Wayde A. Stambaugh, c/o Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

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

ESTATE OF FRANCES G. WESTFALL, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Co-Executors: Cheryl A. Martinetti, 219 Moore Drive, Hanover, PA 17331; Marvin C. Westfall, 680 Turkey Pit Rd., New Oxford, PA 17350

Attorney: Anthony T. McBeth, Esq., 407 North Front Street, Harrisburg, PA 17101

ESTATE OF JOANNE WITTLINGER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Ada Anderson, 817 W. King Street, York, PA 17404

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

SECOND PUBLICATION

ESTATE OF ERMA V. BEARD, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: PNC Bank, NA, P.O. Box 308, Camp Hill, PA 17001-0308

Attorney: David C. Smith, Esq., 754 Edgegrove Rd., Hanover, PA 17331

ESTATE OF PHILIP DeCHICO, JR., a/k/a REV. PHILIP DeCHICO, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executor: John G. Allen, 701 Stone Gate Court, York, PA 17404

Attorney: David C. Smith, Esq., 754 Edgegrove Rd., Hanover, PA 17331

ESTATE OF ALLEN ARMOR DUBBS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Robert A. Dubbs, 605 Meyers Dr., Baltimore, MD 21228

ESTATE OF LUCILLE V. FISHER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Sandra Lee Martin, 260 Martin Road, Gettysburg, PA 17325

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

ESTATE OF CLARA FLENNER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Nina Jean Garretson, 1185 Hoffman Road, Gettysburg, PA 17325

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

ESTATE OF LOUISE EMMA LENHART, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Personal Representative: PNC Bank NA, 4242 Carlisle Pike, Camp Hill, PA 17011

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

ESTATE OF VIOLA S. MILLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Robert Berwager, 4525 York Road, New Oxford, PA 17350; James Berwager, 2335 Baltimore Pike, Gettysburg, PA 17325

Attorney: Donald W. Dorr, Esq., Buchen, Wise & Dorr, 846 Broadway, Hanover, PA 17331

ESTATE OF MARY L. RIFE, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Co-Executrices: Sherry Dennis and Phyllis H. Kitzmiller, c/o Thomas E. Flower, Esq., Saidis, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

Attorney: Thomas E. Flower, Esq., Saidis, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

ESTATE OF FRANK W. SOWERS, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: Joyce Irvin, 86 White Oak Tree Road, York Springs, PA 17372

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

ESTATE OF DOROTHY M. STRALEY, DEC'D

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

Administrator: Becky Fengfish, c/o Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, P.C., 135 North George Street, York, PA 17401

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

ESTATE OF LAREDA T. TAYLOR, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: Robert E. Miller, 155 South Howard Avenue, Gettysburg, PA 17325; Joyce E. Miller, 155 South Howard Avenue, Gettysburg, PA 17325

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

(continued on page 6)

SECOND PUBLICATION (continued)

ESTATE OF JEFFREY A. WARREN-FELTZ, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Co-Administrators: Donna L. Fox, 82 Hunters Trail, Gettysburg, PA 17325; Robert E. Warrenfeltz, 2425 East Berlin Road, East Berlin, PA 17316

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

ESTATE OF JANICE BROWN WHERLEY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: David L. Hibbs, Sr., 8A Colonial Crest Circle, Hanover, PA 17331

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

THIRD PUBLICATION

ESTATE OF LOUIS F. BARAL, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Executor: Fred E. Baral, c/o Eric R. Dutcher, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

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

ESTATE OF ROSEMARIE H. BOWMAN a/k/a ROSEMARIE J. BOWMAN a/k/a ROSE MARIE BOWMAN, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

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

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

ESTATE OF JAMES W. BRACEY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Margaret B. LeGay, 33 South Street, Gettysburg, PA 17325

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

ESTATE OF CARMELITA M. CRUTCHFIELD, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Richard C. Crutchfield, Jr., 202 Longstreet Drive, Gettysburg, PA 17325; Dennis M. Crutchfield, 16087 Parque Lane, Naples, FL 34110

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

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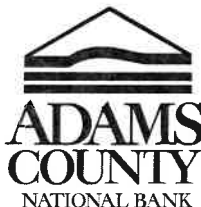
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Adams County National Bank's commitment to its communities is more than a fleeting promise. It is a tradition founded upon our more than 130 years of service to the individuals, businesses and organizations in these communities.



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IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—EQUITY

NO. 06-SU-198

Action to Quiet Title

MARY ELIZABETH BUCKHAM, Plaintiff

vs.

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

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

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

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

9/15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-677 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point two (2) feet West of the centerline of Bittle Road, at corner of land now or formerly of Glenn E. Hilbert; thence by said land now or formerly of Glenn E. Hilbert, North seventy-nine (79) degrees twenty-six (26) minutes ten (10) seconds West, two hundred ninety-three and forty-seven hundredths (293.47) feet through an existing pipe set back twenty-nine and six hundredths (29.06) feet from the place of beginning to an existing pipe; thence by the same South eighty-nine (89) degrees thirty-nine (39) minutes fifty (50) seconds West one hundred thirty and ninety hundredths (130.90) feet to an existing pipe; thence by the same North sixty-six (66) degrees sixteen (16) minutes thirty-five (35) seconds West two hundred thirty-six and four hundredths (236.04) feet to an existing pipe; thence by the same North forty-four (44) degrees zero (00) minutes fifteen (15) seconds East four hundred twenty-nine and fifteen hundredths (429.15) feet to a steel rod on bank on line of land now or formerly of John Hart; thence by said land now or formerly of John Hart and

land now or formerly of Dan Edwards, South sixty-seven (67) degrees forty-four (44) minutes five (05) seconds East, three hundred seventy-six and seventeen hundredths (376.17) feet to an existing pipe; thence by land now or formerly of Dan Edwards, South sixty-eight (68) degrees two (02) minutes thirty (30) seconds East one hundred twenty-four and fifty-one hundredths (124.51) feet through an existing pipe set back ten and five tenths (10.5) feet from the magnetic spike in the centerline of Bittle Road, the end of this course; thence in said Bittle Road, South twenty-four (24) degrees fifty-eight (58) minutes fifteen (15) seconds West two hundred twenty-five and twenty-nine hundredths (225.29) feet to a point two (2) feet West of the centerline of Bittle Road; thence continuing in said Bittle Road, South twenty-six (26) degrees ten (10) minutes twenty (20) seconds West seventy and sixty hundredths (70.60) feet to a point, the place of BEGINNING. CONTAINING 4.70 acres.

The above description was taken from a boundary survey prepared by Adams County Surveyors dated April 26, 2004.

Tax Parcel No: 15-j-18-4B

SUBJECT TO MORTGAGE

Premises Being: 55 Bittle Road, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Jeremy D. Favorite & Danielle Renee Kirk** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 10, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

COMMONWEALTH VS. BENTON

1. The Commonwealth has the absolute duty to disclose favorable evidence to an accused where the evidence is material either to guilt or to punishment. The prosecution's suppression of this evidence, even absent bad faith, requires the grant of a new trial. However, before a new trial is appropriate, the constitutional due process violation must have so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place. The existence of exculpatory evidence in the Commonwealth's possession is critical to this theory.

2. The petitioner must establish (by a preponderance of the evidence) that: (1) the evidence has been discovered after the trial and it could not have been obtained at or prior to trial through reasonable diligence; (2) such evidence is not cumulative; (3) the evidence is not being used solely to impeach credibility; and (4) such evidence would likely compel a different verdict.

3. A defendant who stands before the Court and admits his guilt is not entitled to have the conviction overturned based upon a claim of after-discovered evidence.

4. Recantation testimony is one of the least reliable forms of proof. Therefore, before relief may be granted based upon a recantation of testimony, the recantation testimony must be credible to the trial court.

5. In order to establish a claim of ineffective assistance of counsel, a defendant must demonstrate three things: that the underlying claim has arguable merit, that counsel's performance was not reasonably designed to effectuate the defendant's interests, and that counsel's unreasonable performance prejudiced the defendant.

6. In considering the effectiveness of counsel, it is defendant's burden to establish, among other things, that counsel had no reasonable strategic basis for his actions.

7. The voluntariness of the plea depends on whether counsel's advice was within the range of competence demanded of attorneys in criminal cases.

8. A guilty plea is involuntary, and therefore, defective where the pleading party is not apprised of the maximum penalty. Recent authority has recognized that in considering the voluntariness of a guilty plea, the Court must take into account the totality of the circumstances. Thus, if the defendant has knowledge from any source as to the gravity of the circumstances, the Court may properly find that the defendant's plea was entered intelligently and voluntarily.

9. A defendant is bound by the statements he makes during his plea colloquy, and may not assert grounds for withdrawing the plea that contradict statements made when he pled.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA. CRIMINAL ACTION NO. CP-01-CR-472-
2004. COMMONWEALTH OF PENNSYLVANIA VS. ARTIS LEE
BENTON, JR.

Brian R. Sinnett, Assistant District Attorney, for Commonwealth
Barbara Jo Entwistle, Esq., for Defendant
George, J., January 20, 2006

OPINION

This matter comes before the Court on Defendant Artis Lee Benton, Jr.'s ("Benton") Post-Conviction Relief Act Petition. Benton's Petition follows his December 6, 2004, plea of guilty to possession of a controlled substance with the intent to deliver in violation of Section 113(a)(30) of the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act. As a result of Benton's guilty plea, and pursuant to a negotiated plea agreement, Benton was sentenced to serve no less than one year and no more than three years in a state correctional institution. He currently seeks post-conviction relief raising the following issues:

1. The Commonwealth failed to disclose exculpatory evidence prior to the entry of his plea. Benton alleges that the Commonwealth was in possession of exculpatory evidence consisting of statements from the confidential informant, Robert Dixon ("Dixon"), that Benton was innocent.
2. In the alternative, if the Commonwealth was not in possession of the alleged exculpatory evidence, Benton claims that this evidence constitutes after-discovered evidence justifying the grant of a new trial. Under this theory, Benton claims that even if the Commonwealth was unaware of Dixon's exculpatory statements, Benton alleges that Dixon's recantation constitutes after-discovered evidence justifying a new trial.
3. Benton's plea was involuntarily and unknowingly entered in that he was misinformed concerning the maximum penalties applicable to the charges against him as well as Benton's proper prior record score.
4. Trial counsel was ineffective in failing to interview a material witness identified as Robert Dixon.
5. Trial counsel was ineffective in pressuring or threatening Benton to enter his plea by allegedly threatening Benton that his wife would be prosecuted and his children removed from his custody in the event that he went to trial.¹

¹ Benton also alleged that his plea was involuntarily entered because he was under the influence of medication at the time of his plea. This claim was subsequently withdrawn at the time of hearing.

Benton also raises a boilerplate claim that counsel's overall performance was ineffective thereby making his plea entry involuntary and unknowing.

It appears that Benton's claims involve two broad categories: 1) the impact of Dixon's recantation and 2) whether Benton's plea was knowingly and voluntarily entered. Although the record is sufficient to allow the Court to address a number of claims raised by Benton regarding the voluntariness of his plea, issues involving Mr. Dixon's recantation require factual findings. Accordingly, the Court finds, after a hearing, the following factual background:

On December 6, 2004, Benton entered a plea of guilty to possession with intent to deliver marijuana. During the plea colloquy, the Commonwealth indicated that a confidential informant, Robert Dixon, placed a cell phone call to Benton and arranged to purchase marijuana from Benton in the parking lot of the Silk Mills Apartments, 35 Buford Avenue, Gettysburg, Pennsylvania. Dixon was transported to that location by an undercover Trooper. While at that location, the Trooper observed a meeting between Benton and Dixon. Immediately thereafter, Dixon returned to the Trooper's vehicle and provided the suspected marijuana to the Trooper. Subsequent testing by the Pennsylvania State Police Laboratory yielded a positive result for the presence of marijuana and a weight of approximately eighteen grams. At the time that Benton entered his plea, he admitted that he was pleading guilty because it was true that on the date at issue, he sold marijuana to another person. Plea transcript, December 6, 2004, page 7.

At the P.C.R.A. hearing, Keith Stambaugh, a Patrolman for the Gettysburg Borough Police and a Detective for the Adams County Drug Task Force, provided credible testimony that on the date of the transaction, March 23, 2004, Dixon was a cooperating confidential informant with the Adams County Drug Task Force. Stambaugh was aware that Dixon was transported to the scene of the transaction by Trooper Taylor. At the conclusion of the transaction, Detective Stambaugh met with Dixon at the Cumberland Township Police Department where Dixon indicated that

he got “it (referring to marijuana) from Artis.” Stambaugh further testified that prior to Benton’s scheduled trial, he was advised by Dixon that he did not want to testify because he feared that Benton would retaliate. Stambaugh indicated that Dixon never advised him that Benton was innocent, nor that Benton was an unknowing participant in the transaction. While Stambaugh advised the Commonwealth attorneys of Dixon’s unwillingness to testify because of his fear that Benton would retaliate, there was no mention to Commonwealth attorneys that Dixon made statements alleging Benton’s innocence since, to Stambaugh’s knowledge, no such statements were made. I find this testimony to be credible and factually true.

Similarly, I reject Dixon’s testimony as false testimony offered in an effort to hide his willing participation as a confidential informant.² At the P.C.R.A. hearing, Dixon claimed, incredibly, that he did not knowingly participate in the drug transaction as a confidential informant. He denies being searched prior to the transaction by State Troopers. Rather, he claims that he was walking along Fairfield Road when he was unexpectedly picked up by an individual unknown to him who asked if he knew where to buy some weed. He claims to have contacted Benton because he accidentally left his backpack in Benton’s car. He claims that unbeknownst to Benton, the backpack contained Dixon’s marijuana. Thus, when he met with Benton at the Silk Mill Apartments, Benton’s sole intention was to return Dixon’s backpack. Dixon further denies returning to the Cumberland Township Department. Rather, he claims that the same unknown individual, who had picked him up earlier, dropped him off at a local diner. Dixon claims that the first time he was aware that the police were involved in this investigation was when he received a subpoena to testify. He claims that at that time, he told Detective Stambaugh that he was not going to testify because the marijuana was his and not Benton’s. After observing Dixon’s testimony, I

²Dixon is currently incarcerated in a state correctional institution on drug-related convictions.

conclude that his testimony is incredible, it defies common sense and it is patently false.

It is beyond reproach that the Commonwealth has the absolute duty to disclose favorable evidence to an accused “where the evidence is material either to guilt or to punishment.” *Brady v. Maryland*, 373 U.S. 83, 87 (1963). The prosecution’s suppression of this evidence, even absent bad faith, requires the grant of a new trial. *Id.* at 84. However, before a new trial is appropriate, the constitutional due process violation must have “so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.” 42 Pa. C.S. § 9543(a)(2)(i). The existence of exculpatory evidence in the Commonwealth’s possession is critical to this theory. *Commonwealth v. McElroy*, 665 A.2d 813, 818 (Pa.Super. 1995). (The Commonwealth is required by the rules of discovery to produce only information within its control). Since I have found, as a matter of fact, that Dixon did not make claims of Benton’s alleged innocence prior to Benton’s plea, Benton’s claim of a due process violation by the Commonwealth is denied.

Similarly, Benton’s claim of after-discovered evidence as it relates to Dixon’s testimony is also denied. In order to succeed on a claim based upon newly-discovered evidence,

[T]he petitioner must establish [by a preponderance of the evidence] that: (1) the evidence has been **discovered after the trial** and it could not have been obtained **at or prior to trial** through reasonable diligence; (2) such evidence is not cumulative; (3) [the evidence] is not being used solely to impeach credibility; and (4) such evidence would likely compel a different verdict.

Commonwealth v. Abu Jamal, 720 A.2d 79, 94 (Pa. 1998), emphasis added. In *Commonwealth v. Shawn Arnold*, CC-458-03 (Adams County, 2005), this Court held that a defendant who stands before the Court and admits his guilt is not entitled to have the conviction overturned based upon a claim of after-discovered evidence. In doing so, this Court adopted the reasoning of Justice McDermott, who recognized that

[A] guilty plea is not a ceremony of innocence, it is an occasion where one offers a confession of guilt. If a defendant voluntarily, knowingly and intelligently wishes to acknowledge facts that in themselves constitute an

offense, that acknowledgment is independent of the procedures of proving or refuting them.

Commonwealth v. Anthony, 475 A.2d 1303, 1307 (Pa. 1984).

At the time of his plea and after hearing the factual background provided by the Commonwealth, Benton admitted to the Court that he was pleading guilty because it was true that he sold marijuana to another person. Before entering his plea, he provided the Court with a written colloquy wherein he acknowledged that by pleading guilty he understood that he was admitting that he committed each element of the crime to which he was entering his plea. Following the acceptance of the guilty plea by the Court, Benton was scheduled for sentencing on January 14, 2005. Despite being advised of his right to withdraw his guilty plea prior to sentencing, no such request was made by Benton and sentencing occurred as scheduled. During the sentencing proceeding, the Court provided Benton with the opportunity to comment; however, Benton declined.

Benton was aware of the factual circumstances underlying the charges against him at the time of his plea. He also was the person in the best position to know his involvement in those circumstances. I am unable to fathom how the discovery of different evidence changes his knowledge of the acts he committed. Permitting Benton to withdraw his guilty plea under these circumstances would essentially render “the carefully crafted procedures of the guilty plea process a hollow ritual.” *Arnold*, cited above.

Even if a defendant should be permitted the opportunity to withdraw a knowing and voluntary guilty plea on the basis of after-discovered evidence, I, nevertheless, find Benton’s claim meritless. Our appellate courts have repeatedly recognized that recantation testimony is one of the least reliable forms of proof. *Commonwealth v. Loner*, 836 A.2d 125, 135 (Pa.Super. 2003). In *Commonwealth v. Mosteller*, our Supreme Court noted that “[r]ecanting testimony is exceedingly unreliable, and it is the duty of the court to deny a new trial where it is not satisfied that such testimony is true.” *Commonwealth v. Mosteller*, 284 A.2d 786, 788 (Pa. 1971) (quoting *Commonwealth v. Scull*, 186 A.2d 854 (Pa. 1962)). Therefore, before relief may be granted based upon a recantation of testimony, the recantation testimony must be credible to the trial court. *Commonwealth v. Lee*, 385 A.2d 1317, 1319 (Pa. 1978).

Continued to next issue (9/22/2006)

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-699 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE two tracts of land situate, lying and being in Carroll Valley Borough, bounded and described as follows:

TRACT NO. 1: LOT NO. 37 IN SECTION H:

BEGINNING at a point in the center of High Ridge Drive at Lot No. 36; thence by said lot, North 68 degrees 41 minutes West, 200 feet to lands now or formerly of Chamita, Inc.; thence by said lands, North 21 degrees 19 minutes East, 134.91 feet to a point; thence continuing by said lands, North 40 degrees 54 minutes East, 82.38 feet to Lot No. 38; thence by said lot, South 49 degrees 06 minutes East, 200 feet to a point in the center of said High Ridge Drive; thence in said High Ridge Drive, South 40 degrees 54 minutes West, 47.56 feet to a point in said High Ridge Drive; thence continuing in said High Ridge Drive, South 21 degrees 19 minutes West, 100.39 feet to the place of BEGINNING.

TRACT NO. 2: LOT NO. 36 IN SECTION H:

BEGINNING at a point in the center of High Ridge Drive at Lot No. 35; thence by said lot, North 68 degrees 41 minutes West, 200 feet to other lands; thence by said lands, North 21 degrees 19 minutes East, 100 feet to Lot No. 37; thence by said lot, South 68 degrees 41 minutes East, 200 feet to a point in the center of High Ridge Drive; thence in said High Ridge Drive, South 21 degrees 19 minutes West, 100 feet to the place of BEGINNING.

Premises being: 35 Ridge Trail, Fairfield, PA 17320

SEIZED and taken into execution as the property of **Brian R. Gregg & Mary F. Gregg a/k/a Mary Frances Gregg** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 10, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-666 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that improved lot of ground situate on the South side of Maple Avenue and being improved with the Western one-half of a duplex to be known generally as 622 Maple Avenue, all of which is situate in the Village of Midway, Conewago Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the South side of Maple Avenue aforesaid at other lands of Jad S. Sneeringer and Patricia S. Sneeringer as marked by an iron pin at the intersecting property lines of Lot No. 4 and Lot No. 3 on the plot plan hereinafter mentioned, said iron pin being ten (10) feet South of the South curb face of Maple Avenue; ninety (90) feet to a pin at Lot No. 5; thence by other lands of Jad S. Sneeringer and Patricia S. Sneeringer, South eighty-six (86) degrees ten (10) minutes West, fifty-six and fifty-eight hundredths (56.58) feet to an iron pin at lands of Henry C. Pottorff; thence by lands of Henry C. Pottorff, also known as Lot No. 2, North three (3) degrees fifty (50) minutes West, ninety (90) feet to an iron pin on the South property line of Maple Avenue; thence along the South property line of Maple Avenue, North eighty-six (86) degrees ten (10) minutes East, fifty-six and one hundredths (56.01) feet to an iron pin, the point and place of BEGINNING. CONTAINING 5,066 square feet.

Together with all buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments and appurtenances, to the same belonging, or in any wise appertaining, and any reversions, remainders, rents, issues and profits thereof, and of every part and parcel thereof, including any interests specifically set forth, if any. And also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, both in law and equity, of the Grantor of, in and to the same.

To Have And To Hold the same premises, and the appurtenances, hereby

granted to Grantee and Grantee's heirs, successors and assigns, to and for the only proper use, benefit and behoof of the said Grantee and Grantee's heirs, successors and assigns forever, under and subject to the conditions set forth, if any.

And The Said Grantor hereby covenants and agrees that Grantor will warrant specially the property hereby conveyed.

Under And Subject, nevertheless to the same condition, restrictions, exceptions and reservations as exist by virtue of prior recorded instruments, deeds and conveyances.

It Being The Same Premises which Kimberly Ann Reese, by their deed dated January 28, 2000 and recorded in the Office of The Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 2011, Page 285, granted and conveyed unto Christopher Todd Richards, Grantors herein.

Property Being: 622 Maple Avenue

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

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 10, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1212 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of November, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following two tracts of land located in Aspers, Menallen Township, Adams County, Pennsylvania, being more fully bounded and limited as follows, to wit:

TRACT NO. 1

BEGINNING at an iron pin near the Westerly side of Reading Railroad Company right of way at lands of Co-Operative Fruit Growers of Adams County; thence by said last mentioned land South sixty-six (56°) degrees, twenty-eight (28) minutes, thirty (30) seconds West, three hundred sixty-seven and forty-two hundredths (367.42) feet to an iron pin at lands of Cecil W. Dean; thence by said lands North twenty-four (24°) degrees West, seventy-seven and ninety-three hundredths (77.93) feet to an iron pin; thence continuing by said lands and crossing Pennsylvania Legislative Route 01006 South sixty-five (65°) degrees, eleven (11) minutes, fifty (50) seconds West, one hundred seventy-five and eighty-seven hundredths (175.87) feet to an iron pin at lands of Isaac N. Rejpley; thence by said lands South eighty-three (83) degrees, forty-nine (49) minutes, fifty (50) seconds West, fifty-one and fifteen hundredths (51.15) feet to a point in Opossum Creek; thence in said creek North seventeen (17°) degrees, forty-nine (49) minutes, ten (10) seconds West, seventy-three and eighty-one hundredths (73.81) feet to an iron pin on the Eastern bank of said creek at lands of Freda A. Kuhn; thence by said lands and recrossing aforementioned Pennsylvania Legislative Route 01006 North sixty-one (61°) degrees, three (3) minutes, forty (40) seconds East, three hundred forty-seven and seventy-seven hundredths (347.77) feet to an iron pin; thence continuing by said lands North fifteen (15°) degrees, eighteen (18) minutes, thirty (30) seconds West, sixteen (16) feet to an iron pin on the Westerly side of an 11-foot alley; thence by said alley North sixty-one (61°) degrees, three (3) minutes, forty (40) seconds East, eleven and thirty-two hundredths (11.32) feet to a point on the Eastern side of said alley; thence along the Easterly side of said alley North sixteen (16°) degrees, twelve (12) minutes, thirty (30) seconds West, three hundred eighty-nine and fifty hundredths (389.50) feet to an iron pin at lands of William C. Weigle; thence by

said lands North seventy-four (74°) degrees, twenty-eight (28) minutes, ten (10) seconds East, one hundred fifty-seven and one hundredths (157.01) feet to an iron pin on the Westerly side of a 35-foot wide street; thence along the Westerly side of said street South sixteen (16°) degrees, twelve (12) minutes, thirty (30) seconds East, three hundred forty-nine and eighty-five hundredths (349.85) feet to an iron pin; thence by said street North sixty-one (61°) degrees, three (3) minutes, forty (40) seconds East, thirty-five and eighty-eight hundredths (35.88) feet to an iron pin on the Easterly side of said 35-foot wide street; thence on the Easterly side of said street North sixteen (16°) degrees, twelve (12) minutes, thirty (30) seconds West, four hundred sixty (460) feet to an iron pin near the Westerly side of the Reading Railroad Company right of way; thence along the Westerly side of said right of way South twenty-one (21°) degrees, twelve (12) minutes, forty (40) seconds East, two hundred fifty-six (256) feet to an iron pin; thence continuing along the Westerly side of said right of way South nineteen (19°) degrees, six (6) minutes, fifty (50) seconds East, two hundred sixteen (216) feet to an iron pin; thence continuing along the Westerly side of right of way South twenty (20°) degrees, thirty-six (36) minutes, fifty (50) seconds East, one hundred fifty-four and two hundredths (154.02) feet, to the place of BEGINNING.

TRACT NO. 2

BEGINNING at an iron pin on the Westerly side of the aforementioned 11-foot alley at land of Freda A. Kuhn; thence by said lands and crossing Pennsylvania Legislative Route 01006 South seventy-five (75°) degrees, twelve (12) minutes, thirty (30) seconds West, three hundred forty-four and thirty-six hundredths (344.36) feet to an iron pin at lands of Clair R. Showers; thence by said land North seventeen (17°) degrees, forty-nine (49) minutes, ten (10) seconds West, sixty (60) feet to an iron pin at lands of Cloyd C. Vines; thence by said lands and recrossing aforementioned Pennsylvania Legislative Route 01006 North seventy-five (75°) degrees, eleven (11) minutes, fifty (50) seconds East, two hundred sixty-one and ninety-nine hundredths (261.99) feet to an iron pin; thence continuing by said lands North sixteen (16°) degrees, thirty-three (33) minutes, twenty (20) seconds West, one hundred thirty-nine and six hundredths (139.06) feet to an iron pin at lands of Charles H. Chronister; thence by said lands North seventy-four (74°) degrees, twenty-two (22) minutes, forty (40) seconds East, eighty-five (85) feet to an iron pin on the Westerly side of aforementioned 11-foot alley; thence along the Westerly side of said alley

South sixteen (16°) degrees, thirty-two (32) minutes, thirty (30) seconds East, one hundred forty and twenty-eight hundredths (140.28) feet to an iron pin; thence continuing along the Westerly side of said alley South fifteen (15°) degrees, eighteen (18) minutes, thirty (30) seconds East, fifty-nine and ninety-seven (59.97) feet, to the place of BEGINNING.

THE ABOVE DESCRIPTIONS were taken from a draft identified as property of H. C. Gulden Mfg. Co. of a survey made by Penn Forestry Co., Biglerville, Pennsylvania, dated December 20, 1971, and bearing number "E" - 15 (1071-180).

The total acreage contained in the foregoing described two tracts of land is 4.27 acres.

LESS, HOWEVER, all that tract of land containing .076 acre as shown on a plan of lots labeled "Possum Valley Sewer Authority" recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 39, at Page 106BBB, which Littlestown Industrial Development Authority, legal owner, and H. C. Gulden Mfg. Company, Project Occupant, by their deed dated May 29, 1984, and recorded in Record Book 395, Page 902 granted and conveyed unto the Possum Valley Sewer Authority.

IT BEING the same premises which H. C. Gulden Master Carvers, LTD., formerly Haines Acquisition Corp., by deed dated February 10, 1998 and recorded February 13, 1998, in the office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 1521 at page 0086, granted and conveyed unto John R. Smith, Jr., t/d/b/a Keystone Country Furniture.

Premises Being: 1475 Center Mills Rd., Aspers, PA 17304

SEIZED and taken into execution as the property of John R. Smith, Jr. and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 27, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

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 JOANN M. BENDZEN, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

Executrix: Lorraine Ann Kudlawiec, 1909 Brigade Way, Odenton, MD 21113-1087

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

ESTATE OF ETHELL L. EHRHART, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Linda Teal, 184 Fairview Drive, Hanover, PA 17331

Attorney: Donald W. Dorr, Esq., 846 Broadway, Hanover, PA 17331

ESTATE OF MICHAEL L. GREEN, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Co-Executors: Kathi Ann Tsatiris and Amanda S. Wicker, c/o Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, PC, 135 North George Street, York, PA 17401

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

ESTATE OF LOUISE E. HOSTETTER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executrices: Pamela S. Kreitz & Nancy L. Sharp, c/o Craig A. Diehl, Esq., 119 W. Hanover St., Spring Grove, PA 17362

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

ESTATE OF MARY L. MILLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Sterling Financial Trust Co., 25 Carlisle St., Hanover, PA 17331

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

ESTATE OF FRANCIS J. NEIDERER, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executor: Stephen F. Neiderer, 8 Randolph Court, Hanover, PA 17331

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

ESTATE OF MARTINA S. REHEARD, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executor: Robert C. Wile, c/o George E. Wenger, Jr., Esq., Hoskinson & Wenger, 147 East Washington Street, Chambersburg, PA 17201

Attorney: George E. Wenger, Jr., Esq., Hoskinson & Wenger, 147 East Washington Street, Chambersburg, PA 17201

SECOND PUBLICATION**ESTATE OF RICHARD L. BYERS a/k/a RICHARD LEROY BYERS, DEC'D**

Late of Huntington Township, Adams County, Pennsylvania

Executors: Kimberly Jean Byers, 785 East Berlin Rd., York Springs, PA 17372; Patricia Jean Byers, 358 East York St., Biglerville, PA 17307

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

ESTATE OF ELIZABETH C. HAHN, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Sandra R. Wentz, 4 Pine Lane, New Oxford, PA 17350

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

ESTATE OF ELDA M. PETERS a/k/a ELDA MAYBERT PETERS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Sandra W. Peter, c/o Christina M. Simpson, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

Attorney: Christina M. Simpson, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

ESTATE OF MICHELLE D. STAMBAUGH, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Administrators: E. Matthew Stambaugh and Wayde A. Stambaugh, c/o Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

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

ESTATE OF FRANCES G. WESTFALL, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Co-Executors: Cheryl A. Martinetti, 219 Moore Drive, Hanover, PA 17331; Marvin C. Westfall, 680 Turkey Pitt Rd., New Oxford, PA 17350

Attorney: Anthony T. McBeth, Esq., 407 North Front Street, Harrisburg, PA 17101

ESTATE OF JOANNE WITTLINGER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Ada Anderson, 817 W. King Street, York, PA 17404

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

THIRD PUBLICATION**ESTATE OF ERMA V. BEARD, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: PNC Bank, NA, P.O. Box 308, Camp Hill, PA 17001-0308

Attorney: David C. Smith, Esq., 754 Edgegrove Rd., Hanover, PA 17331

ESTATE OF PHILIP DeCHICO, JR., a/k/a REV. PHILIP DeCHICO, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executor: John G. Allen, 701 Stone Gate Court, York, PA 17404

Attorney: David C. Smith, Esq., 754 Edgegrove Rd., Hanover, PA 17331

ESTATE OF ALLEN ARMOR DUBBS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Robert A. Dubbs, 605 Meyers Dr., Baltimore, MD 21228

ESTATE OF LUCILLE V. FISHER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Sandra Lee Martin, 260 Martin Road, Gettysburg, PA 17325

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

(continued on page 6)

THIRD PUBLICATION (continued)

ESTATE OF CLARA FLENNER, DEC'D
Late of the Borough of Gettysburg,
Adams County, Pennsylvania

Nina Jean Garretson, 1185 Hoffman
Road, Gettysburg, PA 17325

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

**ESTATE OF LOUISE EMMA LENHART,
DEC'D**

Late of Oxford Township, Adams
County, Pennsylvania

Personal Representative: PNC Bank
NA, 4242 Carlisle Pike, Camp Hill,
PA 17011

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

ESTATE OF VIOLA S. MILLER, DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Executors: Robert Berwager, 4525
York Road, New Oxford, PA 17350;
James Berwager, 2335 Baltimore
Pike, Gettysburg, PA 17325

Attorney: Donald W. Dorr, Esq.,
Buchen, Wise & Dorr, 846 Broadway,
Hanover, PA 17331

ESTATE OF MARY L. RIFE, DEC'D

Late of Franklin Township, Adams
County, Pennsylvania

Co-Executrices: Sherry Dennis and
Phyllis H. Kitzmiller, c/o Thomas E.
Flower, Esq., Saidis, Flower &
Lindsay, 2109 Market Street, Camp
Hill, PA 17011

Attorney: Thomas E. Flower, Esq.,
Saidis, Flower & Lindsay, 2109
Market Street, Camp Hill, PA 17011

ESTATE OF FRANK W. SOWERS, DEC'D

Late of Huntington Township, Adams
County, Pennsylvania

Executor: Joyce Irvin, 86 White Oak
Tree Road, York Springs, PA 17372

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

**ESTATE OF DOROTHY M. STRALEY,
DEC'D**

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

Administrator: Becky Fengfish, c/o
Sharon E. Myers, Esq., CGA Law
Firm, Countess Gilbert Andrews,
PC, 135 North George Street, York,
PA 17401

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

**ESTATE OF LAREDA T. TAYLOR,
DEC'D**

Late of Cumberland Township, Adams
County, Pennsylvania

Co-Executors: Robert E. Miller, 155
South Howard Avenue, Gettysburg,
PA 17325; Joyce E. Miller, 155
South Howard Avenue, Gettysburg,
PA 17325

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

**ESTATE OF JEFFREY A. WARREN-
FELTZ, DEC'D**

Late of Menallen Township, Adams
County, Pennsylvania

Co-Administrators: Donna L. Fox, 82
Hunters Trail, Gettysburg, PA 17325;
Robert E. Warrenfeltz, 2425 East
Berlin Road, East Berlin, PA 17316

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

**ESTATE OF JANICE BROWN
WHERLEY, DEC'D**

Late of Oxford Township, Adams
County, Pennsylvania

Executor: David L. Hibbs, Sr., 8A
Colonial Crest Circle, Hanover, PA
17331

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execu-
tion, Judgment No. 06-S-721 issued out
of the Court of Common Pleas of Adams
County, and to me directed, will be ex-
posed to Public Sale on Friday, the 3rd
day of November, 2006, at 10:00 o'clock
in the forenoon at the Sheriff's Office
located in the Courthouse, Borough of
Gettysburg, Adams County, PA, the fol-
lowing Real Estate, viz.:

ALL THAT CERTAIN lot or piece of
ground situate in Franklin Township,
County of Adams, Commonwealth of
Pennsylvania.

BEGINNING at a railroad spike set
near the centerline of State Route 3015,
Fairview Fruit Road, at the Southernmost
corner of Lot No. 4 on the hereinafter
referred to draft of survey and subdivi-
sion plan; thence in State Route 3015,
Fairview Fruit Road, by a curve to the
right on a circle having a radius of
1874.87 feet, having a long chord and
bearing of South 21 degrees 50 minutes
05 seconds West, 169.10 feet to a point
in the centerline of State Route 3015,
Fairview Fruit Road; thence in said road,
South 25 degrees 11 minutes 45 sec-
onds West, 450.78 feet to a railroad
spike found 1 foot East of the centerline
of said road and at a corner of land now

or formerly of Robert W. Weikert, et ux;
thence by said Weikert land, and by land
now or formerly of Regina H. Orndorff,
and passing through a 5/8th inch rebar
found 232.03 feet from the last men-
tioned point, North 61 degrees 00
minutes 00 seconds West, 483.93 feet to
a 1/2 inch pipe found; thence continuing
by land of said Orndorff, North 22
degrees 59 minutes 15 seconds East,
536.46 feet to a 5/8th inch rebar set at a
corner of Lot No. 4; thence by said Lot
No. 4, and passing through a 5/8th inch
rebar set 25.00 feet from the next men-
tioned point, South 70 degrees 45 min-
utes 00 seconds East, 496.29 feet to a
railroad spike set near the centerline of
State Route 3015, Fairview Fruit Road,
at the Southernmost corner of Lot No. 4,
the point and place of BEGINNING.
CONTAINING 6.536 Acres, more or less.

Tax Parcel No.: 12-d11-5c

Premises Being: 140 Fairview Fruit
Rd., Biglerville, PA 17307

SEIZED and taken into execution as
the property of **Michelle D. Brauning &
Kegan S. Brauning** and to be sold by
me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on November 27,
2006, and distribution will be made in
accordance with said schedule, unless
exceptions are filed thereto within 20 days
after the filing thereof. Purchaser must
settle for property on or before filing date.

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

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

9/15, 22 & 29

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that
Articles of Incorporation have been filed
with the Department of State of the
Commonwealth of Pennsylvania, at
Harrisburg, Pennsylvania, for the pur-
poses of obtaining a Certificate of In-
corporation 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 **KEM-
PER SUPPLY, INC.**

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

9/15

Adams County Legal Journal

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September 22, 2006

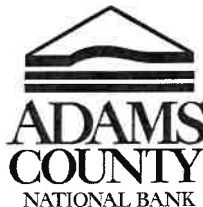
No. 18, pp. 106-111

IN THIS ISSUE

COMMONWEALTH VS. BENTON

This opinion continued from last issue (9/15/2006)

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-699 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE two tracts of land situate, lying and being in Carroll Valley Borough, bounded and described as follows:

TRACT NO. 1: LOT NO. 37 IN SECTION H:

BEGINNING at a point in the center of High Ridge Drive at Lot No. 36; thence by said lot, North 68 degrees 41 minutes West, 200 feet to lands now or formerly of Charnita, Inc.; thence by said lands, North 21 degrees 19 minutes East, 134.91 feet to a point; thence continuing by said lands, North 40 degrees 54 minutes East, 82.38 feet to Lot No. 38; thence by said lot, South 49 degrees 06 minutes East, 200 feet to a point in the center of said High Ridge Drive; thence in said High Ridge Drive, South 40 degrees 54 minutes West, 47.56 feet to a point in said High Ridge Drive; thence continuing in said High Ridge Drive, South 21 degrees 19 minutes West, 100.39 feet to the place of BEGINNING.

TRACT NO. 2: LOT NO. 36 IN SECTION H:

BEGINNING at a point in the center of High Ridge Drive at Lot No. 35; thence by said lot, North 68 degrees 41 minutes West, 200 feet to other lands; thence by said lands, North 21 degrees 19 minutes East, 100 feet to Lot No. 37; thence by said lot, South 68 degrees 41 minutes East, 200 feet to a point in the center of High Ridge Drive; thence in said High Ridge Drive, South 21 degrees 19 minutes West, 100 feet to the place of BEGINNING.

Premises being: 35 Ridge Trail, Fairfield, PA 17320

SEIZED and taken into execution as the property of **Brian R. Gregg & Mary F. Gregg a/k/a Mary Frances Gregg** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

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

schedule of distribution will be filed by the Sheriff in his office on November 10, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-677 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point two (2) feet West of the centerline of Bittle Road, at corner of land now or formerly of Glenn E. Hilbert; thence by said land now or formerly of Glenn E. Hilbert, North seventy-nine (79) degrees twenty-six (26) minutes ten (10) seconds West, two hundred ninety-three and forty-seven hundredths (293.47) feet through an existing pipe set back twenty-nine and six hundredths (29.06) feet from the place of beginning to an existing pipe; thence by the same South eighty-nine (89) degrees thirty-nine (39) minutes fifty (50) seconds West one hundred thirty and ninety hundredths (130.90) feet to an existing pipe; thence by the same North sixty-six (66) degrees sixteen (16) minutes thirty-five (35) seconds West two hundred thirty-six and four hundredths (236.04) feet to an existing pipe; thence by the same North forty-four (44) degrees zero (00) minutes fifteen (15) seconds East four hundred twenty-nine and fifteen hundredths (429.15) feet to a steel rod on bank on line of land now or formerly of John Hart; thence by said

land now or formerly of John Hart and land now or formerly of Dan Edwards, South sixty-seven (67) degrees forty-four (44) minutes five (05) seconds East, three hundred seventy-six and seventeen hundredths (376.17) feet to an existing pipe; thence by land now or formerly of Dan Edwards, South sixty-eight (68) degrees two (02) minutes thirty (30) seconds East one hundred twenty-four and fifty-one hundredths (124.51) feet through an existing pipe set back ten and five tenths (10.5) feet from the magnetic spike in the centerline of Bittle Road, the end of this course; thence in said Bittle Road, South twenty-four (24) degrees fifty-eight (58) minutes fifteen (15) seconds West two hundred twenty-five and twenty-nine hundredths (225.29) feet to a point two (2) feet West of the centerline of Bittle Road; thence continuing in said Bittle Road, South twenty-six (26) degrees ten (10) minutes twenty (20) seconds West seventy and sixty hundredths (70.60) feet to a point, the place of BEGINNING. CONTAINING 4.70 acres.

The above description was taken from a boundary survey prepared by Adams County Surveyors dated April 26, 2004.

Tax Parcel No: 15-j-18-4B

SUBJECT TO MORTGAGE

Premises Being: 55 Bittle Road, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Jeremy D. Favorite & Danielle Renee Kirk** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 10, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

COMMONWEALTH VS. BENTON

Continued from last issue (9/15/2006)

As previously mentioned, I have found Detective Stambaugh's testimony, that Dixon voluntarily participated as a confidential informant in purchasing marijuana from Benton, to be credible. Following the transaction at issue, Dixon informed Detective Stambaugh that the marijuana was given to him by Benton. Dixon's current claim, that Benton was not involved in the transaction and Benton was simply returning a backpack to Dixon unaware of its contents, is unconvincing. This statement is only part of a factual background alleged by Dixon which simply defies believability. His claims are completely contradictory to the credible testimony of Detective Stambaugh. I, therefore, find Dixon's incredible recantation insufficient to justify the withdrawal of Benton's plea and the grant of a new trial.

Benton next claims that his guilty plea was involuntary due to counsel's ineffectiveness in failing to interview Dixon prior to trial. I will analyze this issue under the ineffective assistance of counsel provisions of the P.C.R.A. See *Commonwealth ex rel. Dadario v. Goldberg*, 773 A.2d 126, 127 (Pa. 2001) (holding that claims of ineffective assistance of counsel rising from the plea bargaining process are cognizable under P.C.R.A.'s ineffectiveness subsection, 42 Pa. C.S.A. § 9543(a)(2)(ii)).

In order to "establish a claim of ineffective assistance of counsel, a defendant must demonstrate three things: that the underlying claim has arguable merit, that counsel's performance was not reasonably designed to effectuate the defendant's interests, and that counsel's unreasonable performance prejudiced the defendant." *Commonwealth v. Lynch*, 820 A.2d 728, 733 (Pa.Super. 2003). Under this standard, I find that Benton's claim of ineffective assistance of counsel based upon trial counsel's failure to interview Dixon fails.

The cornerstone of Benton's claim of ineffectiveness is the presumption that if counsel would have interviewed Dixon prior to trial, Dixon would have exculpated Benton thereby resulting in Benton's election of trial, rather than Benton's acceptance of the plea agreement. Although prudence may suggest that trial counsel should have interviewed Dixon prior to Benton entering his plea, I cannot find that this omission rises to the level of ineffective assistance of counsel.

While our appellate courts have, in certain circumstances, found the stewardship of trial counsel to be ineffective for failing to interview

and call certain witnesses at trial, those cases arise in the context of examining the effectiveness of counsel following an evidentiary resolution. See, e.g., *Commonwealth v. Mabie*, 359 A.2d 369 (Pa. 1976). Benton seeks to extend this authority to circumstances where trial preparation has been eliminated due to Benton's acknowledgment of guilt.

The distinction in the procedural status of the cases cited by Benton, as compared to the procedural status of this case, is material in considering the effectiveness of counsel since it is Benton's burden to establish, among other things, that counsel had no reasonable strategic basis for his inactions. *Commonwealth v. Meadows*, 787 A.2d 312 (Pa. 2001). For instance, as the record indicates in the current matter, where counsel is posturing for the best available plea agreement, one can hardly argue that counsel is ineffective by taking unnecessary steps which may cloud the negotiation process. Such a history exists in this case when, for example, trial counsel withdrew a previously filed petition for writ of habeas corpus. Additional evidence of Benton's efforts to favorably posture himself in plea negotiations is found in trial counsel's testimony that Benton volunteered to be a confidential informant for the Commonwealth. It is fairly apparent that counsel's efforts to force the Commonwealth to identify and make available the confidential informant would only frustrate the ultimate goal. Trial counsel recognized the sensitivity of the negotiation process when he indicated that he is careful during pre-trial stages in interacting with "confidential informants and victims." Although I may have reached a different result had counsel failed to interview material witnesses prior to trial, I cannot find counsel ineffective for failing to interview a confidential informant prior to the entry of a favorably-negotiated guilty plea.

Moreover, Benton has not established that there is a reasonable possibility that the outcome of the proceedings would have been different had trial counsel forced the Commonwealth's hand in producing the confidential informant. Specifically, Benton has not established that if trial counsel interviewed Dixon prior to the entry of his guilty plea, Dixon would have provided exculpatory testimony. Although Dixon now claims that Benton was not knowingly involved in a drug transaction, and made this information known prior to the entry of Benton's plea, I reject Dixon's testimony in this regard as

entirely incredible. Rather, I accept Detective Stambaugh's testimony that Dixon's only concern, prior to the entry of Benton's plea, was his fear of retaliation by Benton. This testimony circumstantially confirms that immediately prior to the entry of Benton's plea, Dixon's testimony remained harmful to Benton's defense. After considering testimony at the P.C.R.A. hearing, I find, as a matter of fact, that Dixon's claim that Benton is innocent did not arise until sometime after Benton's plea and sentencing. Clearly, therefore, even had trial counsel interviewed Dixon prior to the entry of Benton's guilty plea, the interview would not have yielded the favorable recantation testimony which Dixon now claims. Accordingly, there is no reasonable probability that the outcome of the proceedings would have been different. Since Benton has not demonstrated the elements necessary to establish ineffective assistance of counsel, his claim, on the basis of counsel's failure to interview Dixon, is denied.³

Nevertheless, Benton's petition raises additional claims of ineffectiveness of counsel which must be considered. Initially, Benton alleges that his counsel was ineffective because he misinformed Benton as to the maximum sentences applicable to his charge. He also claims that he was misinformed concerning application of the sentencing guidelines due to counsel providing misleading information concerning his prior record score. In support of his claim, Benton points to the written plea colloquy form which he executed prior to his plea. That form, completed by counsel and Benton, mistakenly represents the maximum penalty for Benton's charge as being ten years imprisonment and/or \$100,000 fine. It also represents Benton's prior record score as six. In reality, the maximum sentence applicable for possession with intent to deliver marijuana is five years imprisonment and/or \$15,000 fine. Moreover, the parties currently agree that Benton's accurate prior record score is three.

³In evaluating the effectiveness of counsel for failing to interview and call certain witnesses in the context of a trial disposition, appellate courts have established a four-prong test requiring the petitioner to "supply a factual basis indicating (1) the identity of the witness; (2) that counsel knew of the existence of the witnesses; (3) the material evidence that the witnesses would have provided; and (4) the manner in which the witnesses would have been helpful to his cause." *Commonwealth v. Williams*, 496 A.2d 1213, 1219 (Pa.Super. 1985). Under this test, I reach the same result since Benton has failed to establish through credible evidence that trial counsel's interview of Dixon would have been helpful to his cause.

“Allegations of [ineffective assistance of counsel] in connection with the entry of a guilty plea will serve as a basis for relief only if the ineffectiveness caused the defendant to enter an involuntary or unknowing plea.” *Commonwealth v. Hickman*, 799 A.2d 136, 141 (Pa.Super. 2002). “The voluntariness of the plea depends on whether counsel’s advice was within the range of competence demanded of attorneys in criminal cases.” *Id.* (quoting *Hill v. Lockhart*, 474 US 52, 56 (1985)).

Undoubtedly, counsel misinformed Benton as to a critical element in the sentencing guidelines as well as to the maximum sentence applicable to the charges to which he pled guilty. Pennsylvania authority suggests that counsel’s improper advice concerning the application of the sentencing guidelines is a basis for a finding of ineffectiveness. Moreover, it has long been the law of Pennsylvania that a guilty plea is involuntary and, therefore, defective where the pleading party is not properly apprised of the maximum penalty. *Commonwealth v. Fay*, 439 A.2d 1227, 1228 (Pa.Super. 1982). Critically, however, recent authority has recognized that in considering the voluntariness of a guilty plea, the Court must take into account the totality of the circumstances. *Commonwealth v. Flanagan*, 854 A.2d 489, 503 (Pa. 2004). Thus, if the defendant has knowledge from any source as to the gravity of the circumstances, the Court may properly find that the defendant’s plea was entered intelligently and voluntarily.

During the colloquy prior to the entry of Benton’s plea, the Court advised Benton of the following:

It’s been represented that you are pleading guilty to possession of a controlled substance with intent to deliver. That is an ungraded felony which carries with it a maximum sentence of five years in jail and a maximum fine of \$15,000.

Your plea agreement, as I understand it, will be that you will be sentenced on January 14, 2005 to no less than one year or more than three years in a state correctional institution.

Plea Colloquy Transcript, December 6, 2004, page 4. Thereafter, Benton was colloquied on the elements of the offense to which he was pleading guilty and, when given the opportunity, he sought no

further explanation. During the plea proceeding, Benton was also advised that the sentencing guideline range for the charges against him was RS to nine months. See Plea Colloquy Transcript, December 6, 2004, page 9. Incidentally, this guideline range is the correct range when using a calculation of Benton's prior record score as being a three. Following Benton's guilty plea, Benton made no effort to withdraw his plea at any time prior to sentencing, which occurred approximately five weeks later. Under these circumstances, Benton's claim of ineffectiveness will be denied.

Benton's underlying claim has arguable merit; clearly counsel had no strategic basis for misinforming Benton concerning the details of the sentencing guideline and his maximum sentence. However, there is no reasonable probability that the outcome of the proceedings would have been different absent counsel's mistakes. Benton was fully informed by the Court as to the correct maximum sentences prior to the entry of his plea. Additionally, he was advised as to the correct sentencing guideline range that would be applicable. His claim, that he would not have pled guilty if he understood the correct guideline application, is unpersuasive. After reviewing the plea colloquy, it is apparent that the driving force behind Benton's plea was the potential application of the two-year mandatory sentencing provisions for delivery within a school zone, 18 P.S. 6314. He was specifically told during the plea proceeding that his sentence fell outside the standard range of the sentencing guidelines, however, was negotiated based upon the Commonwealth's waiver of its right to seek the application of the mandatory sentencing. He specifically indicated to the Court that he understood this distinction. Plea Colloquy Transcript, December 6, 2004, page 10. Benton cannot now come into Court and refute the representations made to the Court at the time of his guilty plea. *Commonwealth v. McCauley*, 797 A.2d 920, 922 (Pa.Super. 2001) (A defendant is bound by the statements he makes during his plea colloquy, and may not assert grounds for withdrawing the plea that contradict statements made when he pled).

For the foregoing reasons, Benton's P.C.R.A. Petition is denied.⁴

⁴In his post-hearing brief, Benton withdrew his claim of ineffectiveness based upon counsel allegedly threatening him prior to the entry of his plea. The Court, therefore, will not address this issue.

ORDER OF COURT

AND NOW, this 20th day of January, 2006, the Defendant's Petition for Post-Conviction Relief is denied. The Defendant is advised that he has the absolute right to file an appeal from this decision by filing an appeal with the Pennsylvania Superior Court within thirty (30) days of the date of this Order. He has the absolute right to be represented by an attorney on his appeal. His attorney of record, Barbara Jo Entwistle, Esquire, will represent him on appeal; however, will not take any act on his behalf unless she is specifically requested to do so by the Defendant. The Defendant also has the absolute right to proceed in forma pauperis on appeal which means that the costs related to an appeal will be paid on his behalf if he is financially unable to afford the same. In the event that the Defendant fails to file an appeal as set forth hereinabove, his right to challenge this Order will be lost permanently.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-666 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

All that improved lot of ground situate on the South side of Maple Avenue and being improved with the Western one-half of a duplex to be known generally as 622 Maple Avenue, all of which is situate in the Village of Midway, Conewago Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the South side of Maple Avenue aforesaid at other lands of Jad S. Sneeringer and Patricia S. Sneeringer as marked by an iron pin at the intersecting property lines of Lot No. 4 and Lot No. 3 on the plot plan hereinafter mentioned, said iron pin being ten (10) feet South of the South curb face of Maple Avenue; ninety (90) feet to a pin at Lot No. 5; thence by other lands of Jad S. Sneeringer and Patricia S. Sneeringer, South eighty-six (86) degrees ten (10) minutes West, fifty-six and fifty-eight hundredths (56.58) feet to an iron pin at lands of Henry C. Pottorff; thence by lands of Henry C. Pottorff, also known as Lot No. 2, North three (3) degrees fifty (50) minutes West, ninety (90) feet to an iron pin on the South property line of Maple Avenue; thence along the South property line of Maple Avenue, North eighty-six (86) degrees ten (10) minutes East, fifty-six and one hundredths (56.01) feet to an iron pin, the point and place of BEGINNING. CONTAINING 5,066 square feet.

Together with all buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments and appurtenances, to the same belonging, or in any wise appertaining, and any reversions, remainders, rents, issues and profits thereof, and of every part and parcel thereof, including any interests specifically set forth, if any. And also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, both in law and equity, of the Grantor of, in and to the same.

To Have And To Hold the same premises, and the appurtenances, hereby granted to Grantee and Grantee's heirs, successors and assigns, to and for the only proper use, benefit and behoof of the said Grantee and Grantee's heirs, successors and assigns forever, under and subject to the conditions set forth, if any.

And The Said Grantor hereby covenants and agrees that Grantor will

warrant specially the property hereby conveyed.

Under And Subject, nevertheless to the same condition, restrictions, exceptions and reservations as exist by virtue of prior recorded instruments, deeds and conveyances.

It Being The Same Premises which Kimberly Ann Reese, by their deed dated January 28, 2000 and recorded in the Office of The Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 2011, Page 285, granted and conveyed unto Christopher Todd Richards, Grantors herein.

Property Being: 622 Maple Avenue
SEIZED and taken into execution as the property of **Anthony Reid** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 10, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-721 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of November, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or piece of ground situate in Franklin Township, County of Adams, Commonwealth of Pennsylvania.

BEGINNING at a railroad spike set near the centerline of State Route 3015, Fairview Fruit Road, at the Southernmost corner of Lot No. 4 on the hereinafter referred to draft of survey and subdivision plan; thence in State Route 3015, Fairview Fruit Road, by a curve to the right on a circle having a radius of 1874.87 feet, having a long chord and bearing of South 21 degrees 50 minutes 05 seconds West, 169.10 feet to a point in the centerline of State Route 3015,

Fairview Fruit Road; thence in said road, South 25 degrees 11 minutes 45 seconds West, 450.78 feet to a railroad spike found 1 foot East of the centerline of said road and at a corner of land now or formerly of Robert W. Weikert, et ux; thence by said Weikert land, and by land now or formerly of Regina H. Orndorff, and passing through a 5/8th inch rebar found 232.03 feet from the last mentioned point, North 61 degrees 00 minutes 00 seconds West, 483.93 feet to a 1/2 inch pipe found; thence continuing by land of said Orndorff, North 22 degrees 59 minutes 15 seconds East, 536.46 feet to a 5/8th inch rebar set at a corner of Lot No. 4; thence by said Lot No. 4, and passing through a 5/8th inch rebar set 25.00 feet from the next mentioned point, South 70 degrees 45 minutes 00 seconds East, 496.29 feet to a railroad spike set near the centerline of State Route 3015, Fairview Fruit Road, at the Southernmost corner of Lot No. 4, the point and place of BEGINNING. CONTAINING 6.536 Acres, more or less.

Tax Parcel No.: 12-d-11-5c

Premises Being: 140 Fairview Fruit Rd., Biglerville, PA 17307

SEIZED and taken into execution as the property of **Michelle D. Brauning & Kegan S. Brauning** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 27, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1212 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of November, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following two tracts of land located in Aspers, Menallen Township, Adams County, Pennsylvania, being more fully bounded and limited as follows, to wit:

TRACT NO. 1

BEGINNING at an iron pin near the Westerly side of Reading Railroad Company right of way at lands of Co-Operative Fruit Growers of Adams County; thence by said last mentioned land South fifty-six (56°) degrees, twenty-eight (28) minutes, thirty (30) seconds West, three hundred sixty-seven and forty-two hundredths (367.42') feet to an iron pin at lands of Cecil W. Dean; thence by said lands North twenty-four (24°) degrees West, seventy-seven and ninety-three hundredths (77.93) feet to an iron pin; thence continuing by said lands and crossing Pennsylvania Legislative Route 01006 South sixty-five (65°) degrees, eleven (11) minutes, fifty (50) seconds West, one hundred seventy-five and eighty-seven hundredths (175.87) feet to an iron pin at lands of Isaac N. Reipley; thence by said lands South eighty-three (83) degrees, forty-nine (49) minutes, fifty (50) seconds West, fifty-one and fifteen hundredths (51.15) feet to a point in Opossum Creek; thence in said creek North seventeen (17°) degrees, forty-nine (49) minutes, ten (10) seconds West, seventy-three and eighty-one hundredths (73.81') feet to an iron pin on the Eastern bank of said creek at lands of Freda A. Kuhn; thence by said lands and recrossing aforementioned Pennsylvania Legislative Route 01006 North sixty-one (61°) degrees, three (3) minutes, forty (40) seconds East, three hundred forty-seven and seventy-seven hundredths (347.77') feet to an iron pin; thence continuing by said lands North fifteen (15°) degrees, eighteen (18) minutes, thirty (30) seconds West, sixteen (16') feet to an iron pin on the Westerly side of an 11-foot alley; thence by said alley North sixty-one (61°) degrees, three (3) minutes, forty (40) seconds East, eleven and thirty-two hundredths (11.32') feet to a point on the Eastern side of said alley; thence along the Easterly side of said alley North sixteen (16°) degrees, twelve (12) minutes, thirty (30) seconds West, three hundred eighty-nine and fifty hundredths (389.50') feet to an iron pin at lands of William C. Weigle; thence by

said lands North seventy-four (74°) degrees, twenty-eight (28) minutes, ten (10) seconds East, one hundred fifty-seven and one hundredths (157.01') feet to an iron pin on the Westerly side of a 35-foot wide street; thence along the Westerly side of said street South sixteen (16°) degrees, twelve (12) minutes, thirty (30) seconds East, three hundred forty-nine and eighty-five hundredths (349.85') feet to an iron pin; thence by said street North sixty-one (61°) degrees, three (3) minutes, forty (40) seconds East, thirty-five and eighty-eight hundredths (35.88') feet to an iron pin on the Easterly side of said 35-foot wide street; thence on the Easterly side of said street North sixteen (16°) degrees, twelve (12) minutes, thirty (30) seconds West, four hundred sixty (460') feet to an iron pin near the Westerly side of the Reading Railroad Company right of way; thence along the Westerly side of said right of way South twenty-one (21°) degrees, twelve (12) minutes, forty (40) seconds East, two hundred fifty-six (256') feet to an iron pin; thence continuing along the Westerly side of said right of way South nineteen (19°) degrees, six (6) minutes, fifty (50) seconds East, two hundred sixteen (216') feet to an iron pin; thence continuing along the Westerly side of right of way South twenty (20°) degrees, thirty-six (36) minutes, fifty (50) seconds East, one hundred fifty-four and two hundredths (154.02') feet, to the place of BEGINNING.

TRACT NO. 2

BEGINNING at an iron pin on the Westerly side of the aforementioned 11-foot alley at land of Freda A. Kuhn; thence by said lands and crossing Pennsylvania Legislative Route 01006 South seventy-five (75°) degrees, twelve (12) minutes, thirty (30) seconds West, three hundred forty-four and thirty-six hundredths (344.36') feet to an iron pin at lands of Clair R. Showers; thence by said land North seventeen (17°) degrees, forty-nine (49) minutes, ten (10) seconds West, sixty (60') feet to an iron pin at lands of Cloid C. Vines; thence by said lands and recrossing aforementioned Pennsylvania Legislative Route 01006 North seventy-five (75°) degrees, eleven (11) minutes, fifty (50) seconds East, two hundred sixty-one and ninety-nine hundredths (261.99') feet to an iron pin; thence continuing by said lands North sixteen (16°) degrees, thirty-three (33) minutes, twenty (20) seconds West, one hundred thirty-nine and six hundredths (139.06') feet to an iron pin at lands of Charles H. Chronister; thence by said lands North seventy-four (74°) degrees, twenty-two (22) minutes, forty (40) seconds East, eighty-five (85') feet to an iron pin on the Westerly side of aforementioned 11-foot alley; thence along the Westerly side of said alley

South sixteen (16°) degrees, thirty-two (32) minutes, thirty (30) seconds East, one hundred forty and twenty-eight hundredths (140.28') feet to an iron pin; thence continuing along the Westerly side of said alley South fifteen (15°) degrees, eighteen (18) minutes, thirty (30) seconds East, fifty-nine and ninety-seven (59.97') feet, to the place of BEGINNING.

THE ABOVE DESCRIPTIONS were taken from a draft identified as property of H. C. Gulden Mfg. Co. of a survey made by Penn Surveying Co., Biglerville, Pennsylvania, dated December 20, 1971, and bearing number "E" - 15 (1071-180).

The total acreage contained in the foregoing described two tracts of land is 4.27 acres.

LESS, HOWEVER, all that tract of land containing .076 acre as shown on a plan of lots labeled "Possum Valley Sewer Authority" recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 39, at Page 106BBB, which Littlestown Industrial Development Authority, legal owner, and H. C. Gulden Mfg. Company, Project Occupant, by their deed dated May 29, 1984, and recorded in Record Book 395, Page 902 granted and conveyed unto the Possum Valley Sewer Authority.

IT BEING the same premises which H. C. Gulden Master Carvers, LTD., formerly Haines Acquisition Corp., by deed dated February 10, 1998 and recorded February 13, 1998, in the office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 1521 at page 0086, granted and conveyed unto John R. Smith, Jr., t/d/b/a Keystone Country Furniture.

Premises Being: 1475 Center Mills Rd., Aspers, PA 17304

SEIZED and taken into execution as the property of John R. Smith, Jr. and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 27, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—EQUITY
NO. 06-SU-1025
Action to Quiet Title

MIRIAM R. LENGEL and LINDA C.
HOFFMAN, Plaintiffs

vs.

WILLIAM HENRY THOMAS, MARY
THOMAS, GEORGE HEMLER, HELEN
HEMLER, JUNE HEMLER, DAVID
MCCULLOUGH, MARIE MCCUL-
LOUGH, WOODROW ECHERT, ETHEL
CHRIST, EDWARD CHRIST, ROGER
THOMAS, HATTIE WAGNER, JOSEPH
WAGNER, MIRIAM SANDERS, JOHN
SANDERS, JOSEPH SANDERS,
WILLIAM SANDERS, SIMON SANDERS,
FRANCIS THOMAS, BEULAH THOMAS,
LUCY ORNER, GEORGE ORNER,
FELIX YINGLING, THEODORE PIUS
THOMAS, their heirs, administrators, suc-
cessors and assigns, Defendants

TO: William Henry Thomas, Mary
Thomas, George Hemler, Helen Hemler,
June Hemler, David McCullough, Marie
McCullough, Woodrow Echert, Ethel
Christ, Edward Christ, Roger Thomas,
Hattie Wagner, Joseph Wagner, Miriam
Sanders, John Sanders, Joseph Sanders,
William Sanders, Simon Sanders, Francis
Thomas, Beulah Thomas, Lucy Orner,
George Orner, Felix Yingling and
Theodore Pius Thomas, their heirs,
administrators, successors and assigns.

TAKE NOTICE that on September 6,
2006, Richard B. Stull and Brenda L.
Stull, husband and wife, filed a
Complaint in Action to Quiet Title, against
William Henry Thomas, Mary Thomas,
George Hemler, Helen Hemler, June
Hemler, David McCullough, Marie
McCullough, Woodrow Echert, Ethel
Christ, Edward Christ, Roger Thomas,
Hattie Wagner, Joseph Wagner, Miriam
Sanders, John Sanders, Joseph
Sanders, William Sanders, Simon
Sanders, Francis Thomas, Beulah
Thomas, Lucy Orner, George Orner,
Felix Yingling and Theodore Pius
Thomas, their heirs, administrators, suc-
cessors and assigns, averring that the
above parties are the owners of the real
property described herein. The Complaint
requests the Court to extinguish any pos-
sible interest you may have in said real
estate. The subject property is a tract of
land situate in Cumberland Township,
Adams County, Pennsylvania, being
known as 1004 Baltimore Pike,
Gettysburg, more particularly bounded
and described as follows:

ALL THAT CERTAIN lot of ground,
together with the buildings and improve-
ments thereon erected, situate in the
Township of Cumberland, Adams

County, Pennsylvania, bounded and
described as follows:

Fronting on the Gettysburg and
Petersburg Turnpike, now a state high-
way, and adjoining lands now or former-
ly of James Leister on the North, lands
now or formerly of William M. Bushman
on the East, and lot now or formerly of
Harvey Bushman on the South,

CONTAINING three acres, more or
less.

BEING THE SAME WHICH Jennie
Cox, widow, Emma Reaver, widow,
Annie Marsden and Arthur Marsden, her
husband, David Francis Thomas, William
Henry Thomas and Mary Thomas, his
wife, Samuel Thomas and Belva
Thomas, his wife, James Hemler and
Mary Hemler, his wife, George Hemler,
Helen Hemler, Charles Hemler, June
Hemler, Dora Riley and James Riley, her
husband, Mary Stull and _____ Stull, her
husband, Rose Ansengruber, Marie
McCullough and David McCullough,
Woodrow Echert, Ethel Christ and
Edward Christ, her husband, Roger
Thomas and _____ Thomas, his wife,
Ruth Thomas, Hattie Wagner and
Joseph Wagner, her husband, Charles
Sanders and Miriam Sanders his wife,
John Sanders, Joseph Sanders, William
Sanders, Simon Sanders, Francis
Thomas and Beulah Thomas, his wife,
Lucy Orner and George Orner, her hus-
band, George Smith and Bessie Smith,
his wife, Ann Yingling and Felix Yingling,
her husband, Amanda Fetrow and
Theodore Pius Thomas, Plaintiffs herein,
by deed dated September 12, 1961 and
recorded in the Office of the Recorder of
Deeds of Adams County, Pennsylvania
in Deed Book 244 at page 855, sold and
conveyed unto John A. Thomas and
Roger B. Thomas.

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

WHEREFORE, by Order dated
September 12, 2006, the Court of
Common Pleas of Adams County,
Pennsylvania, has ordered that service
of the Complaint be made on the above
Defendants, their respective heirs, per-
sonal representatives, successors and
assigns, by publication. Plaintiffs will
request the Court to enter a final judg-
ment ordering that any possible legal
interest the Defendant might have had in
the property be extinguished.

NOTICE TO DEFEND

You have been sued in Court. If you
wish to defend against the claims set forth

in the Complaint filed in the Adams
County Court of Common Pleas at No.
06-SU-1025 and described hereinabove,
you must take action within **twenty (20)**
days after this publication by entering a
written appearance personally or by an
attorney and filing in writing with the
Court your defenses or objections to the
claims set forth against you. You are
warned that if you fail to do so the case
may proceed without you and a judg-
ment may be entered against you by the
Court without further notice for the relief
requested by the Plaintiffs. You may lose
property or other rights important to you.

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

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

HARTMAN & YANNETTI
Gary E. Hartman, Esq.
Attorney for Plaintiffs
126 Baltimore Street
Gettysburg, PA 17325
(717) 334-3105

9/22

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that
Articles of Incorporation were filed on
September 7, 2006 with the Department
of State of the Commonwealth of
Pennsylvania, at Harrisburg,
Pennsylvania, for the purpose of obtain-
ing a Certificate of Incorporation of a pro-
posed business corporation to be orga-
nized under the 1988 Pennsylvania
Business Corporation Law of the
Commonwealth of Pennsylvania. The
name of the corporation is JOSIE &
GEORGIE'S, INC. The registered office
is at 55 E. Hanover Street, Gettysburg,
Adams County, Pennsylvania 17325-
7755. The purpose of the corporation is:
To conduct a licensed restaurant busi-
ness and all other lawful business in the
Commonwealth of Pennsylvania and
elsewhere for which corporations may be
incorporated under the Pennsylvania
Business Corporation Law.

Steve C. Nicholas, Esquire
Nicholas Law Offices, P.C.
2215 Forest Hills Drive, Suite 37
Harrisburg, PA 17112-1099
(717) 540-7746

9/22

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

NO. 06-S-320
Action to Quiet Title

CECIL R. YOUNGBLOOD, Plaintiff

vs.

HANSEN C. DEARDORFF, deceased, his heirs, devisees, personal representatives, successors and assigns, TAX CLAIM BUREAU OF ADAMS COUNTY, its successors and assigns, and JOHN DOE, and all parties who may have an interest in the subject premises, their successors and assigns, Defendants

ORDER

AND NOW, to wit, this 7th day of September 2006, it appearing that a Complaint with Notice to Defend was filed herein on March 20, 2006, and that same was served on Defendants Hansen C. Deardorff, Deceased, his heirs, devisees, personal representatives, successors and assigns, Tax Claim Bureau of Adams County, John Doe, and all parties who may have an interest in the subject premises, by publication pursuant to an Order of Court dated March 21, 2006, on dates set forth in an Affidavit of Service filed of record; and it further appearing that no appearance of any answer or other pleading has been filed herein on behalf of any Defendant within the time allotted by law for the same and, therefore, upon motion of George W. Swartz, II, Esquire, of Mooney & Associates, attorney for Plaintiff, IT IS HEREBY ORDERED AND DIRECTED that judgment by default be and the same is hereby entered in favor of Plaintiff, Cecil R. Youngblood.

AND IT IS FURTHER ORDERED AND DIRECTED that the said Defendants be and the same are forever barred from asserting any right, title, interest or claim inconsistent with the right, title, interest, and claim of Plaintiff as set forth in the Complaint with respect to all that certain tract of land located in Franklin Township, Adams County, Pennsylvania, bounded and limited as follows to wit:

Tract 1

BEGINNING at a stone at corner of lands now or formerly of Glenn A. Powell and Philip C. Baner, et al; thence by said Powell lands South twenty-four (24) degrees East, one hundred eighty-nine and seventy-five-hundredths (189.75) feet to a stone at lands now or formerly of Glenn A. Powell and lands now or formerly of SPECO; thence by said SPECO lands South twenty-six (26) degrees two (2) minutes West two hundred sixty (260) feet, more or less, to a point at lands now or formerly of William L. Osterman; thence by lands now or formerly of William L Osterman North sixty-seven (67) degrees thirty-eight (38) minutes

forty (40) seconds West, one hundred fifty-seven and fifty-four (157.54) feet to a point at lands now or formerly of Philip C. Baner, et al; thence by said lands now or formerly of Glenn A. Powell aforesaid, then point and place of BEGINNING. CONTAINING 1.64 acres, more or less.

Tract 2

BEGINNING at a stone in a public road; thence running by land now or formerly of Mickley and Swartz South fifty-eight and one half (58.5) degrees East, twenty-five and five tenths (25.5) perches to a stone; thence running by lands now or formerly of John Butt South thirty-one and one-fourth (31.25) degrees West, seventy-nine and five tenths (79.5) perches to a stone; thence running by lands now or formerly of Peter Deardorff North twenty-four (24) degrees West, eleven and five-tenths (11.5) perches to stones; thence running by lands of same North twenty-three (23) degrees East, thirty-two (32) perches to stones; thence running by lands of same North thirty-one and three-fourths (31.75) degrees East, twenty-two and three-tenths (22.3) perches to stones; thence running by lands of same North fifty-five (55) degrees West, thirteen (13) perches to a stone in a public road; thence running in said public road and by lands of same North thirty-five and one-half (35.5) degrees East, eighteen (18) perches, more or less, to the place of BEGINNING. CONTAINING 8 acres and 60 perches, more or less.

Unless the same Defendants shall within thirty (30) days after publication of the Notice of this Order commence an Action in Ejectment or other appropriate action to assert any claim they may have against the Plaintiff herein; and upon the failure of the Defendants to commence such action against the Plaintiff within thirty (30) days after said publication, the Prothonotary of Adams County, Pennsylvania, is directed upon Praecept of the Plaintiff to enter Final Judgment herein in favor of Plaintiff and against Defendants pursuant to Pa.R.C.P. 1066(b)(1), and to cause a true and arrested copy of this Order and such final judgment to be recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, the same to be indexed in the name of the Defendants, Hansen C. Deardorff, Deceased, his heirs, devisees, personal representatives, successors and assigns, Tax Claim Bureau of Adams County, John Doe, and all parties who may have an interest in the subject premises, as GRANTORS, and the name of the Plaintiff, Cecil R. Youngblood, GRANTEE.

BY THE COURT:
/s/Michael A. George
J.

9/22

NON-PROFIT INCORPORATION
NOTICE

NOTICE IS HEREBY GIVEN that Nonprofit Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on September 5, 2006, for the purpose of obtaining a Certificate of Incorporation under the provisions of the Nonprofit Corporation Law of 1988. The name of the proposed nonprofit corporation is THE RETREAT AT THE LINKS CONDOMINIUM ASSOCIATION.

The purpose for which it will be organized is: To be a condominium unit owners' association which provides for the management, maintenance and care of the residential condominium project located in Mount Joy Township, Adams County, Pennsylvania, known as The Retreat At The Links At Gettysburg, A Condominium.

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

9/22

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed by FIRE & ICE DIAMOND GALLERY, INC. with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purpose of incorporating under the Pennsylvania Business Corporation Law of 1988, Act of December 21, 1988, P.L. 1444, No. 177, as amended and supplemented.

Craig A. Diehl, Esq., CPA
3464 Trindle Road
Camp Hill, PA 17011

9/22

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 THELMA R. ALWINE a/k/a THELMA IRIS ALWINE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator, c.t.a.: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325

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

ESTATE OF CATHERINE R. BAKER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Donald F. Baker, Jr., 25 Warm Breeze Ct., Hanover, PA 17331

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

ESTATE OF LEONA H. CEHULA, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Dolores Beebe, 10 Barley Circle, Hanover, PA 17331

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

ESTATE OF JOHN H. HAAR, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Co-Executrices: Joan L. Huffman, 345 Cedar Ridge Road, New Oxford, PA 17350; June E. Boyer, 110 Biesecker Road, York, PA 17408; Mary H. Ebersole, 384 Pine Road, New Oxford, PA 17350

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

ESTATE OF HARRY L. HENDRICKS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Erik J. Hendricks, 185 Tiffany Lane, Gettysburg, PA 17325

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

ESTATE OF JOHNATHON GEORGE LAUGHMAN, DEC'D

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

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

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

ESTATE OF RUTH MARKS a/k/a RUTH I. MARKS, DEC'D

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

Executor: Janet Doyle, 145 Race Track Road, Hanover, PA 17331

Attorney: Donald W. Dorr, Esq., 846 Broadway, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF JOANN M. BENDZEN, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executrix: Lorraine Ann Kudlawiec, 1909 Brigade Way, Odenton, MD 21113-1087

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

ESTATE OF ETHEL L. EHRHART, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Linda Teal, 184 Fairview Drive, Hanover, PA 17331

Attorney: Donald W. Dorr, Esq., 846 Broadway, Hanover, PA 17331

ESTATE OF MICHAEL L. GREEN, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Co-Executors: Kathi Ann Tsatiris and Amanda S. Wicker, c/o Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, PC, 135 North George Street, York, PA 17401

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

ESTATE OF LOUISE E. HOSTETTER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executrices: Pamela S. Kreitz & Nancy L. Sharp, c/o Craig A. Diehl, Esq., 119 W. Hanover St., Spring Grove, PA 17362

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

ESTATE OF MARY L. MILLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Sterling Financial Trust Co., 25 Carlisle St., Hanover, PA 17331

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

ESTATE OF FRANCIS J. NEIDERER, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executor: Stephen F. Neiderer, 8 Randolph Court, Hanover, PA 17331

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

ESTATE OF MARTINA S. REHEARD, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executor: Robert C. Wile, c/o George E. Wenger, Jr., Esq., Hoskinson & Wenger, 147 East Washington Street, Chambersburg, PA 17201

Attorney: George E. Wenger, Jr., Esq., Hoskinson & Wenger, 147 East Washington Street, Chambersburg, PA 17201

THIRD PUBLICATION

ESTATE OF RICHARD L. BYERS a/k/a RICHARD LEROY BYERS, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executors: Kimberly Jean Byers, 785 East Berlin Rd., York Springs, PA 17372; Patricia Jean Byers, 358 East York St., Biglerville, PA 17307

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

ESTATE OF ELIZABETH C. HAHN, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Sandra R. Wentz, 4 Pine Lane, New Oxford, PA 17350

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

ESTATE OF ELDA M. PETERS a/k/a ELDA MAYBERT PETERS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Sandra W. Peter, c/o Christina M. Simpson, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

Attorney: Christina M. Simpson, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

(continued on page 8)

THIRD PUBLICATION (continued)

**ESTATE OF MICHELLE D. STAM-
BAUGH, DEC'D**

Late of Reading Township, Adams
County, Pennsylvania

Administrators: E. Matthew Stambaugh
and Wayde A. Stambaugh, c/o
Samuel A. Gates, Esq., Gates &
Gates, P.C., 250 York Street,
Hanover, PA 17331

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

**ESTATE OF FRANCES G. WESTFALL,
DEC'D**

Late of Reading Township, Adams
County, Pennsylvania

Co-Executors: Cheryl A. Martinetti, 219
Moore Drive, Hanover, PA 17331;
Marvin C. Westfall, 680 Turkey Pit
Rd., New Oxford, PA 17350

Attorney: Anthony T. McBeth, Esq.,
407 North Front Street, Harrisburg,
PA 17101

**ESTATE OF JOANNE WITTLINGER,
DEC'D**

Late of the Borough of McSherrystown,
Adams County, Pennsylvania

Executrix: Ada Anderson, 817 W. King
Street, York, PA 17404

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

Adams County Legal Journal

Vol. 48

September 29, 2006

No. 19, pp. 112-116

IN THIS ISSUE

FISHEL VS. FISHEL

Commitment:

The philosophy upon which
Adams County National Bank is
founded and upon which we are planning
for your future financial needs today.



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-699 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE two tracts of land situate, lying and being in Carroll Valley Borough, bounded and described as follows:

TRACT NO. 1: LOT NO. 37 IN SECTION H:

BEGINNING at a point in the center of High Ridge Drive at Lot No. 36; thence by said lot, North 68 degrees 41 minutes West, 200 feet to lands now or formerly of Charmita, Inc.; thence by said lands, North 21 degrees 19 minutes East, 134.91 feet to a point; thence continuing by said lands, North 40 degrees 54 minutes East, 82.38 feet to Lot No. 38; thence by said lot, South 49 degrees 06 minutes East, 200 feet to a point in the center of said High Ridge Drive; thence in said High Ridge Drive, South 40 degrees 54 minutes West, 47.56 feet to a point in said High Ridge Drive; thence continuing in said High Ridge Drive, South 21 degrees 19 minutes West, 100.39 feet to the place of BEGINNING.

TRACT NO. 2: LOT NO. 36 IN SECTION H:

BEGINNING at a point in the center of High Ridge Drive at Lot No. 35; thence by said lot, North 68 degrees 41 minutes West, 200 feet to other lands; thence by said lands, North 21 degrees 19 minutes East, 100 feet to Lot No. 37; thence by said lot, South 68 degrees 41 minutes East, 200 feet to a point in the center of High Ridge Drive; thence in said High Ridge Drive, South 21 degrees 19 minutes West, 100 feet to the place of BEGINNING.

Premises being: 35 Ridge Trail, Fairfield, PA 17320

SEIZED and taken into execution as the property of **Brian R. Gregg & Mary F. Gregg a/k/a Mary Frances Gregg** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

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

schedule of distribution will be filed by the Sheriff in his office on November 10, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-677 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point two (2) feet West of the centerline of Bittle Road, at corner of land now or formerly of Glenn E. Hilbert; thence by said land now or formerly of Glenn E. Hilbert, North seventy-nine (79) degrees twenty-six (26) minutes ten (10) seconds West, two hundred ninety-three and forty-seven hundredths (293.47) feet through an existing pipe set back twenty-nine and six hundredths (29.06) feet from the place of beginning to an existing pipe; thence by the same South eighty-nine (89) degrees thirty-nine (39) minutes fifty (50) seconds West one hundred thirty and ninety hundredths (130.90) feet to an existing pipe; thence by the same North sixty-six (66) degrees sixteen (16) minutes thirty-five (35) seconds West two hundred thirty-six and four hundredths (236.04) feet to an existing pipe; thence by the same North forty-four (44) degrees zero (00) minutes fifteen (15) seconds East four hundred twenty-nine and fifteen hundredths (429.15) feet to a steel rod on bank on line of land now or formerly of John Hart; thence by said

land now or formerly of John Hart and land now or formerly of Dan Edwards, South sixty-seven (67) degrees forty-four (44) minutes five (05) seconds East, three hundred seventy-six and seventeen hundredths (376.17) feet to an existing pipe; thence by land now or formerly of Dan Edwards, South sixty-eight (68) degrees two (02) minutes thirty (30) seconds East one hundred twenty-four and fifty-one hundredths (124.51) feet through an existing pipe set back ten and five tenths (10.5) feet from the magnetic spike in the centerline of Bittle Road, the end of this course; thence in said Bittle Road, South twenty-four (24) degrees fifty-eight (58) minutes fifteen (15) seconds West two hundred twenty-five and twenty-nine hundredths (225.29) feet to a point two (2) feet West of the centerline of Bittle Road; thence continuing in said Bittle Road, South twenty-six (26) degrees ten (10) minutes twenty (20) seconds West seventy and sixty hundredths (70.60) feet to a point, the place of BEGINNING. CONTAINING 4.70 acres.

The above description was taken from a boundary survey prepared by Adams County Surveyors dated April 26, 2004.

Tax Parcel No: 15-j-18-4B

SUBJECT TO MORTGAGE

Premises Being: 55 Bittle Road, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Jeremy D. Favorite & Danielle Renee Kirk** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 10, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

FISHEL VS. FISHEL

1. Pennsylvania law controls the determination of whether husband's disability retirement pension plan is a marital asset because Pennsylvania courts have original jurisdiction over the determination and disposition of property rights between spouses.

2. The Pennsylvania Divorce Code defines marital property as "All property acquired by either party during the marriage". Timing, rather than the method of obtaining the property, controls what is considered marital property under Section 3501. The statute presumes any property acquired during the marriage is marital property.

3. Eight types of property have been specifically excluded from the definition of marital property. The only classification concerning disability payments is Section 3501(a)(6) which excludes veterans disability payments.

4. The test for any other type of disability payment is simply whether the right to receive it accrued during the marriage.

5. Classifying the property as marital or non-marital is only the first step in equitable distribution. The second step in equitable distribution is dividing the marital property where the purpose behind the award can be considered by the parties or the court.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA. CIVIL ACTION NO. 05-S-715. DOUGLAS G.
FISHEL, JR. VS. DEANNA LYNN FISHEL.

Larry W. Wolf, Esq., for Plaintiff

Barbara Jo Entwistle, Esq., for Defendant

Bigham, J., February 1, 2006

OPINION

STATEMENT OF FACTS

Douglas Fishel (hereinafter "Husband") and Deanna Fishel (hereinafter "Wife") are in the process of getting divorced and have asked this Court to determine whether husband's disability retirement pension (hereinafter "pension") is a marital asset subject to equitable distribution. He has been contributing to his pension plan since he began working as a firefighter in Anne Arundel County, Maryland, in October of 1986. On December 1, 2001, he was classified as disabled because of a service connected disability and began receiving funds from his pension. His right to receive funds from his retirement pension accrued at that time but it had not vested.¹ At that time, his monthly benefit was \$3,397.43 gross per month or \$3,312.18 net per month (deducting \$260.95 for insurance premiums and \$14.30

¹ Anne Arundel County requires 20 years of service for a vested retirement program. In this case, husband had only worked for 15 years.

for life insurance).² Since every year all retirees are entitled to cost-of-living adjustment (“COLAs”), husband’s monthly benefit has increased to \$3,397.43 gross per month.

Approximately 3-1/2 years after he began receiving benefits from his pension, the parties separated on their 15th wedding anniversary, June 16, 2005. They have entered into a Marriage Settlement Agreement dated December 16, 2005, which resolves all other economic issues. To address the remaining issue, an evidentiary hearing was held on November 23, 2005 with testimony from a pension analyst from Anne Arundel County. Also, both parties have submitted legal memoranda in support of their respective positions.

DISCUSSION

Husband argues the determination of benefits and beneficiaries of the disability benefit is wholly a matter of Maryland statutory law. We believe Pennsylvania law controls the determination of whether husband’s disability retirement pension plan is a marital asset because Pennsylvania courts have original jurisdiction over the determination and disposition of property rights between spouses. 23 Pa.C.S.A. § 3104(a)(1).³

Husband further argues the benefits cannot be characterized as marital property as defined by the Pennsylvania Divorce Code and case law, where he cites to *Ciliberti v. Ciliberti*, 542 A.2d 580 (Pa. Super. 1988), *Hayward v. Hayward*, 630 A.2d 1275 (Pa. Super. 1993), and *Drake v. Drake*, 725 A.2d 717 (Pa. 1999). Husband believes this court should apply the test set forth in *Ciliberti* and *Hayward* which requires a classification of marital property based on

²The monthly benefit amount was determined by taking the three highest years of salary as of the date of retirement out of the last five years. After determining the three highest years of salary, those numbers are divided by three to arrive at a final average earning. The final average earning is multiplied by 66 and two-thirds percent in the case of a disability retirement.

³Both husband and wife reside in Pennsylvania and husband alleged he has been a bona fide resident of Pennsylvania for at least six months before he filed the divorce complaint. Husband, who now complains that Maryland law should control the determination of marital property, is the party who initiated suit in Pennsylvania. Husband cites no legal authority for his proposition that Maryland law should control. According to the only Maryland case cited by Wife, *Lookingbill v. Lookingbill*, 301 Md. 283, 287, 483 A.2d 1, 2 (1984), the amount of the disability plan accumulated during the marriage would be considered marital property.

the factual distinction between a “disability pension” and a “retirement pension”. He argues the test set forth in the *Drake* decision does not apply because it dealt with a workers compensation commutation award, and here we are dealing with a pension.

Wife argues the *Drake* decision goes beyond its application to workers compensation commutation awards to all determinations of what constitutes marital property. Under the *Drake* decision, husband’s pension would be marital property because it is the timing of the entitlement to the asset which controls the determination of what is considered “marital property”. In addition, she argues, even under the line of cases from the Pennsylvania Superior Court which includes: *Ciliberti*, *Hayward*, *Moore v. Moore*, 710 A.2d 633 (Pa. Super. 1998), and *Kozich v. Kozich*, 397 Pa. Super. 463, 580 A.2d 390 (1990); that husband’s plan would not be considered a “true disability benefit” but would be a “retirement benefit” subject to equitable distribution. She compares the factors listed in *Hayward* to argue the pension is more like a retirement benefit than a disability benefit.⁴ Even though all of the factors do not weigh in favor of classifying the pension as a retirement benefit, she points to *Kozich* and *Hayward* where the Superior Court stated if the disability benefit cannot be separated from other proceeds of the marital estate, or when they can be fairly characterized as retirement benefits then it should be a part of the marital estate.

Pennsylvania utilizes a dual classification system for equitable distribution which requires courts to first classify the property as marital or non-marital and second divide the marital property in accordance with the factors listed in 23 Pa.C.S.A. § 3502(a)(1)-(11). We have been asked to simply answer the first step in the equitable distribution process, namely whether the pension should be classified as marital property.

The Pennsylvania Divorce Code defines marital property as “[A]ll property acquired by either party during the marriage”. 23 Pa.C.S.A.

⁴The factors weighing in favor of classifying the pension as a retirement benefit included the fact that the: 1) pension accrued and vested during the marriage; 2) husband was required to contribute 5% of his earnings to retirement; 3) part of benefit proceeds constituted return of that money; 4) payments were not contingent on his disability; 5) payments were calculated based on his statistical life expectancy; and 6) husband would not lose the benefits if he earns more in another occupation than he did as a firefighter.

§ 3501(a). Timing, rather than the method of obtaining the property, controls what is considered marital property under Section 3501. The statute presumes any property acquired during the marriage is marital property. 23 Pa.C.S.A. § 3501(b).

Except, eight types of property have been specifically excluded from the definition of marital property. The only classification concerning disability payments is Section 3501(a)(6) which excludes veterans disability payments. *Drake, supra* at 492. Section 3501(a)(6) provides:

Veterans' benefits exempt from attachment, levy or seizure pursuant to the act of September 2, 1958 (Public Law 85-857, 72 Stat. 1229), as amended, except for those benefits received by a veteran where the veteran has waived a portion of his military retirement pay in order to receive veterans compensation.

Any other type of disability payment has not been per se excluded as marital property under the Divorce Code. *Drake, supra* at 492-495. The test for any other type of disability payment is simply whether the right to receive it accrued during the marriage. *Id.* at 499.

This analysis announced by the *Drake* court calls into doubt the line of cases from the Pennsylvania Superior Court which includes *Ciliberti, Hayward, and Moore*. In these cases, the Pennsylvania Superior Court focused on the purpose of the disability pensions. Since the *Drake* opinion remains the law as announced by our Supreme Court, we will apply its mechanistic approach which simply asks when the right to receive the disability pension arose.⁵ In this case, husband's right to receive funds from his pension plan

⁵We note that our Superior Court has cited the *Drake* opinion in several cases including, *Cioffi v. Cioffi*, 885 A.2d 45, 49-50 (Pa. Super. 2005). In *Cioffi*, the Superior Court held disability benefits received under husband's pension plan were not marital property subject to distribution within the meaning of the party's property settlement agreement. In this case, the parties had entered into a Marital Settlement Agreement which specifically addressed the distribution of husband's pension plan. The court concluded the parties' intent was for wife to collect a portion of benefits at the time husband reached retirement age. Since husband began receiving disability payments before he reached retirement age, the court would not qualify those benefits as marital property. In *Cioffi*, the court cited the *Drake* opinion for the proposition that: "it is well settled that disability payments are not per se excluded from the definition of marital property for equitable distribution purposes."

arose during their marriage. Therefore, husband's pension plan is a marital asset subject to equitable distribution.

Classifying the property as marital or non-marital is only the first step in equitable distribution. The second step in equitable distribution is dividing the marital property where the purpose behind the award can be considered by the parties or the court.

Accordingly, the attached order is entered.

ORDER

AND NOW, this 1st day of February 2006, in consideration of Defendant's Petition for Special Relief, IT IS ORDERED THAT, Plaintiff's disability retirement pension is determined to be a marital asset subject to equitable distribution.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-666 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of October, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that improved lot of ground situate on the South side of Maple Avenue and being improved with the Western one-half of a duplex to be known generally as 622 Maple Avenue, all of which is situate in the Village of Midway, Conewago Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the South side of Maple Avenue aforesaid at other lands of Jad S. Sneeringer and Patricia S. Sneeringer as marked by an iron pin at the intersecting property lines of Lot No. 4 and Lot No. 3 on the plot plan hereinafter mentioned, said iron pin being ten (10) feet South of the South curb face of Maple Avenue; ninety (90) feet to a pin at Lot No. 5; thence by other lands of Jad S. Sneeringer and Patricia S. Sneeringer, South eighty-six (86) degrees ten (10) minutes West, fifty-six and fifty-eight hundredths (56.58) feet to an iron pin at lands of Henry C. Pottorff; thence by lands of Henry C. Pottorff, also known as Lot No. 2, North three (3) degrees fifty (50) minutes West, ninety (90) feet to an iron pin on the South property line of Maple Avenue; thence along the South property line of Maple Avenue, North eighty-six (86) degrees ten (10) minutes East, fifty-six and one hundredths (56.01) feet to an iron pin, the point and place of BEGINNING. CONTAINING 5,066 square feet.

Together with all buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments and appurtenances, to the same belonging, or in any wise appertaining, and any reversions, remainders, rents, issues and profits thereof, and of every part and parcel thereof, including any interests specifically set forth, if any. And also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, both in law and equity, of the Grantor of, in and to the same.

To Have And To Hold the same premises, and the appurtenances, hereby granted to Grantee and Grantee's heirs, successors and assigns, to and for the only proper use, benefit and behoof of the said Grantee and Grantee's heirs, successors and assigns forever, under and subject to the conditions set forth, if any.

And The Said Grantor hereby covenants and agrees that Grantor will

warrant specially the property hereby conveyed.

Under And Subject, nevertheless to the same condition, restrictions, exceptions and reservations as exist by virtue of prior recorded instruments, deeds and conveyances.

It Being The Same Premises which Kimberly Ann Reese, by their deed dated January 28, 2000 and recorded in the Office of The Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 2011, Page 285, granted and conveyed unto Christopher Todd Richards, Grantors herein.

Property Being: 622 Maple Avenue

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

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 10, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-721 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of November, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or piece of ground situate in Franklin Township, County of Adams, Commonwealth of Pennsylvania.

BEGINNING at a railroad spike set near the centerline of State Route 3015, Fairview Fruit Road, at the Southernmost corner of Lot No. 4 on the hereinafter referred to draft of survey and subdivision plan; thence in State Route 3015, Fairview Fruit Road, by a curve to the right on a circle having a radius of 1874.87 feet, having a long chord and bearing of South 21 degrees 50 minutes 05 seconds West, 169.10 feet to a point in the centerline of State Route 3015,

Fairview Fruit Road; thence in said road, South 25 degrees 11 minutes 45 seconds West, 450.78 feet to a railroad spike found 1 foot East of the centerline of said road and at a corner of land now or formerly of Robert W. Weikert, et ux; thence by said Weikert land, and by land now or formerly of Regina H. Orndorff, and passing through a 5/8th inch rebar found 232.03 feet from the last mentioned point, North 61 degrees 00 minutes 00 seconds West, 483.93 feet to a 1/2 inch pipe found; thence continuing by land of said Orndorff, North 22 degrees 59 minutes 15 seconds East, 536.46 feet to a 5/8th inch rebar set at a corner of Lot No. 4; thence by said Lot No. 4, and passing through a 5/8th inch rebar set 25.00 feet from the next mentioned point, South 70 degrees 45 minutes 00 seconds East, 496.29 feet to a railroad spike set near the centerline of State Route 3015, Fairview Fruit Road, at the Southernmost corner of Lot No. 4, the point and place of BEGINNING. CONTAINING 6.536 Acres, more or less.

Tax Parcel No.: 12-d11-5c

Premises Being: 140 Fairview Fruit Rd., Biglerville, PA 17307

SEIZED and taken into execution as the property of **Michelle D. Brauning & Kegan S. Brauning** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 27, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1212 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of November, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following two tracts of land located in Aspers, Menallen Township, Adams County, Pennsylvania, being more fully bounded and limited as follows, to wit:

TRACT NO. 1

BEGINNING at an iron pin near the Westerly side of Reading Railroad Company right of way at lands of Co-Operative Fruit Growers of Adams County; thence by said last mentioned land South fifty-six (56°) degrees, twenty-eight (28) minutes, thirty (30) seconds West, three hundred sixty-seven and forty-two hundredths (367.42) feet to an iron pin at lands of Cecil W. Dean; thence by said lands North twenty-four (24°) degrees West, seventy-seven and ninety-three hundredths (77.93) feet to an iron pin; thence continuing by said lands and crossing Pennsylvania Legislative Route 01006 South sixty-five (65°) degrees, eleven (11) minutes, fifty (50) seconds West, one hundred seventy-five and eighty-seven hundredths (175.87) feet to an iron pin at lands of Isaac N. Reipley; thence by said lands South eighty-three (83) degrees, forty-nine (49) minutes, fifty (50) seconds West, fifty-one and fifteen hundredths (51.15) feet to a point in Opossum Creek; thence in said creek North seventeen (17°) degrees, forty-nine (49) minutes, ten (10) seconds West, seventy-three and eighty-one hundredths (73.81) feet to an iron pin on the Eastern bank of said creek at lands of Freda A. Kuhn; thence by said lands and recrossing aforementioned Pennsylvania Legislative Route 01006 North sixty-one (61°) degrees, three (3) minutes, forty (40) seconds East, three hundred forty-seven and seventy-seven hundredths (347.77) feet to an iron pin; thence continuing by said lands North fifteen (15°) degrees, eighteen (18) minutes, thirty (30) seconds West, sixteen (16°) feet to an iron pin on the Westerly side of an 11-foot alley; thence by said alley North sixty-one (61°) degrees, three (3) minutes, forty (40) seconds East, eleven and thirty-two hundredths (11.32) feet to a point on the Eastern side of said alley; thence along the Easterly side of said alley North sixteen (16°) degrees, twelve (12) minutes, thirty (30) seconds West, three hundred eighty-nine and fifty hundredths (389.50) feet to an iron pin at lands of William C. Weigle; thence by

said lands North seventy-four (74°) degrees, twenty-eight (28) minutes, ten (10) seconds East, one hundred fifty-seven and one hundredths (157.01) feet to an iron pin on the Westerly side of a 35-foot wide street; thence along the Westerly side of said street South sixteen (16°) degrees, twelve (12) minutes, thirty (30) seconds East, three hundred forty-nine and eighty-five hundredths (349.85) feet to an iron pin; thence by said street North sixty-one (61°) degrees, three (3) minutes, forty (40) seconds East, thirty-five and eighty-eight hundredths (35.88) feet to an iron pin on the Easterly side of said 35-foot wide street; thence on the Easterly side of said street North sixteen (16°) degrees, twelve (12) minutes, thirty (30) seconds West, four hundred sixty (460) feet to an iron pin near the Westerly side of the Reading Railroad Company right of way; thence along the Westerly side of said right of way South twenty-one (21°) degrees, twelve (12) minutes, forty (40) seconds East, two hundred fifty-six (256) feet to an iron pin; thence continuing along the Westerly side of said right of way South nineteen (19°) degrees, six (6) minutes, fifty (50) seconds East, two hundred sixteen (216) feet to an iron pin; thence continuing along the Westerly side of right of way South twenty (20°) degrees, thirty-six (36) minutes, fifty (50) seconds East, one hundred fifty-four and two hundredths (154.02) feet, to the place of BEGINNING.

TRACT NO. 2

BEGINNING at an iron pin on the Westerly side of the aforementioned 11-foot alley at land of Freda A. Kuhn; thence by said lands and crossing Pennsylvania Legislative Route 01006 South seventy-five (75°) degrees, twelve (12) minutes, thirty (30) seconds West, three hundred forty-four and thirty-six hundredths (344.36) feet to an iron pin at lands of Clair R. Showers; thence by said land North seventeen (17°) degrees, forty-nine (49) minutes, ten (10) seconds West, sixty (60) feet to an iron pin at lands of Cloid C. Vines; thence by said lands and recrossing aforementioned Pennsylvania Legislative Route 01006 North seventy-five (75°) degrees, eleven (11) minutes, fifty (50) seconds East, two hundred sixty-one and ninety-nine hundredths (261.99) feet to an iron pin; thence continuing by said lands North sixteen (16°) degrees, thirty-three (33) minutes, twenty (20) seconds West, one hundred thirty-nine and six hundredths (139.06) feet to an iron pin at lands of Charles H. Chronister; thence by said lands North seventy-four (74°) degrees, twenty-two (22) minutes, forty (40) seconds East, eighty-five (85) feet to an iron pin on the Westerly side of aforementioned 11-foot alley; thence along the Westerly side of said alley

South sixteen (16°) degrees, thirty-two (32) minutes, thirty (30) seconds East, one hundred forty and twenty-eight hundredths (140.28) feet to an iron pin; thence continuing along the Westerly side of said alley South fifteen (15°) degrees, eighteen (18) minutes, thirty (30) seconds East, fifty-nine and ninety-seven (59.97) feet, to the place of BEGINNING.

THE ABOVE DESCRIPTIONS were taken from a draft identified as property of H. C. Gulden Mfg. Co. of a survey made by Penn Forestry Co., Biglerville, Pennsylvania, dated December 20, 1971, and bearing number "E" - 15 (1071-180).

The total acreage contained in the foregoing described two tracts of land is 4.27 acres.

LESS, HOWEVER, all that tract of land containing .076 acre as shown on a plan of lots labeled "Possum Valley Sewer Authority" recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 39, at Page 106BBB, which Littlestown Industrial Development Authority, legal owner, and H. C. Gulden Mfg. Company, Project Occupant, by their deed dated May 29, 1984, and recorded in Record Book 395, Page 902 granted and conveyed unto the Possum Valley Sewer Authority.

IT BEING the same premises which H. C. Gulden Master Carvers, LTD., formerly Haines Acquisition Corp., by deed dated February 10, 1998 and recorded February 13, 1998, in the office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 1521 at page 0086, granted and conveyed unto John R. Smith, Jr., t/d/b/a Keystone Country Furniture.

Premises Being: 1475 Center Mills Rd., Aspers, PA 17304

SEIZED and taken into execution as the property of **John R. Smith, Jr.** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 27, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/15, 22 & 29

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 WILLIAM B. GALLAGHER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executors: James W. and Christine F. Gallagher, 303 North Stratton Street, Gettysburg, PA 17325; George M. Gallagher, 639 South Washington Street, Gettysburg, PA 17325

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

ESTATE OF JANE S. HUGHES a/k/a MARY JANE HUGHES, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: M & T Bank, 55 South Main Street, P.O. Box 459, Chambersburg, PA 17201-0459

Attorney: Richard K. Hoskinson, Esq., Hoskinson & Wenger, 147 East Washington Street, Chambersburg, PA 17201

ESTATE OF J. MAXINE MECKLEY a/k/a JENNIE MAXINE MECKLEY, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Co-Executors: David C. Meckley and Richard E. Meckley, c/o Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, PC, 135 North George Street, York, PA 17401

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

ESTATE OF DOROTHY E. MILLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

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

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

SECOND PUBLICATION

ESTATE OF THELMA R. ALWINE a/k/a THELMA IRIS ALWINE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator, c.t.a.: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325

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

ESTATE OF CATHERINE R. BAKER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Donald F. Baker, Jr., 25 Warm Breeze Ct., Hanover, PA 17331

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

ESTATE OF LEONA H. CEHULA, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Dolores Beebe, 10 Barley Circle, Hanover, PA 17331

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

ESTATE OF JOHN H. HAAR, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Co-Executrices: Joan L. Huffman, 345 Cedar Ridge Road, New Oxford, PA 17350; June E. Boyer, 110 Biesecker Road, York, PA 17408; Mary H. Ebersole, 384 Pine Road, New Oxford, PA 17350

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

ESTATE OF HARRY L. HENDRICKS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Erik J. Hendricks, 185 Tiffany Lane, Gettysburg, PA 17325

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

ESTATE OF JOHNATHON GEORGE LAUGHMAN, DEC'D

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

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

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

ESTATE OF RUTH MARKS a/k/a RUTH I. MARKS, DEC'D

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

Executor: Janet Doyle, 145 Race Track Road, Hanover, PA 17331

Attorney: Donald W. Dorr, Esq., 846 Broadway, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF JOANN M. BENDZEN, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executrix: Lorraine Ann Kudlawiec, 1909 Brigade Way, Odenton, MD 21113-1087

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

ESTATE OF ETHEL L. EHRHART, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Linda Teal, 184 Fairview Drive, Hanover, PA 17331

Attorney: Donald W. Dorr, Esq., 846 Broadway, Hanover, PA 17331

ESTATE OF MICHAEL L. GREEN, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Co-Executors: Kathi Ann Tsatisris and Amanda S. Wicker, c/o Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, PC, 135 North George Street, York, PA 17401

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

ESTATE OF LOUISE E. HOSTETTER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executrices: Pamela S. Kreitz & Nancy L. Sharp, c/o Craig A. Diehl, Esq., 119 W. Hanover St., Spring Grove, PA 17362

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

ESTATE OF MARY L. MILLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Sterling Financial Trust Co., 25 Carlisle St., Hanover, PA 17331

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

THIRD PUBLICATION (continued)

ESTATE OF FRANCIS J. NEIDERER, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executor: Stephen F. Neiderer, 8 Randolph Court, Hanover, PA 17331

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

ESTATE OF MARTINA S. REHEARD, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executor: Robert C. Wile, c/o George E. Wenger, Jr., Esq., Hoskinson & Wenger, 147 East Washington Street, Chambersburg, PA 17201

Attorney: George E. Wenger, Jr., Esq., Hoskinson & Wenger, 147 East Washington Street, Chambersburg, PA 17201

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, October 10, 2006, at 9:00 a.m.

ELICKER—Orphans' Court Action Number OC-112-06. The First and Final Account of Tina M. Elicker, Executors of the Estate of Carl W. Elicker, II, deceased, late of Highland Township.

PAXTON—Orphans' Court Action Number OC-114-06. The First and Final Account of PNC Bank, National Association, and Stanley A. Smith, Co-Trustees of the Deed of Trust of Kermit O. Paxton, Settlor, dated September 19, 2000, as amended October 10, 2002, deceased, late of Sarasota County, Florida.

PEIFFER—Orphans' Court Action Number OC-55-03. The First and Final Account of Thomas C. Peiffer, Administrator of the Estate of John T. Peiffer, Deceased, Late of Union Township, Adams County, Pennsylvania.

SMITH—Orphans' Court Action Number OC-121-06. The First and Final Account of Linda M. Brown, Executrix of the Estate of Frederick A. Smith, Deceased, Late of Conewago Township, Adams County, Pennsylvania.

PASCOE—Orphans' Court Action Number OC-128-06. The First and Final Account of Judy Wickline, Executrix of The Estate of Ella Pascoe, deceased, late of the Borough of McSherrystown, Adams County, Pennsylvania.

Kelly A. Lawver
Clerk of Courts

9/29 & 10/6

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on September 1, 2006, the Petition of Sama Esther Feeser was filed in the above-named Court requesting an Order to change the name of Sama Esther Feeser to Sama Esther Leong. The Court has fixed the day of November 28, 2006, at 9:00 o'clock A.M., in a courtroom of the Adams County Courthouse, Gettysburg, Pennsylvania as the time and place for the Hearing on said Petition, when and where all interested parties may appear and show cause, if any, why the request of the Petition should not be granted.

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

9/29

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg on April 27, 2006, pursuant to the Fictitious Name Act, setting forth that Rev. Walter Barlow is the only individual interested in a business, the character of which is a church and will be conducted is BODY OF CHRIST MINISTRIES and that the principal place of business is 291 Sanders Road, Fairfield, PA 17320.

Quin M. Sorenson
Solicitor

9/29