

Adams County Legal Journal

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July 5, 2002

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-908 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the southern right-of-way line of Sycamore Lane, a sixty (60) feet wide right-of-way, at corner of Lot No. 111 on the subdivision plan hereinafter referred to; thence along Lot No. 111, South thirty (30) degrees twenty-three (23) minutes fifty (50) seconds West, one hundred fifteen (115) feet to a point at lands now or formerly of St. Vincent DePaul Cemetery; thence along said last mentioned lands, North fifty-nine (59) degrees thirty-six (36) minutes ten (10) seconds West, sixty-five and twenty-two hundredths (65.22) feet to a point at Lot No. 113 on the subdivision plan hereinafter referred to; thence along Lot No. 113, North thirty (30) degrees twenty-three (23) minutes fifty (50) seconds East, one hundred fifteen (115) feet to a point on the Southern right-of-way line of Sycamore Lane; thence along the Southern right-of-way line of Sycamore Lane, South fifty-nine (59) degrees thirty-six (36) minutes ten (10) seconds East, sixty-five and twenty-two hundredths (65.22) feet to a point at Lot No. 111, the point and place of BEGINNING.

CONTAINING 7,500 square feet and being Lot No. 112 on final subdivision plan prepared for Dillers Village, Phase II, by Donald E. Worley, Registered Surveyor, dated April 29, 1987, designated as File No. G-93, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 47, page 22 (erroneously described in prior deed as Plan Book 17, page 22).

BEING the same premises which Vernon W. Armacost and Doris C. Armacost, by Deed dated January 24, 2000 and recorded in the Office of the Recorder of Deeds of Adams County on

February 7, 2000, in Deed Book Volume 1998, Page 159, granted and conveyed unto Stephen A. Patterson and Gilda M. Patterson.

Grenen & Birsic, P.C.
By: /s/Kristine M. Faust, Esq.
Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

Parcel No. 08-009-0287-000

SEIZED and taken into execution as the property of **Stephen A. & Gilda M. Patterson** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/21, 28 & 7/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-84 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stone in center of public road on line between land now or formerly of James B. Meyer and S. S. W. Hammers; thence with center of said road Southwest, 52 feet to a stone; thence by land now or formerly of the said James B. Meyer, Southeast 150 feet to a stone on line of land now or formerly

of Cornelius Reneicker; thence by land now or formerly of Cornelius Reneicker Northeast 55 feet to stone; thence by land now or formerly of S. S. W. Hammers, 138 feet to stone, the place of BEGINNING. CONTAINING 28 perches, more or less.

HAVING ERECTED THEREON a dwelling known as 690 Knoxlyn Road, Gettysburg, Pennsylvania.

BEING THE SAME PREMISES WHICH Allan F. Trostle by Deed dated January 19, 1973 and recorded January 19, 1973 in Adams County Deed Book 304, Page 767, granted and conveyed unto Rondale A. Trostle and Karen S. Trostle.

SEIZED IN EXECUTION AS THE PROPERTY OF RONDALE A. TROSTLE AND KAREN S. TROSTLE UNDER ADAMS COUNTY JUDGMENT NO. 02-S-84.

MAP & PARCEL #E12-121

SEIZED and taken into execution as the property of **Rondale A. Trostle & Karen S. Trostle** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 16, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/5, 12 & 19

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1122 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain unit in the property known, named and identified in the declaration referred to below as South Branch Estates, located in the Township of Oxford, Adams County, Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101 et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania of a land development plan dated October 6, 1995, last revised December 14, 1995 and recorded in the Book 69 Page 23 (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such plans as Unit No. 16 as more fully bounded and described in such plan, together with a proportionate undivided interest in the Common Elements as Defined in a Declaration Plan Recorded in the Office of the Recorder of Deeds, in and for York County, Pennsylvania in Record Book 1271 page 34. Under and subject to any and all covenants, conditions, restrictions, rights of way, easements and agreements of record, including (but not limited to) those contained in the instruments recorded in the aforesaid Recorder's Office in Record Book 69 page 23. Together with the limited common elements appurtenant as more fully shown of Plan 1271, page 34.

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 Grantees' 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.

BEING THE SAME premises which Philip R. Garland trading and doing business as Garland Construction by Deed dated November 20, 1998 and recorded in the Recorder of Deeds of Adams County on October 28, 1999 in Deed Book 1942, page 213, granted and conveyed unto Amy J. Balderas, a separated individual.

Grenen & Birsic, P.C.
By: /s/Kristine M. Faust, Esq.

Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

Parcel No.: 1-52-16

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 16, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1351 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Reading Township, Adams County, Pennsylvania, known and described as Lot No. 301 on a Plan of Lots known as "Lake Meade Subdivision". Said Plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plat Book 1, Page 1.

TOGETHER WITH AND SUBJECT to all legal highways, easements, rights of way and restrictions of record.

BEING THE SAME premises which The Brethem Construction Co., Inc., by its Deed dated November 11, 1988, and recorded on November 17, 1988 in the Recorder of Deeds Office in and for Adams County in Adams County Record Book 507, Page 430, granted and conveyed unto Donald L. Wagaman and Charlotte V. Wagaman, husband and wife, the Defendants herein.

SEIZED and taken into execution as the property of **Donald L. Wagaman & Charlotte V. Wagaman** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/28, 7/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-405 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point at the Northern edge of Seneca Drive and Lot No. 75; thence along Lot No. 75, North forty (40) degrees thirty-six (36) minutes four (04) seconds West, one hundred fifty-two and ninety-eight hundredths (152.98) feet to a point at Lot No. 80; thence along Lots Nos. 80, 81 and 82, North fifty-four (54) degrees twenty (20) minutes forty-two (42) seconds East, one hundred fifteen and forty-three hundredths (115.43) feet to a point at Lot No. 72; thence along Lot No. 72, South forty (40) degrees thirty-six (36) minutes four (04) seconds East, one hundred forty-three and three hundredths (143.03) feet to a point at the Northern edge of Seneca Drive; thence along Seneca Drive, South forty-nine (49) degrees twenty-three (23) minutes fifty-six (56) seconds West, one hundred fifteen (115.00) feet to the point and place of BEGINNING. CONTAINING 17,021 square feet and identifies as Lot No. 74 on a plan of lots prepared by Worley Surveying dated May 17, 1994 and approved as a subdivision by Conewago Township, Adams County, Pennsylvania, and recorded on August 16, 1994, in Book 65, Page 22.

BEING known as 99 Seneca Drive, Hanover, PA 17331

Property ID: Map 11, Parcel 39

TITLE TO SAID PREMISES IS VESTED IN Andrew Buchma, Sr. and Cecilia R. Buchma, husband and wife, by deed from J.C.P. Inc., dated 12/22/1993, recorded 12/30/1993, in Deed Book 829, Page 51.

SEIZED and taken into execution as the property of **Andrew Buchma, Sr. & Cecilia R. Buchma** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 16, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-518 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

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

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

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

Property ID: Map 8, Parcel 16

TITLE TO SAID PREMISES IS VESTED IN Barry E. Miller and Donna J. Miller, his wife, by deed from Clyde C. Bachert, Jr., a single person, dated 8/4/2000, recorded 8/28/2000, in Deed Book 2115, Page 29.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, and distribution will be made in accordance with said schedule, unless

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

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

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

6/21, 28 & 7/5

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on December 7, 2001, for the purpose of obtaining a Certificate of Incorporation of a Domestic Nonprofit Corporation organized under the provisions of the Pennsylvania Business Corporation Law, approved December 21, 1988, P.L. 1444, as amended. The name of the corporation is GETTYSBURG YOUTH BASEBALL ASSOCIATION, INC. The purpose or purposes for which the corporation is incorporated is that the corporation shall have unlimited power to engage in and do any lawful act concerning any or all lawful business for which corporations may be incorporated under said Business Corporation Law.

Pyle and Entwistle
Attorneys for the Corporation

7/5

NOTICE

NOTICE IS HEREBY GIVEN that Patrick W. Quinn, Esquire, intends to apply in open court for admission to the Bar of Adams County, Pennsylvania on the 22nd day of July, 2002, and that he intends to practice law as an Attorney at Wolfe & Rice, LLC, of 47 West High Street, Gettysburg, Adams County, Pennsylvania.

6/28, 7/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-256 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING on the Southern property line of Meadow Lane at the Northwest corner of Lot No. 14 on the Plan of Lots herebelow identified, now or formerly of Daniel P. King and wife; thence by said Lot No. 14 and running through the center of a party wall in a five-unit townhouse separating said Lot No. 14 and the lot hereby conveyed, South 27 degrees 24 minutes 18 seconds West, 150 feet to a point on line of land now or formerly of Edna Grace Toddes; thence by said land now or formerly of Edna Grace Toddes, North 62 degrees 35 minutes 42 seconds West, 37 feet to a point at the Southeast corner of Lot No. 16 on the Plan of Lots herebelow identified; thence by said Lot No. 16 North 27 degrees 24 minutes 18 seconds East, 150 feet to a point on the Southern property line of Meadow Lane at the Northeast corner of said Lot No. 16; thence by the Southern property line of Meadow Lane South 62 degrees 35 minutes 42 seconds East, 37 feet to the above-described place of BEGINNING. CONTAINING 5,550 square feet.

The above description was taken from a subdivision plan for The Meadows dated October 5, 1977, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 31, page 15, being Lot No. 15 designated thereon.

BEING THE SAME WHICH Jean R. Shanefelter, a single woman, by deed dated March 1, 1995, and about to be recorded in the aforementioned Recorder's Office in Record Book 1001, at Page 1, sold and conveyed unto Deborah L. Heller, Mortgagor herein.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10

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

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

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

6/28, 7/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-339 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the western property line of Pine Lane at corner of Lot No. 81 on the hereinafter referred to plan of lots; thence along Lot No. 81, South sixty-five (65) degrees eleven (11) minutes forty (40) seconds West, one hundred seven and five one-hundredths (107.05) feet to a point on the rear property line of Lot No. 77; thence along Lot No. 77, North eighteen (18) degrees thirty-seven (37) minutes twenty-six (26) seconds West, twenty-seven and sixty-two one-hundredths (27.62) feet to a point at Lot No. 78; thence along Lot No. 78, North three (3) degrees twenty-one (21) minutes fifty-six (56) seconds West, fifty and eighty-two one-hundredths (50.82) feet to a point at Lot No. 79; thence along Lot No. 79, North forty-nine (49) degrees fifty-four (54) minutes fifty-seven (57) seconds East, seventy-eight and two one-hundredths (78.02) feet to a point on the western property line of Pine Lane; thence along the western property line of Pine Lane, by a curve to the right, the radius of which is four hundred forty-eight and ninety-six one-hundredths (448.96) feet, for an arc length of ninety-six and five one-hundredths (96.05) feet and having a long chord bearing and distance of South thirty (30) degrees fifty-six (56) minutes four (4) seconds East, ninety-five and eighty-seven one-hundredths (95.87) feet to a point at Lot No. 81, the point and place of BEGINNING. CONTAINING 8,042.908 square feet or 0.185 acres. BEING Lot No. 80 on a plan of lots of Oxford Estates dated September 11, 1984, and recorded in the Office of the

Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 40, at page 119.

BEING known as 22 Pine Lane, New Oxford, PA 17350

PARCEL No. 8-127.

BEING THE SAME PREMISES which Oxford Estates, a General Partnership, by Deed dated July 30, 1985 and recorded August 2, 1985 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 405, Page 1111, granted and conveyed unto Scott A. Gilmore and Lisa L. Gilmore, husband and wife.

UNDER AND SUBJECT to the restrictions, covenants, conditions and easements as now appear of record.

SEIZED and taken into execution as the property of **Scott A. Gilmore & Lisa L. Gilmore** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/28, 7/5 & 12

NOTICE

NOTICE IS HEREBY GIVEN that Kelly M. Dils intends to apply in open court for admission to the Bar of Adams County, Pennsylvania on the 22nd day of July 2002. She intends to practice law at the Law Office of Robert L. McQuaide, Suite 204, 18 Carlisle Street, Gettysburg, Adams County, Pennsylvania.

7/5, 12 & 19

COMMONWEALTH VS. COSTELLA ET AL

1. Section 9760 of the Sentencing Code, 42 Pa.C.S.A. §9760, provides that a court shall give credit against a prison sentence for all time spent in "custody."

2. The terms imprisonment and custody, although synonymous, are not identical.....the term custody is broader than the term imprisonment. Imprisonment is but one form of custody.....

3. In determining whether a person has spent time in custody it is necessary to examine the extent of control exercised by those in authority. The type of technology employed in this case (home confinement/electronic monitoring) has made it possible for prison authorities to restrain and severely limit a person's freedom by limiting his ability to move about freely to the confines of home.....

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-115-97; CC-708-98; CC-582-00; CC-192-99; CC-325-99; CC-958-99, COMMONWEALTH OF PENNSYLVANIA VS. MICHAEL DAVID COSTELLA; COMMONWEALTH OF PENNSYLVANIA VS. DAVID ALLEN MYERS; COMMONWEALTH OF PENNSYLVANIA VS. KEVIN E. HARTLAUB; COMMONWEALTH OF PENNSYLVANIA VS. REGENALD R. BUSH; COMMONWEALTH OF PENNSYLVANIA VS. JASON D. FOWLER

Paul Dean, Esq., Assistant District Attorney, for Commonwealth
Christine Simpson, Esq., for Defendants Costella, Myers and
Hartlaub

Steve Rice, Esq., for Defendants Bush and Fowler

Kuhn, J., December 13, 2001 (Memorandum Opinion)

MEMORANDUM OPINION

The above matters are consolidated for purposes of disposition because they raise a common issue of law. Each defendant has been previously sentenced to intermediate punishment which included a period of time in Phase II (house arrest). Each defendant violated conditions of that sentence, was revoked and re-sentenced. Each has filed a request with the Court for credit against his sentence for time spent in house arrest pursuant to *Commonwealth v. Chiappini*, 782 A2d. 490 (Pa. 2001).

In *Chiappini* the defendant was granted credit toward his sentence for time served in a home confinement / electronic monitoring program. There Chiappini had been found guilty of arson. During the pendency of his motion for a new trial he was subject to the Lackawanna County Home Confinement / Electronic Monitoring

Program. He remained subject to that program through a second trial and up to sentencing, a period of 518 days.

Section 9760 of the Sentencing Code, 42 Pa.C.S.A. § 9760, provides that a court shall give credit against a prison sentence for all time spent in “custody.” Because the statute does not define “custody” the Supreme Court looked to its common and approved usage. The Court concluded that the term “custody” includes restrictions other than imprisonment. Specifically, the Court stated,

The terms imprisonment and custody, although synonymous, are not identical... the term custody is broader than the term imprisonment. Imprisonment is but one form of custody...

In determining whether a person has spent time in custody it is necessary to examine the extent of control exercised by those in authority. The type of technology employed in this case has made it possible for prison authorities to restrain and severely limit a person’s freedom by limiting his ability to move about freely to the confines of his home...

... we conclude that the 518 days that Appellant was subjected to this home confinement / electronic monitoring program provided sufficient restraints on his liberty to constitute time spent in custody for purposes of Section 9760 of the Sentencing Code.

Commonwealth v. Chiappini, 782 A.2d at 500.

The Lackawanna County home confinement / electronic monitoring program in *Chiappini* was a form of bail. The program was subject to the following characteristics: 1) it was run by the prison authorities, 2) the participant was considered an inmate of the county prison and his home was considered a jail without bars, 3) participation was monitored by a non-removable ankle or wrist bracelet that had to be worn constantly, 4) the monitoring device was connected to the participant’s telephone, 5) corrections personnel were permitted to enter the person’s home to maintain the equipment, 6) the participant’s compliance with restrictions was monitored by telephone calls and visits by home detention staff, and 7) the participant was required to permit entry by the staff at any time.

Adams County has adopted an intermediate punishment program which includes a house arrest component. A copy of the house arrest regulations are attached hereto. When compared with the Lackawanna County program the restrictive elements are nearly identical. Under the Adams County house arrest program 1) the participant is monitored by a non-removable ankle bracelet that must be worn at all times, 2) the monitoring device is connected to the participant's telephone, 3) entry into the participant's home to maintain the equipment is authorized, 4) compliance with restrictions is monitored by telephone calls and home visits, and 5) and the participant is required to permit staff entry into the residence at any time.

The only discernable differences between the two programs are 1) the Lackawanna program was a pre-sentence bail program whereas our program is a sentencing alternative, 2) the Lackawanna program is run by the prison authorities whereas our program is run by the Adult Probation Office, 3) random calls made to check compliance is done by the prison staff in Lackawanna County whereas here the equipment provider, Tracking Systems, Inc., is contracted to make the random calls and, 4) here the participant is not told that he is considered an inmate of the prison and his home is not considered a "jail without bars." Additionally, the Adams County house arrest program authorizes the participant to work outside the home and attend to medical, counseling and other authorized appointments and personal needs. We do not have a copy of the Lackawanna program and Chiappini does not indicate this fact but, we have been advised, that program authorizes departures from one's home for similar purposes.¹

We are satisfied that the Adams County house arrest phase of intermediate punishment is the functional equivalent of the Lackawanna County home confinement / electronic monitoring program and therefore, pursuant to the reasoning set forth in Chiappini, conclude that each defendant is entitled to sentencing credit for time spent in house arrest. The exact credit to which each is entitled is set forth in separate Orders.

¹ We do not consider this detail particularly dispositive. A person subject to partial confinement may also be allowed temporary leave for employment, counseling, and medical needs. One would not question that partial confinement is "custody" for sentencing credit purposes.

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 ROBERTA P. CRANE a/k/a ROBERTA PHILIPS CRANE, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
PNC Bank, N.A., P.O. Box 308, Camp Hill, PA 17001-0308
Attorney: Henry O. Heiser, III, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF KENNETH M. DUNBAR, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania
Executor: Kenneth E. Dunbar, 3924 Liberty Point Drive, Midlothian, VA 23112
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF GRACE E. ENGLE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Executrix: Elizabeth Frances Abraham Salisbury, 7 Chinkapin Drive, New Oxford, PA 17350
Attorney: Puhl, Eastman & Thrasher, Attorneys at Law, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CATHERINE G. STAVELY, DEC'D

Late of Straban Township, Adams County, Pennsylvania
Executrix: Nanette E. Bankert, 6159 Baltimore Pike, Littlestown, PA 17340
Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF ROBERT W. SASSAMAN, DEC'D

Late of Latimore Township, Adams County, Pennsylvania
Executrix: Alice Jane Wyland Sassaman, 9 Lincoln Cove, East Berlin, PA 17316
Attorney: Jan M. Wiley, Esq., Wiley, Lenox, Colgan & Marzocco, P.C., One South Baltimore St., Dillsburg, PA 17019

ESTATE OF MARGARET L. SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Executor: Raymond A. Williams, P.O. Box 374, Hanover, PA 17331
Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF PAUL H. TOPPER, DEC'D

Late of Germany Township, Adams County, Pennsylvania
Personal Representatives: Andrew J. Topper, 100 Pine Grove Rd., Hanover, PA 17331; Paul F. Topper, 3801 48th Ave. South, St. Petersburg, FL 33711
Attorney: G. Steven McKonly, Esq., 119 Baltimore Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF HAZEL M. LEMMON, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania
Executor: Stewart N. Long, 302 West Myrtle Street, Littlestown, PA 17340
Attorney: John R. White, Esq., Campbell & White, 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARJORIE SPAMER, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania
Executrix: Mary Virginia Johnson, 44 Crossview Trail, Fairfield, PA 17320
Attorney: Matthew R. Battersby, Esq., Battersby & Sheffer, P.O. Box 215, Fairfield, PA 17320

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-301 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the Hanover-McSherrystown State Highway in the Village of Midway at lands now or formerly of Sterling Sterner; thence along said Highway in a Westerly direction for a distance of twenty (20) feet to a point at lands now or formerly of Lloyd J. Kuhn; thence by said lands and through the center line of the center wall of double dwelling (the eastern portion of which is on the lot hereby conveyed and the western portion of which is on the lot immediately adjacent lying to the West thereof) in a Northerly direction for a distance of one hundred fifty (150) feet to a point at a public alley; thence along said alley in an Easterly direction for a distance of twenty (20) feet to a point at land now or formerly of Sterling Sterner aforesaid; thence by said land in a Southerly direction for a distance of one hundred fifty (150) feet to a point, the place of BEGINNING.

HAVING ERECTED THEREON a dwelling known as 603 Third Street, Hanover, Pennsylvania.

BEING THE SAME PREMISES WHICH Cesar E. Perez and Maria E. Perez, husband and wife, by Deed dated January 30, 1998 and recorded February 5, 1998 in Adams County Deed Book 1517, Page 24, granted and conveyed unto Lisa M. Brendle.

SEIZED IN EXECUTION AS THE PROPERTY OF LISA M. BRENDLE UNDER ADAMS COUNTY JUDGMENT NO. 01-S-301.

MAP & PARCEL #8-182A

SEIZED and taken into execution as the property of Lisa M. Brendle and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10

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

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

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

6/28, 7/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-750 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the property line of Pine Lane at corner of Lot No. 86 on the hereinafter referred to plan of lots; thence along Lot No. 86, South 43 degrees 56 minutes 51 seconds West, 114.60 feet to a point where the corners of Lots Nos. 86, 69, 70 and 85 intersect; thence along Lot No. 70, North 42 degrees 57 minutes 30 seconds West, 78 feet to a point on the property line of Walnut Lane; thence along said Walnut Lane by a curve to the left, the radius of which is 847.712 feet, an arc length of 95.13 feet, and having a long chord bearing and distance of North 43 degrees 20 minutes 7 seconds East, 95.08 feet to a point; thence by a curve to the right, the radius of which is 15 feet, an arc length of 22.87 feet and having a long chord bearing and distance of North 86 degrees 7 minutes 46 seconds East, 20.72 feet to a point on the property line of Pine Lane, aforesaid; thence along said Pine Lane by a curve to the right, the radius of which is 1,570.255 feet, an arc length of 65 feet and having a long chord bearing and distance of South 46 degrees 0 minutes 57 seconds East, 64.99 feet to a point at Lot No. 86, the point and place of BEGINNING.

CONTAINING 8,712.039 square feet or 0.200 acres.

BEING Lot No. 85 on a plan of lots of Oxford Estates dated January 1983, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 37, at Page 122.

SUBJECT, NEVERTHELESS, to the

restrictions contained in prior deed of conveyance.

SEIZED and taken into execution as the property of William E. Earle & Lisa Rae Earle and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/21, 28 & 7/5

Adams County Legal Journal

Vol. 44

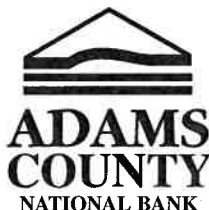
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In times like these,
you and your clients need
the experience and expertise
provided by a trust professional.



Member FDIC

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1122 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain unit in the property known, named and identified in the declaration referred to below as South Branch Estates, located in the Township of Oxford, Adams County, Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101 et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania of a land development plan dated October 6, 1995, last revised December 14, 1995 and recorded in the Book 69 Page 23 (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such plans as Unit No. 16 as more fully bounded and described in such plan, together with a proportionate undivided interest in the Common Elements as Defined in a Declaration Plan Recorded in the Office of the Recorder of Deeds, in and for York County, Pennsylvania in Record Book 1271 page 34. Under and subject to any and all covenants, conditions, restrictions, rights of way, easements and agreements of record, including (but not limited to) those contained in the instruments recorded in the aforesaid Recorders's Office in Record Book 69 page 23. Together with the limited common elements appurtenant as more fully shown of Plan 1271, page 34.

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 Grantees' 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.

BEING THE SAME premises which Philip R. Garland trading and doing business as Garland Construction by Deed dated November 20, 1998 and recorded in the Recorder of Deeds of Adams County on October 28, 1999 in Deed Book 1942, page 213, granted and conveyed unto Amy J. Balderas, a separated individual.

Grenen & Birsic, P.C.
By: /s/Kristine M. Faust, Esq.
Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

Parcel No.: 1-52-16

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 16, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1351 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Reading Township, Adams County, Pennsylvania, known and described as Lot No. 301 on a Plan of Lots known as "Lake Meade Subdivision". Said Plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plat Book 1, Page 1.

TOGETHER WITH AND SUBJECT to all legal highways, easements, rights of way and restrictions of record.

BEING THE SAME premises which The Brethren Construction Co., Inc., by its Deed dated November 11, 1988, and recorded on November 17, 1988 in the Recorder of Deeds Office in and for Adams County in Adams County Record Book 507, Page 430, granted and conveyed unto Donald L. Wagaman and Charlotte V. Wagaman, husband and wife, the Defendants herein.

SEIZED and taken into execution as the property of **Donald L. Wagaman & Charlotte V. Wagaman** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/28, 7/5 & 12

COMMONWEALTH VS. HARRISON

1. The burden placed upon the Commonwealth in a revocation proceeding is to prove a violation of a condition of the sentence by a preponderance of the evidence. A revocation proceeding is less formal than a trial and the rules of evidence are more relaxed. However, there is not a complete disregard of the need for probative evidence.

2. Chain of custody is an evidentiary reference to a series of exchanges in possession of an item of potential evidentiary value. Where an item is not distinctive or is one which can be readily contaminated, the continuity of possession is required in order to assure the authentication and/or integrity of the item.

3.the item is admissible if the evidence establishes at least a reasonable inference that the identity and condition of the item remained unimpaired. Gaps in the chain of custody affect the weight to be given the exhibit but not its admissibility.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-843-00, COMMONWEALTH VS. WILLIAM MICHAEL HARRISON.

Paul Dean, Esq., Assistant District Attorney, for Commonwealth
Steve Rice, Esq., for Defendant

Kuhn, J., December 18, 2001.

MEMORANDUM OPINION

The issue before the Court is whether Defendant should be revoked from his intermediate punishment sentence. The Court finds that there is sufficient evidence that Defendant violated conditions 1a, 3a and 3h¹ of his sentence.

By way of background, on December 18, 2000, Defendant entered a plea of guilty to Count I, Possession With Intent to Deliver a Controlled Substance (cocaine), 35 P.S. §780-113(a)(30), for an incident occurring April 14, 2000. He was sentenced to 24 months of intermediate punishment (IPP) with two months in Phase I (jail) and six months in Phase II (house arrest).

On January 12, 2001, Defendant's IPP sentence was revoked because he failed to appear at the probation office on December 28, 2000, and because he admitted using cocaine on January 1, 2001. He was re-sentenced to 24 months of IPP with four months in Phase I and six months in Phase II. Subsequently, on March 2, 2001, that sentence was revoked because he provided urine samples on January

¹These conditions provide that the participant must not use non-prescribed controlled substances (1a), violate the law (3a), or violate conditions of the work release program (3h).

23, 2001 and February 21, 2001, which tested positive for cocaine. Again, he was re-sentenced to 24 months of IPP with eight months in Phase I and eight months in Phase II.

Before the Court is yet another request for revocation wherein it is alleged that on May 12, 2001, Defendant provided a urine sample which tested positive for cocaine. On that date, Defendant was an inmate at the Adams County Prison. Upon return to the prison from work release, Defendant was required to provide a urine sample. The sample was identified by number "1-7249." The sample was initially tested at Cornerstone Counseling. At Defendant's request, the sample was forwarded to Friends Medical Laboratory in Baltimore, Maryland. The lab report (Com. Ex. 2) indicated that the sample contained 523 nanograms per milliliter of cocaine.

The burden placed upon the Commonwealth in a revocation proceeding is to prove a violation of a condition of the sentence by a preponderance of the evidence. *Commonwealth v. Sims*, 770 A.2d 346, 350 (Pa. Super. 2001). A revocation proceeding is less formal than a trial and the rules of evidence are more relaxed. *Commonwealth v. Davis*, 17 D & C 4th 439, 444 (Montg. Co., 1992). However, there is not a complete disregard of the need for probative evidence.

Defendant objects to the introduction of the test results by contending that a proper chain of custody was not established. The only witness was Jill Fissel, Work Release Coordinator, at the prison. She identified a "Chain of Custody Form" (Com. Ex. 1), which indicated the date and time of the collection and by whom it was witnessed. Defendant signed the form acknowledging that the specimen was labeled and sealed in his presence. The form also indicates that on May 14, 2001, Ms. Fissel transferred the sample to a person identified only by initials. The record fails to indicate whether this person had any association with Cornerstone. Ms. Fissel testified that signatures on the form indicate that all proper procedures were followed.

There was no evidence how the sample got from Cornerstone to Friends Medical Laboratory. However, the lab report identifies the sample number (17249) and the program requesting the test as Cornerstone.

Chain of custody is an evidentiary reference to a series of exchanges in possession of an item of potential evidentiary value.

Where an item is not distinctive or is one which can be readily contaminated, the continuity of possession is required in order to assure the authentication and/or integrity of the item. As noted in *Stahl v. Commonwealth of Pennsylvania Board of Probation and Parole*, 525 A.2d 1272, 1274 (Pa. Comlth. Ct. 1987),

There are no special rules with respect to authentication or the so-called “chain of custody.” All that is required is that the exhibit remain unaltered or untainted during the period in which it changed hands.

In other words, the item is admissible if the evidence establishes at least a reasonable inference that the identity and condition of the item remained unimpaired. *Commonwealth v. Seiders*, 4 D & C 4th 24, 32 (Fulton Co. 1989). Gaps in the chain of custody affect the weight to be given the exhibit but not its admissibility. *Commonwealth v. Alarie*, 547 A.2d 1252, 1255 (Pa. Super. 1988).

Here, we are first dealing with the authenticity and integrity of a urine sample from the time the sample was taken from Defendant to the time it was received by Cornerstone for testing. As noted above, Defendant acknowledged in writing that the sample was sealed in his presence. Ms. Fissel released the sample from the prison on May 14, and it was tested the same day. Her general statement that all handling procedures were properly followed went unchallenged.² The lab report shows the same identification number as the prison sample. We conclude that there was sufficient evidence as to the chain of custody.³

A urine sample was sent to Friends laboratory at Defendant’s request, presumably because he was made aware of a positive test result at Cornerstone. If the Cornerstone results are reliable and admissible in this proceeding we would not have to address the chain of custody regarding the sample tested at Friends. However, as will be seen below, those test results are not admissible in this proceeding.

The only chain of custody information as it relates to the transfer of the urine sample from Cornerstone to Friends appears on the

²The testimony was not a model of clarity or specificity. Nevertheless, it was minimally adequate.

³This case is distinguishable from *Ellis v. Unemployment Compensation Board of Review*, 749 A.2d 1028 (Pa. Comlth. Ct. 2000) where there was no testimony as to the chain of custody.

Friends lab report. There it is noted that the specimen was dated May 12, 2001, and the report was sent to Cornerstone. There was no testimony how the sample was preserved at Cornerstone or transferred to Friends.

Although the undersigned is not enthralled with the quality of the chain of custody evidence on this leg of the urine sample's journey, we will, under the circumstances of this case, consider it sufficiently reliable.

Second, Defendant challenges a form⁴ he signed as a condition of his IPP sentence requiring him to agree to the admissibility of urine sample test results and to the reliability of the equipment in a revocation hearing. He claims that forcing him to sign such a form as part of his sentence makes the consent involuntary and violates his right to due process.

However, the urine sample in this case was not taken by the Probation Office as part of IPP. Instead, Defendant's sample was taken by prison staff as part of Defendant's participation in the work release program.⁵ In that setting there was no agreement as to admissibility of test results.

There was no stipulation as to the reliability of the Cornerstone test results and no testimony was offered to that effect. Apparently, Commonwealth believed that the "agreement" described in footnote 4 above was sufficient. However, that language was adopted

⁴The precise language appears on the Standard Conditions of the Intermediate Punishment Program signed by Defendant on March 2, 2001, and reads: 5. As a condition of your . . . participation in . . . IPP . . . you must agree that the results of tests will be admissible in revocation proceedings without supporting evidence establishing the reliability of the equipment and/or results. In other words, rules of evidence will not apply and the results will justify your removal from the program or punishment phase.

However, the form also provides that: 6. A sample of any . . . urine that you provide will be retained for 10 days by the Probation Office. You will have the right to have an independent analysis of the sample by a laboratory of your choice if you request this within the ten (10) day period . . .

These provisions were added by Administrative Order No. 3 of 1999 dated January 25, 1999.

⁵As a member of the prison Board, the undersigned takes notice that each inmate is advised in the Inmate Handbook given upon initial processing that work release inmates will be subject to random urine samples and Paragraph 12 of the work release agreement signed by each participant clearly states that he/she will be subject to urinalysis "to validate the use/non-use of drugs or alcohol."

pursuant to an Administrative Order which referred only to specified tests conducted by the Probation Office. Because the Cornerstone report constituted inadmissible hearsay, it is not being considered by the Court.

Because Defendant stipulated that the sample received at Friends laboratory tested positive for cocaine, the reliability of that test and the admissibility of the report is not being contested.

A standard condition of Defendant's IPP sentence is that he may not use non-prescribed controlled substances. Commonwealth has proven by a preponderance of the evidence that Defendant used cocaine in violation of that condition.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 18th day of December, 2001, the after hearing on Motion to Revoke Intermediate Punishment held October 4, 2001, the Court finds that Defendant violated conditions 1a, 3a, and 3h while in Phase I as set forth in a violation report dated September 13, 2001.

The Court determines not to revoke Defendant's sentence entered March 2, 2001. Defendant was to transition from Phase I to Phase II on September 23, 2001. Transition to a lesser restrictive phase is authorized only if one has successfully completed all requirements of the more restrictive preceding phase. The Court determines that Defendant is not a viable candidate to transition into Phase II. The Probation Office is authorized to effectuate transition to Phase II as of March 23, 2002, if he has successfully completed Phase I. Credit will be given for successful completion of an in-patient drug rehabilitation program recommended by the Probation Office.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-405 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point at the Northern edge of Seneca Drive and Lot No. 75; thence along Lot No. 75, North forty (40) degrees thirty-six (36) minutes four (04) seconds West, one hundred fifty-two and ninety-eight hundredths (152.98) feet to a point at Lot No. 80; thence along Lots Nos. 80, 81 and 82, North fifty-four (54) degrees twenty (20) minutes forty-two (42) seconds East, one hundred fifteen and forty-three hundredths (115.43) feet to a point at Lot No. 72; thence along Lot No. 72, South forty (40) degrees thirty-six (36) minutes four (04) seconds East, one-hundred forty-three and three hundredths (143.03) feet to a point at the Northern edge of Seneca Drive; thence along Seneca Drive, South forty-nine (49) degrees twenty-three (23) minutes fifty-six (56) seconds West, one hundred fifteen (115.00) feet to the point and place of BEGINNING. CONTAINING 17,021 square feet and identifies as Lot No. 74 on a plan of lots prepared by Worley Surveying dated May 17, 1994 and approved as a subdivision by Conewago Township, Adams County, Pennsylvania, and recorded on August 16, 1994, in Book 65, Page 22.

BEING known as 99 Seneca Drive, Hanover, PA 17331

Property ID: Map 11, Parcel 39

TITLE TO SAID PREMISES IS VESTED IN Andrew Buchma, Sr. and Cecilia R. Buchma, husband and wife, by deed from J.C.P. Inc., dated 12/22/1993, recorded 12/30/1993, in Deed Book 829, Page 51.

SEIZED and taken into execution as the property of **Andrew Buchma, Sr. & Cecilia R. Buchma** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 16, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-877 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land with improvements situate thereon located in the Borough of New Oxford, Adams County, Commonwealth of Pennsylvania identified as Tract No. 1 pursuant to a final plan for Robinson's Home, Inc. by Worley Surveying, said Plan being dated March 12, 1993 and bearing File No. C-1285 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plan Book 576, Page 607 and as more particularly described as follows to wit:

BEGINNING at a point at the right-of-way lines located at the Northwest corner of Lincoln Way West (S. R. 0030) and North Bolton Street and thence extending from said point along Lincoln Way West (S. R. 0030), South Seventy-One degrees, Fifty minutes, Forty-Seven seconds West (S 71 degrees 50' 47" W) Eighty-Eight and Fifty-Eight One Hundredths (88.58') feet to a point at lands now or formerly of Joseph N. Masslosky; thence extending along said lands of Joseph N. Masslosky, North Eighteen degrees, Thirty-one minutes, Three seconds West (N 18 degrees 31' 03" W) One Hundred Eighty and Seventy One-Hundredths (180.70') feet to a point at Tract No. 2 of said plan; thence extending along said Tract No. 2, North Seventy-One degrees, Zero minutes, Zero seconds East (71 degrees 00' 00" E) a distance of Ninety and Seven One-Hundredths (90.07') feet to a point at the right-of-way line at North Bolton Street; thence extending along said right-of-way line at North Bolton Street, South Eighteen degrees, Two minutes, Fifty-Four seconds East (S 18 degrees 02' 54" E) a distance of One Hundred Eighty-Two and Three One-Hundredths (182.03') feet to a point and place of BEGINNING. CONTAINING 16,199 Square feet, more or less.

Tax Parcel # 34-004-0019

SEIZED and taken into execution as the property of **Joseph B. Robinson &**

Grace M. Robinson and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/12, 19 & 26

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Monday, July 22, 2002, at 9:00 o'clock a.m.

MURTOF—Orphans' Court Action Number OC-70-02. The First and Final Account of Paul E. Walck, Sr. and John Lee Walck, Sr., Co-Executors of the Estate of Helen F. Murtof, deceased, late of Cumberland Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

7/12 & 19

NOTICE

NOTICE IS HEREBY GIVEN that Patrick W. Quinn, Esquire, intends to apply in open court for admission to the Bar of Adams County, Pennsylvania on the 22nd day of July, 2002, and that he intends to practice law as an Attorney at Wolfe & Rice, LLC, of 47 West High Street, Gettysburg, Adams County, Pennsylvania.

6/28, 7/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-256 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING on the Southern property line of Meadow Lane at the Northwest corner of Lot No. 14 on the Plan of Lots herebelow identified, now or formerly of Daniel P. King and wife; thence by said Lot No. 14 and running through the center of a party wall in a five-unit townhouse separating said Lot No. 14 and the lot hereby conveyed, South 27 degrees 24 minutes 18 seconds West, 150 feet to a point on line of land now or formerly of Edna Grace Toddes; thence by said land now or formerly of Edna Grace Toddes, North 62 degrees 35 minutes 42 seconds West, 37 feet to a point at the Southeast corner of Lot No. 16 on the Plan of Lots herebelow identified; thence by said Lot No. 16 North 27 degrees 24 minutes 18 seconds East, 150 feet to a point on the Southern property line of Meadow Lane at the Northeast corner of said Lot No. 16; thence by the Southern property line of Meadow Lane South 62 degrees 35 minutes 42 seconds East, 37 feet to the above-described place of BEGINNING. CONTAINING 5,550 square feet.

The above description was taken from a subdivision plan for The Meadows dated October 5, 1977, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 31, page 15, being Lot No. 15 designated thereon.

BEING THE SAME WHICH Jean R. Shanefelter, a single woman, by deed dated March 1, 1995, and about to be recorded in the aforementioned Recorder's Office in Record Book 1001, at Page 1, sold and conveyed unto Deborah L. Heller, Mortgagor herein.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10

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

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

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

6/28, 7/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-339 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the western property line of Pine Lane at corner of Lot No. 81 on the hereinafter referred to plan of lots; thence along Lot No. 81, South sixty-five (65) degrees eleven (11) minutes forty (40) seconds West, one hundred seven and five one-hundredths (107.05) feet to a point on the rear property line of Lot No. 77; thence along Lot No. 77, North eighteen (18) degrees thirty-seven (37) minutes twenty-six (26) seconds West, twenty-seven and sixty-two one-hundredths (27.62) feet to a point at Lot No. 78; thence along Lot No. 78, North three (3) degrees twenty-one (21) minutes fifty-six (56) seconds West, fifty and eighty-two one-hundredths (50.82) feet to a point at Lot No. 79; thence along Lot No. 79, North forty-nine (49) degrees fifty-four (54) minutes fifty-seven (57) seconds East, seventy-eight and two one-hundredths (78.02) feet to a point on the western property line of Pine Lane; thence along the western property line of Pine Lane, by a curve to the right, the radius of which is four hundred forty-eight and ninety-six one-hundredths (448.96) feet, for an arc length of ninety-six and five one-hundredths (96.05) feet and having a long chord bearing and distance of South thirty (30) degrees fifty-six (56) minutes four (4) seconds East, ninety-five and eighty-seven one-hundredths (95.87) feet to a point at Lot No. 81, the point and place of BEGINNING. CONTAINING 8,042.908 square feet or 0.185 acres. BEING Lot No. 80 on a plan of lots of Oxford Estates dated September 11, 1984, and recorded in the Office of the

Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 40, at page 119.

BEING known as 22 Pine Lane, New Oxford, PA 17350

PARCEL No. 8-127.

BEING THE SAME PREMISES which Oxford Estates, a General Partnership, by Deed dated July 30, 1985 and recorded August 2, 1985 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 405, Page 1111, granted and conveyed unto Scott A. Gilmore and Lisa L. Gilmore, husband and wife.

UNDER AND SUBJECT to the restrictions, covenants, conditions and easements as now appear of record.

SEIZED and taken into execution as the property of Scott A. Gilmore & Lisa L. Gilmore and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/28, 7/5 & 12

NOTICE

NOTICE IS HEREBY GIVEN that Kelly M. Dilts intends to apply in open court for admission to the Bar of Adams County, Pennsylvania on the 22nd day of July 2002. She intends to practice law at the Law Office of Robert L. McQuaide, Suite 204, 18 Carlisle Street, Gettysburg, Adams County, Pennsylvania.

7/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-301 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the Hanover-McSherrystown State Highway in the Village of Midway at lands now or formerly of Sterling Sterner; thence along said Highway in a Westerly direction for a distance of twenty (20) feet to a point at lands now or formerly of Lloyd J. Kuhn; thence by said lands and through the center line of the center wall of double dwelling (the eastern portion of which is on the lot hereby conveyed and the western portion of which is on the lot immediately adjacent lying to the West thereof) in a Northerly direction for a distance of one hundred fifty (150) feet to a point at a public alley; thence along said alley in an Easterly direction for a distance of twenty (20) feet to a point at land now or formerly of Sterling Sterner aforesaid; thence by said land in a Southerly direction for a distance of one hundred fifty (150) feet to a point, the place of BEGINNING.

HAVING ERECTED THEREON a dwelling known as 603 Third Street, Hanover, Pennsylvania.

BEING THE SAME PREMISES WHICH Cesar E. Perez and Maria E. Perez, husband and wife, by Deed dated January 30, 1998 and recorded February 5, 1998 in Adams County Deed Book 1517, Page 24, granted and conveyed unto Lisa M. Brendle.

SEIZED IN EXECUTION AS THE PROPERTY OF LISA M. BRENDLE UNDER ADAMS COUNTY JUDGMENT NO. 01-S-301.

MAP & PARCEL #8-182A

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10

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

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

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

6/28, 7/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-521 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a roofing nail found in the centerline of Hilltown Road (T-355) at the Southeastern corner of land now or formerly of Robert A. and Rosa C. Lentz; thence running through a 3/4 inch pipe and planted stone set back 20 feet from the start of this course and by land now or formerly of Lentz, North 17 degrees 00 minutes 30 seconds East, 152.7 feet to a 3/4 inch pipe and stones found at the top of the road bank; thence by the same, North 17 degrees 00 minutes 30 seconds East and crossing U.S. Route 30, 80.8 feet to a point at or near the northern edge of concrete of U.S. Route 30 and at the Southwestern corner of land now or formerly of Kenneth H. Kane and wife; thence running along or near the Northern edge of the concrete of U.S. Route 30 and by land now or formerly of Kenneth H. Kane and wife, South 64 degrees 07 minutes 25 seconds East, 313.81 feet to a point at or near the Northern edge of the concrete of U.S. Route 30 and at the Northwestern corner of Lot 1 on the plan of lots hereinbelow described; thence crossing U.S. Route 30 and by Lot 1 on the plan described, South 32 degrees 47 minutes 05 seconds West, 69.59 feet to a 5/8 inch rebar set; thence by the same, South 32 degrees 47 minutes 05 seconds West and through a 5/8 rebar set 25.00 feet from the end of this course, 115.00 feet to a railroad spike set North of the centerline of Hilltown Road (T-355); thence in Hilltown Road, North 57 degrees 12 minutes 55 seconds West, 35.00 feet to a roofing nail found 4 feet North of the centerline of said road; thence running in

Hilltown Road, North 76 degrees 22 minutes 05 seconds West, 219.77 feet to a roofing nail found in the centerline of said road, the point and place of BEGINNING. CONTAINING 1.457 Acres.

The description is taken from a draft of survey of Robert A. Sharrah, R.S., dated November 21, 1987. It is Lot No. 2 on the plan recorded in Adams County Plat Book 49 at Page 3.

SEIZED and taken into execution as the property of **Joseph D. Miller & Dorris P. Miller** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/12, 19 & 26

NOTICE

In re: First and Final Account of Manufacturers and Traders Trust Co., of Carlisle, Pennsylvania, Guardian of the Estate of Linda A. Gobrecht, Adams County Orphans' Court No. OC-64-93.

NOTICE IS HEREBY GIVEN that the First and Final Account for Manufacturers and Traders Trust Co., has been filed in the Office of the Clerk of Orphans' Court and will be presented to the Court of Common Pleas of Adams County for confirmation and approval on August 21, 2002 at 9:00 a.m.

This Account will be available for inspection and review at the Clerk of Court's Office, Adams County Courthouse, or at the office of Judith Koper Morris, Esq., 230 York Street, Hanover, Pennsylvania. Any objection or claims against the guardianship estate must be made prior to the date for confirmation, and may be filed with the said Clerk of Courts or raised in Court at the time and date stated above. Any claims or objections not raised may be lost.

Judith Koper Morris,
Attorney for Guardian

7/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-834 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

Lot 135; BEGINNING at a pin set at the only common corner of Lots 135, 136 and the western edge of a sixty (60) foot right-of-way known as Comanche Trail on the subdivision plan described below; thence along the northern edge of Lot 136, South seventy-four (74) degrees two (02) minutes twenty-five (25) seconds West, one hundred eleven and five hundredths (111.05) feet to a pin set at the corner of Lot 140 of said plan; thence along the eastern edge of Lots 140 and 141, North eight (08) degrees five (05) minutes nine (09) seconds West, one hundred eighty-eight and fifty-seven hundredths (188.57) feet to a point at the corner of Lot 134 of said plan; thence along the southwestern edge of Lot 134, South sixty-seven (67) degrees twelve (12) minutes fifty-seven (57) seconds East, one hundred fifty-seven and eighty-six hundredths (157.86) feet to a point at the western edge of Comanche Trail; thence along the western edge of a sixty (60) foot right-of-way known as Comanche Trail by a curve to the left, the long chord of which is South seven (07) degrees twenty (20) minutes fifty-seven (57) seconds West, ninety-five and eighty-one hundredths (95.81) feet, with a radius of one hundred eighty and zero hundredths (180.00) feet to an arc distance of ninety-six and ninety-eight hundredths (96.98) feet to a pin set at the corner of Lot 136 of said plan, the point and place of BEGINNING. CONTAINING 17,244.9227 square feet.

The above description was taken from a plan of lots entitled "Final Plan, Phase Three - Indian Ridge", prepared by Worley Surveying dated February 21, 1995, File No. C-1350, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 66, page 66, and designated thereon as Lot No. 135.

BEING the same tract of land which Bon Ton Builders, Inc. by its Deed dated October 13, 1995, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 1096, page 185, granted and conveyed unto Ricky A. Brady and Shari L. Brady, husband and wife, MORTGAGORS HEREIN.

SEIZED and taken into execution as the property of **Ricky A. Brady & Shari L. Brady** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-434 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a railroad spike found 3 feet North of the centerline of Hilltown Road (T-355) at corner of Lot No. 6B on the hereinafter described subdivision plan; thence North 67 degrees 00 minutes 10 seconds West 35.00 feet to a railroad spike set 3 feet North of the centerline of Hilltown Road (T-355) at corner of Lot No. 6A; thence by said lot and passing through a 5/8" rebar set 25.00 feet from the beginning of this course, North 22 degrees 59 minutes 50 seconds East, 372.83 feet to a 5/8" rebar set; thence by said lot North 67 degrees 00 minutes 10 seconds West 115.00 feet to a 5/8" rebar set on line of lands now or formerly of SPECO; thence by lands now or formerly of SPECO, North 22 degrees 59 minutes 50 seconds East, 77.17 feet to a 5/8" rebar found at corner of lands now or formerly of SPECO; thence by same, North 67 degrees 00 minutes 10 seconds West 115.00 feet to a 5/8" rebar found at corner of lands now or formerly of SPECO; thence by same, North 22 degrees 59 minutes 50 seconds East, 230.00 feet to a 5/8" rebar found; thence by same, South 67 degrees 00 minutes 10 seconds East, 380.00 feet to a 5/8" rebar found; thence by same, South 22

degrees 59 minutes 50 seconds West, 307.17 feet to a 5/8" rebar set at corner of Lot No. 6B; thence by same, North 67 degrees 00 minutes 10 seconds West, 115.00 feet to a 5/8" rebar set at corner of Lot No. 6B; thence by same and passing through a 5/8" rebar set 25.00 feet from the end of this course, South 22 degrees 59 minutes 50 seconds West, 372.83 feet to a railroad spike set 3 feet North of the centerline of Hilltown Road (T-355), the point and place of BEGINNING.

BEING known as 1355 Hilltown Road, Biglerville, PA 17307

PROPERTY ID: D10-2

TITLE TO SAID PREMISES IS VESTED IN Pamela J. Howerly by deed from Richard A. Hutchinson dated 3/15/1996, recorded 3/15/1996, in Deed Book 1159, Page 207.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/12, 19 & 26

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Act of Assembly No. 295 of 1982, of the filing in the Office of the Secretary of Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on the 3rd day of June, 2002, a certificate for the conduct of business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of "TACOS AMIGO JOSE" with its principal place of business at 10 Center Square, New Oxford, Pennsylvania. The names and addresses of the persons owning or interested in said business are Carlos A. Mendoza, 10 Center Square, New Oxford, Adams County, Pennsylvania 17350.

Jeffery M. Cook, Esq.

7/12

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 ESTHER P. SCHAAF, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Robert G. Teeter, 108 West Middle Street, Gettysburg, PA 17325; A. Lyman SchAAF, 2747 Meadow Drive, Royal Oak, MI 48073

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

ESTATE OF DONALD E. SHULTZ, SR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Administrators: Anna M. Light, 708 East Berlin Road, York Springs, PA 17372; L. Wayne Shultz, 389 Green Ridge Road, Orrtanna, PA 17353

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

ESTATE OF ANNA J. WAGNER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrices: Carolyn W. Sponseller, 105 Hillside Road, Hanover, PA 17331; Rebecca W. Straub, 8229 Bellona Avenue, Towson, MD 21204

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

ESTATE OF ROBERT A. WILLS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Debra Orndorff-Wills, 4820 Old Harrisburg Road #131, Gettysburg, PA 17325

Attorney: S. Beme Smith, Esq., 107 N. 24th Street, Camp Hill, PA 17011-3602

SECOND PUBLICATION

ESTATE OF ROBERTA P. CRANE a/k/a ROBERTA PHILIPS CRANE, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

PNC Bank, N.A., P.O. Box 308, Camp Hill, PA 17001-0308

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

ESTATE OF KENNETH M. DUNBAR, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: Kenneth E. Dunbar, 3924 Liberty Point Drive, Midlothian, VA 23112

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

ESTATE OF GRACE E. ENGLE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Elizabeth Frances Abraham Salisbury, 7 Chinkapin Drive, New Oxford, PA 17350

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

ESTATE OF CATHERINE G. STAVELY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Nanette E. Bankert, 6159 Baltimore Pike, Littlestown, PA 17340

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

THIRD PUBLICATION

ESTATE OF ROBERT W. SASSAMAN, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executrix: Alice Jane Wyland Sassaman, 9 Lincoln Cove, East Berlin, PA 17316

Attorney: Jan M. Wiley, Esq., Wiley, Lenox, Colgan & Marzacco, P.C., One South Baltimore St., Dillsburg, PA 17019

ESTATE OF MARGARET L. SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Raymond A. Williams, P.O. Box 374, Hanover, PA 17331

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

ESTATE OF PAUL H. TOPPER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Personal Representatives: Andrew J. Topper, 100 Pine Grove Rd., Hanover, PA 17331; Paul F. Topper, 3801 48th Ave. South, St. Petersburg, FL 33711

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-84 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stone in center of public road on line between land now or formerly of James B. Meyer and S. S. W. Hammers; thence with center of said road Southwest, 52 feet to a stone; thence by land now or formerly of the said James B. Meyer, Southeast 150 feet to a stone on line of land now or formerly of Cornelius Reneicker; thence by land now or formerly of Cornelius Reneicker Northeast 55 feet to stone; thence by land now or formerly of S. S. W. Hammers, 138 feet to stone, the place of BEGINNING. CONTAINING 28 perches, more or less.

HAVING ERECTED THEREON a dwelling known as 690 Knoxlyn Road, Gettysburg, Pennsylvania.

BEING THE SAME PREMISES WHICH Allan F. Trostle by Deed dated January 19, 1973 and recorded January 19, 1973 in Adams County Deed Book 304, Page 767, granted and conveyed unto Rondale A. Trostle and Karen S. Trostle.

SEIZED IN EXECUTION AS THE PROPERTY OF RONDALE A. TROSTLE AND KAREN S. TROSTLE UNDER ADAMS COUNTY JUDGMENT NO. 02-S-84.

MAP & PARCEL #E12-121

SEIZED and taken into execution as the property of **Rondale A. Trostle & Karen S. Trostle** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 16, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/5, 12 & 19

Adams County Legal Journal

Vol. 44

July 19, 2002

No. 8, pp. 34-37

IN THIS ISSUE

COMMONWEALTH VS. VANMETRE

NOTICE

Gettysburg Area School District

Notice of Intended Referendum on Act 24 of 2001, Occupation Assessment Tax Elimination, and Earned Income and Net Profits Tax Rate Increase

NOTICE IS GIVEN that the board of school directors of the Gettysburg Area School District ("the School District") intends to adopt a resolution to place a referendum on the November 5, 2002 general election ballot. The referendum will relate to elimination of the occupation assessment tax and increase of the rate of the earned income tax collected by the School District. This notice is given pursuant to the Optional Occupation Tax Elimination Act of June 22, 2001, Act 24 of 2001, as amended (the "Act") and the Local Tax Enabling Act of December 31, 1965, P.L. 1257, as amended (the "Enabling Act").

The School District currently levies and collects an occupation assessment tax on the assessed value of all occupations of persons residing in the School District. The current occupation assessment tax rate is 99.0% on the assessed value of all occupations of persons residing in the school district at any time during the school year. The School District currently levies and collects from the School District residents an earned income tax at the rate of 0.5%. The earned income tax applies to earned income received and net profits earned by residents of the School District. An additional 0.5% is collected by the municipality in which the taxpayer resides, meaning that the School District residents currently pay a total tax rate of 1.0%.

The Act permits the School District to eliminate the occupation assessment tax

and replace the occupation assessment tax revenues by increasing the rate of the earned income tax collected by the School District. This action may be taken if the voters approve the action by referendum. The School District estimates that replacing the occupation assessment tax revenues will require increasing the rate of the earned income tax collected by the School District by 0.7%, from the current 0.5%, to the new School District tax rate of 1.2%. Adding the tax collected by the School District to the 0.5% collected by the municipality in which the taxpayer resides, the total earned income and net profits tax rate paid by the School District residents would increase from the current 1.0% to the new total tax rate of 1.7%.

Pursuant to the Act, the School District intends to adopt a resolution directing a referendum on the November 5, 2002 general election ballot. The proposed resolution to be considered by the board of school directors provides that the referendum question to be placed on the ballot shall be in substantially the following form, with such additions or changes as may be determined by the board of school directors or election officials prior to the election:

Do you favor eliminating the Gettysburg Area School District Occupation Assessment Tax and increasing the maximum allowable rate of the Earned Income Tax (combined for all municipalities including the School District) from 1.0% to 1.7%?

The proposed resolution will be acted upon at a meeting of the board of school directors of the School District to be held on August 5, 2002, at 7:30 p.m., at the School District's Administration Building

Boardroom located at 900 Biglerville Road in Gettysburg. The board of school directors held a public hearing regarding the elimination of the occupation assessment tax and increasing the rate of the earned income tax on April 22, 2002.

If a majority of the electors voting on the referendum question on November 5, 2002 vote "yes," the board of school directors thereafter will adopt a new Earned Income Tax Resolution eliminating the occupation assessment tax and increasing the earned income and net profits tax rate collected by the School District to 1.2% effective July 1, 2003.

The increase in earned income and net profits tax is needed to produce revenue for general School District purposes and replace the revenues lost from the elimination of the Occupation Assessment Tax. The estimated revenue to be lost by the School District from the elimination of the Occupation Assessment Tax for 2003-2004 is \$2,631,416. The estimated revenue to be gained from the increase in the earned income and net profits tax for the 2003-2004 fiscal year is \$2,631,416. The change is required to be revenue neutral to the School District.

If you have any questions regarding Act 24 of 2001 or the resolution referred to in this legal advertisement please contact the Gettysburg Area School District Business Office at 900 Biglerville Road, Gettysburg, PA 17325-8007, (717) 334-6254, extension 1226, during normal business hours.

Brad N. Hunt
Board Secretary

7/19, 26 & 8/2

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1122 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain unit in the property known, named and identified in the declaration referred to below as South Branch Estates, located in the Township of Oxford, Adams County, Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101 et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania of a land development plan dated October 6, 1995, last revised December 14, 1995 and recorded in the Book 69 Page 23 (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such plans as Unit No. 16 as more fully bounded and described in such plan, together with a proportionate undivided interest in the Common Elements as Defined in a Declaration Plan Recorded in the Office of the Recorder of Deeds, in and for York County, Pennsylvania in Record Book 1271 page 34. Under and subject to any and all covenants, conditions, restrictions, rights of way, easements and agreements of record, including (but not limited to) those contained in the instruments recorded in the aforesaid Recorder's Office in Record Book 69 page 23. Together with the limited common elements appurtenant as more fully shown of Plan 1271, page 34.

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 Grantees' 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.

BEING THE SAME premises which Philip R. Garland trading and doing business as Garland Construction by Deed dated November 20, 1998 and recorded in the Recorder of Deeds of Adams County on October 28, 1999 in Deed Book 1942, page 213, granted and conveyed unto Amy J. Balderas, a separated individual.

Grenen & Birsic, P.C.
By: /s/Kristine M. Faust, Esq.
Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

Parcel No.: 1-52-16

SEIZED and taken into execution as the property of Amy J. Balderas and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 16, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/5, 12 & 19

NOTICE

In re: First and Final Account of Manufacturers and Traders Trust Co., of Carlisle, Pennsylvania, Guardian of the Estate of Linda A. Gobrecht, Adams County Orphans' Court No. OC-64-93.

NOTICE IS HEREBY GIVEN that the First and Final Account for Manufacturers and Traders Trust Co., has been filed in the Office of the Clerk of Orphans' Court and will be presented to the Court of Common Pleas of Adams County for confirmation and approval on August 21, 2002 at 9:00 a.m.

This Account will be available for inspection and review at the Clerk of Court's Office, Adams County Courthouse, or at the office of Judith Koper Morris, Esq., 230 York Street, Hanover, Pennsylvania. Any objection or claims against the guardianship estate must be made prior to the date for confirmation, and may be filed with the said Clerk of Courts or raised in Court at the time and date stated above. Any claims or objections not raised may be lost.

Judith Koper Morris,
Attorney for Guardian

7/12, 19 & 26

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed by F & M HANSEN CORPORATION 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.

CGA Law Firm
By: Jeffrey L. Rehmeyer II, Esq.

7/19

COMMONWEALTH VS. VANMETRE

1. Judicial estoppel is an equitable, judicially-created doctrine designed to protect the integrity of the courts by preventing litigants from playing "fast and loose" with the judicial system by adopting whatever position suits the moment. Unlike collateral estoppel or *res adjudicata*, it does not depend upon the relationships between parties, but rather on the relationship of one party to one or more tribunals. In essence, the doctrine prohibits parties from switching legal positions to suit their own ends.

2. A lawyer shall not knowingly fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client.

In the Court of Common Pleas of Adams County, Pennsylvania,
Criminal, No. CC-565-00, COMMONWEALTH OF PENNSYLVANIA VS. JOSHUA JAMES VANMETRE.

Matthew Fogal, Esq., for Commonwealth

Steven Rice, Esq., for Defendant

Spicer, P.J., December 21, 2001

OPINION ON POST SENTENCE MOTION

Defendant was charged with a violation of 18 Pa.C.S.A. §6301(a), corruption of the morals of a minor on March 29, 2000. After the case was bound over for court, defendant was arraigned and an information was filed on August 1, 2000. The information charged that defendant, within the County of Adams, engaged in acts of sexual intercourse with a person under the age of 18 between July 1, 1998 and March 8, 2000. Defendant pleaded not guilty and demanded a jury trial.

On November 16, 2000, defendant was admitted into the Accelerated Rehabilitative Disposition program. The District Attorney moved to revoke defendant's admission on January 29, 2001, and revocation occurred July 13, 2001.

A jury was selected on Monday, September 17, 2001. Trial was scheduled for Friday, September 21, 2001. On the nineteenth, the Commonwealth filed a motion in limine, seeking to exclude evidence of the following: 1. The victim's consent to engage in sexual intercourse; 2. The morals of the victim prior to the acts in issue and afterwards; 3. The victim's prior sexual experience; 4. The acquiescence of victim's parents in the sexual relations between defendant and the victim; 5. The current relationship between victim and defendant in that they were still romantically involved, resided together, were the parents of a child for whom defendant provided financial support and that defendant and the victim intended to marry.

Consideration of the in limine motion was deferred until the twenty-first, the day the jury was instructed to report to hear the case. Finding the evidence irrelevant to the issue of guilt or innocence, the court granted the motion. After some discussion, all of which has been transcribed and appears of record, the court informed defense counsel, "I just want to tell you that if your client had sexual intercourse with this complainant, if I might call her that, he knew she was under 18 or if she were under 16 and whether he knew it or not, he is guilty of corruption of minors." Transcript page 4. After more discussion, the court informed counsel that if the jury found defendant to have committed a sexual intercourse act with the complainant, it would be told to find defendant guilty. *Id.*, page 5. Since there were no disputed facts, the consequences of defendant's conduct became a matter of law for the court to determine.

Following this exchange, defense counsel informed the court that his client wanted to proceed to trial, but not a jury trial because that would be a "waste of time." He said he made his decisions based upon the court's intention to instruct the jury as indicated. "We object to that instruction and we are going to stipulate that the sexual acts at issue actually did occur and ask the court to enter a finding based on those stipulated facts." Page 6. Counsel then said that defendant had intercourse with the victim one week before her fifteenth birthday.

The court engaged in a colloquy with defendant concerning his election to proceed with a bench trial, instructing him on no uncertain terms that he would be found guilty if he waived his right to jury trial and proceeded to bench trial and that in essence he would be pleading guilty. This sparked protest from defense counsel, no doubt because of his intention to appeal, that his client was not pleading guilty. Counsel said his client was only admitting "the underlying facts that are the subject of the offense at issue." *Id.* page 9.

After the colloquy, defense counsel restated his position, saying that the reason his client waived his right to a jury trial was "based on the jury instruction that he believes the Court would give the jury that having sex with this minor while he was an adult during the dates at issue in and of itself was corruption of minors." *Id.* 12. Counsel went on to reiterate his position that he was precluded from introducing the evidence by the ruling on Commonwealth's in limine motion.

Following further discussion, the court allowed defendant to waive his right to a jury trial and excused the jury. A bench trial then

commenced, but no testimony was introduced. All facts were established by stipulation. The subject of defendant's engaging in sexual intercourse was mentioned several times, including the following:

MR. FOGAL: We would agree with the stipulation so long as he is stipulating to the fact that sexual conduct occurred between July 1st....

THE COURT: Sexual intercourse.

MR. FOGAL: Intercourse between July 1st, 1998 and March 1st of 2000, as indicated on the criminal information.

MR. RICE: I think it's March 8th, Your Honor, March 8th, 2000. The date is at issue here. During that time period we are stipulating there was a sexual relationship between defendant and the complainant.

Id. page 18.

Following discussion leading to stipulation, the court entered a verdict of guilty, ordered a presentence investigation and scheduled sentencing.

Defendant filed a timely post sentence motion, contending that the record did not establish jurisdictional facts, i.e. that sexual intercourse occurred within Adams County.

The court interpreted the discussion alluded to above as a stipulation that intercourse occurred as alleged in the information. We have already mentioned that that document indicated that intercourse occurred in Adams County.

Defendant is estopped from attacking that interpretation.

Supreme Court has recently stated:

Judicial estoppel is an equitable, judicially-created doctrine designed to protect the integrity of the courts by preventing litigants from playing "fast and loose" with the judicial system by adopting whatever position suits the moment. (Citation omitted). Unlike collateral estoppel or res adjudicata, it does not depend upon the relationships between parties, but rather on the relationship of one party to one or more tribunals. In essence, the doctrine prohibits parties from switching legal positions to suit their own ends.

Sunbeam Corporation v. Liberty Mutual Insurance Company, Pa. , 781 A.2d 1189, 1192 (2001).

We think the court's interpretation of the stipulation was reasonable. We also think defendant is attempting to play fast and loose with the tribunal. He asked the court to enter a verdict so he could appeal from an evidentiary ruling. By his stipulation, he avoided testimony, where jurisdiction would have been specifically addressed by Commonwealth. He now attempts to argue that the court did not have jurisdiction to do what he asked it to do.

Furthermore, the court could rely on defense counsel to correct any misunderstanding about the stipulation. He talked about dates, but said not one word about other allegations in the information. His duty went even beyond taking steps to prevent the court from being misled.

Rule of Professional Conduct 3.3(a)(2) provides:

(a) A lawyer shall not knowingly:

(2) fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client.

The court told defense counsel in no uncertain terms that defendant's conduct was criminal. There never has been a real issue of jurisdiction. Counsel cannot argue that he was full unaware that intercourse occurred in Adams County. At the very least, counsel was obligated to correct any possible misunderstanding as to the scope of the stipulation. If he felt the stipulation did not include the fact that criminal acts occurred in Adams County, he was duty bound to present such information to the court.

The court properly interpreted the stipulation and properly replied upon counsel's candor toward the tribunal.

The attached order is entered.

ORDER

AND NOW, this 21st day of December, 2001, defendant's post sentence motions are overruled. Defendant is notified that he has the right to appeal from this order to Superior Court within 30 days, has the right to proceed with assigned counsel and in forma pauperis. Because the maximum sentence is two years and this court is of the opinion that any appeal would be frivolous, it reaffirms its prior ruling that defendant is not entitled to bail pending the outcome of an appeal.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-405 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point at the Northern edge of Seneca Drive and Lot No. 75; thence along Lot No. 75, North forty (40) degrees thirty-six (36) minutes four (04) seconds West, one hundred fifty-two and ninety-eight hundredths (152.98) feet to a point at Lot No. 80; thence along Lots Nos. 80, 81 and 82, North fifty-four (54) degrees twenty (20) minutes forty-two (42) seconds East, one hundred fifteen and forty-three hundredths (115.43) feet to a point at Lot No. 72; thence along Lot No. 72, South forty (40) degrees thirty-six (36) minutes four (04) seconds East, one-hundred forty-three and three hundredths (143.03) feet to a point at the Northern edge of Seneca Drive; thence along Seneca Drive, South forty-nine (49) degrees twenty-three (23) minutes fifty-six (56) seconds West, one hundred fifteen (115.00) feet to the point and place of BEGINNING. CONTAINING 17,021 square feet and identifies as Lot No. 74 on a plan of lots prepared by Worley Surveying dated May 17, 1994 and approved as a subdivision by Conewago Township, Adams County, Pennsylvania, and recorded on August 16, 1994, in Book 65, Page 22.

BEING known as 99 Seneca Drive, Hanover, PA 17331

Property ID: Map 11, Parcel 39

TITLE TO SAID PREMISES IS VESTED IN Andrew Buchma, Sr. and Cecilia R. Buchma, husband and wife, by deed from J.C.P. Inc., dated 12/22/1993, recorded 12/30/1993, in Deed Book 829, Page 51.

SEIZED and taken into execution as the property of **Andrew Buchma, Sr. & Cecilia R. Buchma** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 16, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-877 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land with improvements situate thereon located in the Borough of New Oxford, Adams County, Commonwealth of Pennsylvania identified as Tract No. 1 pursuant to a final plan for Robinson's Home, Inc. by Worley Surveying, said Plan being dated March 12, 1993 and bearing File No. C-1285 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plan Book 576, Page 607 and as more particularly described as follows to wit:

BEGINNING at a point at the right-of-way lines located at the Northwest corner of Lincoln Way West (S. R. 0030) and North Bolton Street and thence extending from said point along Lincoln Way West (S. R. 0030), South Seventy-One degrees, Fifty minutes, Forty-Seven seconds West (S 71 degrees 50' 47" W) Eighty-Eight and Fifty-Eight One Hundredths (88.58') feet to a point at lands now or formerly of Joseph N. Masslofsky; thence extending along said lands of Joseph N. Masslofsky, North Eighteen degrees, Thirty-one minutes, Three seconds West (N 18 degrees 31' 03" W) One Hundred Eighty and Seventy One-Hundredths (180.70') feet to a point at Tract No. 2 of said plan; thence extending along said Tract No. 2, North Seventy-One degrees, Zero minutes, Zero seconds East (71 degrees 00' 00" E) a distance of Ninety and Seven One-Hundredths (90.07') feet to a point at the right-of-way line at North Bolton Street; thence extending along said right-of-way line at North Bolton Street, South Eighteen degrees, Two minutes, Fifty-Four seconds East (S 18 degrees 02' 54" E) a distance of One Hundred Eighty-Two and Three One-Hundredths (182.03') feet to a point and place of BEGINNING. CONTAINING 16,199 Square feet, more or less.

Tax Parcel # 34-004-0019

SEIZED and taken into execution as the property of **Joseph B. Robinson &**

Grace M. Robinson and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/12, 19 & 26

NOTICE BY THE ADAMS COUNTY
CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Monday, July 22, 2002, at 9:00 o'clock a.m.

MURTOF—Orphans' Court Action Number OC-70-02. The First and Final Account of Paul E. Walck, Sr. and John Lee Walck, Sr., Co-Executors of the Estate of Helen F. Murtof, deceased, late of Cumberland Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

7/12 & 19

NOTICE

NOTICE IS HEREBY GIVEN that Kelly M. Dilts intends to apply in open court for admission to the Bar of Adams County, Pennsylvania on the 22nd day of July 2002. She intends to practice law at the Law Office of Robert L. McQuaide, Suite 204, 18 Carlisle Street, Gettysburg, Adams County, Pennsylvania.

7/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-437 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Cumberland Township, Adams County, Pennsylvania, further bounded and limited as follows, to wit:

BEGINNING at a leitz spike in the center line of Table Rock Road L.R. #01006 at corner of Lot "B" on the hereinafter referred to Preliminary & Final Plan; thence by Lot "B" South 78 degrees 59 minutes 15 seconds East, 217.71 feet to a steel rod at Lot "A" on the hereinafter referred to Preliminary & Final Plan; thence by Lot "A" South 11 degrees 14 minutes 40 seconds West, 116.14 feet to a steel rod at land now or formerly of Paul D'Agostino; thence by same North 78 degrees 45 minutes 22 seconds West, 38.26 feet to a steel rod at land now or formerly of Ellanora E. McKinney; thence by same North 11 degrees 14 minutes 40 seconds East, 6.12 feet to a steel rod at corner of Lot "D" on the hereinafter referred to Preliminary & Final Plan; thence by Lot "D" North 11 degrees 14 minutes 40 seconds East, 15.00 feet to a steel rod at corner of Lot "D" (erroneously stated in prior deed as Lot "C"); thence running along Lot "D" aforesaid North 79 degrees 07 minutes 11 seconds West, 178.85 feet to a leitz spike in the center line of Table Rock Road L.R. #01006; thence in said center line North 10 degrees 52 minutes 50 seconds East, 95.28 feet to a leitz spike in the center line of Table Rock Road L.R. #01006 at corner of Lot "B", the place of BEGINNING. CONTAINING 21,470 Square Feet and being known as Lot "C" on the hereinafter referred to Preliminary & Final Plan.

The above description was taken from a Preliminary & Final Plan, Ralph L. Bowling "Oakland Estates", as prepared by Adams County Surveyors, dated April 6, 1983, and revised May 3, 1983, and December 27, 1983, being Drawing No. E-377 and recorded in the Office of the Recorder of Deeds of Adams County in Plat Book 40 at page 13.

The above tract of land being the same which James M. Fair and Susan A. Fair, his wife, and Kathy M. Gill and Dewey L. Gill, Jr., her husband, by deed dated October 2, 1998, and recorded on October 5, 1998 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 1673 at page 282, granted and conveyed

into James M. Fair and Susan A. Fair, husband and wife, the mortgagors herein named.

Property ID# F12-205

SEIZED and taken into execution as the property of James M. Fair & Susan A. Fair and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/19, 26 & 8/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-338 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate in the Village of Orttanna, Hamiltonban Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a steel rod located in the right-of-way of Carrolls Tract Road (Township Route T-314) and at the Southwestern side of a 12 foot unused unimproved alley; thence along said Southwest side of said alley, South 52 degrees 15 minutes 00 seconds East, 135.00 feet to an existing steel rod located at corner of land of Paul Metz; thence by said land of Metz, South 37 degrees 45 minutes 00 seconds West 120.00 feet to an existing steel rod located along the Northeastern side of the right-of-way of Third Street (private); thence along said right-of-way of said Third Street, North 52 degrees 15 minutes 00 seconds West, 135.00 feet to a magnetic spike located 8 feet East of the center line of the aforementioned Carrolls Tract Road; thence in Carrolls Tract Road, North 37 degrees 45 minutes 00 seconds East, 120.00 feet to a steel rod located in the right-of-way of Carrolls Tract Road and at the Southwestern side of a 12 foot

unused unimproved alley, the place of BEGINNING. CONTAINING 16,200 square feet (0.372).

The above description is taken from a boundary survey prepared for Orttanna United Methodist Church by Adams County Surveyors dated March 27, 1997, Drawing B-928.

Being known and designated as Map C-12; Parcel 98

BEING the same premises which Orttanna United Methodist Church, a/k/a Orttanna Methodist Church, by Deed dated April 7, 1997 and recorded in the Office of the Recorder of Deeds of Adams County on April 10, 1997, in Deed Book 1353, Page 161, granted and conveyed unto Clifford E. Strausbaugh and Amanda L. Strausbaugh.

Grenen & Birsic, P.C.
By: /s/Kristine M. Faust, Esq.
Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

Parcel No.: (18) C12-98

SEIZED and taken into execution as the property of Clifford E. Strausbaugh & Amanda L. Strausbaugh and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/19, 26 & 8/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-8 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate in the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point located on the East side of South Main Street at the Northwest corner of land of Eugene L. Lupp; thence along said East side of South Main Street North 30 degrees 15 minutes West 82.5 feet, more or less, to a point located on the South side of a 10 foot public alley; thence along said South side of a 10 foot public alley North 59 degrees 45 minutes East 132 feet, more or less, to a point located on the West side of a 20 foot public alley; thence along said West side of a 20 foot public alley South 30 degrees 15 minutes East of 82.5 feet, more or less to a point located at the Northeast corner of land of Eugene L. Lupp; thence by said and of Eugene L. Lupp South 59 degrees 45 minutes West 132 feet, more or less, to a point located on the East side of South Main Street, the place of BEGINNING.

The description herein is taken from records found in the Adams County Mapping Office, Bendersville, Map No. 4, Parcel No. 56.

BEING the same premises which Edward C. Wallen and Darlene K. Wallen, by deed dated 12/28/90 and recorded 1/03/91 in the Recorder's Office in and for Adams, Pennsylvania in Deed Book Volume 0576 Page 1057, granted and conveyed unto Jeffrey L. Stoops, the mortgagor herein.

Parcel ID Number: 3-004-0056

SEIZED and taken into execution as the property of Jeffrey Stoops and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

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

7/19, 26 & 8/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-521 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a roofing nail found in the centerline of Hilltown Road (T-355) at the Southeastern corner of land now or formerly of Robert A. and Rosa C. Lentz; thence running through a 3/4 inch pipe and planted stone set back 20 feet from the start of this course and by land now or formerly of Lentz, North 17 degrees 00 minutes 30 seconds East, 152.7 feet to a 3/4 inch pipe and stones found at the top of the road bank; thence by the same, North 17 degrees 00 minutes 30 seconds East and crossing U.S. Route 30, 80.8 feet to a point at or near the northern edge of concrete of U.S. Route 30 and at the Southwestern corner of land now or formerly of Kenneth H. Kane and wife; thence running along or near the Northern edge of the concrete of U.S. Route 30 and by land now or formerly of Kenneth H. Kane and wife, South 64 degrees 07 minutes 25 seconds East, 313.81 feet to a point at or near the Northern edge of the concrete of U.S. Route 30 and at the Northwestern corner of Lot 1 on the plan of lots hereinbelow described; thence crossing U.S. Route 30 and by Lot 1 on the plan described, South 32 degrees 47 minutes 05 seconds West, 69.59 feet to a 5/8 inch rebar set; thence by the same, South 32 degrees 47 minutes 05 seconds West and through a 5/8 rebar set 25.00 feet from the end of this course, 115.00 feet to a railroad spike set North of the centerline of Hilltown Road (T-355); thence in Hilltown Road, North 57 degrees 12 minutes 55 seconds West, 35.00 feet to a roofing nail found 4 feet North of the centerline of said road; thence running in Hilltown Road, North 76 degrees 22 minutes 05 seconds West, 219.77 feet to a roofing nail found in the centerline of said road, the point and place of BEGINNING. CONTAINING 1.457 Acres.

The description is taken from a draft of survey of Robert A. Sharrah, R.S., dated November 21, 1987. It is Lot No. 2 on the plan recorded in Adams County Plat Book 49 at Page 3.

SEIZED and taken into execution as the property of Joseph D. Miller & Dorris P. Miller and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/12, 19 & 26

FICTITIOUS NAME NOTICE

NOTICE IS GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on June 13, 2002, pursuant to the Fictitious Name Act, setting forth that Clyde H. Rebert, of 402 Diller Road, Hanover, Pennsylvania and Jessica L. Bagwell, of 1370 North Main Street, Hampstead, Maryland 21074, are the only persons owning or interested in a business, the character of which is designing web pages and providing accounting and payroll services and that the name, style and designation under which said business is and will be conducted is BIZMIN WEB DESIGNS and the location where said business is and will be conducted is 402 Diller Road, Hanover, Pennsylvania 17331.

Guthrie, Nonemaker, Guthrie & Yingst Solicitor

7/19

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on June 13, 2002, under the Pennsylvania Business Corporation Law for: PENNSYLVANIA SERVICE AND SUPPLY, INC. The address of the Corporation is: 417 Oak Hill Road, Biglerville, PA 17307.

7/19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-834 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

Lot 135: BEGINNING at a pin set at the only common corner of Lots 135, 136 and the western edge of a sixty (60) foot right-of-way known as Comanche Trail on the subdivision plan described below; thence along the northern edge of Lot 136, South seventy-four (74) degrees two (02) minutes twenty-five (25) seconds West, one hundred eleven and five hundredths (111.05) feet to a pin set at the corner of Lot 140 of said plan; thence along the eastern edge of Lots 140 and 141, North eight (08) degrees five (05) minutes nine (09) seconds West, one hundred eighty-eight and fifty-seven hundredths (188.57) feet to a point at the corner of Lot 134 of said plan; thence along the southwestern edge of Lot 134, South sixty-seven (67) degrees twelve (12) minutes fifty-seven (57) seconds East, one hundred fifty-seven and eighty-six hundredths (157.86) feet to a point at the western edge of Comanche Trail; thence along the western edge of a sixty (60) foot right-of-way known as Comanche Trail by a curve to the left, the long chord of which is South seven (07) degrees twenty (20) minutes fifty-seven (57) seconds West, ninety-five and eighty-one hundredths (95.81) feet, with a radius of one hundred eighty and zero hundredths (180.00) feet to an arc distance of ninety-six and ninety-eight hundredths (96.98) feet to a pin set at the corner of Lot 136 of said plan, the point and place of BEGINNING. CONTAINING 17,244.9227 square feet.

The above description was taken from a plan of lots entitled "Final Plan, Phase Three - Indian Ridge", prepared by Worley Surveying dated February 21, 1995, File No. C-1350, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 66, page 66, and designated thereon as Lot No. 135.

BEING the same tract of land which Bon Ton Builders, Inc. by its Deed dated October 13, 1995, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 1096, page 185, granted and conveyed unto Ricky A. Brady and Shari L. Brady, husband and wife, MORTGAGORS HEREIN.

SEIZED and taken into execution as the property of **Ricky A. Brady & Shari L. Brady** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-434 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a railroad spike found 3 feet North of the centerline of Hilltown Road (T-355) at corner of Lot No. 6B on the hereinafter described subdivision plan; thence North 67 degrees 00 minutes 10 seconds West 35.00 feet to a railroad spike set 3 feet North of the centerline of Hilltown Road (T-355) at corner of Lot No. 6A; thence by said lot and passing through a 5/8" rebar set 25.00 feet from the beginning of this course, North 22 degrees 59 minutes 50 seconds East, 372.83 feet to a 5/8" rebar set; thence by said lot North 67 degrees 00 minutes 10 seconds West 115.00 feet to a 5/8" rebar set on line of lands now or formerly of SPECO; thence by lands now or formerly of SPECO, North 22 degrees 59 minutes 50 seconds East, 77.17 feet to a 5/8" rebar found at corner of lands now or formerly of SPECO; thence by same, North 67 degrees 00 minutes 10 seconds West 115.00 feet to a 5/8" rebar found at corner of lands now or formerly of SPECO; thence by same, North 22 degrees 59 minutes 50 seconds East, 230.00 feet to a 5/8" rebar found; thence by same, South 67 degrees 00 minutes 10 seconds East, 380.00 feet to a 5/8" rebar found; thence by same, South 22

degrees 59 minutes 50 seconds West, 307.17 feet to a 5/8" rebar set at corner of Lot No. 6B; thence by same, North 67 degrees 00 minutes 10 seconds West, 115.00 feet to a 5/8" rebar set at corner of Lot No. 6B; thence by same and passing through a 5/8" rebar set 25.00 feet from the end of this course, South 22 degrees 59 minutes 50 seconds West, 372.83 feet to a railroad spike set 3 feet North of the centerline of Hilltown Road (T-355), the point and place of BEGINNING.

BEING known as 1355 Hilltown Road, Biglerville, PA 17307

PROPERTY ID: D10-2

TITLE TO SAID PREMISES IS VESTED IN Pamela J. Howery by deed from Richard A. Hutchinson dated 3/15/1996, recorded 3/15/1996, in Deed Book 1159, Page 207.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/12, 19 & 26

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF JOHN F. EBERSOLE, DEC'D

Late of Straban Township, Adams County, Pennsylvania
Administrator c.t.a.: Elizabeth E. Ebersole, 4221 Nantucket Drive, Mechanicsburg, PA 17050
Attorney: Puhl, Eastman & Thrasher, 220 Baltimore St., Gettysburg, PA 17325

ESTATE OF NADINE M. LONG, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Executor: Earl J. Long, 116 Beck Mill Road, Hanover, PA 17331
Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF ELAINE H. McTIGHE, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
Executor: Carolyn L. Carter, 165 Hanover Street, Gettysburg, PA 17325
Attorney: Puhl, Eastman & Thrasher, 220 Baltimore St., Gettysburg, PA 17325

ESTATE OF ETHEL E. PATTERSON, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania
Executrix: Shirley Ann Staley, 2741 Taneytown Road, Gettysburg, PA 17325
Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

ESTATE OF JOHN M. ROWLAND, JR., DEC'D

Late of Straban Township, Adams County, Pennsylvania
Executrix: Sue A. Short, 6506 Morningside Ct., Middletown, MD 21769
Attorney: Tracy M. Sheffer, Esq., Battersby & Sheffer, P.O. Box 215, Fairfield, PA 17320

SECOND PUBLICATION

ESTATE OF ESTHER P. SCHAAF, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Executors: Robert G. Teeter, 108 West Middle Street, Gettysburg, PA 17325; A. Lyman SchAAF, 2747 Meadow Drive, Royal Oak, MI 48073
Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF DONALD E. SHULTZ, SR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania
Administrators: Anna M. Light, 708 East Berlin Road, York Springs, PA 17372; L. Wayne Shultz, 389 Green Ridge Road, Orrtanna, PA 17353
Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF ANNA J. WAGNER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
Executrices: Carolyn W. Sponseller, 105 Hillside Road, Hanover, PA 17331; Rebecca W. Straub, 8229 Bellona Avenue, Towson, MD 21204
Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ROBERT A. WILLS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
Executrix: Debra Orndorff-Wills, 4820 Old Harrisburg Road #131, Gettysburg, PA 17325
Attorney: S. Berne Smith, Esq., 107 N. 24th Street, Camp Hill, PA 17011-3602

THIRD PUBLICATION

ESTATE OF ROBERTA P. CRANE a/k/a ROBERTA PHILIPS CRANE, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
PNC Bank, N.A., P.O. Box 308, Camp Hill, PA 17001-0308
Attorney: Henry O. Heiser, III, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF KENNETH M. DUNBAR, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania
Executor: Kenneth E. Dunbar, 3924 Liberty Point Drive, Midlothian, VA 23112
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF GRACE E. ENGLE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Executrix: Elizabeth Frances Abraham Salisbury, 7 Chinkapin Drive, New Oxford, PA 17350
Attorney: Puhl, Eastman & Thrasher, Attorneys at Law, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CATHERINE G. STAVELY, DEC'D

Late of Straban Township, Adams County, Pennsylvania
Executrix: Nanette E. Bankert, 6159 Baltimore Pike, Littlestown, PA 17340
Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-84 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stone in center of public road on line between land now or formerly of James B. Meyer and S. S. W. Hammers; thence with center of said road Southwest, 52 feet to a stone; thence by land now or formerly of the said James B. Meyer, Southeast 150 feet to a stone on line of land now or formerly of Cornelius Reneicker; thence by land now or formerly of Cornelius Reneicker Northeast 55 feet to stone; thence by land now or formerly of S. S. W. Hammers, 138 feet to stone, the place of BEGINNING. CONTAINING 28 perches, more or less.

HAVING ERECTED THEREON a dwelling known as 690 Knoxlyn Road, Gettysburg, Pennsylvania.

BEING THE SAME PREMISES WHICH Allan F. Trostle by Deed dated January 19, 1973 and recorded January 19, 1973 in Adams County Deed Book 304, Page 767, granted and conveyed unto Rondale A. Trostle and Karen S. Trostle.

SEIZED IN EXECUTION AS THE PROPERTY OF RONDALE A. TROSTLE AND KAREN S. TROSTLE UNDER ADAMS COUNTY JUDGMENT NO. 02-S-84.

MAP & PARCEL #E12-121

SEIZED and taken into execution as the property of **Rondale A. Trostle & Karen S. Trostle** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 16, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/5, 12 & 19

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

NO. 02-S-381
Action to Quiet Title

KENNETH W. KIMPLE, EXECUTOR
OF THE ESTATE OF JOSEPH
WILLIAM KIMPLE, a/k/a WILLIAM J.
KIMPLE, Plaintiff

vs.

LAKE HERITAGE, INC., its distributees,
successors and assigns, AMERICAN
REALTY SERVICE CORPORATION OF
PENNSYLVANIA, LAKE HERITAGE
PROPERTY OWNERS ASSOCIATION,
INC., and WILLIAM BRAY and GEOR-
GIANNA BRAY, Defendants

TO: American Realty Service
Corporation of Pennsylvania, c/o William
M. Wrenn, Jr. and William Bray and
Georgianna Bray, Defendants:

NOTICE

You are notified that the plaintiff has commenced an action to quiet title against you by Complaint filed to the above docket number on the 10th day of April, 2002, and reinstated on June 26, 2002, which action you are required to defend.

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

This action concerns the premises hereinafter described:

ALL that lot of ground situate in Mount Joy Township, Adams County, Pennsylvania, more particularly described as Lot No. 249 on a Plan of Lots of the 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 233.

TOGETHER WITH all of the rights and SUBJECT TO all of the restrictions, conditions, agreements, reservations and charges referred to in the deed recorded in the Office of the aforesaid Recorder of Deeds in Deed Book 251 at page 463.

EXHIBIT "D"

The lot of ground hereby conveyed being the same which Bernard V. Miller, Sheriff of the County of Adams, Commonwealth of Pennsylvania, by his deed dated July 11, 1980, and recorded in the Office of the Recorder of Deeds in Deed Book 352 at page 736, sold and conveyed unto William J. Kimple. Also being the same lot of ground which Bernard V. Miller, Sheriff of the County of Adams, Commonwealth of Pennsylvania, by his deed dated August 14, 1980, and recorded in the Office of the Recorder of Deeds in Deed Book 353 at page 224, conveyed to William J. Kimple. The purpose of the latter deed was to correct the Lot No. from 246 to Lot No. 249,

as misstated in the aforesaid deed from Bernard V. Miller, Sheriff, to William J. Kimple.

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

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

AMERICANS WITH DISABILITIES
ACT OF 1990

The Court of Common Pleas of Adams County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. You must attend the scheduled conference or hearing.

The Court Administrator
Adams County Courthouse
Gettysburg, PA 17325
717-337-9846
1-888-337-9846
FAX 334-8817

Wilcox & James
By: /s/David K. James, Esq.
Attorney for Plaintiff
234 Baltimore Street
Gettysburg, PA 17325
717-334-6718

7/19

Adams County Legal Journal

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July 26, 2002

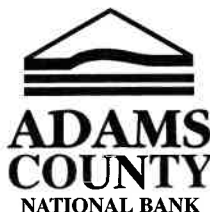
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This opinion continues to next issue (8/2/2002)

**Strong.
Rooted Upon Traditional Values.
Dedicated to Quality.
Customer Service.
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Our Commitment Is You.**



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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NOTICE

Gettysburg Area School District

Notice of Intended Referendum on Act 24 of 2001, Occupation Assessment Tax Elimination, and Earned Income and Net Profits Tax Rate Increase

NOTICE IS GIVEN that the board of school directors of the Gettysburg Area School District ("the School District") intends to adopt a resolution to place a referendum on the November 5, 2002 general election ballot. The referendum will relate to elimination of the occupation assessment tax and increase of the rate of the earned income tax collected by the School District. This notice is given pursuant to the Optional Occupation Tax Elimination Act of June 22, 2001, Act 24 of 2001, as amended (the "Act") and the Local Tax Enabling Act of December 31, 1965, P.L. 1257, as amended (the "Enabling Act").

The School District currently levies and collects an occupation assessment tax on the assessed value of all occupations of persons residing in the School District. The current occupation assessment tax rate is 99.0% on the assessed value of all occupations of persons residing in the school district at any time during the school year. The School District currently levies and collects from the School District residents an earned income tax at the rate of 0.5%. The earned income tax applies to earned income received and net profits earned by residents of the School District. An additional 0.5% is collected by the municipality in which the taxpayer resides, meaning that the School District residents currently pay a total tax rate of 1.0%.

The Act permits the School District to eliminate the occupation assessment tax and replace the occupation assessment tax revenues by increasing the rate of the earned income tax collected by the School District. This action may be taken if the voters approve the action by referendum. The School District estimates that replacing the occupation assessment tax revenues will require increasing the rate of the earned income tax collected by the School District by 0.7%, from the current 0.5%, to the new School District tax rate of 1.2%. Adding the tax collected by the School District to the 0.5% collected by the municipality in

which the taxpayer resides, the total earned income and net profits tax rate paid by the School District residents would increase from the current 1.0% to the new total tax rate of 1.7%.

Pursuant to the Act, the School District intends to adopt a resolution directing a referendum on the November 5, 2002 general election ballot. The proposed resolution to be considered by the board of school directors provides that the referendum question to be placed on the ballot shall be in substantially the following form, with such additions or changes as may be determined by the board of school directors or election officials prior to the election:

Do you favor eliminating the Gettysburg Area School District Occupation Assessment Tax and increasing the maximum allowable rate of the Earned Income Tax (combined for all municipalities including the School District) from 1.0% to 1.7%?

The proposed resolution will be acted upon at a meeting of the board of school directors of the School District to be held on August 5, 2002, at 7:30 p.m., at the School District's Administration Building Boardroom located at 900 Biglerville Road in Gettysburg. The board of school directors held a public hearing regarding the elimination of the occupation assessment tax and increasing the rate of the earned income tax on April 22, 2002.

If a majority of the electors voting on the referendum question on November 5, 2002 vote "yes," the board of school directors thereafter will adopt a new Earned Income Tax Resolution eliminating the occupation assessment tax and increasing the earned income and net profits tax rate collected by the School District to 1.2% effective July 1, 2003.

The increase in earned income and net profits tax is needed to produce revenue for general School District purposes and replace the revenues lost from the elimination of the Occupation Assessment Tax. The estimated revenue to be lost by the School District from the elimination of the Occupation Assessment Tax for 2003-2004 is \$2,631,416. The estimated revenue to be gained from the increase in the earned income and net profits tax for the 2003-2004 fiscal year is \$2,631,416. The

change is required to be revenue neutral to the School District.

If you have any questions regarding Act 24 of 2001 or the resolution referred to in this legal advertisement please contact the Gettysburg Area School District Business Office at 900 Biglerville Road, Gettysburg, PA 17325-8007, (717) 334-6254, extension 1226, during normal business hours.

Brad N. Hunt
Board Secretary

7/19, 26 & 8/2

NOTICE

In re: First and Final Account of Manufacturers and Traders Trust Co., of Carlisle, Pennsylvania, Guardian of the Estate of Linda A. Gobrecht, Adams County Orphans' Court No. OC-64-93.

NOTICE IS HEREBY GIVEN that the First and Final Account for Manufacturers and Traders Trust Co., has been filed in the Office of the Clerk of Orphans' Court and will be presented to the Court of Common Pleas of Adams County for confirmation and approval on August 21, 2002 at 9:00 a.m.

This Account will be available for inspection and review at the Clerk of Court's Office, Adams County Courthouse, or at the office of Judith Koper Morris, Esq., 230 York Street, Hanover, Pennsylvania. Any objection or claims against the guardianship estate must be made prior to the date for confirmation, and may be filed with the said Clerk of Courts or raised in Court at the time and date stated above. Any claims or objections not raised may be lost.

Judith Koper Morris,
Attorney for Guardian

7/12, 19 & 26

COMMONWEALTH VS. O'CONNER ET AL

1. The jurisdictional issue focuses on whether the mandate in [42 Pa. C.S. §7002(b)] requiring the court to order the installation of an ignition interlock system is a criminal or civil sanction.

2.the mere placement of a suspension provision in the Crimes Code by the Legislature does not render the suspension a criminal sanction. Likewise, placement of a penalty in a statute other than the Crimes Code does not make it a civil penalty.

3.the suspension of operating privileges pursuant to 18 Pa. C.S.A. §6310.4 is a collateral civil consequence of the criminal conviction for underage drinking and is not part of the criminal sentence.

4. Acts of the General Assembly are entitled to a strong presumption of constitutionality, and the party challenging the constitutionality of an act has a heavy burden of persuasion.....

5. One who seeks to declare an act unconstitutional under Article III, Section 3 must demonstrate either that: (1) the legislators and the public were actually deceived as to the act's contents at the time of passage; or (2) the title on its face was such that no reasonable person would have been on notice as to the act's contents.

6. The Enrolled Bill Doctrine is a doctrine of judicial restraint in matters challenging the procedural regularity in the passage of legislation. Judicial intrusion into the prerogatives of the legislative branch of state government is limited to violations of mandatory constitutional provisions.

7. A statute is constitutionally void only if it is so vague that "persons of common intelligence must necessarily guess at its meaning and differ as to its application." However, a statute will not be deemed unconstitutionally vague if the terms when read in context, are sufficiently specific that they are not subject to arbitrary and discriminatory application.....

8. "A statute is 'overbroad' if by its reach it punishes constitutionally protected activity as well as illegal activity."

9. Unless First Amendment rights are involved, only the person affected by the statutes' alleged overbreadth have standing to challenge the facial overbreadth of the statute.

10. Equal protection claims are analyzed by the same standards whether under the federal or state constitutions.

11. The essence of the constitutional principle of equal protection under the law is that like persons in like circumstances will be treated similarly.....

12. The prohibition against treating people differently under the law does not preclude the Commonwealth from resorting to legislative classifications.....provided that those classifications are reasonable rather than arbitrary and bear a reasonable relationship to the object of the legislation.....

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-581-01, No. CC-493-01, and No. CC-374-01, COMMONWEALTH VS. SEAN DAVID O'CONNER, COMMONWEALTH VS. WAYNE E. MUMMA, COMMONWEALTH VS. WILLIAM EMIG.

Matthew Fogal, Esq., Assistant District Attorney, for
Commonwealth
Anthony Miley, Esq., for Defendant Mumma
Steve Rice, Esq., for Defendants O'Conner and Emig
Spicer, P.J.;
Kuhn, J.; and Bigham, J., December 31, 2001

EN BANC OPINION ON DEFENDANTS' POST SENTENCE MOTION

Before the Court for disposition are three cases which raise common issues related to recent legislation requiring the installation of ignition interlock devices in vehicles owned by certain D.U.I. offenders. Each defendant attacks the constitutionality of the enabling legislation. For reasons set forth herein, we find that the Court does not have jurisdiction to address the constitutional issues in the context of this proceeding.

FACTUAL BACKGROUND

A. Sean David O'Conner was charged with Driving Under the Influence on May 30, 2000. On May 8, 2001, he entered a plea of guilty before Judge John D. Kuhn to Count II, 75 Pa.C.S.A. §3731(a)(1), as a second offense for sentencing purposes but as a third offense overall. He was sentenced, pursuant to a plea agreement, and placed in an intermediate punishment program for 24 months, which included 30 days of incarceration and 7 days of house arrest. On June 15, 2001, Mr. O'Conner's sentence was revoked. He was again re-sentenced to 24 months of intermediate punishment but with 4 months of incarceration and 4 months of house arrest. On September 6, 2001, his sentence was revoked a second time and this time he was re-sentenced to incarceration of 10-23 months.

B. Wayne E. Mumma was charged with Driving Under Influence on March 31, 2001. On September 5, 2001, he entered a plea of guilty before President Judge Oscar F. Spicer to Count I, 75 Pa.C.S.A. §3731(a)(1), as a third offense for sentencing purposes but as a sixth offense overall. He was sentenced pursuant to a plea agreement and placed in an intermediate punishment program for 24 months, which included 6 months of incarceration and 6 months of house arrest.

C. William Emig was charged with Driving Under the Influence on February 10, 2001. On August 14, 2001, a jury found Mr. Emig guilty of Counts I and II, 75 Pa.C.S.A. §3731(a)(1) and (a)(4)(i), respectively. Sentencing was imposed by President Judge Oscar F. Spicer on September 24, 2001. For sentencing purposes this was his first offense, however, overall it constitutes his second offense. Mr. Emig was sentenced to 24 months of intermediate punishment with 20 days under house arrest.

Each of the sentences included a provision that the defendant was required to install an approved interlock device in all vehicles owned by him as a condition of restoration of his operating privileges.

PROCEDURAL BACKGROUND

On September 11, 2001, September 18, 2001, and October 3, 2001, Defendants Mumma, O'Conner and Emig, respectively, filed a motion for modification of sentence.¹ Each motion requested that the portion of the sentence relating to the ignition interlock device be vacated on constitutional grounds. Each defendant alleges violations of:

- i) The equal protection clause of the state and federal constitutions;
- ii) The separation of powers doctrine of the Pennsylvania Constitution;
- iii) The due process guarantees of the state and federal constitutions;
- iv) The ex post facto provisions;
- v) Article 3, Section 3 of the Pennsylvania Constitution;
- vi) The First Amendment of the United States Constitution;
- vii) The obligation of contract provisions of the state and federal constitutions; and
- viii) The interstate commerce provisions.

On September 16, 2001 Defendants O'Conner and Emig withdrew their challenges as to substantive due process, vagueness, overbreadth, and ex post facto allegations. However, Mr. Mumma is pursuing all issues.

¹ The motions filed by Defendants Mumma and Emig were timely. Pa.R.Crim.P. 720(B)(1)(a)(v). O'Conner's motion was filed 133 days after the original sentence and 12 days after his most recent re-sentencing. He requested consideration nunc pro tunc. We will include disposition of his motion in our decision.

The motions were set for argument on October 26, 2001. Notice was provided to the Attorney General who elected not to appear or intervene. Issues vi and vii, above, have not been briefed by any of the defendants and are deemed waived.

DISCUSSION

A. Jurisdiction

In its response to Defendants' motions the Commonwealth contends the Court does not have jurisdiction to address the issues raised. We agree and, for the reasons set forth below, expressly dismiss the motions on that basis alone.

The statutory provisions at issue were enacted as Act 63 of 2000 and to be included in Title 42 of the Pennsylvania Consolidated Statutes. The pertinent provisions provide:

§7001 Definitions

The following words and phrases used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

...

"Ignition interlock system." A system approved by the department that prevents a vehicle from being started or operated unless the operator first provides a breath sample indicating that the operator has an alcohol level of less than .025%.

§7002 Ignition interlock systems for driving under the influence

(b) Second or subsequent offense.- In addition to any other requirements imposed by the court, where a person has been convicted of a second or subsequent violation of 75 Pa.C.S. § 3731, the court shall order the installation of an approved ignition interlock device on each motor vehicle owned by the person to be effective upon the restoration of operating privileges by the department. A record shall be submitted to the department when the court has ordered the installation of an approved interlock ignition device. Before the department may restore such person's operating privilege, the department must receive a

certification from the court that the ignition interlock system has been installed.

§7003 Additional driver's license restoration requirements

In addition to any other requirements established for the restoration of a person's operating privileges under 75 Pa.C.S. §1548 (relating to requirements for driving under influence offenders):

(1) Where a person's operating privileges are suspended for a second or subsequent violation of 75 Pa.C.S. §3731 (relating to driving under influence of alcohol or controlled substance), or a similar out-of-state offense, and the person seeks a restoration of operating privileges, the court shall certify to the department that each motor vehicle owned by the person has been equipped with an approved ignition interlock system.

(2) A person seeking restoration of operating privileges shall apply to the department for an ignition interlock restricted license under 75 Pa.C.S. §1951(d) (relating to driver's license and learner's permit) which will be clearly marked to restrict the person to operating only motor vehicles equipped with an approved interlock ignition system.

(3) During the year immediately following restoration of the person's operating privilege and thereafter until the person obtains an unrestricted license, the person shall not operate any motor vehicle on a highway within this Commonwealth unless the motor vehicle is equipped with an approved ignition interlock system.

(4) One year from the date of issuance of an ignition interlock restricted license under this section, if otherwise eligible, a person may apply for an additional replacement license under 75 Pa.C.S. §1951(d) that does not contain the ignition interlock system restriction.

(5) A person whose operating privilege is suspended for a second or subsequent violation of 75 Pa.C.S. §3731 or a similar out-of-state offense who does not apply for

an ignition interlock restricted license shall not be eligible to apply for the restoration of operating privileges for an additional year after otherwise being eligible for restoration under paragraph (1).

(emphasis added).

The jurisdictional issue focuses on whether the mandate in §7002(b) requiring the court to order the installation of an ignition interlock system is a criminal or civil sanction. If it is a criminal sanction the constitutional challenges can be addressed at this time. If, however, that section does not impose a criminal sanction the court has no jurisdiction to decide those issues in the context of these cases.

The appellate courts have yet to decide the jurisdictional issue raised herein, however, applicable principles have been discussed by our Supreme Court in *Commonwealth v. Duffey*, 639 A.2d 1174 (Pa. 1994), cert. den. 513 U.S. 884, 115 S.Ct. 223, 130 L.Ed. 2d 149 (1994). There, *Duffey* was cited for underage drinking in violation of 18 Pa.C.S.A. §6308. That section, together with Section 6310.4, provides that upon conviction of this offense the court “shall order the operating privilege of the person suspended for a specified period.” *Duffey* entered a guilty plea before a district justice. Upon receipt of the notice of his driver’s suspension, *Duffey* filed a statutory appeal to the Court of Common Pleas and attempted to withdraw his guilty plea. The issue to be decided was whether the civil court had jurisdiction to entertain the motion. The trial court denied the motion as an impermissible collateral attack upon the underlying criminal conviction in a civil proceeding. The Supreme Court upheld the trial court’s decision.

The *Duffey* Court determined that the mere placement of a suspension provision in the Crimes Code by the Legislature does not render the suspension a criminal sanction. Likewise, placement of a penalty in a statute other than the Crimes Code does not make it a civil penalty. For example, fines are set forth in the Vehicle Code for driving under the influence but that does not make the fine a civil sanction. Suspension of operating privileges is not a sentencing option authorized under the Sentencing Code, 42 Pa.C.S.A. §9710-9781. It is important to ascertain the intent of the legislature.

Furthermore, *Duffey* made it clear that just because the Court ordered the suspension does not make it a criminal sanction. The Court stated:

A consequence is civil in nature where “imposition has been vested in an administrative agency over which the criminal judge had no control and for which he had no responsibility.”... Under this test, we find that the... suspension was a collateral civil consequence. We recognize that §6301.4 is different from other sections of the Vehicle Code in that it mandates that the judge order a license suspension and transmit this order to D.O.T. However, we find that the act of the judge is more ministerial in nature than one involving “control” or “responsibility.” Section 6130.4(2) (sic) mandates that the judge “shall” order the suspension of the operating privilege. Thus, the judge has no control over whether the sentence will be imposed. In addition, D.O.T. calculates the period of the suspension based upon any prior incidents and then imposes the sentence on the driver. The judge does no more than guarantee that D.O.T. receives timely notice of the conviction requiring license suspension as a collateral consequence. 639 A.2d at 1177 (citations omitted) (emphasis added).

Thus, *Duffey* held that the suspension of operating privileges pursuant to 18 Pa.C.S.A. § 6310.4 is a collateral civil consequence of the criminal conviction for underage drinking and is not part of the criminal sentence. The analysis set forth in *Duffey* leads to the conclusion that this Court does not have jurisdiction to address the constitutional issues in the criminal cases sub judice because that portion of the sentence being challenged is not part of the criminal sentence. Three factors support that conclusion.

First, the fact that the trial court in *Duffey* imposed a suspension as part of the sentence and here the Court has imposed a requirement to install an ignition interlock system before operating privileges can be restored, constitutes a distinction without a difference. Both sanctions effectively determine the length of a driver’s operating suspension. In *Duffey* the trial court’s order set the duration of the suspension pursuant to statutory limits determined by whether it was a first

or subsequent conviction. In D.U.I. cases the normal period of suspension is 12 months. 75 Pa.C.S.A. §1532(b)(3). We read the statutory scheme developed in Act 63 as essentially allowing a driver to obtain a restricted license at the end of that 12 month suspension if he/she satisfies the ignition interlock requirements, otherwise the suspension would continue for an additional year.

Second, whereas in *Duffey* the placement of the suspension sanction in the Crimes Code did not make it part of the criminal sentence, here the placement of the ignition interlock provision in Title 42 makes the contention that it is part of the criminal sentence even less compelling. Although the provisions of Act 63 were placed in Title 42, conspicuously they were not included in the Sentencing Code. 42 Pa.C.S.A. §9701, et seq.

Third, as *Duffey* emphasized, ordering a sanction does not make it a criminal consequence. Here ordering the ignition interlock is ministerial in nature. The court's only role under Act 63 is to include the requirement in its order, submit the record to D.O.T., and certify to D.O.T. that an ignition interlock device has been installed on every vehicle owned by the defendant. The court is given no "control" over whether the defendant's driving suspension is terminated in whole or in part. If the defendant chooses not to install the interlock device, the court cannot sanction him for that failure. Instead, Section 7003 provides that his license suspension would continue for another year. The court's authority would not be offended if a D.U.I. defendant, with multiple convictions, chose to have his privileges remain suspended. Finding that a defendant violated the criminal portion of the sentence for not installing the interlock device and subjecting him to possible revocation for that failure would encourage the habitual offender to return to the highways. Such a result would be absurd and not one we believe the Legislature intended.

Therefore, for the reasons stated we conclude that this Court does not have jurisdiction over the challenges raised and the motions for modification of sentence will be dismissed.

Although not precisely on point we believe our conclusion is also supported by *Commonwealth v. M.M.M.*, 779 A.2d 1158 (Pa.Super. 2001). There the trial court imposed a license suspension as part of an ARD sentence. After successful completion of the program the defendant requested the court to order her record expunged. D.O.T.

refused by arguing that the suspension was civil in nature and not part of a criminal record which could be expunged. The Superior Court disagreed with D.O.T. There the suspension was triggered by an order of the criminal courts and not as part of a statutory scheme giving D.O.T. control over suspension of operating privileges. D.O.T. was acting "at the behest of the criminal court" and "operated as an arm of the court" in implementing the suspension. 779 A.2d at 1162. In the matters sub judice the opposite relationship is at play.

There is another reason to defer these constitutional challenges to a later day in the context of a civil license appeal. The Court has no information whether and to what extent these defendants own vehicles, the extent to which they face suspension for other Vehicle Code violations, or when and whether they will seek restoration of their operating privileges. Therefore, it is premature to address their challenges to Act 63.

We could end our discussion at this point, however, it is expected that the defendants will appeal, and, in case the Superior Court disagrees with our conclusion, it would be prudent to discuss the other issues to some extent. Furthermore, it is expected that the same challenges will be placed before the court in the near future, in the civil context, after D.O.T. issues the suspension notices to these and other persons similarly situated in Adams County.

Continued to next issue (8/2/2002)

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-8 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate in the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point located on the East side of South Main Street at the Northwest corner of land of Eugene L. Lupp; thence along said East side of South Main Street North 30 degrees 15 minutes West 82.5 feet, more or less, to a point located on the South side of a 10 foot public alley; thence along said South side of a 10 foot public alley North 59 degrees 45 minutes East 132 feet, more or less, to a point located on the West side of a 20 foot public alley; thence along said West side of a 20 foot public alley South 30 degrees 15 minutes East of 82.5 feet, more or less to a point located at the Northeast corner of land of Eugene L. Lupp; thence by said land of Eugene L. Lupp South 59 degrees 45 minutes West 132 feet, more or less, to a point located on the East side of South Main Street, the place of BEGINNING.

The description herein is taken from records found in the Adams County Mapping Office, Bendersville, Map No. 4, Parcel No. 56.

BEING the same premises which Edward C. Wallen and Darlene K. Wallen, by deed dated 12/28/90 and recorded 1/03/91 in the Recorder's Office in and for Adams, Pennsylvania in Deed Book Volume 0576 Page 1057, granted and conveyed unto Jeffrey L. Stoops, the mortgagor herein.

Parcel ID Number: 3-004-0056

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

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

7/19, 26 & 8/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-178 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 September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate in the Borough of East Berlin, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point where the northern boundary line of King Street is intersected by the eastern boundary line of Sixth Street; thence along Sixth Street, North 28 3/4 degrees East, 223.9 feet to a 20 feet alley; thence by said alley, South 64 degrees East, 39.75 feet to a lot formerly of Caroline Wignad; thence by said lot formerly of Caroline Wignad, South 13 degrees West, 232.7 feet to King Street; thence along King Street, North 61 1/4 degrees West, 104 feet to a point, the place of BEGINNING.

IT BEING the same premises which Beatrice W. Lauer, by her Attorney in Fact, Raymond W. Lauer, by deed dated June 19, 1998, and about to be recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, granted and conveyed unto Paul R. Edmiston and Ann E. Edmiston, husband and wife, who are the Mortgagors herein.

Premises being: 551 West King Street, East Berlin, PA 17316

Tax Parcel No. 10-003-0005-000

SEIZED and taken into execution as the property of **Paul R. Edmiston & Ann E. Edmiston** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 7, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/26, 8/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-477 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 September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land situate on the easterly right of way line of Kinneman Road in the Borough of Abbottstown, County of Adams, and State of Pennsylvania known and numbered as Lot No. 33, on a plan for Abbotts Manor recorded in the Office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plan Book 69, page 95, more fully bounded and described as follows, to wit:

BEGINNING at a point on the easterly right of way line of the said Kinneman Road, at a corner of Lot No. 32 on said plan; thence extending along the said Lot No. 32 South 88 degrees 36 minutes 40 seconds East 110 feet to a point; thence South 1 degree 23 minutes 20 seconds West 85 feet to a point, at a corner of Lot No. 34; thence extending along the said Lot No. 34 South 88 degrees 36 minutes 40 seconds West 120 feet to a point on the easterly right of way line of Kinneman Road; thence extending along the said right of way line of Kinneman Road North 1 degree 23 minutes 20 seconds East 85 feet to the point and place of BEGINNING.

CONTAINING 10,200 Sq. Ft.

Premises being: 68 Kinneman Road, Abbottstown, PA 17301

Tax Parcel No. #5-33

SEIZED and taken into execution as the property of **Christopher A. Bless & Kimberlyn M. Bless** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 7, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/26, 8/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-437 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Cumberland Township, Adams County, Pennsylvania, further bounded and limited as follows, to wit:

BEGINNING at a leitz spike in the center line of Table Rock Road L.R. #01006 at corner of Lot "B" on the hereinafter referred to Preliminary & Final Plan; thence by Lot "B" South 78 degrees 59 minutes 15 seconds East, 217.71 feet to a steel rod at Lot "A" on the hereinafter referred to Preliminary & Final Plan; thence by Lot "A" South 11 degrees 14 minutes 40 seconds West, 116.14 feet to a steel rod at land now or formerly of Paul D'Agostino; thence by same North 78 degrees 45 minutes 22 seconds West, 38.26 feet to a steel rod at land now or formerly of Ellanora E. McKinney; thence by same North 11 degrees 14 minutes 40 seconds East, 6.12 feet to a steel rod at corner of Lot "D" on the hereinafter referred to Preliminary & Final Plan; thence by Lot "D" North 11 degrees 14 minutes 40 seconds East, 15.00 feet to a steel rod at corner of Lot "D" (erroneously stated in prior deed as Lot "C"); thence running along Lot "D" aforesaid North 79 degrees 07 minutes 11 seconds West, 178.85 feet to a leitz spike in the center line of Table Rock Road L.R. #01006; thence in said center line North 10 degrees 52 minutes 50 seconds East, 95.28 feet to a leitz spike in the center line of Table Rock Road L.R. #01006 at corner of Lot "B", the place of BEGINNING. CONTAINING 21,470 Square Feet and being known as Lot "C" on the hereinafter referred to Preliminary & Final Plan.

The above description was taken from a Preliminary & Final Plan, Ralph L. Bowling "Oakland Estates", as prepared by Adams County Surveyors, dated April 6, 1983, and revised May 3, 1983, and December 27, 1983, being Drawing No. E-377 and recorded in the Office of the Recorder of Deeds of Adams County in Plat Book 40 at page 13.

The above tract of land being the same which James M. Fair and Susan A. Fair, his wife, and Kathy M. Gill and Dewey L. Gill, Jr., her husband, by deed dated October 2, 1998, and recorded on October 5, 1998 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 1673 at page 282, granted and conveyed

unto James M. Fair and Susan A. Fair, husband and wife, the mortgagors herein named.

Property ID# F12-205

SEIZED and taken into execution as the property of **James M. Fair & Susan A. Fair** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/19, 26 & 8/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-338 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate in the Village of Orrtanna, Hamiltonban Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a steel rod located in the right-of-way of Carrolls Tract Road (Township Route T-314) and at the Southwestern side of a 12 foot unused unimproved alley; thence along said Southwest side of said alley, South 52 degrees 15 minutes 00 seconds East, 135.00 feet to an existing steel rod located at corner of land of Paul Metz; thence by said land of Metz, South 37 degrees 45 minutes 00 seconds West 120.00 feet to an existing steel rod located along the Northeastern side of the right-of-way of Third Street (private); thence along said right-of-way of said Third Street, North 52 degrees 15 minutes 00 seconds West, 135.00 feet to a magnetic spike located 8 feet East of the center line of the aforementioned Carrolls Tract Road; thence in Carrolls Tract Road, North 37 degrees 45 minutes 00 seconds East, 120.00 feet to a steel rod located in the right-of-way of Carrolls Tract Road and at the Southwestern side of a 12 foot

unused unimproved alley, the place of BEGINNING. CONTAINING 16,200 square feet (0.372).

The above description is taken from a boundary survey prepared for Orrtanna United Methodist Church by Adams County Surveyors dated March 27, 1997, Drawing B-928.

Being known and designated as Map C-12; Parcel 98

BEING the same premises which Orrtanna United Methodist Church, a/k/a Orrtanna Methodist Church, by Deed dated April 7, 1997 and recorded in the Office of the Recorder of Deeds of Adams County on April 10, 1997, in Deed Book 1353, Page 161, granted and conveyed unto Clifford E. Strausbaugh and Amanda L. Strausbaugh.

Grenen & Birsic, P.C.
By: /s/Kristine M. Faust, Esq.
Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

Parcel No.: (18) C12-98

SEIZED and taken into execution as the property of **Clifford E. Strausbaugh & Amanda L. Strausbaugh** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/19, 26 & 8/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-877 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land with improvements situate thereon located in the Borough of New Oxford, Adams County, Commonwealth of Pennsylvania identified as Tract No. 1 pursuant to a final plan for Robinson's Home, Inc. by Worley Surveying, said Plan being dated March 12, 1993 and bearing File No. C-1285 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plan Book 576, Page 607 and as more particularly described as follows to wit:

BEGINNING at a point at the right-of-way lines located at the Northwest corner of Lincoln Way West (S. R. 0030) and North Bolton Street and thence extending from said point along Lincoln Way West (S. R. 0030), South Seventy-One degrees, Fifty minutes, Forty-Seven seconds West (S 71 degrees 50' 47" W) Eighty-Eight and Fifty-Eight One Hundredths (88.58') feet to a point at lands now or formerly of Joseph N. Masslowsky; thence extending along said lands of Joseph N. Masslowsky, North Eighteen degrees, Thirty-one minutes, Three seconds West (N 18 degrees 31' 03" W) One Hundred Eighty and Seventy One-Hundredths (180.70') feet to a point at Tract No. 2 of said plan; thence extending along said Tract No. 2, North Seventy-One degrees, Zero minutes, Zero seconds East (71 degrees 00' 00" E) a distance of Ninety and Seven One-Hundredths (90.07') feet to a point at the right-of-way line at North Bolton Street; thence extending along said right-of-way line at North Bolton Street, South Eighteen degrees, Two minutes, Fifty-Four seconds East (S 18 degrees 02' 54" E) a distance of One Hundred Eighty-Two and Three One-Hundredths (182.03') feet to a point and place of BEGINNING. CONTAINING 16,199 Square feet, more or less.

Tax Parcel # 34-004-0019

SEIZED and taken into execution as the property of **Joseph B. Robinson & Grace M. Robinson** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless

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

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

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

7/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-521 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a roofing nail found in the centerline of Hilltown Road (T-355) at the Southeastern corner of land now or formerly of Robert A. and Rosa C. Lentz; thence running through a 3/4 inch pipe and planted stone set back 20 feet from the start of this course and by land now or formerly of Lentz, North 17 degrees 00 minutes 30 seconds East, 152.7 feet to a 3/4 inch pipe and stones found at the top of the road bank; thence by the same, North 17 degrees 00 minutes 30 seconds East and crossing U.S. Route 30, 80.8 feet to a point at or near the northern edge of concrete of U.S. Route 30 and at the Southwestern corner of land now or formerly of Kenneth H. Kane and wife; thence running along or near the Northern edge of the concrete of U.S. Route 30 and by land now or formerly of Kenneth H. Kane and wife, South 64 degrees 07 minutes 25 seconds East, 313.81 feet to a point at or near the Northern edge of the concrete of U.S. Route 30 and at the Northwestern corner of Lot 1 on the plan of lots hereinbelow described; thence crossing U.S. Route 30 and by Lot 1 on the plan described, South 32 degrees 47 minutes 05 seconds West, 69.59 feet to a 5/8 inch rebar set; thence by the same, South 32 degrees 47 minutes 05 seconds West and through a 5/8 rebar set 25.00 feet from the end of this course, 115.00 feet to a railroad spike set North of the centerline of Hilltown Road (T-355); thence in Hilltown Road, North 57 degrees 12 minutes 55 seconds West, 35.00 feet to a roofing nail found 4 feet North of the centerline of said road; thence running in Hilltown Road, North 76 degrees 22

minutes 05 seconds West, 219.77 feet to a roofing nail found in the centerline of said road, the point and place of BEGINNING. CONTAINING 1.457 Acres.

The description is taken from a draft of survey of Robert A. Sharrah, R.S., dated November 21, 1987. It is Lot No. 2 on the plan recorded in Adams County Plat Book 49 at Page 3.

SEIZED and taken into execution as the property of **Joseph D. Miller & Dorris P. Miller** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/12, 19 & 26

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on May 29, 2002, the Petition of Regina Helen Dutterer was filed in the Court of Common Pleas of Adams County, Pennsylvania, praying for a decree to change her name to Virginia Helen Dutterer.

The Court has fixed the 21st day of August, 2002, at 9:00 a.m. in the Adams County Court House, Gettysburg, Pennsylvania, as the time and place for the hearing of said Petition, when and where all persons interested may appear and show cause, if any they have, why the prayer in the said Petition should not be granted.

Barley, Snyder, Sentf & Cohen

7/26, 8/2 & 9

CHANGE OF NAME NOTICE

Whitney Michelle Garlach filed a petition on July 10, 2002 in Adams County to legally change her name to Whitney Michelle Ford. Notice is hereby given that a hearing on this matter will be held on August 21, 2002, at 9:00 a.m.

7/26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-834 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

Lot 135: BEGINNING at a pin set at the only common corner of Lots 135, 136 and the western edge of a sixty (60) foot right-of-way known as Comanche Trail on the subdivision plan described below; thence along the northern edge of Lot 136, South seventy-four (74) degrees two (02) minutes twenty-five (25) seconds West, one hundred eleven and five hundredths (111.05) feet to a pin set at the corner of Lot 140 of said plan; thence along the eastern edge of Lots 140 and 141, North eight (08) degrees five (05) minutes nine (09) seconds West, one hundred eighty-eight and fifty-seven hundredths (188.57) feet to a point at the corner of Lot 134 of said plan; thence along the southwestern edge of Lot 134, South sixty-seven (67) degrees twelve (12) minutes fifty-seven (57) seconds East, one hundred fifty-seven and eighty-six hundredths (157.86) feet to a point at the western edge of Comanche Trail; thence along the western edge of a sixty (60) foot right-of-way known as Comanche Trail by a curve to the left, the long chord of which is South seven (07) degrees twenty (20) minutes fifty-seven (57) seconds West, ninety-five and eighty-one hundredths (95.81) feet, with a radius of one hundred eighty and zero hundredths (180.00) feet to an arc distance of ninety-six and ninety-eight hundredths (96.98) feet to a pin set at the corner of Lot 136 of said plan, the point and place of BEGINNING. CONTAINING 17,244.9227 square feet.

The above description was taken from a plan of lots entitled "Final Plan, Phase Three - Indian Ridge", prepared by Worley Surveying dated February 21, 1995, File No. C-1350, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 66, page 66, and designated thereon as Lot No. 135.

BEING the same tract of land which Bon Ton Builders, Inc. by its Deed dated October 13, 1995, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 1096, page 185, granted and conveyed unto Ricky A. Brady and Shari L. Brady, husband and wife, MORTGAGORS HEREIN.

SEIZED and taken into execution as the property of **Ricky A. Brady & Shari L. Brady** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-434 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a railroad spike found 3 feet North of the centerline of Hilltown Road (T-355) at corner of Lot No. 6B on the hereinafter described subdivision plan; thence North 67 degrees 00 minutes 10 seconds West 35.00 feet to a railroad spike set 3 feet North of the centerline of Hilltown Road (T-355) at corner of Lot No. 6A; thence by said lot and passing through a 5/8" rebar set 25.00 feet from the beginning of this course, North 22 degrees 59 minutes 50 seconds East, 372.83 feet to a 5/8" rebar set; thence by said lot North 67 degrees 00 minutes 10 seconds West 115.00 feet to a 5/8" rebar set on line of lands now or formerly of SPECO; thence by lands now or formerly of SPECO, North 22 degrees 59 minutes 50 seconds East, 77.17 feet to a 5/8" rebar found at corner of lands now or formerly of SPECO; thence by same, North 67 degrees 00 minutes 10 seconds West 115.00 feet to a 5/8" rebar found at corner of lands now or formerly of SPECO; thence by same, North 22 degrees 59 minutes 50 seconds East, 230.00 feet to a 5/8" rebar found; thence by same, South 67 degrees 00 minutes 10 seconds East, 380.00 feet to a 5/8" rebar found; thence by same, South 22

degrees 59 minutes 50 seconds West, 307.17 feet to a 5/8" rebar set at corner of Lot No. 6B; thence by same, North 67 degrees 00 minutes 10 seconds West, 115.00 feet to a 5/8" rebar set at corner of Lot No. 6B; thence by same and passing through a 5/8" rebar set 25.00 feet from the end of this course, South 22 degrees 59 minutes 50 seconds West, 372.83 feet to a railroad spike set 3 feet North of the centerline of Hilltown Road (T-355), the point and place of BEGINNING.

BEING known as 1355 Hilltown Road, Biglerville, PA 17307

PROPERTY ID: D10-2

TITLE TO SAID PREMISES IS VESTED IN Pamela J. Howery by deed from Richard A. Hutchinson dated 3/15/1996, recorded 3/15/1996, in Deed Book 1159, Page 207.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 30, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/12, 19 & 26

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF HUGH L. ALEXANDER, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executrices: Virginia M. Link, 3318 Chapman Road, Randallstown, MD 21133; Lorraine V. Lee, 23 Crescent Lane, Littlestown, PA 17340

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

ESTATE OF JON R. ANDERSON, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Eric R. Anderson, 21788 Willesden Jct. Ter., Sterling, VA 20166

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

ESTATE OF ROBERT A. BIDDINGER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Amy M. Drumm, 11228 Harney Road, Emmitsburg, MD 21727

Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325; John N. Burdette, Esq., 22 West Second Street, Frederick, MD 21701

ESTATE OF LILLIAN M. BURGOON, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania

Executrix: Helen B. McDannell, 740 North Duke Street, Apartment 6-G, Lancaster, PA 17602

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

ESTATE OF RUTH M. FLICKINGER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Shirley Shafer, Richard Flickinger, Joyce Vinson, Roger Flickinger, c/o Shirley Shafer, 1220 Good Intent Road, Gettysburg, PA 17325

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

ESTATE OF MILDRED R. SPANGLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executrices: Rebecca E. Schrom & Nancy E. Reeve, 66 Kevin Drive, York, PA 17404

Attorney: Claudia L. DeArment, Esq.

ESTATE OF ROSANNA E. WRIGHT, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania

Co-Executors: James F. Wright, 12546 Timber Hollow Place, Germantown, MD 20874; Nancy Elizabeth Lerch, 944 North 27th Street, Allentown, PA 18104

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

SECOND PUBLICATION

ESTATE OF JOHN F. EBERSOLE, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrator c.t.a.: Elizabeth E. Ebersole, 4221 Nantucket Drive, Mechanicsburg, PA 17050

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

ESTATE OF NADINE M. LONG, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Earl J. Long, 116 Beck Mill Road, Hanover, PA 17331

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

ESTATE OF ELAINE H. MCTIGHE, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Carolyn L. Carter, 165 Hanover St., Gettysburg, PA 17325

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

ESTATE OF ETHEL E. PATTERSON, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executrix: Shirley Ann Staley, 2741 Taneytown Road, Gettysburg, PA 17325

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

ESTATE OF JOHN M. ROWLAND, JR., DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Sue A. Short, 6506 Morningside Ct., Middletown, MD 21769

Attorney: Tracy M. Sheffer, Esq., Battersby & Sheffer, P.O. Box 215, Fairfield, PA 17320

THIRD PUBLICATION

ESTATE OF ESTHER P. SCHAAF, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Robert G. Teeter, 108 West Middle Street, Gettysburg, PA 17325; A. Lyman SchAAF, 2747 Meadow Drive, Royal Oak, MI 48073

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

ESTATE OF DONALD E. SHULTZ, SR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Administrators: Anna M. Light, 708 East Berlin Road, York Springs, PA 17372; L. Wayne Shultz, 389 Green Ridge Road, Orrtanna, PA 17353

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

ESTATE OF ANNA J. WAGNER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrices: Carolyn W. Sponseller, 105 Hillside Road, Hanover, PA 17331; Rebecca W. Straub, 8229 Bellona Avenue, Towson, MD 21204

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

ESTATE OF ROBERT A. WILLS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Debra Orndorff-Wills, 4820 Old Harrisburg Road #131, Gettysburg, PA 17325

Attorney: S. Berne Smith, Esq., 107 N. 24th Street, Camp Hill, PA 17011-3602

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-330 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 September, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described tract of land situate, lying and being in Benwick Township, Adams County, Pennsylvania, further bounded and limited as follows, to-wit:

BEGINNING for a corner at an existing steel pin on the southerly edge of Applewood Drive at previously approved Lot No. 3 as shown on the hereinafter referred to Subdivision Plan; thence along said previously approved Lot No. 3, the following two (2) courses and distances: 1) South eleven (11) degrees fifty-eight (58) minutes seven (07) seconds West three hundred twenty-six and twenty-three hundredths (326.23) feet to an existing steel pin; 2) South seventy-two (72) degrees seven (07) minutes three (03) seconds West three hundred eighty-six and twenty-seven hundredths (386.27) feet to an existing steel pin at lands now or formerly of Charles R. Chubb as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Charles R. Chubb, South eighty-five (85) degrees five (05) minutes twenty (20) seconds West two hundred fifty-five and eighty hundredths (255.80) feet to a steel pin (set) at lands now or formerly of Warren T. Becker as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Warren T. Becker, North thirty-two (32) degrees fifty-one (51) minutes thirty (30) seconds West, one thousand four hundred twenty-six and thirty-seven hundredths (1,426.37) feet to an existing stone at lands now or formerly of Raymond G. Burkett and Martha E. Fisher as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Raymond G. Burkett and Martha E. Fisher and also along lands now or formerly of Paul C. Sipe, Jr. as shown on the hereinafter referred to Subdivision Plan, North twenty-six (26) degrees no (00) minutes no (00) seconds East eight hundred forty-five and twenty-eight hundredths (845.28) feet to a steel pin (set) at lands now or formerly of Donald J. Sneeringer as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Donald J. Sneeringer and also along lands now or formerly of Paul C. Sipe, Jr. as shown on the hereinafter referred to Subdivision Plan, North eighty-eight (88) degrees fifty-two (52) minutes ten (10) seconds East seven hundred thirty-five and ninety

hundredths (735.90) feet to an existing steel pin at lands now or formerly of Elmer H. Miller, Jr. as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Elmer H. Miller, Jr., South thirteen (13) degrees forty-eight (48) minutes thirty (30) seconds East three hundred eighteen and forty-two hundredths (318.42) feet to a point at lands now or formerly of Mitchell O. Diviney as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Mitchell O. Diviney, South thirteen (13) degrees twenty-one (21) minutes ten (10) seconds East two hundred sixty-six and forty-one hundredths (266.41) feet to a steel pin (set) at lands now or formerly of John C. Leese as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of John C. Leese, South seventy-eight (78) degrees fifty-nine (59) minutes twenty-two (22) seconds West one hundred fifty-eight and thirty-seven hundredths (158.37) feet to an existing steel pin at previously approved Lot No. 5 on the hereinafter referred to Subdivision Plan; thence along said previously approved Lot No. 5, the following two (2) courses and distances: 1) South forty-nine (49) degrees fifty-nine (59) minutes twenty-four (24) seconds West one hundred eighty-eight and twenty-five hundredths (188.25) feet to an existing steel pin; 2) South forty (40) degrees no (00) minutes thirty-six (36) seconds East, seven hundred twenty-seven and thirty-five hundredths (727.35) feet to an existing steel pin at lands now or formerly of Robert E. Lawyer as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Robert E. Lawyer, the following three (3) courses and distances: 1) South eleven (11) degrees fifty-eight (58) minutes seven (07) seconds West one hundred seventy and two hundredths (170.02) feet to an existing steel pin; 2) South seventy-eight (78) degrees one (01) minute fifty-three (53) seconds East four hundred forty-two and sixty-three hundredths (442.63) feet to a point; 3) by a curve to the right having a radius of two hundred eighty (280.00) feet, the long chord of which is South sixty-six (66) degrees forty-nine (49) minutes one (01) second East one hundred eight and ninety-one hundredths (108.91) feet for an arc distance of one hundred nine and sixty-one hundredths (109.61) feet to a point on the northerly edge of Applewood Drive aforesaid, where it intersects with Township Road (T-706) as shown on the hereinafter referred to Subdivision Plan; thence in and along Township Road (T-706), South twenty-eight (28) degrees fifty-three (53) minutes fifty-three (53) seconds East one hundred sixty-two and forty-one hundredths (162.41) feet to a point in the centerline of SR-0194

(Abbottstown Pike) as shown on the hereinafter referred to Subdivision Plan; thence crossing said SR-0194 (Abbottstown Pike) North seventy-eight (78) degrees six (06) minutes twelve (12) seconds West twenty-seven and fifty-nine hundredths (27.59) feet to a point on the aforesaid southerly edge of Applewood Drive; thence in and along the southerly edge of Applewood Drive, the following three (3) courses and distances: 1) by a curve to the left having a radius of two hundred thirty (230.00) feet, the long chord of which is North thirty-two (32) degrees twelve (12) minutes one (01) second West sixty-three and forty-seven hundredths (63.47) feet for an arc distance of sixty-three and sixty-seven hundredths (63.67) feet to an existing steel pin; 2) by a curve to the left having a radius of two hundred thirty (230.00) feet, the long chord of which is North fifty-nine (59) degrees forty (40) minutes fifty-two (52) seconds West one hundred forty-nine and thirty-eight hundredths (149.38) feet for an arc distance of one hundred fifty-two and fourteen hundredths (152.14) feet to a point; 3) North seventy-eight (78) degrees one (01) minute fifty-three (53) seconds West three hundred forty-two and sixty-three hundredths (342.63) feet to the point and place of BEGINNING. CONTAINING 42.276 acres.

The above description was taken from a Survey prepared by Mort, Brown and Assoc. for TRIPL0, INC., dated April 3, 1989, bearing File No. E-496.

IT BEING the same tract of land which Donald R. Lawyer, unmarried, and John F. Lingg and Lindy L. Lingg, husband and wife, by deed dated May 7, 1990, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 577, page 89, granted and conveyed unto Joseph A. Lawrence and Wanda J. Lawrence.

SEIZED and taken into execution as the property of **Joseph A. Lawrence & Wanda J. Lawrence** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 7, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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