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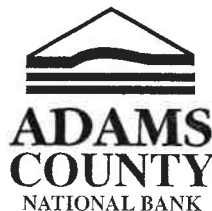
October 1, 2004

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MCGLAUGHLIN VS. GETTYSBURG HOSPITAL ET AL

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-348 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE TWO lots of ground situated in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

LOT #1:

BEGINNING at a joint in the concrete on the inside line of the sidewalk on the South side of Chambersburg Street at lands now or formerly of Harry M. Sneeringer; thence by the inside line of the sidewalk, South 85 degrees East, 28.65 feet to a point at lands now or formerly of Kenneth P. Hull, said point also being at corner of brick house on adjoining property; thence by said lands, South 04 degrees, 10 minutes West, 155 feet to a point at brick building on Lot #2 hereof; thence by Lot #2, North 85 degrees West, 12.3 feet to a point; thence by Lot #2, South 05 degrees West, 25 feet to a point on the North side of a 12-foot alley; thence along the North side of said alley, North 85 degrees West, 18.9 feet to a point at land now or formerly of Harry M. Sneeringer aforesaid; thence by lands, North 05 degrees East, 180 feet to a joint in the concrete, the place of BEGINNING.

LOT #2:

BEGINNING at a point at land now or formerly of Kenneth P. Hull and Lot #1 hereof, thence by land now or formerly of Kenneth P. Hull, South 04 degrees, 10 minutes West, 25 feet to a joint on the North side of a 12-foot alley; thence along the North side of said alley, North 85 degrees West, 12.35 feet to a point at Lot #1 hereof; thence by Lot #1, North 05 degrees East, 25 feet to a point; thence by Lot #1, South 85 degrees East, 12.3 feet to a point, the place of BEGINNING.

THE SAID TWO lots of ground being the same lots which were surveyed by LeRoy E. Whitebrenner, C.S. on September 22, 1958, as the property of Maude K. Averbuch.

Tax Parcel # 7-263

TITLE TO SAID PREMISES IS VESTED IN Lance P. Greenawalt by Deed from Simone Mitchell, widow by the Adams County National Bank, her attorney-in-fact dated 3/4/2002 and recorded 3/5/2002 in Record Book 2581, page 171.

SEIZED and taken into execution as the property of **Lance P. Greenawalt** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/1, 8 & 15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-638 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner at a post of lands now or formerly of Mrs. Amanda Sterner and Jefferson Avenue; thence with said Jefferson Avenue South 17 degrees 15 minutes West 60 feet to stake at other lands now or formerly of Mary C. Diller, et vir; thence with said

land North 70 degrees 55 minutes West 130 feet to a stake at other lands now or formerly of said Mary C. Diller, et vir; thence with said lands North 17 degrees 15 minutes East 60 feet to a stake at lands now or formerly of Mrs. Amanda Sterner, aforesaid; thence with said lands South 70 degrees 55 minutes East 130 feet to a post at Jefferson Avenue, aforementioned, and the place of BEGINNING.

BEING the same premises which James P. Fowler and Joyce A. Fowler, by Deed dated January 19, 1999 and recorded in Adams County on February 3, 1999 at Deed Book Volume 1758, Page 10, granted and conveyed to James P. Fowler and Joyce A. Fowler.

Kimberly J. Hong, Esq.

Attorney for Plaintiff

2718 Koppers Building

436 Seventh Avenue

Pittsburgh, Pennsylvania 15219

Parcel No: (08)-9-38

SEIZED and taken into execution as the property of **James P. Fowler & Joyce A. Fowler** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/1, 8 & 15

McGLAUGHLIN VS. GETTYSBURG HOSPITAL ET AL

1. One who challenges the constitutionality of an act of the legislature must overcome “the strong presumption of constitutionality and the heavy burden of persuasion. Accordingly, legislation must “*clearly, palpably, and plainly*” violate the Constitution before it will be declared unconstitutional.

2. The Pennsylvania Supreme Court possesses exclusive authority over procedural rule-making.

3. On the other hand, Pennsylvania has a “long-standing practice of establishing rules of evidence ...by legislative action.”

4. MCARE is a comprehensive effort by the General Assembly to allow for fair compensation to those injured as a result of medical negligence, while attempting to maintain medical professional liability insurance at an affordable and reasonable cost.

5. The section of MCARE at issue (40 P.S. §1303.512) addresses the competency of an expert to offer an expert medical opinion in a medical professional liability action.

6. One need look no further than the Pennsylvania Rules of Evidence, Pa.R.Evid. §101 et seq., to conclude that this section of MCARE is a rule of evidence.

7. The legislature’s enactment of MCARE Section 512, 40 P.S. §1303.512, is not an unconstitutional infringement upon the rule-making authority of the Pennsylvania Supreme Court.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 99-S-675, MICHAEL S. McGLAUGHLIN AND TAMMY J. McGLAUGHLIN VS. THE GETTYSBURG HOSPITAL, RUKHSANA K. RAHMAN, M.D., GREGORY J. CODORI, D.O., AND JOHN DUFENDACH, M.D.

Darryl Cunningham, Esq., for Plaintiffs

Robert McDermott, Esq., and B. Craig Black, Esq., for Defendants.

George, J., October 6, 2003

OPINION

The Plaintiffs in this matter, Michael S. McGlaughlin and Tammy J. McGlaughlin (hereinafter referred to collectively as “McGlaughlin”), asked this Court to reconsider the September 5, 2003 Order in which summary judgment was granted in favor of Defendants, Dr. Gregory J. Codori and Dr. John Dufendach. In the alternative, McGlaughlin has requested this Court amend the September 5, 2003 Order to include a statement pursuant to 42 Pa.C.S.A. § 702(b) allowing McGlaughlin to appeal the interlocutory

order.¹ Although the factual history of this matter is set forth at length in the Opinion accompanying the September 5, 2003 Order, a brief review of the procedural history will assist in disposition of McGlaughlin's requests.

On October 7, 1999 McGlaughlin initiated a medical malpractice action against Gettysburg Hospital and a number of physicians, including Dr. Codori and Dr. Dufendach.² Thereafter, the parties participated in discovery and trial preparation through December 3, 2002 at which time this Court held a pre-trial conference.³ Following the pre-trial conference, and upon agreement of counsel, trial was scheduled for a term beginning September 8, 2003. In compliance with a scheduling Order this Court entered, the Defendants filed a Motion in Limine to preclude the expert testimony of McGlaughlin's two prospective medical experts, Dr. Thomas Howard and Dr. Peter G. Bernad. In their motion, Defendants Dufendach and Codori successfully argued that these two prospective expert witnesses were incompetent to render expert opinions on the applicable standards of care pursuant to the requirements set forth in the Medical Care Availability and Reduction of Error Act (hereinafter referred to as "MCARE") which was recently enacted on March 20, 2002. On September 5, 2003 this Court entered an Order granting Defendants Codori and Dufendach's motion to preclude the testimony of McGlaughlin's prospective experts on the applicable standards of care. Additionally, since the preclusion of these experts left

¹ 42 Pa.C.S.A. § 702(b) provides:

Interlocutory appeals by permission.—When a Court or other government unit, in making an interlocutory order in a matter in which its final order would be within the jurisdiction of an appellate court, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the matter, it shall so state in such order. The appellate court may thereupon, in its discretion, permit an appeal to be taken from such interlocutory order.

² The action against Gettysburg Hospital was based upon a theory of vicarious liability.

³ In early February of 2002, the insurance carrier for the several Defendants, PHICO Insurance Company, filed bankruptcy proceedings. This Court, on February 15, 2002 entered a stay pursuant to an Order of the Pennsylvania Commonwealth Court docketed at 427 M.D. 2001. This Court lifted the stay on October 23, 2002, as a result of pleadings the Defendants filed.

McGlaughlin with the inability to establish the elements of medical malpractice action against Dr. Codori and Dr. Dufendach, summary judgment was granted in their favor.⁴

In the Motion to Reconsider, McGlaughlin does not challenge this Court's interpretation of MCARE provisions or its applicability to the proffered expert testimony but rather, for the first time, argues that the legislature's enactment of MCARE is unconstitutional in light of Article V, Section 10 of the Pennsylvania Constitution.⁵ For

⁴ Similar omnibus pre-trial motions were filed on behalf of Defendant Dr. Rukhsana K. Rahman which were granted in part and denied in part. The claim against Dr. Rahman, however, was not dismissed pursuant to summary judgment. In the September 5, 2003 Order, this Court reserved ruling until the time of trial on whether Dr. Bernad may express an expert opinion in regard to the standard of care applicable to Dr. Rahman's actions. Rather than proceed to trial as scheduled against the remaining Defendant doctor, McGlaughlin requested a continuance in order to allow an opportunity for the filing of a motion to reconsider and a request to have this matter certified for appeal. As a result, trial of McGlaughlin's remaining claim against Dr. Rahman and Gettysburg Hospital was continued at the call of either party.

⁵ Article 5, Section 10 of the Pennsylvania Constitution provides:

Section 10. **Judicial administration.**

- (a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts and justices of the peace, including authority to temporarily assign judges and justices of the peace from one court or district to another as it deems appropriate.

* * * *

- (b) **The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts**, justices of the peace and all officers serving process or enforcing orders, judgments or decrees of any court or justice of the peace, including the power to provide for assignment and reassignment of classes of actions or classes of appeals among the several courts as the needs of justice shall require, and for admission to the bar and to practice law, and the administration of all courts and supervision of all officers of the judicial branch, if such rules are consistent with this Constitution and neither abridge, enlarge nor modify the substantive rights of any litigant, nor affect the right of the General Assembly to determine the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. **All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions.**

Pa. Const. Art. V, § 10 (emphasis added).

the reasons set forth below, McGlaughlin's constitutional challenge of MCARE is denied.⁶

In considering McGlaughlin's constitutional challenge, I am mindful of appellate instruction that one who challenges the constitutionality of an act of the legislature must overcome "the strong presumption of constitutionality and the heavy burden of persuasion". *Commonwealth v. Mikulan*, 470 A.2d 1339, 1340 (Pa. 1983). Accordingly, legislation must "'clearly, palpably, and plainly'" violate the Constitution before it will be declared unconstitutional. *Snider v. Thornburgh*, 436 A.2d 593, 596 (Pa. 1981) (quoting *Tosto v. Pennsylvania Nursing Home Loan Agency*, 331 A.2d 198, 205 (Pa. 1975) (emphasis in original)).

⁶McGlaughlin's Motion to Reconsider triggers consideration of issues related to waiver and procedural compliance with Pa.R.C.P. 235 (relating to notice to Attorney General when a party challenges the constitutionality of a statute). Indeed, McGlaughlin's constitutional challenge to MCARE was pled for the first time in the Motion to Reconsider despite extensive briefing and argument on the several Defendants' Motions in Limine prior to the September 5, 2003 Order. Similarly, as of the date of McGlaughlin's Motion to Reconsider, the Pennsylvania Attorney General's Office had not been provided notice of the challenge. It appears that on September 26, 2003 McGlaughlin, for the first time, provided notice of the challenge to the Attorney General.

Although McGlaughlin's belated assertion of this issue is not favored and presents the potential for waste of judicial resources, appellate authority advises that "there is no requirement that grounds for a petition for reconsideration be raised during the trial or during the pre-trial period. *Moore v. Moore*, 634 A.2d 163, 167 n. 1 (Pa. 1993) (citing *Commonwealth of Pennsylvania, Pennsylvania Liquor Control Bd. v. Willow Grove Veterans Home Ass'n.*, 509 A.2d 958 (Pa.Cmwlt. 1986); *Pedersen v. South Williamsport Area Sch. Dist.*, 471 A.2d 180 (Pa.Cmwlt. 1984)). While a strict waiver rule enunciated by our appellate courts would aid the efficient administration of justice, an exhaustive search for authority in this area has failed to reveal any such clear directive. Accordingly, in the exercise of discretion, the issue will be considered despite the procedural posture within which it was raised.

The manner in which McGlaughlin raised the constitutional challenge most likely precipitated his non-compliance with Pa.R.C.P. 235. Although that rule requires notice of a constitutional challenge to the provisions of a statute be provided to the Attorney General of Pennsylvania, it also provides exceptions for the court to proceed without prior notice. Additionally, our appellate courts have recognized that it is sufficient for a party to substantially comply with the requirements of this rule. *Adelphia Cablevision Assocs. of Radnor, L.P. v. University City Housing Co.*, 755 A.2d 703, 709 (Pa.Super. 2000). In light of the procedural posture of this case, I will address McGlaughlin's issue on its merits noting that the Attorney General has since been notified of McGlaughlin's challenge.

The gist of McGlaughlin's argument is that MCARE improperly encroaches upon the exclusive authority of the Pennsylvania Supreme Court to prescribe rules governing the "practice, procedure and conduct of all courts". Pa. Const. Art. V, § 10; see also *Bergdoll v. Kane*, 731 A.2d 1261 (Pa. 1999). Although referencing the Pennsylvania Rules of Evidence throughout his brief, McGlaughlin argues that MCARE improperly sets forth procedural rules which invade the Supreme Court's exclusive rule-making authority. The flaw in this argument, however, is that McGlaughlin mistakenly characterizes MCARE as a procedural rule rather than a rule of evidence.

Determination of whether MCARE is purely procedural, as compared to a rule of evidence, is critical. As previously mentioned, the Pennsylvania Supreme Court possesses exclusive authority over procedural rule-making. *Bergdoll*, cited above. On the other hand, Pennsylvania has a "long-standing practice of establishing rules of evidence . . . by legislative action". *Coughlin v. Westinghouse Broadcasting and Cable, Inc.*, 603 F.Supp. 377, 381 (E.D. Pa. 1985). Thus, while the legislature may not "tell the Judiciary how to hear and dispose of a case", *Appeal of Borough of Churchill*, 575 A.2d 550, 554 (Pa. 1990), the legislature may enact rules of evidence. The Superior Court recently succinctly stated this principle in *Commonwealth v. Presley*, 686 A.2d 1321 (Pa.Super. 1996) wherein they opined:

Nevertheless, "[i]t is well settled that the legislature of a state has the power to prescribe new rules of evidence, providing that they do not deprive any person of his constitutional rights." *Dranzo v. Winterhalter*, . . . 577 A.2d 1349, 1354 (Pa.Super. 1990) This principle was settled nearly sixty years ago, when our Supreme Court stated that "[w]e recognize the right of the legislature to create or alter rules of evidence". *Rich Hill Coal Company v. Bashore*, . . . 7 A.2d 302, 319 (Pa. 1939). More recently, the court reaffirmed this holding by stating that "[s]ubject only to constitutional limitations, the legislature is always free to change the rules governing the competency of witnesses and the admissibility of evidence". [*Commonwealth v. Newman*, . . . 633 A.2d 1069, 1071 (Pa. 1993)].

Appellate court efforts to define the meaning of procedural rules for the purpose of the exclusivity clause of the Constitution have not altogether been successful perhaps because the line between procedural law and substantive law is often difficult to draw. “As threads are woven into cloth, so does procedural law interplay with substantive law.” *Laudenberger v. Port Authority of Allegheny County*, 436 A.2d 147, 150 (Pa. 1981). It is important, therefore, to determine MCARE’s purpose in order to properly characterize its nature. See *Id.*

MCARE is a comprehensive effort by the General Assembly to allow for fair compensation to those injured as a result of medical negligence, while attempting to maintain medical professional liability insurance at an affordable and reasonable cost. See 40 P.S. § 1303.102. The section of MCARE at issue addresses the competency of an expert to offer an expert medical opinion in a medical professional liability action. 40 P.S. § 1303.512. One need look no further than the Pennsylvania Rules of Evidence, Pa.R.Evid. § 101, et. seq., to conclude that this section of MCARE is a rule of evidence. For instance, Pennsylvania Rule of Evidence 601 relates to the competency of witnesses. Similarly, Pennsylvania Rule of Evidence 702 addresses expert witness testimony. Although McGlaughlin argues that the Pennsylvania Supreme Court’s adoption of the Pennsylvania Rules of Evidence is indicative of the Supreme Court’s exclusive authority in this area, that argument ignores the plain language of the Rules of Evidence. Pennsylvania Rule Evidence 601 unambiguously states that “[e]very person is competent to be a witness **except as otherwise provided by statute . . .**” Pa.R.Evid. 601 (emphasis added). Thus, the very rule the Supreme Court adopted under the authority of Article V, Section 10(c) of the Pennsylvania Constitution recognizes the legislature’s authority to regulate in this area. *Id.*; see also *Commonwealth v. Newman*, 633 A.2d 1069, 1071 (Pa. 1993) (stating the legislature is constitutionally authorized to enact rules governing witness competency). In accordance with the legislature’s history of enacting rules of evidence as confirmed by the abundance of case law on this issue, I find that the legislature’s enactment of MCARE Section 512, 40 P.S. § 1303.512, is not an unconstitutional infringement upon the rule-making authority of the Pennsylvania Supreme Court.

In the alternative, McGlaughlin requested this Court to certify the interlocutory order of September 5, 2003 for appellate consideration.⁷ I will grant McGlaughlin's request in this regard.

The Order in question addresses the applicability and interpretation of a recent legislative enactment, MCARE Section 512. 40 P.S. § 1303.512. Due to the recency of the legislation, appellate courts have yet to consider the precise issue which the September 5, 2003 Order addressed. One need look no further than the Lancaster Court of Common Pleas decision in *Spotts v. Small*, 61 D.&C.4th 225 (C.P. Lancaster 2003)⁸ to recognize that there is substantial ground for a difference of opinion in construing MCARE Section 512. Moreover, as evidenced by the grant of summary judgment, resolution of the issue presented a controlling question of law as it affected two out of three of the primary Defendants. Proceeding to trial against the sole remaining primary Defendant prior to appellate consideration of the subject issue may result in duplication of trial and a waste of judicial assets. Thus, immediate appellate consideration of the September 5, 2003 Order will materially advance the ultimate determination of this litigation.

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 6th day of October, 2003, the Plaintiffs' Motion for Reconsideration is denied. However, the Plaintiffs' request for amendment of the September 5, 2003 Order is granted. The September 5, 2003 Order is amended to include the following:

The Court is of the opinion that this Order involves a controlling question of law as to which there is substantial ground for a difference of opinion and that an immediate appeal from this Order may materially advance the ultimate determination of the matter.

In all other respects, the September 5, 2003 Order is confirmed.

⁷ Although the Court's grant of summary judgment in favor of Dr. Codori and Dr. Dufendach effectively ended the litigation in regard to those Defendants, McGlaughlin's action against Dr. Rahman and Gettysburg Hospital survived summary judgment. Since the Order did not dispose of the entire litigation, the Order is interlocutory in nature. 42 Pa.C.S.A. § 742; *Napet, Inc. v. John Benkart & Sons Co.*, 431 A.2d 351, 352 (Pa.Super. 1981).

⁸ In *Spotts*, the Lancaster Court of Common Pleas reached a contrary result in considering the identical issue presented to this Court.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-620 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following 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 Lynx Drive and Lot No. 149-B; thence along Lot No. 149-B, South twenty-seven (27) degrees fifty-one (51) minutes twenty-four (24) seconds East, one hundred twenty-eight and eighteen hundredths (128.18) feet to a point at Lot No. 148; thence along Lot No. 148, South seventy-four (74) degrees twenty-one (21) minutes fifty-seven (57) seconds East, thirty and fifty hundredths (30.50) feet to a point at Cheetah Drive; thence along Cheetah Drive, by a curve to the left whose radius is two hundred thirty-nine and nineteen hundredths (239.19) feet and whose chord bearing is North five (05) degrees two (02) minutes thirty-six (36) seconds West, one hundred forty (140.00) feet for an arc distance of one hundred forty-two and eight hundredths (142.08) feet to a point at the intersection of Cheetah Drive and Lynx Drive; thence along said intersection North sixty-seven (67) degrees three (03) minutes thirty-seven (37) seconds West, twenty-one and twenty-one hundredths (21.21) feet to a point at Lynx Drive; thence along Lynx Drive, by a curve to the left whose radius is seven hundred forty (740.00) feet and whose chord bearing is South sixty-five (65) degrees twenty-nine (29) minutes, forty-four (44) seconds West, sixty-three and eleven hundredths (63.11) feet for an arc distance of sixty-five and twelve hundredths (65.12) feet to the point and place of BEGINNING. CONTAINING 8,397 square feet and identified as Lot No. 149-A on a plan of lots entitled Lot 149, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

HAVING THEREON ERECTED A DWELLING HOUSE KNOWN AS: 105 Lynx Drive, Hanover, PA 17331

BEING THE SAME PREMISES WHICH Mary Lee Kuhn and John H. Kuhn, by Deed dated 11/21/90 and recorded 12/5/90 in Adams County Deed Book 574, Page 1018, granted and conveyed unto Stephen M. Staub.

SEIZED IN EXECUTION AS THE PROPERTY OF STEPHEN M. STAUB UNDER ADAMS COUNTY JUDGMENT NO. 04-S-620

MAP & PARCEL 8-7-63

SEIZED and taken into execution as the property of **Stephen M. Staub** 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 November 22, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/17, 24 & 10/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-584 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in or near the centerline of Township Road T-534, at corner of land now or formerly of Pet Incorporated; thence in and along said Township Road T-534, North 1 degree 16 minutes 00 seconds West, 904.78 feet to a point at corner of Lot No. 10A on the hereinafter referred to draft of survey; thence by said Lot No. 10A, and passing through a reference pipe set back 25.00 feet from the last mentioned point, North 78 degrees 50 minutes 40 seconds East, 517.78 feet to a pipe on line of Lot No. 9; thence by said Lot No. 9, South 19 degrees 43 minutes 10 seconds East, 115.00 feet to a pin; thence by same, South 67 degrees 55 minutes 50 seconds West, 129.88 feet to a pin; thence continuing by same, South 24 degrees 10 minutes 20 seconds East, 217.86 feet to a point in or near the centerline of Township Road T-541; thence in and along said Township Road T-541, North 68 degrees 27 minutes 50 seconds East 19.50 feet to a P.K. nail in said Township Road and at corner of Lot No. 11, thence by said Lot No. 11, and passing through a reference

pipe set back 14.10 feet from the last mentioned point, South 4 degrees 3 minutes 30 seconds East, 751.83 feet to a pin on line of land now or formerly of Pet Incorporated, aforesaid; thence by said land of Pet Incorporated, and passing through a reference pin set back 25.67 feet from the next mentioned point, North 80 degrees 36 minutes 00 seconds West, 574.71 feet to a point in Township Road T-534, the place of BEGINNING. CONTAINING 12.121 Acres.

The above description was taken from a draft of survey by Adams County Surveyors, dated July 26, 1977, being Lot No. 10B.

SUBJECT to the protective covenants and conditions contained in Miscellaneous Book 27 at page 199.

BEING the same premises which Walden Enterprises, Incorporated, by Deed dated September 16, 1977 and recorded in Adams County on September 16, 1977 at Deed Book Volume 333, Page 543, granted and conveyed to Thomas J. Gerhart and Judith M. Gerhart.

Kimberly J. Hong, Esq.
Attorney for Plaintiff
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219

Parcel No: (29)-F06-57

SEIZED and taken into execution as the property of **Thomas J. Gerhart & Judith M. Gerhart** 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 November 22, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/17, 24 & 10/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-889 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel pin set near the Northeasternmost edge of the cartway of Myers Town Road (T-600), said pin marking the common point of joinder of Lot #2 with lands now or formerly of Beatrice M. Prosser; thence departing from the cartway of Myers Town Road and extending along lands now or formerly of Beatrice M. Prosser the following two (2) courses and distances, North 38 degrees 42 minutes 00 seconds East, for a distance of 143.55 feet; thence continuing North 48 degrees 48 minutes 00 seconds West, for a distance of 146.97 feet to a steel pin at other lands now or formerly of Harold C. Rice; thence extending along lands now or formerly of Harold C. Rice, North 38 degrees 42 minutes 00 seconds East, for a distance of 275 feet to a steel pin at Lot #3 on the hereinafter mentioned plan of subdivision; thence extending along Lot #3 the following two (2) courses and distances, South 48 degrees 48 minutes 00 seconds East, for a distance of 171.99 feet to a steel pin; thence continuing along Lot #3, South 38 degrees 42 minutes 00 seconds West for a distance of 417.84 feet through a pin set on the Northeasternmost dedicated right-of-way line of Myers Town Road, to a point near the center of said Myers Town Road; thence extending in and along the cartway of Myers Town Road, North 50 degrees 25 minutes 25 seconds West, for a distance of 25 feet to a steel pin in the cartway of said roadway, said pin marking the place of BEGINNING.

CONTAINING 1.167 acres and being designated as Lot #2 on the final plan of major subdivision of Tall Oaks prepared for Harmon Graves Company by Rodney Lee Decker and Associates dated March 21, 1983, and recorded in the Office of the Recorder of Deeds in and for the Adams County, Pennsylvania, in Plat Book 38 at page 36.

Map and Parcel ID: G2-12

BEING KNOWN AS: 849 Myerstown Road, Gardners, PA 17324

SEIZED and taken into execution as the property of **Guy Fulton & Nanelle S. Fulton** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/1, 8 & 15

NOTICE

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons that the account and statement of proposed distribution has been filed with 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 Friday, October 22, 2004, at 9:00 a.m.

KRIVAK—Orphans' Court Action Number OC-133-99. The First and Final Account and proposed distribution of Manufacturers and Traders Trust Company, successor in interest to Keystone Financial Bank, successor trustee to Maxine L. LaPlace, Esq., as trustee, of Mary Mellott Krivak, for the benefit of Joanne M. Krivak, now deceased, late of Adams County, Pennsylvania.

John A. Wolfe, Esq.
Wolfe & Rice, LLC

9/17, 24 & 10/1

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that CATNIP ENTERPRISES, INC, has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988.

Arthur J. Becker, Jr., P.C.
Attorneys for Catnip Enterprises, Inc.

10/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-603 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate in Latimore Township, Adams County, Pennsylvania, being more particularly described as Lot No. 1143 on a Plan of Lots of Lake Meade Subdivision duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Misc. Deed Book 1, Page 6, and subject to all legal highways, easements, rights-of-way and restrictions of record.

SUBJECT, HOWEVER, to the restrictions, reservations, conditions and agreements set forth at length in Deed Book 280, Page 1088.

IT BEING the same tract of land which Robert L. Gordon, Jr., unmarried person, and Deborah A. Boggs, unmarried person, by their Deed dated March 27, 1998 and recorded April 7, 1998 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 1554, at Page 109, granted and conveyed unto John Baker, single man.

263 Lake Meade Drive

SEIZED and taken into execution as the property of **Ronald Olenik & Dana A. Olenik** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/1, 8 & 15

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 ROBERT W. KLUCK, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Patricia H. Kluck, 150 North Main Street, Biglerville, PA 17307

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

ESTATE OF JOHN H. MILLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Nona Shoemaker & Gary Miller, c/o Gary J. Imblum, Esq., Knupp, Kodak & Imblum, P.C., P.O. Box 11848, 407 North Front Street, Harrisburg, PA 17108-1848

Attorney: Gary J. Imblum, Esq., Knupp, Kodak & Imblum, P.C., P.O. Box 11848, 407 North Front Street, Harrisburg, PA 17108-1848

ESTATE OF SHARON E. PRICE, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Larry E. Miller, 2024 York Road, Gettysburg, PA 17325

Attorney: Wendy Weikal-Beauchat, 63 West High Street, Gettysburg, PA 17325

ESTATE OF FAITHA. REDDING, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Henry N. Redding, Jr., 6166 Pigeon Hill Rd., Spring Grove, PA 17362

Attorney: Ralph Oyler, Esq., 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF BERTHA F. REINDOLLAR, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrices: Carol L. Zeigler, 798 Shivers Corner Road, Gettysburg, PA 17325; Gail L. Roth, 209 Second Avenue, Hanover, PA 17331

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF ALICE E. SHOWERS, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Cecil L. Showers, P.O. Box 224, Arendtsville, PA 17303

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

ESTATE OF RICHARD A. TAYLOR, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Co-Executors: Robert E. Taylor, 480 Aspers-Bendersville Road, Aspers, PA 17304; Doris G. Wolfe, 115 East Chestnut Hill Road, Aspers, PA 17304

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

ESTATE OF KENNETH L. WOLF, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Co-Executrices: Sally Ann Person, 3202A Baltimore Pike, Littlestown, PA 17340; Judy K. Shemon, 75 Stoney Point Road, New Oxford, PA 17350

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

SECOND PUBLICATION

ESTATE OF ROMAINE A. APPLER, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executor: Thomas M. Appler, 2136 Herbert Avenue, Westminster, MD 21157

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

ESTATE OF HAROLD W. BUSBEY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: David L. Busbey, 3978 Skyview Drive, Glenville, PA 17329

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

ESTATE OF MARL L. ERICKSON, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executrix: Barbara J. Goehle, 70 Southview Drive, Biglerville, PA 17307

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

ESTATE OF HELEN V. STONESIFER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executors: Foster Adrian Stonesifer, 791 Sell Station Road, Littlestown, PA 17340; Brian Douglas Stonesifer, 1280 Frederick Pike, Littlestown, PA 17340; Jeffrey Grant Stonesifer, 1079 Bon-Ox Road, Gettysburg, PA 17325

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF JOHN M. WEST, SR., DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Sharon O. West, 960 Bendersville-Wenkensville Road, Aspers, PA 17304

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

THIRD PUBLICATION

ESTATE OF JESSIE M. ALTHOUSE, DEC'D

Late of Reading Township, Adams County, Pennsylvania

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

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

ESTATE OF JOHN M. ARNOLD, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: James C. Arnold, 123 Edward Street, Hanover, PA 17331

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

ESTATE OF BARRY L. CLUCK, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executor: Maynard O. Gochenauer, 119 Mt. Tabor Road, P.O. Box 77, Bendersville, PA 17306

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

ESTATE OF EMMA S. SHUE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Richard W. Shue, 12 Northview Drive, Hanover, PA 17331

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

(continued on page 6)

THIRD PUBLICATION (continued)

ESTATE OF JOHN P. STEPHENSON, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executrix: Sylvia Peck Stephenson, 216 Lake Meade Drive, East Berlin, PA 17316

Attorney: Elyse E. Rogers, Esq., Keefer Wood Allen & Rahal LLP, 415 Fallowfield Road, Suite 301, Camp Hill, PA 17011

ESTATE OF PAMELA K. WALLEN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administratrices: Sharon A. Hamme, 92 Hamilton Drive, Abbottstown, PA 17301; Joyce R. Markle, 1324 Peepytown Road, Abbottstown, PA 17301

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

7,968 square feet and identified as Lot No. 149-B on a plan of lots entitled Lot 149, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 56, Page 30.

SUBJECT to the restrictions as contained in Record Book 56, Page 30.

BEING KNOWN AS: 107 Lynx Drive, Hanover (Conewago Twp.), PA 17331

PROPERTY ID NO. Map 7, Parcel 53

TITLE TO SAID PREMISES IS VESTED IN Gina M. Demaria, unmarried by deed from Dennis E. Wherley and Linda L. Wherley, husband and wife dated 10/19/99 recorded 10/20/99 in Deed Book 1937 Page 110.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/1, 8 & 15

NOTICE

On the 22nd day of October, 2004, at 9:00 a.m., a hearing will be held in Courtroom No. 2 of the Adams County Courthouse, to determine whether the Gettysburg Area School District shall sell its student built house located at 40 Creekside Court, (Cumberland Township), Gettysburg, Pennsylvania, 17325 to Lonnie D. Myers and Maria L. Myers for the purchase price of \$225,000, upon terms and conditions set forth in an Agreement of Sale dated September 7, 2004.

Any person who wishes to oppose the sale must attend the hearing and be heard.

Robert L. McQuaide
Solicitor
(717) 337-1360

9/24, 10/1 & 8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-693 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situated, lying and being in the Borough of Carroll Valley (formerly Hamiltonban Township), Adams County, Pennsylvania, being Lot #348., Section K of the Charnita Subdivision, more particularly bounded and described as follows:

BEGINNING at a point in the center of Sunfish Trail at Lot #349; thence by said lot, North 34 degrees 09 minutes 14 seconds East, 241.86 feet to lands now or formerly of Wilbur F. Sites; thence by said lands, South 59 degrees 04 minutes 35 seconds East 100.16 feet to Lot #347; thence by said lot, South 34 degrees 09 minutes 14 seconds West, 247.50 feet to a point in the center of said Sunfish Trail; thence in said Sunfish Trail, North 55 degrees 50 minutes 46 seconds West, 100 feet to the place of BEGINNING.

THE above description was taken from a plan of lots labeled "Section K, Charnita", dated March 3, 1969, prepared by Evans, Hagan & Holderfer, and recorded in Adams County Plat Book #1, Page 42.

SEIZED and taken into execution as the property of **John C. Dick, Jr. & Pamela L. Dick** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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10/1, 8 & 15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-679 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following 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 Lynx Drive and Lot No. 149-A; thence along Lot No. 149-A, South twenty-seven (27) degrees fifty-one (51) minutes twenty-four (24) seconds East, one hundred twenty-eight and eighteen hundredths (128.18) feet to a point at Lot No. 148; thence along Lot No. 148, North seventy-four (74) degrees twenty-one (21) minutes fifty-seven (57) seconds West, one hundred forty-five and fifty-eight hundredths (145.58) feet to a point at lands now or formerly of Elsie M. Bange; thence along said lands, North six (06) degrees eight (08) minutes forty-six (46) seconds West, twenty-five (25.00) feet to a point at Lynx Drive; thence along Lynx Drive, by a curve to the right whose radius is seven hundred forty (740.00) feet and whose chord bearing is North fifty-nine (59) degrees eighteen (18) minutes forty-nine (49) seconds East, ninety-six and forty-nine hundredths (96.49) feet for an arc distance of ninety-six and fifty-five hundredths (96.55) feet to the point and place of BEGINNING. CONTAINING

Adams County Legal Journal

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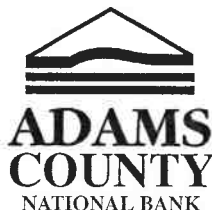
October 8, 2004

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IN THIS ISSUE

SHEELY VS. SHEELY

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. 04-S-348 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE TWO lots of ground situate in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

LOT #1:

BEGINNING at a joint in the concrete on the inside line of the sidewalk on the South side of Chambersburg Street at lands now or formerly of Harry M. Sneringer; thence by the inside line of the sidewalk, South 85 degrees East, 28.65 feet to a point at lands now or formerly of Kenneth P. Hull, said point also being at corner of brick house on adjoining property; thence by said lands, South 04 degrees, 10 minutes West, 155 feet to a point at brick building on Lot #2 hereof; thence by Lot #2, North 85 degrees West, 12.3 feet to a point; thence by Lot #2, South 05 degrees West, 25 feet to a point on the North side of a 12-foot alley; thence along the North side of said alley, North 85 degrees West, 18.9 feet to a point at land now or formerly of Harry M. Sneringer aforesaid; thence by lands, North 05 degrees East, 180 feet to a joint in the concrete, the place of BEGINNING.

LOT #2:

BEGINNING at a point at land now or formerly of Kenneth P. Hull and Lot #1 hereof, thence by land now or formerly of Kenneth P. Hull, South 04 degrees, 10 minutes West, 25 feet to a joint on the North side of a 12-foot alley; thence along the North side of said alley, North 85 degrees West, 12.35 feet to a point at Lot #1 hereof; thence by Lot #1, North 05 degrees East, 25 feet to a point; thence by Lot #1, South 85 degrees East, 12.3 feet to a point, the place of BEGINNING.

THE SAID TWO lots of ground being the same lots which were surveyed by LeRoy E. Whinebrenner, C.S. on September 22, 1958, as the property of Maude K. Averbuch,

Tax Parcel # 7-263

TITLE TO SAID PREMISES IS VESTED IN Lance P. Greenawalt by Deed from Simone Mitchell, widow by the Adams County National Bank, her attorney-in-fact dated 3/4/2002 and recorded 3/5/2002 in Record Book 2581, page 171.

SEIZED and taken into execution as the property of **Lance P. Greenawalt** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/1, 8 & 15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-638 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner at a post of lands now or formerly of Mrs. Amanda Sterner and Jefferson Avenue; thence with said Jefferson Avenue South 17 degrees 15 minutes West 60 feet to stake at other lands now or formerly of Mary C. Diller, et vir; thence with said

land North 70 degrees 55 minutes West 130 feet to a stake at other lands now or formerly of said Mary C. Diller, et vir; thence with said lands North 17 degrees 15 minutes East 60 feet to a stake at lands now or formerly of Mrs. Amanda Sterner, aforesaid; thence with said lands South 70 degrees 55 minutes East 130 feet to a post at Jefferson Avenue, aforementioned, and the place of BEGINNING.

BEING the same premises which James P. Fowler and Joyce A. Fowler, by Deed dated January 19, 1999 and recorded in Adams County on February 3, 1999 at Deed Book Volume 1758, Page 10, granted and conveyed to James P. Fowler and Joyce A. Fowler.

Kimberly J. Hong, Esq.
Attorney for Plaintiff
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219

Parcel No: (08)-9-38

SEIZED and taken into execution as the property of **James P. Fowler & Joyce A. Fowler** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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10/1, 8 & 15

SHEELY VS. SHEELY

1. The standard for determining when a petition to vacate a divorce decree can be granted depends on the time frame in which the petition to vacate is filed. When a petition to vacate a divorce decree is filed within thirty days of entry of the divorce decree a trial court has broad discretion to vacate or modify the divorce decree. Once the thirty-day period has expired, an order can only be opened or vacated if there is fraud or some other circumstance so grave or compelling as to constitute extraordinary cause justifying intervention by the court.

2. Bifurcation is proper when the Courts' determination is the result of reflective examination of the individual facts of each case. The determination should be made only after the disadvantages and the advantages have been carefully explored and analyzed.

3. The fact that the trial judge has presided over the divorce proceedings from its early stages is persuasive on affirming a bifurcation.

4. The absence of a motion to bifurcate was not a fatal defect (where) the Defendant had ample notice of the issues raised prior to the entrance of the divorce decree.

5. Issues raised in a count to a divorce complaint are preserved following the entrance of a divorce decree. Therefore, equitable distribution was properly preserved because it was raised in the Plaintiff's Divorce Complaint and the Amended Divorce Complaint.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 01-S-886, GEORGIA L. SHEELY VS. WILLIAM D. SHEELY.

David K. James, Esq., for Plaintiff
Thomas E. Miller, Esq., for Defendant
John A. Wolfe, Esq., Master
Bigham, J., October 7, 2003

OPINION PURSUANT TO PA.R.APP.P 1925(A)

Defendant, William D. Sheely, files an appeal from an August 1, 2003, Order denying his request to vacate the Divorce Decree and retaining the Court's jurisdiction over equitable distribution.

The Plaintiff, Georgia L. Sheely, initiated this action by filing a Complaint in Divorce on August 13, 2001. Much litigation followed. Defendant filed a Motion for Spousal Support, Petition for an Order Requiring Marriage Counseling, and a Petition for Relief, Contempt, and Enforcement of Court Ordered Counseling. Plaintiff filed a Motion for Production of Documents and several Motions for Special Relief.

On February 21, 2003, Plaintiff's Amended Complaint in Divorce and Notice and Affidavit under Section 3301(d) of the Divorce Code

were filed and personally served on Defendant by Plaintiff's counsel. On March 17, 2003, Plaintiff filed a Notice of Intention to Request Entry of Divorce Decree together with a Praecipe to Transmit Record. Service was made on Defendant's attorney of record. The Notice of Intention to Request Entry of Divorce Decree specifically stated that Plaintiff intended to file a Praecipe to Transmit Record on April 8, 2003. Plaintiff filed and served Defendant's attorney with a Motion for Appointment of a Master on March 17, 2003. On April 11, 2003, the Court entered a Decree of Divorce retaining jurisdiction of any claims raised by the parties for which a final order had not been entered and any existing spousal support order would be deemed an order for alimony pendente lite if any economic claims remained pending.

The record reflects that Defendant has had two attorneys of record. The record also reflects that Plaintiff's attorney served all pleadings on either Defendant or the attorney of record for Defendant at the time of service.

On April 22, 2003, Defendant, through his new attorney, filed a Counter-Affidavit under Section 3301(d) of the divorce code wishing to claim economic relief including alimony, division of property, attorney's fee or expenses or other important rights. On May 30, 2003, Defendant filed a Petition for Equitable Distribution, Permanent Alimony, Alimony Pendente Lite, Reasonable Counsel Fees, Costs and Expenses. On June 9, 2003, Defendant filed a Motion to Open and Strike Off Divorce Decree. The Court issued an Order on August 1, 2003, declaring there was no basis for vacating the Divorce Decree and the only economic issue over which the Court retains jurisdiction is that of equitable distribution.

Defendant's first issue raised is, whether the Trial Court erred as a matter of law and/or fact, manifestly abused its discretion, and/or acted arbitrarily and capriciously, in failing to wholly vacate and/or open and strike off the Divorce Decree entered April 11, 2003, when the Trial Court failed to bifurcate, or improperly bifurcated without notice and hearing to Defendant, the underlying divorce action.

The standard for determining when a petition to vacate a divorce decree can be granted depends on the time frame in which the petition to vacate is filed. *Melton v. Melton*, _A.2d._ No. 2003 Pa.Super.303 (Pa.Super.August 20, 2003). When a petition to vacate

a divorce decree is filed within thirty days of entry of the divorce decree a trial court has broad discretion to vacate or modify the divorce decree. *Id.* Once the thirty-day period has expired, “an order can only be opened or vacated if there is fraud or some other circumstance so grave or compelling as to constitute extraordinary cause justifying intervention by the court.” *Justice v. Justice*, 612 A.2d 1354,1357 (Pa. Super. 1992). In the instant case, the Divorce Decree was entered on April 11, 2003, and the Defendant’s motion to Open/Strike Off the Divorce Decree was filed approximately sixty days later on June 9, 2003. Since the thirty-day discretionary time period has lapsed, Defendant must prove extrinsic fraud, lack of subject matter jurisdiction or a fatal defect on the record if the Court is to vacate the divorce decree. See *Melton*, cited above.

Defendant contends a fatal defect is present because the Divorce Decree was improperly bifurcated. The Defendant cites Lambert and Hall as examples of improper bifurcation. In *Lambert*, a local county rule authorized automatic bifurcation of divorce cases. *Lambert v. Lambert*, 619 A.2d 761,762 (Pa.Super. 1992). In *Hall*, bifurcation was determined to be improper because the Superior Court was, “unable to ascertain whether the ‘disadvantages and the advantages [of bifurcation] ha[d] been carefully explored and analyzed.’” *Hall v. Hall*, 482 A.2d 974, 978 (Pa.Super.1992). These cases are distinguishable from the instant case because the Court did not automatically bifurcate pursuant to a local rule as in *Lambert* nor was the decision made as in *Hall* without careful contemplation. See *Lambert* and *Hall*, cited above. Instead, the decision to bifurcate was the result of a factual determination based on the facts in front of the Court.

Bifurcation is proper when the Courts’ determination is the result of reflective examination of the individual facts of each case. *Wolk v. Wolk*, 464 A.2d 1359, 1362 (Pa.Super. 1983). The “determination should be made only after the disadvantages and the advantages have been carefully explored and analyzed.” *Id.* Here, the Court was well aware of all of the applicable facts and circumstances having presided over this action from its inception. This is an important consideration because, “the fact that the trial judge has presided over the divorce proceedings from its early stages [is] persuasive on affirming a bifurcation.” *Savage v. Savage*, 736 A.2d 633, 648 (Pa. Super. 1999).

Additionally, a fatal defect is not found from the absence of a Petition to Bifurcate. This exact issue was addressed in *Flowers*. *Flowers v. Flowers*, 12 A.2d 1064, 1065 (Pa.Super.1992). The Court held the absence of a motion to bifurcate was not a fatal defect where the Defendant had ample notice of the issues raised prior to the entrance of the divorce decree. *Id.* In the instant case, Defendant admits he and his then attorney were timely served with all pleadings in the divorce action. Defendant also admits Plaintiff raised the issue of equitable distribution in two separate pleadings, the Divorce Complaint and the Amended Divorce Complaint. Therefore, the Court's decision to bifurcate was not improper because an economic issue was properly raised in pleadings and Defendant had notice of it prior to the entry of the Divorce Decree. See *Flowers*, cited above.

Defendant's second issue raised is, whether the Trial Court erred as a matter of law and/or fact, manifestly abused its discretion, and or acted arbitrarily and capriciously, in determining that Plaintiff's claim of equitable distribution survived the entry of the unbifurcated Divorce Decree on April 11, 2003. Defendant argues the Divorce Decree should be vacated because there is extrinsic fraud in the form of a fatal defect because the issue of equitable distribution was not properly preserved. Issues raised in a count to a divorce complaint are preserved following the entrance of a divorce decree. See *Flowers*, cited above. Therefore, equitable distribution was properly preserved because it was raised in the Plaintiff's Divorce Complaint and the Amended Divorce Complaint. *Id.*

Defendant's third issue raised is, whether the Trial Court erred as a matter of law and/or fact, manifestly abused its discretion, and/or acted arbitrarily and capriciously, in appointing a divorce master to determine the issue of equitable distribution prior to the entry of the Divorce Decree on April 11, 2003, when there has been no bifurcation of the underlying divorce action, or the same was improperly bifurcated without notice and hearing to Defendant. This argument is moot since the Divorce was properly bifurcated due to the reasons contained herein.

The Defendant had, "ample notice of every procedural step taken by the Plaintiff. [He] had an adequate opportunity to ...file a claim for economic relief, but never did so." See *Flowers*, cited above. Therefore, this Court can not, "exercise its equitable powers to vacate an earlier decree when the . . . party has ample opportunity earlier in the proceedings [to object]." *Id.*

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-679 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following 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 Lynx Drive and Lot No. 149-A; thence along Lot No. 149-A, South twenty-seven (27) degrees fifty-one (51) minutes twenty-four (24) seconds East, one hundred twenty-eight and eighteen hundredths (128.18) feet to a point at Lot No. 148; thence along Lot No. 148, North seventy-four (74) degrees twenty-one (21) minutes fifty-seven (57) seconds West, one hundred forty-five and fifty-eight hundredths (145.58) feet to a point at lands now or formerly of Elsie M. Bange; thence along said lands, North six (06) degrees eight (08) minutes forty-six (46) seconds West, twenty-five (25.00) feet to a point at Lynx Drive; thence along Lynx Drive, by a curve to the right whose radius is seven hundred forty (740.00) feet and whose chord bearing is North fifty-nine (59) degrees eighteen (18) minutes forty-nine (49) seconds East, ninety-six and forty-nine hundredths (96.49) feet for an arc distance of ninety-six and fifty-five hundredths (96.55) feet to the point and place of BEGINNING. CONTAINING 7,968 square feet and identified as Lot No. 149-B on a plan of lots entitled Lot 149, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 56, Page 30.

SUBJECT to the restrictions as contained in Record Book 56, Page 30.

BEING KNOWN AS: 107 Lynx Drive, Hanover (Conewago Twp.), PA 17331

PROPERTY ID NO. Map 7, Parcel 53

TITLE TO SAID PREMISES IS VESTED IN Gina M. Demaria, unmarried by deed from Dennis E. Wherley and Linda L. Wherley, husband and wife dated 10/19/99 recorded 10/20/99 in Deed Book 1937 Page 110.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in

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

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

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

10/1, 8 & 15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-889 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel pin set near the Northeasternmost edge of the cartway of Myers Town Road (T-600), said pin marking the common point of joinder of Lot #2 with lands now or formerly of Beatrice M. Prosser; thence departing from the cartway of Myers Town Road and extending along lands now or formerly of Beatrice M. Prosser the following two (2) courses and distances, North 38 degrees 42 minutes 00 seconds East, for a distance of 143.55 feet; thence continuing North 48 degrees 48 minutes 00 seconds West, for a distance of 146.97 feet to a steel pin at other lands now or formerly of Harold C. Rice; thence extending along lands now or formerly of Harold C. Rice, North 38 degrees 42 minutes 00 seconds East, for a distance of 275 feet to a steel pin at Lot #3 on the hereinafter mentioned plan of subdivision; thence extending along Lot #3 the following two (2) courses and distances, South 48 degrees 48 minutes 00 seconds East, for a distance of 171.99 feet to a steel pin; thence continuing along Lot #3, South 38 degrees 42 minutes 00 seconds West for a distance of 417.84 feet through a pin set on the Northeasternmost dedicated right-of-way line of Myers Town Road, to a point near the center of said Myers Town Road; thence extending in and along the cartway of Myers Town Road, North 50 degrees 25 minutes 25 seconds West, for a distance of 25 feet to a steel pin in the cartway of said roadway, said pin marking the place of BEGINNING.

CONTAINING 1.167 acres and being designated as Lot #2 on the final plan of major subdivision of Tall Oaks prepared for Harmon Graves Company by Rodney Lee Decker and Associates dated March 21, 1983, and recorded in the Office of the Recorder of Deeds in and for the Adams County, Pennsylvania, in Plat Book 38 at page 36.

Map and Parcel ID: G2-12

BEING KNOWN AS: 849 Myerstown Road, Gardners, PA 17324

SEIZED and taken into execution as the property of **Guy Fulton & Nanette S. Fulton** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/1, 8 & 15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-693 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situated, lying and being in the Borough of Carroll Valley (formerly Hamiltonban Township), Adams County, Pennsylvania, being Lot #348, Section K of the Charnita Subdivision, more particularly bounded and described as follows:

BEGINNING at a point in the center of Sunfish Trail at Lot #349; thence by said lot, North 34 degrees 09 minutes 14 seconds East, 241.86 feet to lands now or formerly of Wilbur F. Sites; thence by said lands, South 59 degrees 04 minutes 35 seconds East 100.16 feet to Lot #347; thence by said lot, South 34 degrees 09 minutes 14 seconds West, 247.50 feet to a point in the center of said Sunfish Trail, thence in said Sunfish Trail, North 55 degrees 50 minutes 46 seconds West, 100 feet to the place of BEGINNING.

THE above description was taken from a plan of lots labeled "Section K, Charnita", dated March 3, 1969, prepared by Evans, Hagan & Holderfer, and recorded in Adams County Plat Book #1, Page 42.

SEIZED and taken into execution as the property of **John C. Dick, Jr. & Pamela L. Dick** and to be sold by me,

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/1, 8 & 15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-277 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 61 on Plan of Lots of Lake Meade Subdivision, recorded in Adams County Recorder's Office in Plat Book No. 1, Page 1, and subject to legal highways, easements, rights of ways and restrictions of record.

Tax Parcel 5-47

Being Known as 10 Lake Meade Drive, East Berlin, PA 17316

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 13, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN that an application has been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA by IS DIRECT AGENCY, INC., a foreign corporation formed under the laws of the State of Florida, where its principal office is located at 100 Village Square Crossing, Suite 202, Palm Beach Gardens, FL 33410, County of Palm Beach, for a Certificate of Authority to do business within the Commonwealth of Pennsylvania under the provisions of the Business Corporation Law of 1988. The proposed registered office of said Corporation in the Commonwealth of Pennsylvania will be located at 600 North Second St., Suite 500, Harrisburg, PA 17101, County of Dauphin.

IS Direct Agency, Inc.
100 Village Square Crossing, Ste 202
Palm Beach Gardens, FL 33410

10/8

NOTICE

On the 22nd day of October, 2004, at 9:00 a.m., a hearing will be held in Courtroom No. 2 of the Adams County Courthouse, to determine whether the Gettysburg Area School District shall sell its student built house located at 40 Creekside Court, (Cumberland Township), Gettysburg, Pennsylvania, 17325 to Lonnie D. Myers and Maria L. Myers for the purchase price of \$225,000, upon terms and conditions set forth in an Agreement of Sale dated September 7, 2004.

Any person who wishes to oppose the sale must attend the hearing and be heard.

Robert L. McQuaide
Solicitor
(717) 337-1360

9/24, 10/1 & 8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-886 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

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

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

TRACT NO. 2: BEGINNING at a point at corner of land now or formerly of John C. Steich and corner of land now or formerly of Charles E. Smeach; thence by land about to be conveyed to Charles E. Smeach North 45 degrees 30 minutes East 50 feet to a steel pin at other lands of Harry C. Worley; thence by said lands of Worley South 44 degrees 30 minutes East 100 feet to a steel pin; thence by the same South 45 degrees 30 minutes West 50 feet to a point at other land now or formerly of John C. Steich; thence by said Steich's land North 44 degrees 30 minutes West 100 feet to a point, the place of BEGINNING. CONTAINING 5,000 square feet.

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

SUBJECT, NEVERTHELESS, to the restrictions of record.

IT BEING the same premises which Edna M. Steich, widow, by Joyce M. Hartlaub, her attorney-in-fact, by her Deed dated January 14, 2000, and recorded in the Office of Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 1989, Page 224, granted and conveyed unto Michael L. Waite.

Address: 50 Pine Grove Road, Hanover, PA 17331

Tax Map K17, Parcel 8

Includes all buildings and improvements erected on the premises.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 13, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1122 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate in Menallen Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of a private road 50 feet in width at the Westernmost corner of the lot designated as Lot No. 1 on the plan of lots referred to below; thence by said Lot No. 1 and running through an iron pin located

25 feet from the place of beginning South 48 degrees 23 minutes 38 seconds East, 183.56 feet to an iron pin; thence by land now or formerly of Charles E. Ott and wife South 41 degrees 5 minutes 37 seconds West, 353.01 feet to an iron pin; thence by the lot designated as Lot No. 5 on the plan of lots referred to below and running through an iron pin located 25 feet from the end of this line North 48 degrees 23 minutes 38 seconds West, 186.72 feet to a point in the center of the aforementioned private road; thence in the center of said private road and by the lot designated as Lot No. 4 on the plan of lots referred to below North 41 degrees 36 minutes 22 seconds East, 353 feet to a point in the center of said private road, the place of BEGINNING. CONTAINING 1,499 acres.

THE foregoing description was obtained from a plan of lots of Big Flat Acres prepared by Richard W. Boyer, registered surveyor, trading as Boyer Surveys, dated September 27, 1978, and recorded in Adams County Plat Book 24 at Page 10, the lot hereby conveyed being designated as Lot No. 3 on said plan of lots.

Address: 2630 D Shippensburg Rd., Biglerville, PA 17307

Tax Map or Parcel ID No.: (29) B05-57

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 13, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-612 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of December, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in or near the center line of Township Road T-534, at corner of land now or formerly of Pet Incorporated; thence in and along said Township Road T-534, North 01 degree 16 minutes 00 seconds West, 904.78 feet to a point at corner of Lot No. 10A on the hereinafter referred to draft of survey; thence by said Lot No. 10A, and passing through a reference pipe set back 25.00 feet from the last mentioned point, North 78 degrees 50 minutes 40 seconds East, 517.78 feet to a pipe on line of Lot No. 9; thence by said Lot No. 9, South 19 degrees 43 minutes 10 seconds East, 115.00 feet to a pin; thence by same, South 67 degrees 55 minutes 50 seconds West, 129.88 feet to a pin; thence continuing by same, South 24 degrees 10 minutes 20 seconds East, 217.86 feet to a point in or near the center line of Township Road T-541; thence in and along said Township Road T-541, North 68 degrees 27 minutes 50 seconds East, 19.50 feet to a P.K. nail in said Township Road and at corner of Lot No. 11; thence by said Lot No. 11, and passing through a reference pipe set back 14.10 feet from the last mentioned point, South 04 degrees 03 minutes 30 seconds East, 751.83 feet to a pin on line of land now or formerly of Pet Incorporated, aforesaid; thence by said land of Pet Incorporated, and passing through a reference pin set back 25.67 feet from the next mentioned point, North 80 degrees 36 minutes 00 seconds West, 574.71 feet to a point in Township Road T-534, the place of BEGINNING. CONTAINING 12.121 Acres.

TOGETHER with all and singular ways, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever, of the grantor in law, equity, or otherwise howsoever, of, in and to the same and every part thereof.

Property known as: 410 Orchard Lane, Aspers, PA 17304.

Tax ID #: F6-56

SEIZED and taken into execution as the property of **Thomas J. Gerhart & Judith M. Gerhart** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 3, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

SHERIFF'S SALE

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

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

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

the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 7 at page 22.

Being known as: 310 Rock Valley Road, Aspers, PA 17304

Property ID No.: H6-24C

TITLE TO SAID PREMISES IS VESTED IN James Craig Johnson and Sandra R. Johnson, husband and wife, as tenants by the entireties by deed from Samuel B. Stoner and Alana M. Stoner, husband and wife dated 10/31/97 recorded 11/06/97 in Deed Book 1470 Page 131.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 3, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF RALPH EUGENE HUMMEL, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Jeffery M. Cook, Esq., 234 Baltimore Street, Gettysburg, PA 17325

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

ESTATE OF SIMONE R. MITCHELL, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Adams County National Bank, 2 Chambersburg St., P.O. Box 4566, Gettysburg, PA 17325-4566

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF JAMES M. SANDERS, SR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: James M. Sanders, Jr., 460 Bendersville-Wenksville Road, Aspers, PA 17304

Attorney: Kathleen M. Kotula, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF LAWRENCE H. SHOWERS, DEC'D

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

Glenda J. Vaden, 3210 Lehr Drive, York, PA 17404

Attorney: Craig A. Hatch, Esq., Gates, Halbruner & Hatch, P.C., 1013 Mumma Road, Suite 100, Lemoyne, PA 17043

ESTATE OF GEORGE E. SWISHER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: James P. Neth, 806 Burnside Drive, Gettysburg, PA 17325

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

ESTATE OF CHERYL A. WINTERS, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executors: April D. Reed and David R. Winters, Jr., c/o Charles E. Shields, III, Esq., 6 Clouser Road, Mechanicsburg, PA 17055

Attorney: Charles E. Shields, III, Esq., 6 Clouser Road, Mechanicsburg, PA 17055

SECOND PUBLICATION

ESTATE OF ROBERT W. KLUCK, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Patricia H. Kluck, 150 North Main Street, Biglerville, PA 17307

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

ESTATE OF JOHN H. MILLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Nona Shoemaker & Gary Miller, c/o Gary J. Imblum, Esq., Knupp, Kodak & Imblum, P.C., P.O. Box 11848, 407 North Front Street, Harrisburg, PA 17108-1848

Attorney: Gary J. Imblum, Esq., Knupp, Kodak & Imblum, P.C., P.O. Box 11848, 407 North Front Street, Harrisburg, PA 17108-1848

ESTATE OF SHARON E. PRICE, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Larry E. Miller, 2024 York Road, Gettysburg, PA 17325

Attorney: Wendy Weikal-Beauchat, 63 West High Street, Gettysburg, PA 17325

ESTATE OF FAITH A. REDDING, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Henry N. Redding, Jr., 6166 Pigeon Hill Rd., Spring Grove, PA 17362

Attorney: Ralph Oyler, Esq., 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF BERTHA F. REINDOLLAR, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrices: Carol L. Zeigler, 798 Shivers Corner Road, Gettysburg, PA 17325; Gail L. Roth, 209 Second Avenue, Hanover, PA 17331

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF ALICE E. SHOWERS, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Cecil L. Showers, P.O. Box 224, Arendtsville, PA 17303

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

ESTATE OF RICHARD A. TAYLOR, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Co-Executors: Robert E. Taylor, 480 Aspers-Bendersville Road, Aspers, PA 17304, Doris G. Wolfe, 115 East Chestnut Hill Road, Aspers, PA 17304

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

ESTATE OF KENNETH L. WOLF, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Co-Executrices: Sally Ann Person, 3202A Baltimore Pike, Littlestown, PA 17340; Judy K. Shemon, 75 Stoney Point Road, New Oxford, PA 17350

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

THIRD PUBLICATION

ESTATE OF ROMAINE A. APPLER, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executor: Thomas M. Appler, 2136 Herbert Ave., Westminster, MD 21157

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

ESTATE OF HAROLD W. BUSBEY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: David L. Busbey, 3978 Skyview Drive, Glenville, PA 17329

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

ESTATE OF MARL L. ERICKSON, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executrix: Barbara J. Goehle, 70 Southview Drive, Biglerville, PA 17307

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

(continued on page 8)

THIRD PUBLICATION (continued)

ESTATE OF HELEN V. STONESIFER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executors: Foster Adrian Stonesifer, 791 Sell Station Road, Littlestown, PA 17340; Brian Douglas Stonesifer, 1280 Frederick Pike, Littlestown, PA 17340; Jeffrey Grant Stonesifer, 1079 Bon-Ox Road, Gettysburg, PA 17325

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF JOHN M. WEST, SR., DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Sharon O. West, 960 Bendersville-Wenksville Road, Aspers, PA 17304

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

United States Postal Service

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PS Form 3526, October 1999

(See instructions on Reverse)

PS Form 3526, October 1999 (Rev-04)

Adams County Legal Journal

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No. 21, pp. 133-144

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-693 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situated, lying and being in the Borough of Carroll Valley (formerly Hamiltonban Township), Adams County, Pennsylvania, being Lot #348, Section K of the Charnita Subdivision, more particularly bounded and described as follows:

BEGINNING at a point in the center of Sunfish Trail at Lot #349; thence by said lot, North 34 degrees 09 minutes 14 seconds East, 241.86 feet to lands now or formerly of Wilbur F. Sites; thence by said lands, South 59 degrees 04 minutes 35 seconds East 100.16 feet to Lot #347; thence by said lot, South 34 degrees 09 minutes 14 seconds West, 247.50 feet to a point in the center of said Sunfish Trail; thence in said Sunfish Trail, North 55 degrees 50 minutes 46 seconds West, 100 feet to the place of BEGINNING.

THE above description was taken from a plan of lots labeled "Section K, Charnita", dated March 3, 1969, prepared by Evans, Hagan & Holderfer, and recorded in Adams County Plat Book #1, Page 42.

SEIZED and taken into execution as the property of **John C. Dick, Jr. & Pamela L. Dick** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

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

10/1, 8 & 15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-277 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 61 on Plan of Lots of Lake Meade Subdivision, recorded in Adams County Recorder's Office in Plat Book No. 1, Page 1, and subject to legal highways, easements, rights of ways and restrictions of record.

Tax Parcel 5-47

Being Known as 10 Lake Meade Drive, East Berlin, PA 17316

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 13, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL

NO. 00-S-437

IN RE: PETITION TO DECREASE NUMBER OF COUNCILMEN ON THE BOROUGH COUNCIL OF YORK SPRINGS, ADAMS COUNTY, PENNSYLVANIA

NOTICE IS HEREBY GIVEN that on August 2, 2004, the Chairman of the York Springs Borough Vacancy Board filed a Petition in the Court of Common Pleas to Rule on Council Seat Vacancy.

The Court has fixed October 22, 2004 at 9:00 A.M. in Courtroom #1 in the Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, PA 17325 as the time for the hearing on said Petition, when and where all persons interested may appear and show cause, if any, why the relief requested by said Petition should not be granted.

Pamela Monnier
Vacancy Board Chairman
York Springs Borough
129 Main Street, P.O. Box 23
York Springs, PA 17372

10/15

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on September 7, 2004, for the purpose of obtaining a Certificate of Incorporation of a proposed corporation to be organized under the provisions of the Pennsylvania Business Law of 1988, P.L. 1444, No. 177, as amended. The name of the corporation is D.W.S. AND ASSOCIATES, INC., with a registered office of the corporation being 979 Hamey Road, Littlestown, PA 17340.

David K. James, III, Esq.
234 Baltimore Street
Gettysburg, PA 17325

10/15

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-348 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE TWO lots of ground situate in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

LOT #1:

BEGINNING at a joint in the concrete on the inside line of the sidewalk on the South side of Chambersburg Street at lands now or formerly of Harry M. Sneeringer; thence by the inside line of the sidewalk, South 85 degrees East, 28.65 feet to a point at lands now or formerly of Kenneth P. Hull, said point also being at corner of brick house on adjoining property; thence by said lands, South 04 degrees, 10 minutes West, 155 feet to a point at brick building on Lot #2 hereof; thence by Lot #2, North 85 degrees West, 12.3 feet to a point; thence by Lot #2, South 05 degrees West, 25 feet to a point on the North side of a 12-foot alley; thence along the North side of said alley, North 85 degrees West, 18.9 feet to a point at land now or formerly of Harry M. Sneeringer aforesaid; thence by lands, North 05 degrees East, 180 feet to a joint in the concrete, the place of BEGINNING.

LOT #2:

BEGINNING at a point at land now or formerly of Kenneth P. Hull and Lot #1 hereof, thence by land now or formerly of Kenneth P. Hull, South 04 degrees, 10 minutes West, 25 feet to a joint on the North side of a 12-foot alley; thence along the North side of said alley, North 85 degrees West, 12.35 feet to a point at Lot #1 hereof; thence by Lot #1, North 05 degrees East, 25 feet to a point; thence by Lot #1, South 85 degrees East, 12.3 feet to a point, the place of BEGINNING.

THE SAID TWO lots of ground being the same lots which were surveyed by LeRoy E. Whinebrenner, C.S. on September 22, 1958, as the property of Maude K. Averbuch.

Tax Parcel # 7-263

TITLE TO SAID PREMISES IS VESTED IN Lance P. Greenawalt by Deed from Simone Mitchell, widow by the Adams County National Bank, her attorney-in-fact dated 3/4/2002 and recorded 3/5/2002 in Record Book 2581, page 171.

SEIZED and taken into execution as the property of **Lance P. Greenawalt** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/1, 8 & 15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-638 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner at a post of lands now or formerly of Mrs. Amanda Sterner and Jefferson Avenue; thence with said Jefferson Avenue South 17 degrees 15 minutes West 60 feet to stake at other lands now or formerly of Mary C. Diller, et vir; thence with said

land North 70 degrees 55 minutes West 130 feet to a stake at other lands now or formerly of said Mary C. Diller, et vir; thence with said lands North 17 degrees 15 minutes East 60 feet to a stake at lands now or formerly of Mrs. Amanda Sterner, aforesaid; thence with said lands South 70 degrees 55 minutes East 130 feet to a post at Jefferson Avenue, aforementioned, and the place of BEGINNING.

BEING the same premises which James P. Fowler and Joyce A. Fowler, by Deed dated January 19, 1999 and recorded in Adams County on February 3, 1999 at Deed Book Volume 1758, Page 10, granted and conveyed to James P. Fowler and Joyce A. Fowler.

Kimberly J. Hong, Esq.
Attorney for Plaintiff

2718 Koppers Building
436 Seventh Avenue

Pittsburgh, Pennsylvania 15219

Parcel No: (08)-9-38

SEIZED and taken into execution as the property of **James P. Fowler & Joyce A. Fowler** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/1, 8 & 15

CLARK COMPANIES ET AL VS. EA ENGINEERING

1. The Pennsylvania Rules of Civil Procedure allow for a defendant in a civil action to join additional defendants who may be solely liable, liable over to the joining party or jointly or severally liable with the joining party. Joinder, as a matter of right, must be commenced within sixty days of the original complaint. Otherwise, joinder may only be accomplished by court order upon a showing of cause.

2. A trial court should not allow the joinder of an additional defendant beyond the prescribed time unless the joining party shows that: joinder of the proposed additional defendant is based upon a valid cause of action; there is sufficient cause to reasonably justify the delay in commencing joinder proceedings; and the plaintiff or the proposed additional defendant will not be unduly prejudiced by the late joinder.

3. The Court is primarily concerned with determining whether the allegations are sufficient to raise the possibility of the existence of the alleged liability of the proposed additional defendant. In making this determination, the lower court must exercise its discretion carefully and, in light of little factual development at this point in litigation, should find in favor of joinder unless it is clear that no cause of action against the additional defendant exists.

4. Although it is true that the running of the statute of limitations on an underlying tort claim does not preclude a defendant from pursuing a contribution or indemnification action against an additional defendant, that rule of law does not resurrect the underlying tort claim which the statute of limitations otherwise bars.

5. Indemnity is a common law remedy shifting the entire loss from one who has been compelled, by reason of some legal delegation, to pay a judgment occasioned by the initial negligence of another who should bear it.

6. In applying indemnity principals, a court must look to whether the party seeking indemnity had any part in causing the injury.

7. The party seeking joinder of an additional defendant beyond the time period prescribed by the Pennsylvania Rules of Civil Procedure must show sufficient cause to reasonably justify the delay.

8. Although, historically, procedural rules concerning third party procedure have been liberally construed to avoid a multiplicity of lawsuits, "the goal of judicial economy does not alleviate the necessity of establishing 'cause' for allowing late joinder."

9. A joining party is justified in the late commencement of joinder proceedings where the joining party does not know, nor has any reason to know, of a right of action against a proposed additional defendant until that fact is developed as a result of substantial and timely discovery proceedings. However, this justification is not available where the delay in discovering the potential liability is a result of the joining party's failure to act diligently or expeditiously.

10. Since a primary purpose of imposing time limitations on joinder proceedings is to protect the plaintiff against unreasonable delay in litigation, prejudice to the plaintiff's interest in expeditiously litigating the action is an appropriate ground for denying joinder.

11. In order to warrant denial of an extension of time for joinder based upon prejudice to a plaintiff, the prejudice must rise to a greater level than the normal prejudice which would necessarily flow from the joinder of a party in a lawsuit.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 00-S-705, THE CLARK COMPANIES, THE ESAB GROUP, INC., QUEBECOR WORLD FAIRFIELD, INC.,

HANOVER BRONZE & ALUMINUM FOUNDRY, INC., KEMPER INDUSTRIES, INC., R. H. SHEPPARD CO., INC., SKF USA, INC. AND THE GENLYTE THOMAS GROUP, LLC, VS. EA ENGINEERING, SCIENCE AND TECHNOLOGY, INC.

Jane Gowan Penny, Esq., for Plaintiffs
Michael Mikulski, Esq., for Defendant
George, J., October 30, 2003

OPINION

The Plaintiffs¹ initiated this cause of action on December 4, 2002 by filing a complaint against the Defendant, EA Engineering, Science and Technology, Inc. (hereinafter referred to as “EA Engineering”), alleging causes of action based upon breach of contract, professional malpractice and negligent misrepresentation. Although the Complaint was not filed until December 4, 2002, the record reflects a Writ of Summons being issued upon EA Engineering on July 12, 2000. On January 10, 2003 EA Engineering filed an Answer with New Matter to the Plaintiffs’ Complaint. On August 5, 2003 EA Engineering filed a Petition for Leave to Join Quest Environmental and Engineering Services, Inc. (hereinafter referred to as “Quest”) and Cornerstone Structural Engineering Consultants (hereinafter referred to as “Cornerstone”) as Additional Defendants. The Plaintiffs filed an Answer to EA Engineering’s motion objecting to the late joinder. The matter is now ripe for disposition.

The Pennsylvania Rules of Civil Procedure allow for a defendant in a civil action to join additional defendants who may be solely liable, liable over to the joining party or jointly or severally liable with the joining party. Pa.R.C.P. 2252(a)(1-3). Joinder, as a matter of right, must be commenced within sixty days of the original complaint. Pa.R.C.P. 2253. Otherwise, joinder may only be accomplished by court order upon a showing of just cause. *Id.* The procedure

¹ The Complaint identifies the Plaintiffs as The Clark Companies, The ESAB Group, Inc., Quebecor World Fairfield, Inc., Hanover Bronze and Aluminum Foundry, Inc., Kemper Industries, Inc., R.H. Sheppard Co., Inc., SKF USA, Inc., and The Genlyte Thomas Group, LLC. According to the Complaint, the Plaintiffs are among the group the United States Environmental Protection Agency identified as potentially responsible parties for the clean up of pollution at the site known as the Keystone Landfill located in Adams County, Pennsylvania. These parties will hereinafter be referred to collectively as “Plaintiffs”.

prescribed by the Pennsylvania Rules Of Civil Procedure for joining additional defendants aims at balancing the two primary and sometimes conflicting objectives of providing a means to simplify and expedite the disposition of matters involving numerous parties without subjecting the original plaintiff's litigation to unreasonable delay. *Francisco v. Ford Motor Co.*, 593 A.2d 1277, 1278 (Pa.Super. 1991); *Zakian v. Liljestrand*, 264 A.2d 638, 641 (Pa. 1970). In an effort to balance the sometimes competing interests, Pennsylvania appellate courts developed a three-prong test for trial courts to consider when addressing the joinder of additional defendants beyond the sixty-day time period specified in the Rules of Civil Procedure. Appellate authority instructs that a trial court should not allow the joinder of an additional defendant beyond the prescribed time unless the joining party shows that: joinder of the proposed additional defendant is based upon a valid cause of action; there is sufficient cause to reasonably justify the delay in commencing joinder proceedings; and the plaintiff or the proposed additional defendant will not be unduly prejudiced by the late joinder. *Lawrence v. Meeker*, 717 A.2d 1046, 1048 (Pa.Super. 1998). The burden of demonstrating each of these requirements rests upon the party seeking joinder. *White v. American Honda Research of America*, 589 A.2d 764, 765-66 (Pa.Super. 1991). With this guidance, I will now analyze EA Engineering's Petition to Join Quest and Cornerstone.

The first prong of the joinder test is meant to enable the Court to determine at an early stage whether there is any basis for including the additional defendant in the litigation so that time is not wasted. *Farmer v. General Refractories Co.*, 413 A.2d 701, 703 (Pa.Super. 1979). Thus, the Court is primarily concerned with determining whether the allegations are sufficient to raise the possibility of the existence of the alleged liability of the proposed additional defendant. *Id.* In making this determination, the lower court must exercise its discretion carefully and, in light of little factual development at this point in litigation, should find in favor of joinder unless it is clear that no cause of action against the additional defendant exists. *Id.*

A brief review of the Plaintiffs' Complaint reveals allegations that the Plaintiffs and EA Engineering entered into an agreement on March 11, 1992 wherein EA Engineering would provide comprehensive consulting, engineering and analytical services for solving complex environmental and health problems at the Keystone Landfill.

Pursuant to the agreement, the Complaint alleges that EA Engineering designed a system to capture, contain or remove contamination from the landfill's groundwater and made certain representations about the capacity and potential of the designed system. The Plaintiffs further allege that in approximately June 1998, in reliance upon EA Engineering's design and representations, they began construction of the remedial project. However, the Plaintiffs claim to have immediately encountered significant problems with EA Engineering's design plans, specifications, models and other representations. They claim that EA Engineering's designs were inadequate and contrary to acceptable standards. As a result, the Plaintiffs claim in their several causes of action that they have suffered or will suffer past and future damages in the redesign, reconstruction and renovation of the project. They further allege that EA Engineering's negligent design left the Plaintiffs with a more dangerous, complex and expensive plant to operate resulting in future damages and operating costs in terms of products, staffing and maintenance.

EA Engineering, in its proposed third-party complaint against Quest and Cornerstone, alleges that both Quest and Cornerstone made certain changes, modifications and alterations to EA Engineering's design subsequent to the Plaintiffs' expressed dissatisfaction with the original design. Specifically, EA Engineering sets forth three theories of liability against Quest and Cornerstone: 1) negligence; 2) indemnification and 3) right of contribution. Therefore, resolution of the viability of EA Engineering's joinder cause of action requires separate analysis of each of these theories.

Although the basis of EA Engineering's negligence claim against Quest and Cornerstone is unclear, there is no question that this claim lacks merit. Initially, I note that EA Engineering rests the negligence claim upon a duty of care which Quest and Cornerstone owed to the original Plaintiffs. After an exhaustive search for a precedent, I have been unable to find any authority granting EA Engineering standing to pursue a negligence cause of action on behalf of the Plaintiffs against a third party. Even more critical, however, is the fact that a cause of action based upon negligence against Quest and Cornerstone is clearly barred by the applicable statute of limitations. See 42 Pa.C.S.A. § 5524 (providing a two-year statute of limitations for negligence actions). Although it is true that the running of the statute of limitations on an underlying tort claim does not preclude a

defendant from pursuing a contribution or indemnification action against an additional defendant, see *Oviatt v. Automated Entrance Sys. Co., Inc.*, 583 A.2d 1223, 1227 (Pa.Super. 1990), that rule of law does not resurrect the underlying tort claim which the statute of limitations otherwise bars. See generally *Id.* at 1227-28. Thus, EA Engineering's advancement of a negligence theory as a valid ground for joinder is insufficient.

The second theory EA Engineering pursued as a valid ground for joinder is indemnification. Indemnity is a common law remedy shifting the entire loss from one who has been compelled, by reason of some legal delegation, to pay a judgment occasioned by the initial negligence of another who should bear it. *Willet v. Pa. Med. Catastrophe Loss Fund*, 702 A.2d 850, 854 (Pa. 1997) (citing *Builders Supply Co. v. McCabe*, 77 A.2d 368, 370 (Pa. 1951)).

... [It] is not a fault sharing mechanism between one who was predominantly responsible for an accident and one whose negligence was relatively minor. Rather, it is a fault shifting mechanism, operable only when a defendant who has been held liable to a plaintiff solely by operation of law, seeks to recover his loss from a defendant who was actually responsible for the accident which occasioned the loss.

Sirianni v. Nugent Bros., Inc., 506 A.2d 868, 871 (Pa. 1986).

Critically, in applying indemnity principles, a court must look to whether the party seeking indemnity had **any part** in causing the injury. *Id.* (emphasis in original). As the Supreme Court explained:

The right of *indemnity* rests upon a difference between the primary and the secondary liability of two persons each of whom is made responsible by the law to an injured party. It is a right which enures to a person who, without active fault on his own part, has been compelled, by reason of some legal obligation, to pay damages occasioned by the initial negligence of another, and for which he himself is only secondarily liable.

* * *

[S]econdary as distinguished from primary liability rests upon a fault that is imputed or constructive only,

being based on some legal relation between the parties, or arising from some positive rule of common or statutory law or because of a failure to discover or correct a defect or remedy a dangerous condition caused by the act of the one primarily responsible.

* * *

In the case of *concurrent* or *joint* tort feors, having no legal relation to one another, each of them owing the same duty to the injured party, and involved in an accident in which the injury occurs, there is complete unanimity among the authorities everywhere that no right of indemnity exists on behalf of either against the other; in such a case, there is only a common liability and not a primary and secondary one, even though one may have been very much more negligent than the other.

McCabe, 77 A.2d at 370-71 (emphasis in original).

Based upon this Supreme Court guidance, it is clear that EA Engineering's joinder theory based upon indemnification must fail. Clearly, there is no legal relationship between EA Engineering and either Quest or Cornerstone. The liability of Quest or Cornerstone, if any, is based on a separate duty which each of them owes to the Plaintiffs. Similarly, EA Engineering's liability, if any, is based upon a separate duty owed to the Plaintiffs. Under these circumstances, EA Engineering's application of the theory of indemnification is misplaced.

EA Engineering's final theory of joinder is based upon its efforts to seek contribution from Quest and Cornerstone. In Pennsylvania, the right to contribution from joint tort-feors is provided for by statute. See 42 Pa.C.S.A. § 8324. Pursuant to statute, joint tort-feors are defined as "two or more persons jointly or severally liable in tort for the same injury to persons or property . . ." 42 Pa.C.S.A. § 8322. Parties may be held jointly liable for an injury if their conduct causes a single harm which cannot be apportioned even though the respective parties may have acted independently. *Mattia v. Sears, Roebuck & Co.*, 531 A.2d 789, 791 (Pa.Super. 1987). In determining whether harm is capable of apportionment, appellate courts opined that the following factors be considered:

[T]he identity of a cause of action against each of two or more defendants; the existence of a common, or like duty; whether the same evidence will support an action against each; the single, indivisible nature of the injury to the plaintiffs; identity of the facts as to time, place or result; whether the injury is direct and immediate, rather than consequential, responsibility of the defendants for the same *injuria* as distinguished from *damnum*. Prosser, Law of Torts, § 46 n.2 (4th ed. 1971) (footnotes omitted). *Harka v. Nabati*, 487 A.2d 432, 434 (Pa.Super. 1985) (citing *Voyles v. Corwin*, 441 A.2d 381, 383 (Pa.Super. 1982)).

Applying this instruction to the current issue, I find that EA Engineering has facially alleged a viable cause of action for contribution from Quest and Cornerstone. A similar or like duty is owing from EA Engineering, Quest and Cornerstone to the Plaintiffs. Additionally, the Plaintiffs' damages appear to some extent to be indivisible. Finally, the time, location and result of the actions underlying the litigation are sufficiently linked in that they involve the same witnesses and matters of proof.

In support of their argument to deny joinder, the Plaintiffs urge that the factual background forming the basis for their cause of action against EA Engineering occurred prior to either Quest's or Cornerstone's involvement in the Keystone project. While Plaintiffs may be factually correct, their argument ignores the reality that the Plaintiffs seek damages resulting from a construction project which Quest and Cornerstone had, albeit minimally, a part in designing. Although further litigation may ultimately reveal that remedial designs of either Quest, Cornerstone or both had no impact on future damages, it is premature at this stage of the litigation to reach such a conclusion. Accordingly, I find that joinder of Quest and Cornerstone is based upon a valid ground.

The second criteria to be considered in addressing EA Engineering's Motion for Late Joinder is whether there is sufficient cause to reasonably justify the delay in commencing the joinder proceedings. The party seeking joinder of an additional defendant beyond the time period prescribed by the Pennsylvania Rules of Civil Procedure must show sufficient cause to reasonably justify the delay. *Farmer*, 413 A.2d at 702. Although, historically, procedural

rules concerning third party procedure have been liberally construed to avoid a multiplicity of lawsuits, “the goal of judicial economy does not alleviate the necessity of establishing ‘cause’ for allowing late joinder”. *Exton Dev. v. Sun Oil Co. of Pa.*, 525 A.2d 402, 404 (Pa.Super. 1987). See also *White*, 589 A.2d at 766 (noting avoidance of a multiplicity of lawsuits does not obviate the requirement that cause must be shown to justify late joinder).

EA Engineering argues that the complex nature of the subject matter of the litigation justifies a late joinder. Specifically, EA Engineering claims that “approximately 120 employees . . . performed some function on this matter, ranging from engineering services to clerical assistance.” EA Engineering’s Petition for Joinder, ¶6. EA Engineering further claims that its investigation of the subject in litigation has resulted in an exhaustive review and analysis of “more than 8,900 documents of . . . [EA Engineering] as well as more than 220 documents thus far produced by the Plaintiffs . . .” *Id.* at ¶5. As a result of this exhaustive review, EA Engineering argues that it has only recently determined culpability on the part of Quest and Cornerstone.

EA Engineering is correct in arguing that a joining party is justified in the late commencement of joinder proceedings where the joining party does not know, nor has any reason to know, of a right of action against a proposed additional defendant until that fact is developed as a result of substantial and timely discovery proceedings. *Lamoree v. Penn Centr. Transp. Co.*, 357 A.2d 595, 597 (Pa.Super. 1976). However, this justification is not available where the delay in discovering the potential liability is a result of the joining party’s failure to act diligently or expeditiously. *Mutual Industries, Inc. v. Weinberg*, 621 A.2d 140, 143 (Pa.Super. 1993). A review of the record in this matter, as well as testimony presented at hearing, reflects that EA Engineering’s delay in joining Quest and Cornerstone is not supported by sufficient cause.

As mentioned, EA Engineering’s theory of liability against Quest and Cornerstone centers around modifications made to EA Engineering’s original engineering plans prior to completion of the project. Documents produced at hearing conclusively established that EA Engineering was aware of both Quest’s and Cornerstone’s involvement, and potential liability, in this matter as early as

August 28, 1998.² The exchange of correspondence and other information from August 1998 through the filing of the complaint was clearly sufficient to provide notice to EA Engineering of the potential right of contribution from Quest and Cornerstone. Thus, the basis for EA Engineering's joinder complaint was known, or should have been known, at least three years prior to the filing of the Plaintiffs' Complaint. Any claims to the contrary are incredible when one considers that EA Engineering possessed this knowledge at a time when it was alerted that it was the subject of potential litigation which would expose it to a several million-dollar claim.³

The record reveals that EA Engineering exceeded the procedural time period for joining additional defendants by approximately six months. Moreover, the proffered justification for the delay in joining the additional defendants is insufficient. Although the length of the delay is not, in and of itself, determinative but rather must be viewed in the context of the particular case, *Zakian*, 264 A.2d at 642, appellate courts held unjustified delays of much less time periods to

² A letter dated August 28, 1998 from Peter A. Peilissier, P.E., Project Manager for EA Engineering, addressed to representatives of the Plaintiffs references the Keystone Sanitation Landfill site and includes the following relevant comments:

Our review of the backup documentation leads us to maintain that the design is not deficient. Our reasons are as follows: . . .

2. Quest requested Cornerstone Structural Engineering Consultants to review the entire design and make changes. This goes far beyond answering specific questions raised by the contractor, and is a re-design.
3. By altering EA's design without our knowledge or concurrence, Cornerstone or Quest (or both) have become professionally responsible for the structural design and assumed the risk of any resulting deficiencies. Hopefully, Cornerstone and Quest practiced the proper level of quality control, and a Pennsylvania-registered professional engineer sealed the appropriate documents which contained the modifications.

Plaintiffs' Answer in Opposition to EA Engineering's Petition, Exhibit B.

At hearing, it was established that similar correspondence was exchanged between the parties on September 4, 1998. Additionally, at a meeting on October 29, 2001 at which agents for EA Engineering's insurance carrier were present and EA Engineering was represented by counsel, a slide presentation was presented specifically setting forth the issues which are the subject of this litigation. It is noteworthy that although the complaint in this matter was not filed until December 2002, a Writ of Summons notifying EA Engineering of the potential litigation was filed on July 12, 2000.

³ Correspondence produced at hearing reflects that on November 2, 2001 EA Engineering was alerted that the Plaintiffs were claiming damages against it totaling \$1,972,000. See Plaintiffs' Answer in Opposition to EA Engineering's Petition, Exhibit G.

be sufficient to deny joinder of additional defendants. See *Kovalesky v. Esther Williams Swimming Pools*, 497 A.2d 661 (Pa.Super. 1985) (concluding proposed joinder made four months after service of complaint was appropriately denied); *Exton Dev.*, 525 A.2d 402 (concluding unjustified delay of 100 days sufficient to deny joinder). I see no reason why the facts of this case deserve a different result.

Although EA Engineering failed to present sufficient cause to reasonably justify its delay in commencing the joinder proceedings, I must now consider whether the allowance of joinder prejudices either the Plaintiffs or Quest and Cornerstone so that the decision concerning the propriety of joinder will be made in the context of the entire case with a view towards the factors enunciated by our appellate courts.

Since a primary purpose of imposing time limitations on joinder proceedings is to protect the plaintiff against unreasonable delay in litigation, prejudice to the plaintiff's interest in expeditiously litigating the action is an appropriate ground for denying joinder. See generally *Consul v. Burke*, 589 A.2d 246 (Pa.Super. 1991). Instantly, EA Engineering argues that the litigation will involve protracted discovery and approximately thirty to forty depositions which have not yet been taken. It reasons, therefore, that prejudice, if any, to the Plaintiffs is minimal. On the other hand, the Plaintiffs urge that, if joined, the third-party defendants will be required to respond to the complaint and further protracted discovery will result. The Plaintiffs further indicate that the parties exchanged interrogatories and that representatives from both Quest and Cornerstone have participated in aiding the Plaintiffs' preparation of the interrogatories served upon EA Engineering. Moreover, representatives from both entities have been identified as trial witnesses.

While it is true that the pleadings necessitated by joinder of an additional defendant will result in delay in the litigation, I dismiss the Plaintiffs' claims of prejudice in this regard. In order to warrant denial of an extension of time for joinder based upon prejudice to a plaintiff, the prejudice must rise to a greater level than the normal prejudice which would necessarily flow from the joinder of a party in a lawsuit. See generally *Brodbeck v. Wolfe*, 89 Pa. D.&C. 230 (C.P. Beaver 1954). Holding otherwise would be to impute a prejudice in all joinder proceedings thereby frustrating the viability of a necessary procedural rule.

On the other hand, I find the Plaintiffs' remaining arguments in regard to prejudice persuasive. Where parties are already engaged in discovery, as they have in the present circumstance,⁴ sufficient prejudice to a plaintiff exists to warrant denial of the extension of time for joinder. *NPW Med. Center of N.E. Pa., Inc. v. LS Design Group, P.C.*, 509 A.2d 1306, 1310 n.5 (Pa.Super. 1986). "Because the additional defendant will not have participated in such proceedings, plaintiff's suit might have to be delayed in order to allow the additional defendant to conduct discovery." *Id.* EA Engineering indirectly acknowledges the reality of the duplication of discovery should joinder be permitted when it acknowledges that it took approximately eight months since the filing of the complaint to review the large volume of materials involved in this litigation. Although EA Engineering cites the complexity of this matter as sufficient cause for its delay in moving to join Quest and Cornerstone, I find this complexity to be a clear indication that duplication of this exhaustive process enures to the prejudice of the Plaintiff. Even more alarming is EA Engineering's attempt to join Quest and Cornerstone at a stage in litigation where representatives from both have already been identified as trial witnesses who have assisted the Plaintiffs' preparation of their litigation. The clear effect of allowing late joinder under these circumstances will be disruption of the Plaintiffs' presentation of their case and obvious delay in the litigation. Accordingly, I find that joinder at this late date will unduly prejudice the Plaintiffs.⁵

For the reasons set forth above, I deny EA Engineering's Petition for Late Joinder. Although a viable cause of action against Quest and Cornerstone may exist, the merits of such litigation are skeptical at best. Regardless, EA Engineering will have the opportunity to file a separate lawsuit should there be factual support for such a claim. Moreover, EA Engineering has failed to present any sufficient justification for the six-month delay in attempting to join the additional

⁴EA Engineering, in its Petition to Join Quest and Cornerstone, acknowledges that "more than 220 documents thus far [have been] produced by [P]laintiffs in response to . . . [EA Engineering's] first request for production of documents". EA Engineering's Petition for Joinder, ¶ 5.

⁵In *Glabbatz v. Terminal Freight Handling Co.*, 563 A.2d 151 (Pa.Super. 1989), the Pennsylvania Superior Court held that the absence of prejudice is not dispositive of late joinder issues and does not automatically entitle the joining party to an extension of time for joinder of the additional defendant. *Id.* at 153-54.

parties. Finally, allowing joinder at this late date will prejudice the Plaintiffs' timely presentation of their claim. Balancing each of these factors, I find that joinder is inappropriate. In this respect, the present case is roughly analogous to the situation in *NPW Med. Center*, cited above. In *NPW Med. Center*, the Superior Court upheld the trial court's denial of a six-month late attempt at joinder which the joining party alleged was due to the complex investigation involved in the litigation. In affirming the trial court, the Superior Court stated, "[w]e believe that to conclude otherwise would be to emasculate Rule 2253 by ignoring its clear requirement that cause must be shown for delay in joinder". *Id.* at 1310. Similarly, I find EA Engineering's argument in support of its motion for late joinder to be unconvincing.

For the foregoing reasons, the attached Order is entered.

ORDER

AND NOW, this 30th day of October, 2003, the Defendant's Petition for Joinder is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-679 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following 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 Lynx Drive and Lot No. 149-A; thence along Lot No. 149-A, South twenty-seven (27) degrees fifty-one (51) minutes twenty-four (24) seconds East, one hundred twenty-eight and eighteen hundredths (128.18) feet to a point at Lot No. 148; thence along Lot No. 148, North seventy-four (74) degrees twenty-one (21) minutes fifty-seven (57) seconds West, one hundred forty-five and fifty-eight hundredths (145.58) feet to a point at lands now or formerly of Elsie M. Bange; thence along said lands, North six (06) degrees eight (08) minutes forty-six (46) seconds West, twenty-five (25.00) feet to a point at Lynx Drive; thence along Lynx Drive, by a curve to the right whose radius is seven hundred forty (740.00) feet and whose chord bearing is North fifty-nine (59) degrees eighteen (18) minutes forty-nine (49) seconds East, ninety-six and forty-nine hundredths (96.49) feet for an arc distance of ninety-six and fifty-five hundredths (96.55) feet to the point and place of BEGINNING. CONTAINING 7,968 square feet and identified as Lot No. 149-B on a plan of lots entitled Lot 149, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 56, Page 30.

SUBJECT to the restrictions as contained in Record Book 56, Page 30.

BEING KNOWN AS: 107 Lynx Drive, Hanover (Conewago Twp.), PA 17331

PROPERTY ID NO. Map 7, Parcel 53

TITLE TO SAID PREMISES IS VESTED IN Gina M. Demaria, unmarried by deed from Dennis E. Wherley and Linda L. Wherley, husband and wife dated 10/19/99 recorded 10/20/99 in Deed Book 1937 Page 110.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in

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

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

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

10/1, 8 & 15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-889 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel pin set near the Northeasternmost edge of the cartway of Myers Town Road (T-600), said pin marking the common point of joinder of Lot #2 with lands now or formerly of Beatrice M. Prosser; thence departing from the cartway of Myers Town Road and extending along lands now or formerly of Beatrice M. Prosser the following two (2) courses and distances, North 38 degrees 42 minutes 00 seconds East, for a distance of 143.55 feet; thence continuing North 48 degrees 48 minutes 00 seconds West, for a distance of 146.97 feet to a steel pin at other lands now or formerly of Harold C. Rice; thence extending along lands now or formerly of Harold C. Rice, North 38 degrees 42 minutes 00 seconds East, for a distance of 275 feet to a steel pin at Lot #3 on the hereinafter mentioned plan of subdivision; thence extending along Lot #3 the following two (2) courses and distances, South 48 degrees 48 minutes 00 seconds East, for a distance of 171.99 feet to a steel pin; thence continuing along Lot #3, South 38 degrees 42 minutes 00 seconds West for a distance of 417.84 feet through a pin set on the Northeasternmost dedicated right-of-way line of Myers Town Road, to a point near the center of said Myers Town Road; thence extending in and along the cartway of Myers Town Road, North 50 degrees 25 minutes 25 seconds West, for a distance of 25 feet to a steel pin in the cartway of said roadway, said pin marking the place of BEGINNING.

CONTAINING 1.167 acres and being designated as Lot #2 on the final plan of major subdivision of Tall Oaks prepared for Harmon Graves Company by Rodney Lee Decker and Associates dated March 21, 1983, and recorded in the Office of the Recorder of Deeds in and for the Adams County, Pennsylvania, in Plat Book 38 at page 36.

Map and Parcel ID: G2-12

BEING KNOWN AS: 849 Myerstown Road, Gardners, PA 17324

SEIZED and taken into execution as the property of **Guy Fulton & Nanette S. Fulton** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 6, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/1, 8 & 15

INCORPORATION NOTICE

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

The name of the corporation is JOHN W. BOSSERMAN, INC.

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

John W. Bosserman, Inc.
12 Short Cut Road
Abbottstown, PA 17301

10/15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-886 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

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

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

TRACT NO. 2: BEGINNING at a point at corner of land now or formerly of John C. Steich and corner of land now or formerly of Charles E. Smeach; thence by land about to be conveyed to Charles E. Smeach North 45 degrees 30 minutes East 50 feet to a steel pin at other lands of Harry C. Worley; thence by said lands of Worley South 44 degrees 30 minutes East 100 feet to a steel pin; thence by the same South 45 degrees 30 minutes West 50 feet to a point at other land now or formerly of John C. Steich; thence by said Steich's land North 44 degrees 30 minutes West 100 feet to a point, the place of BEGINNING. CONTAINING 5,000 square feet.

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

SUBJECT, NEVERTHELESS, to the restrictions of record.

IT BEING the same premises which Edna M. Steich, widow, by Joyce M. Hartlaub, her attorney-in-fact, by her Deed dated January 14, 2000, and recorded in the Office of Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 1989, Page 224, granted and conveyed unto Michael L. Waite.

Address: 50 Pine Grove Road, Hanover, PA 17331

Tax Map K17, Parcel 8

Includes all buildings and improvements erected on the premises.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 13, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1122 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate in Menallen Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of a private road 50 feet in width at the Westernmost corner of the lot designated as Lot No. 1 on the plan of lots referred to below; thence by said Lot No. 1 and running through an iron pin located

25 feet from the place of beginning South 48 degrees 23 minutes 38 seconds East, 183.56 feet to an iron pin; thence by land now or formerly of Charles E. Ott and wife South 41 degrees 5 minutes 37 seconds West, 353.01 feet to an iron pin; thence by the lot designated as Lot No. 5 on the plan of lots referred to below and running through an iron pin located 25 feet from the end of this line North 48 degrees 23 minutes 38 seconds West, 186.72 feet to a point in the center of the aforementioned private road; thence in the center of said private road and by the lot designated as Lot No. 4 on the plan of lots referred to below North 41 degrees 36 minutes 22 seconds East, 353 feet to a point in the center of said private road, the place of BEGINNING. CONTAINING 1.499 acres.

THE foregoing description was obtained from a plan of lots of Big Flat Acres prepared by Richard W. Boyer, registered surveyor, trading as Boyer Surveys, dated September 27, 1978, and recorded in Adams County Plat Book 24 at Page 10, the lot hereby conveyed being designated as Lot No. 3 on said plan of lots.

Address: 2630 D Shippensburg Rd., Biglerville, PA 17307

Tax Map or Parcel ID No.: (29) B05-57

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 13, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

ESTATE NOTICES

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

FIRST PUBLICATION**ESTATE OF MARIE M. KLUNK, DEC'D**

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Janet M. Boyers, 136 East King Street, Abbottstown, PA 17301; Patrick J. Klunk, 523 Delone Avenue, McSherrystown, PA 17344

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

ESTATE OF ESTHER LUELLA WARREN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Regina Rosenwald & Robert Rosenwald, 36 Carrolls Tract Road, Fairfield, PA 17320; Annie McClain & Ira McClain, 57 High Trail, Fairfield, PA 17320

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

ESTATE OF KARL FREDERIC WILLIAMS, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Administrators: Paul J. McNickle, 18 West 13th St., Frederick, MD 21701; Barbara J. McNickle, 18 West 13th St., Frederick, MD 21701

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

SECOND PUBLICATION**ESTATE OF RALPH EUGENE HUMMEL, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Jeffery M. Cook, Esq., 234 Baltimore Street, Gettysburg, PA 17325

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

ESTATE OF SIMONE R. MITCHELL, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Adams County National Bank, 2 Chambersburg St., P.O. Box 4566, Gettysburg, PA 17325-4566

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF JAMES M. SANDERS, SR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: James M. Sanders, Jr., 460 Bendersville-Wenksville Road, Aspers, PA 17304

Attorney: Kathleen M. Kotula, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF LAWRENCE H. SHOWERS, DEC'D

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

Glenda J. Vaden, 3210 Lehr Drive, York, PA 17404

Attorney: Craig A. Hatch, Esq., Gates, Halbruner & Hatch, P.C., 1013 Mumma Road, Suite 100, Lemoyno, PA 17043

ESTATE OF GEORGE E. SWISHER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: George P. Neth, 806 Burnside Drive, Gettysburg, PA 17325

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

ESTATE OF CHERYL A. WINTERS, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executors: April D. Reed and David R. Winters, Jr., c/o Charles E. Shields, III, Esq., 6 Clouser Road, Mechanicsburg, PA 17055

Attorney: Charles E. Shields, III, Esq., 6 Clouser Road, Mechanicsburg, PA 17055

THIRD PUBLICATION**ESTATE OF ROBERT W. KLUCK, DEC'D**

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Patricia H. Kluck, 150 North Main Street, Biglerville, PA 17307

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

ESTATE OF JOHN H. MILLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Nona Shoemaker & Gary Miller, c/o Gary J. Imblum, Esq., Knupp, Kodak & Imblum, P.C., P.O. Box 11848, 407 North Front Street, Harrisburg, PA 17108-1848

Attorney: Gary J. Imblum, Esq., Knupp, Kodak & Imblum, P.C., P.O. Box 11848, 407 North Front Street, Harrisburg, PA 17108-1848

ESTATE OF SHARON E. PRICE, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Larry E. Miller, 2024 York Road, Gettysburg, PA 17325

Attorney: Wendy Weikal-Beauchat, 63 West High Street, Gettysburg, PA 17325

ESTATE OF FAITH A. REDDING, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Henry N. Redding, Jr., 6166 Pigeon Hill Rd., Spring Grove, PA 17362

Attorney: Ralph Oyler, Esq., 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF BERTHA F. REINDOLLAR, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrices: Carol L. Zeigler, 798 Shrivvers Corner Road, Gettysburg, PA 17325; Gail L. Roth, 209 Second Avenue, Hanover, PA 17331

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF ALICE E. SHOWERS, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Cecil L. Showers, P.O. Box 224, Arendtsville, PA 17303

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

ESTATE OF RICHARD A. TAYLOR, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Co-Executors: Robert E. Taylor, 480 Aspers-Bendersville Road, Aspers, PA 17304; Doris G. Wolfe, 115 East Chestnut Hill Road, Aspers, PA 17304

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

ESTATE OF KENNETH L. WOLF, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Co-Executrices: Sally Ann Person, 3202A Baltimore Pike, Littlestown, PA 17340; Judy K. Shemon, 75 Stoney Point Road, New Oxford, PA 17350

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-612 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of December, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in or near the center line of Township Road T-534, at corner of land now or formerly of Pet Incorporated; thence in and along said Township Road T-534, North 01 degree 16 minutes 00 seconds West, 904.78 feet to a point at corner of Lot No. 10A on the hereinafter referred to draft of survey; thence by said Lot No. 10A, and passing through a reference pipe set back 25.00 feet from the last mentioned point, North 78 degrees 50 minutes 40 seconds East, 517.78 feet to a pipe on line of Lot No. 9; thence by said Lot No. 9, South 19 degrees 43 minutes 10 seconds East, 115.00 feet to a pin; thence by same, South 67 degrees 55 minutes 50 seconds West, 129.88 feet to a pin; thence continuing by same, South 24 degrees 10 minutes 20 seconds East, 217.86 feet to a point in or near the center line of Township Road T-541; thence in and along said Township Road T-541, North 68 degrees 27 minutes 50 seconds East, 19.50 feet to a P.K. nail in said Township Road and at corner of Lot No. 11; thence by said Lot No. 11, and passing through a reference pipe set back 14.10 feet from the last mentioned point, South 04 degrees 03 minutes 30 seconds East, 751.83 feet to a pin on line of land now or formerly of Pet Incorporated, aforesaid; thence by said land of Pet Incorporated, and passing through a reference pin set back 25.67 feet from the next mentioned point, North 80 degrees 36 minutes 00 seconds West, 574.71 feet to a point in Township Road T-534, the place of BEGINNING. CONTAINING 12.121 Acres.

TOGETHER with all and singular ways, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever, of the grantor in law, equity, or otherwise howsoever, of, in and to the same and every part thereof.

Property known as: 410 Orchard Lane, Aspers, PA 17304.

Tax ID #: F6-56

SEIZED and taken into execution as the property of **Thomas J. Gerhart & Judith M. Gerhart** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 3, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

SHERIFF'S SALE

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

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

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

the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 7 at page 22.

Being known as: 310 Rock Valley Road, Aspers, PA 17304

Property ID No.: H6-24C

TITLE TO SAID PREMISES IS VESTED IN James Craig Johnson and Sandra R. Johnson, husband and wife, as tenants by the entireties by deed from Samuel B. Stoner and Alana M. Stoner, husband and wife dated 10/31/97 recorded 11/06/97 in Deed Book 1470 Page 131.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 3, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

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October 22, 2004

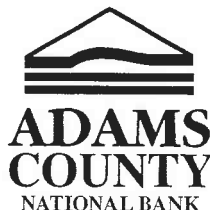
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Adams County National Bank's
commitment to its communities is
more than a fleeting promise.
It is a tradition founded upon our
more than 130 years of service to
the individuals, businesses and
organizations in these communities.



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-825 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of December, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or piece of ground situate in Biglerville Borough, County of Adams, Commonwealth of Pennsylvania, more particularly bounded and described in accord with a final subdivision plan prepared by Boyer Surveys, dated February 16, 1990, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 54 at Page 89, and being designated as Lot No. 4 thereon, bounded and described as follows:

BEGINNING at a chisel mark set on the curb line of Fourth Street at the Southern side of Lot No. 5 as shown on said plan; thence along the Southern edge of said Lot No. 5, North 87 degrees 10 minutes 00 seconds East, 130.00 feet to a point; thence by same, South 2 degrees 50 minutes 00 seconds East, 20.00 feet to a point on the Northern edge of Lot No. 3 as shown on said plan; thence along said Lot No. 3, South 87 degrees 10 minutes 00 seconds West, 130.00 feet to a chisel mark set on the curb line of Fourth Street; thence along same, North 2 degrees 50 minutes 00 seconds West, 20.00 feet to a chisel mark set at the point and place of BEGINNING.

Map #4 Parcel 88

TITLE TO SAID PREMISES IS VESTED IN Kelly L. Elicker, by Deed from J. Larry Boyer and Martha R. Boyer, husband and wife, dated 8/1/2002 and recorded 8/5/2002 in Record Book 2754, Page 337.

Premises being: 12 4th Street, Biglerville, PA 17307

SEIZED and taken into execution as the property of Kelly L. Elicker a/k/a Kelly L. Hansford and to be sold by me.

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

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

schedule of distribution will be filed by the Sheriff in his office on January 3, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/22, 29 & 11/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-230 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of December, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT IMPROVED lot of ground situate on the West side of Friendly Drive, in Conewago Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point on the West side of Friendly Drive at lands now or formerly of Gary W. Hubbard and Patricia A. Hubbard, also known as Lot No. 15, Block A; thence along the West side of Friendly Drive, North 30 degrees 55 minutes 20 seconds East, 100 feet to a point on the West side of Friendly Drive at corner of lot now or formerly of Richard J. Neiderer and Barbara A. Neiderer, Lot No. 1, Phase I, Chapel View; thence by lands now or formerly of Richard J. Neiderer and Barbara A. Neiderer, Lot No. 1, Phase I, Chapel View, North 59 degrees 4 minutes 40 seconds West, 175 feet to a point at lands now or formerly of Ronald C. Kerrigan, Lot No. 11, Block A; thence by lands now or formerly of Ronald C. Kerrigan, Lot No. 11, Block A, South 30 degrees 55 minutes 20 seconds West, 100 feet to a point at Lot No. 15, Block A, lands now or formerly of Gary W. Hubbard and Patricia A. Hubbard aforesaid; thence by lands now or formerly of Gary W. Hubbard and

Patricia A. Hubbard, Lot No. 15, Block A, South 59 degrees 4 minutes 40 seconds East, 175 feet to a point on the West side of Friendly Drive, the place of BEGINNING. CONTAINING 17,500 square feet.

SEIZED and taken into execution as the property of Aaron Mellinger and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 10, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/22, 29 & 11/5

ASSUMED NAME NOTICE

NOTICE IS HEREBY GIVEN that an application for registration of the assumed name S & N BUS LINE for the conduct of business in Adams County, Pennsylvania, with the principal place of business being 3600 Bullfrog Road, Fairfield, PA 17320 was made to the Department of State of Pennsylvania at Harrisburg, Pennsylvania, on the 13th day of October, 2004, pursuant to 54 Pa. C.S. §311. The name of the individual owning or interested in the said business is Stephen W. Jacobs.

McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

10/22

MILLER ET AL VS. SNYDER

1. In Pennsylvania, the measure of damages in a survival action is the decedent's pain and suffering and loss of gross earning power from the date of injury until death. Pennsylvania law is clear that where a decedent is killed instantaneously, there may be no recovery for pain and suffering in a survival action. The same rule applies where the decedent is not conscious between the time of injury and the time of death.

2. Pennsylvania does not recognize "pre-impact fright" as an appropriate basis for damages.

3. In Pennsylvania, damages for the negligent infliction of emotional distress are appropriate only where the distress resulted in some type of physical manifestation of emotional suffering.

4. A jury instruction concerning an award of damages for conscious pain and suffering between the time of injury and the time of death was unwarranted where there was "no evidence that decedents were conscious at anytime after the accident..."

5. The burden of proof in a negligence action falls squarely upon a plaintiff in regard to proving every element of the cause of action. Evidence is insufficient where a jury is left to speculate as to an element essential to a cause of action.

6. The admission of a non-party statement is admissible if the person making the statement is beneficially and directly interested in the action.

7. An admission by a plaintiff's decedent is admissible in a subsequent wrongful death action.

8. A survival action is not a new cause of action but rather is a continuation in the deceased's personal representative of the cause of action which accrued to the deceased. Similarly, a wrongful death action, although brought for the benefit of a decedent's survivors, is an action which is derivative of a decedent's injury and dependent upon a decedent's own cause of action being viable at the time of his death.

9. Wrongful death actions confer rights to recover damages which are dependent and derivative upon a plaintiff's ability to establish liability on the part of a defendant causing a decedent's death.

10. The measure of damages in a survival action involve the decedent's pain and suffering and loss of gross earning power from the date of injury until death.

11. On the other hand, damages recoverable in a wrongful death action include funeral and medical expenses as well as the present value of the services the deceased would have rendered to the family had she lived.

12. The appropriate amount of damages awarded in a wrongful death action is determined from the standpoint of the beneficiaries, not from that of a deceased.

13. Evidence is properly excluded if its probative value is outweighed by the danger of unfair prejudice, confusion of issues, or its potential for misleading the jury.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 00-S-809, MICHAEL A. MILLER AND SHARON
HUGHES, CO-EXECUTORS OF THE ESTATE OF ARLENE L.
MILLER, DECEASED, VS. SAUL RALPH SNYDER.

Thomas A. Sprague, Esq., for Plaintiffs
Richard J. Mennies, Esq., for Defendant
George, J., October 31, 2003

OPINION

This matter comes before the Court on a number of motions in limine filed by the respective parties. Before discussing the respective motions, a brief factual background will aid in disposition of the issues raised by the parties.

On September 13, 1999 a one-vehicle accident occurred in the southbound lane of State Route 15 in Adams County, Pennsylvania. Apparently, the operator of the vehicle, Defendant Saul Ralph Snyder (hereinafter referred to as “Snyder”) inexplicably lost control of his vehicle causing the vehicle to leave the roadway. According to the State Police reconstructionist at the scene, the vehicle traveled 214 feet after leaving the traveled portion of the highway until it struck a cedar tree located on an embankment west of the highway. After striking the cedar tree, the vehicle somersaulted and came to rest approximately 133 feet later. During the course of the accident, the two passengers in the vehicle were ejected from the vehicle. The rear seat passenger, Arlene L. Miller (hereinafter referred to as “Decedent”), was declared dead at the scene by the Adams County Coroner. Mr. Snyder’s wife, who was ejected from the front passenger seat, was alive, however, seriously injured.

Following the accident, Snyder informally provided a statement to George Davis, an agent of his insurance carrier. According to Mr. Davis, Snyder represented that his wife was speaking to the Decedent immediately prior to the accident. His statement implied, therefore, that both the Decedent and his wife were awake and conscious prior to the accident. Currently, Snyder maintains that his last memory of his wife prior to the accident was that she was asleep.

As a result of the accident, the Decedent’s children, Michael A. Miller and Sharon Hughes (hereinafter referred to as “Plaintiffs”), commenced litigation as co-executors of the estate of the Decedent pursuing causes of action for survival and wrongful death against Snyder. The parties have indicated that this matter is ripe for trial and have submitted a number of motions in limine concerning trial evidence. Although Snyder has stipulated as to negligence and that his negligence was a factual cause of the accident, the issue of damages remains to be resolved by a jury.

**Defendant's Motion in Limine Seeking Preclusion of
Plaintiffs' Claim for Damages Related to Pre-Impact Fright**

The Plaintiffs seek damages as part of their survival action for the "pre-impact fright" suffered by the Decedent prior to her death. Snyder seeks to preclude testimony related to this element of damages claiming that the evidence is insufficient to support submitting the issue of pre-impact fright to the jury.

In Pennsylvania, the measure of damages in a survival action is the decedent's pain and suffering and loss of gross earning power from the date of injury until death. *Teamann v. Zafris*, 811 A.2d 52, 64-65 (Pa.Cmwlt. 2002). Pennsylvania law is clear that where a decedent is killed instantaneously, there may be no recovery for pain and suffering in a survival action. *Nye v. Commonwealth of Pa., Dep't of Transp.*, 480 A.2d 318, 321 (Pa.Super. 1984). The same rule applies where the decedent is not conscious between the time of injury and the time of death. *Id.* at 321. While acknowledging this general rule, the Plaintiffs currently seek recovery for "pre-impact fright" suffered by the Decedent immediately prior to her death. After an exhaustive search, I have been unable to find any precedent in Pennsylvania for such an award. See *Id.*; *Stecyk v. Bell Helicopter Textron, Inc.*, 53 F.Supp.2d 794, 798 n.4 (E.D. Pa. 1999) (determining Pennsylvania does not recognize pre-impact fright as an appropriate basis for damages). Pennsylvania appellate courts have consistently held that the critical focus for mental and physical pain, suffering and inconvenience damages in a survival action is from the time period between the moment of injury and the moment of death. *Teamann*, cited above. Absent appellate authority in this regard, I decline the Plaintiffs' invitation to recognize "pre-impact fright" as a basis for expanding the types of damages traditionally available in a survival action.

Moreover, I note that in Pennsylvania, damages for the negligent infliction of emotional distress are appropriate only where the distress resulted in some type of physical manifestation of emotional suffering. *Brown v. Philadelphia College of Osteopathic Medicine*, 674 A.2d 1130, 1136-37 (Pa.Super. 1990); Restatement (Second) of Torts § 436A. It rationally follows that, in order to recover damages for emotional distress resulting from a traumatic incident, the plaintiff must be able to prove that physical harm was suffered prior to death. See generally *Nye*, cited above. Thus, even assuming that Pennsylvania recognized damages for trauma or distress related to

pre-impact fright, the offer of proof tendered by the Plaintiffs clearly lacks proof which establishes the existence of a physical symptom of stress suffered by the Decedent prior to death. Although the Plaintiffs cite *Mecca v. Lukasik*, 530 A.2d 1334 (Pa.Super. 1987) for the theory that pre-impact fright is an appropriate basis for recovery of damages in Pennsylvania, a close reading of that case indicates that it does nothing more than confirm long-standing authority that damages for mental and physical pain, suffering and inconvenience are appropriate where there is evidence of such **between** the moment of injury and the moment of death.

This ruling, however, does not necessarily result in the automatic preclusion of evidence relating to harm suffered by the Decedent during those tragic seconds preceding death. As indicated, damages are appropriate for the conscious pain and suffering endured by the Decedent between the infliction of injury and ultimate death. The critical issue, therefore, focuses on a determination of what is the minimum extent of the proof necessary to present the issue of pain and suffering to a trier of fact. In this regard, there appears to be an irreconcilable split of appellate authority. In *Nye*, cited above, a panel of the Pennsylvania Superior Court concluded that a jury instruction concerning an award of damages for conscious pain and suffering between the time of injury and the time of death was unwarranted where there was “no evidence that decedents were conscious at any time after the accident” *Nye*, 480 A.2d at 321. Three years later, in *Mecca*, cited above, a three-judge panel of the Superior Court upheld a jury charge authorizing an award of damages for pain and suffering under a factual pattern similar to the current case because the **defendants** had failed to establish that the occupants of the vehicle were unconscious when the vehicle left the roadway. *Mecca*, 530 A.2d at 1345. For the reasons set forth below, I find the reasoning of *Nye*, cited above, to be more persuasive and will rely upon its authority in resolving issues concerning the admissibility of evidence.

Initially, I note that it is axiomatic in Pennsylvania law that the burden of proof in a negligence action falls squarely upon a plaintiff in regard to proving every element of the cause of action. *Rice v. Shuman*, 519 A.2d 391, 395 (Pa. 1986); *Morena v. S. Hills Health Sys.*, 462 A.2d 680, 684 (Pa. 1983). Implicit in this rule is the well-recognized principle that evidence is insufficient where a jury is left to speculate as to an element essential to a cause of action. *Smith v.*

Grab, 705 A.2d 894, 898-99 (Pa.Super. 1997) (stating both that a jury cannot reach a decision based on speculation and that essential elements of a cause of action must be established).

Under this standard, when considering the proffers made by counsel, I am unable to find any evidence, either direct or circumstantial, which would allow a jury to infer or conclude that the Decedent suffered conscious harm prior to death. The Plaintiffs argue that Mr. Snyder's statement to an agent for his insurance carrier that his wife was speaking to the Decedent immediately prior to the accident is sufficient evidence of consciousness to submit the issue of pain and suffering to a jury. I disagree. While this statement may show consciousness on behalf of the Decedent prior to initial impact, the record is absolutely void of any indication that the Decedent was conscious following the initial infliction of injury. In fact, the Plaintiff's proffer fails to establish the moment of either injury or death. Rather, a factfinder is left to speculate as to whether the Decedent in fact suffered injury prior to her death. This lack of proof is critical since, as mentioned above, awards of pain and suffering in Pennsylvania are measured from the onset of injury until death. While cases may exist where injury prior to death may be inferred from the circumstances, I do not find this to be such a case. Specifically, a jury is left to speculate whether death occurred upon initial impact by the vehicle with the cedar tree or, on the other hand, after a brief, but horrendous, ejection from a somersaulting vehicle.

For the foregoing reasons, based upon a proffer submitted to the Court, I find the issue of damages for pain and suffering incurred by the Decedent is insufficient to present to a jury. See *Emerick v. Carson*, 472 A.2d 1133, 1137 (Pa.Super. 1984) (determining a trial court should not instruct the jury on law that is not applicable to the facts of the case).¹

¹Resolution of this issue is determinative of a number of other issues raised by the parties. Specifically, Snyder's Motion in Limine requesting a preclusion of the testimony of George Davis will be granted since testimony relating to whether the Decedent was conscious or unconscious is irrelevant in light of the Plaintiffs' inability to establish that death was not immediate upon impact. Additionally, Snyder's motion to preclude physical evidence relating to the instrumentalities of the accident or the accident scene are likewise irrelevant in light of Snyder's stipulation as to negligence and legal causation. Motions filed by both parties concerning appropriateness of disclosing to the jury that George Davis was an employee of Snyder's insurance carrier is moot since George Davis's testimony is inadmissible.

**Plaintiffs' Motion in Limine to Exclude Evidence
Regarding Injuries to and the Death of Snyder's Wife**

The next issue before the Court is the Plaintiffs' Motion in Limine to Exclude Evidence regarding injuries to and the death of Sherry Rose Snyder. In this regard, the Plaintiffs argue that the relevance of Mrs. Snyder's death as a result of the accident is greatly outweighed by the prejudicial effect the introduction of that information may have on the jury. Specifically, the Plaintiffs are concerned that sympathy for Snyder may override their ability to obtain a verdict based solely on the evidence. Snyder, on the other hand, argues that disclosure of Mrs. Snyder's death due to injuries inflicted from the accident is necessary to explain Mrs. Snyder's absence at trial and the absence of any statements by her concerning the issues at trial. Additionally, Snyder argues that introduction of this evidence is critical to corroborate his testimony. In this regard, he argues that his current testimony concerning his wife being asleep at the time of the accident is buttressed by the argument that this claim is etched in his memory due to it being the last memory of his wife prior to her fatal injuries. While this argument weighs in favor of allowing the jury information concerning the circumstances of Mrs. Snyder's death, in light of this Court's ruling in regard to the testimony of George Davis, see footnote 1, Snyder's testimony concerning the status of his wife at the time of the accident is equally irrelevant. Accordingly, Snyder's argument on this basis is no longer applicable.

Nonetheless, Snyder's initial argument deserves further consideration. Leaving a jury to speculate as to Mrs. Snyder's absence at trial greatly risks the possibility of the jury forming negative inferences as to her absence thereby prejudicing the defense. Yet, it appears that admission of this testimony may be equally prejudicial to the Plaintiffs in that the jury may render a verdict on something other than proper considerations. Accordingly, resolution of this issue will require a balancing of the respective interests. On one hand, the Plaintiffs have the right to expect a jury verdict based solely on the evidence and not upon sympathy due to Snyder's tragic loss of his wife. On the other hand, Snyder is entitled to some explanation to the jury as to the absence of a potentially critical witness. In balancing those interests, I determine that evidence concerning Mrs. Snyder's fatal injuries as a result of the accident is precluded. The risk of potential prejudice to Snyder will be mitigated by a curative

instruction to the jury. Specifically, the jury will be instructed that Mrs. Snyder was unavailable to provide a statement in this matter and has since passed away making her unavailable for trial. The jury will be further instructed that they may not draw any inferences, either favorable or unfavorable, as a result of her absence and that they are not to speculate in any way concerning the cause of her absence from the Courtroom. Precluding testimony in this regard with a curative instruction from the Court will satisfactorily address the concerns of each party and will allow a verdict based solely on proper evidence.

Continued to next issue (10/29/2004)

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-886 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

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

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

TRACT NO. 2: BEGINNING at a point at corner of land now or formerly of John C. Steich and corner of land now or formerly of Charles E. Smeach; thence by land about to be conveyed to Charles E. Smeach North 45 degrees 30 minutes East 50 feet to a steel pin at other lands of Harry C. Worley; thence by said lands of Worley South 44 degrees 30 minutes East 100 feet to a steel pin; thence by the same South 45 degrees 30 minutes West 50 feet to a point at other land now or formerly of John C. Steich; thence by said Steich's land North 44 degrees 30 minutes West 100 feet to a point, the place of BEGINNING. CONTAINING 5,000 square feet.

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

SUBJECT, NEVERTHELESS, to the restrictions of record.

IT BEING the same premises which Edna M. Steich, widow, by Joyce M. Hartlaub, her attorney-in-fact, by her Deed dated January 14, 2000, and recorded in the Office of Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 1989, Page 224, granted and conveyed unto Michael L. Waite.

Address: 50 Pine Grove Road, Hanover, PA 17331

Tax Map K17, Parcel 8

Includes all buildings and improvements erected on the premises.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 13, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1122 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate in Menallen Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of a private road 50 feet in width at the Westernmost corner of the lot designated as Lot No. 1 on the plan of lots referred to below; thence by said Lot No. 1 and running through an iron pin located

25 feet from the place of beginning South 48 degrees 23 minutes 38 seconds East, 183.56 feet to an iron pin; thence by land now or formerly of Charles E. Ott and wife South 41 degrees 5 minutes 37 seconds West, 353.01 feet to an iron pin; thence by the lot designated as Lot No. 5 on the plan of lots referred to below and running through an iron pin located 25 feet from the end of this line North 48 degrees 23 minutes 38 seconds West, 186.72 feet to a point in the center of the aforementioned private road; thence in the center of said private road and by the lot designated as Lot No. 4 on the plan of lots referred to below North 41 degrees 36 minutes 22 seconds East, 353 feet to a point in the center of said private road, the place of BEGINNING. CONTAINING 1.499 acres.

THE foregoing description was obtained from a plan of lots of Big Flat Acres prepared by Richard W. Boyer, registered surveyor, trading as Boyer Surveys, dated September 27, 1978, and recorded in Adams County Plat Book 24 at Page 10, the lot hereby conveyed being designated as Lot No. 3 on said plan of lots.

Address: 2630 D Shippensburg Rd., Biglerville, PA 17307

Tax Map or Parcel ID No.: (29) B05-57

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 13, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that I, Sara Victoria Ruth Epps, am changing my name to Sara Victoria Ruth Epps Mirchandani Sánchez pending my court date at Adams County Courthouse on October 22, 2004.

10/22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-612 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of December, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in or near the center line of Township Road T-534, at corner of land now or formerly of Pet Incorporated; thence in and along said Township Road T-534, North 01 degree 16 minutes 00 seconds West, 904.78 feet to a point at corner of Lot No. 10A on the hereinafter referred to draft of survey; thence by said Lot No. 10A, and passing through a reference pipe set back 25.00 feet from the last mentioned point, North 78 degrees 50 minutes 40 seconds East, 517.78 feet to a pipe on line of Lot No. 9; thence by said Lot No. 9, South 19 degrees 43 minutes 10 seconds East, 115.00 feet to a pin; thence by same, South 67 degrees 55 minutes 50 seconds West, 129.88 feet to a pin; thence continuing by same, South 24 degrees 10 minutes 20 seconds East, 217.86 feet to a point in or near the center line of Township Road T-541; thence in and along said Township Road T-541, North 68 degrees 27 minutes 50 seconds East, 19.50 feet to a P.K. nail in said Township Road and at corner of Lot No. 11; thence by said Lot No. 11, and passing through a reference pipe set back 14.10 feet from the last mentioned point, South 04 degrees 03 minutes 30 seconds East, 751.83 feet to a pin on line of land now or formerly of Pet Incorporated, aforesaid; thence by said land of Pet Incorporated, and passing through a reference pin set back 25.67 feet from the next mentioned point, North 80 degrees 36 minutes 00 seconds West, 574.71 feet to a point in Township Road T-534, the place of BEGINNING. CONTAINING 12.121 Acres.

TOGETHER with all and singular ways, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever, of the grantor in law, equity, or otherwise howsoever, of, in and to the same and every part thereof.

Property known as: 410 Orchard Lane, Aspers, PA 17304.

Tax ID #: F6-56

SEIZED and taken into execution as the property of **Thomas J. Gerhart & Judith M. Gerhart** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 3, 2005, 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.

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10/8, 15 & 22

SHERIFF'S SALE

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

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

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

the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 7 at page 22.

Being known as: 310 Rock Valley Road, Aspers, PA 17304

Property ID No.: H6-24C

TITLE TO SAID PREMISES IS VESTED IN James Craig Johnson and Sandra R. Johnson, husband and wife, as tenants by the entireties by deed from Samuel B. Stoner and Alana M. Stoner, husband and wife dated 10/31/97 recorded 11/06/97 in Deed Book 1470 Page 131.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 3, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on August 31, 2004, for the purposes of obtaining a Certificate of Incorporation of a proposed professional corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended. The name of the corporation is MARK P. RARRICK, P.C.

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

10/22

ESTATE NOTICES

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

FIRST PUBLICATION**ESTATE OF HARRY E. BAUGHER, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executor: Connie J. Leathery, c/o 29 North Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, PC, 29 Duke Street, York, PA 17401

ESTATE OF CAROLYN BROWN, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Gwenn Forsythe, 1065 Bingham Road, Orrtanna, PA 17353

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

ESTATE OF HELEN E. DAINTY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrator: R. Richard Starner, Jr., 2924 Sunset Drive, Dallastown, PA 17313

ESTATE OF GEORGE F. ELLINGER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Lani E. Lindeman, 249 Ridge Avenue, Gettysburg, PA 17325

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

ESTATE OF HENRIETTA M. GAMBRILL, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Cynthia A. Bushey, 660 Mehning Rd., Littlestown, PA 17340

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

ESTATE OF MELVIN G. GARRETT, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Wendy Weikal-Beauchat, 63 West High Street, Gettysburg, PA 17325

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

ESTATE OF RITA AGNES McMASTER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: Robert McMaster, 2581 Old Harrisburg Rd., Lot 13, Gettysburg, PA 17325; Albert McMaster, 825 Low Dutch Road, Gettysburg, PA 17325

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

ESTATE OF ANNA-MARIE NEAL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Keith R. Nonemaker, Esq., 40 York Street, Hanover, PA 17331

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

ESTATE OF GLENN W. PIFER, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executor: James Pifer, 4912 Zeiglers Church Road, Spring Grove, PA 17362

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

ESTATE OF BEATRICE M. RICKRODE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Donna J. Yake, c/o 141 Broadway, Suite 230, Hanover, PA 17331

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

ESTATE OF A. FLORENCE SMITH a/k/a ANNA FLORENCE SMITH, DEC'D

Late of York Springs Borough, Adams County, Pennsylvania

Executors: Robert E. Smith, 640 Buttonwood Rd., York Springs, PA 17372; Lois Ann Moore, 1975 Freysville Road, York, PA 17402

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

ESTATE OF JANE M. STALLSMITH, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: James A. Roth, 209 Second Avenue, Hanover, PA 17331

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

ESTATE OF JOHN D. STEM, JR., DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Terry L. Stem, 5 Ski Run Trail, Fairfield, PA 17320

Attorney: Matthew R. Battersby, Esq., Battersby & Sheffer, P.O. Box 215, Fairfield, PA 17320

ESTATE OF NOAH M. STREVIG, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

James N. Strevig, Susan J. Rabert, Joyce E. Feeser, Edward L. Strevig, c/o James N. Strevig, 58 Mummert Drive, Littlestown, PA 17340

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

SECOND PUBLICATION**ESTATE OF MARIE M. KLUNK, DEC'D**

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Janet M. Boyers, 136 East King Street, Abbottstown, PA 17301; Patrick J. Klunk, 523 Delone Avenue, McSherrystown, PA 17344

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

ESTATE OF ESTHER LUELLA WARREN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Regina Rosenwald & Robert Rosenwald, 36 Carrolls Tract Road, Fairfield, PA 17320; Annie McClain & Ira McClain, 57 High Trail, Fairfield, PA 17320

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

ESTATE OF KARL FREDERIC WILLIAMS, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Administrators: Paul J. McNickle, 18 West 13th St., Frederick, MD 21701; Barbara J. McNickle, 18 West 13th St., Frederick, MD 21701

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

(continued on page 6)

THIRD PUBLICATION

ESTATE OF RALPH EUGENE HUMMEL, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Jeffery M. Cook, Esq., 234 Baltimore Street, Gettysburg, PA 17325

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

ESTATE OF SIMONE R. MITCHELL, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Adams County National Bank, 2 Chambersburg St., P.O. Box 4566, Gettysburg, PA 17325-4566

Attorney: Catherine J. Gaul, Esq., 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF JAMES M. SANDERS, SR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: James M. Sanders, Jr., 460 Bendersville-Wenksville Road, Aspers, PA 17304

Attorney: Kathleen M. Kotula, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF LAWRENCE H. SHOWERS, DEC'D

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

Glenda J. Vaden, 3210 Lehr Drive, York, PA 17404

Attorney: Craig A. Hatch, Esq., Gates, Halbruner & Hatch, P.C., 1013 Mumma Road, Suite 100, Lemoyne, PA 17043

ESTATE OF GEORGE E. SWISHER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: James P. Neth, 806 Burnside Drive, Gettysburg, PA 17325

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

ESTATE OF CHERYL A. WINTERS, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executors: April D. Reed and David R. Winters, Jr., c/o Charles E. Shields, III, Esq., 6 Clouser Road, Mechanicsburg, PA 17055

Attorney: Charles E. Shields, III, Esq., 6 Clouser Road, Mechanicsburg, PA 17055

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-277 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of November, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 61 on Plan of Lots of Lake Meade Subdivision, recorded in Adams County Recorder's Office in Plat Book No. 1, Page 1, and subject to legal highways, easements, rights of ways and restrictions of record.

Tax Parcel 5-47

Being Known as 10 Lake Meade Drive, East Berlin, PA 17316

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 13, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/8, 15 & 22

Adams County Legal Journal

Vol. 46

October 29, 2004

No. 23, pp. 152-157

IN THIS ISSUE

MILLER ET AL VS. SNYDER

This opinion continued from last issue (10/22/2004)

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-230 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of December, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT IMPROVED lot of ground situate on the West side of Friendly Drive, in Conewago Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point on the West side of Friendly Drive at lands now or formerly of Gary W. Hubbard and Patricia A. Hubbard, also known as Lot No. 15, Block A; thence along the West side of Friendly Drive, North 30 degrees 55 minutes 20 seconds East, 100 feet to a point on the West side of Friendly Drive at corner of lot now or formerly of Richard J. Neiderer and Barbara A. Neiderer, Lot No. 1, Phase I, Chapel View; thence by lands now or formerly of Richard J. Neiderer and Barbara A. Neiderer, Lot No. 1, Phase I, Chapel View, North 59 degrees 4 minutes 40 seconds West, 175 feet to a point at lands now or formerly of Ronald C. Kerrigan, Lot No. 11, Block A; thence by lands now or formerly of Ronald C. Kerrigan, Lot No. 11,

Block A, South 30 degrees 55 minutes 20 seconds West, 100 feet to a point at Lot No. 15, Block A, lands now or formerly of Gary W. Hubbard and Patricia A. Hubbard aforesaid; thence by lands now or formerly of Gary W. Hubbard and Patricia A. Hubbard, Lot No. 15, Block A, South 59 degrees 4 minutes 40 seconds East, 175 feet to a point on the West side of Friendly Drive, the place of BEGINNING. CONTAINING 17,500 square feet.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 10, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/22, 29 & 11/5

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation will be filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania on or about October 25, 2004 for: CONEWAGO VALLEY ESTATES PHASE 2 HOMEOWNERS' ASSOCIATION.

The corporation will be incorporated under the Pennsylvania Nonprofit Corporation Law of 1988, as amended. The purpose of the corporation is to insure, regulate and maintain the property and affairs of the homeowners' association for Conewago Valley Estates Phase 2, a residential community, and to conduct any other lawful business activity.

Robert M. Walker, Esq.
Johnson, Duffie, Stewart & Weidner
301 Market Street
Lemoyne, PA 17043

10/29

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-827 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of December, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a corner on West High Street and lands now or formerly of Joseph Hockensmith; thence along lands now or formerly of the said Joseph Hockensmith in a Northerly direction, two hundred four (204) feet, more or less to a public alley; thence along said public alley in an Easterly direction sixty (60) feet to lands now or formerly of Agnes Breighner; thence along lands now or formerly of the said Agnes Breighner in a Southerly direction one hundred ninety (190) feet, more or less, to West High Street; thence along said West High Street in a Westerly direction sixty (60) feet to the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Steven D. Piper by Deed from Thomas E. Sheely and Doris L. Sheely, Co-Administrators of the Estate of Steven P. Sheely dated 5/18/2001 and recorded 5/21/2001 in Record Book 2289 Page 76.

Premises being: 318 West High Street, New Oxford, PA 17350

Tax Parcel No. 83, Map 4

SEIZED and taken into execution as the property of **Steven D. Piper** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 10, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/29, 11/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-549 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of December, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of improved real estate situate in Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to-wit:

BEGINNING for the Southeastern corner hereof at a leitz spike in the center of the Belmont Road (Township Road T-348), located North 14 degrees 19 minutes 45 seconds East, 113.92 feet from an existing railroad spike in the center of said Belmont Road at the Southeastern corner of the original tract of Dean R. Gardner et al, and at a corner of lands now or formerly of Ray Baker; thence through the original tract of Dean R. Gardner et al, for the next three courses, running through a copperweld rod 36.7 feet from the beginning of this course, North 76 degrees 42 minutes 50 seconds West, 292 feet to a steel rod at the Southwestern corner hereof; thence North 14 degrees 19 minutes 45 seconds East, 150 feet to a steel rod at the Northwestern corner hereof; thence running through a steel rod 25 feet from the end of this course, South 76 degrees 42 minutes 50 seconds East, 292 feet to a leitz spike in the center of said Belmont Road at the Northeastern corner hereof; thence running in the center of Belmont Road, South 14 degrees 19 minutes 45 seconds West, 150 feet to the above described place of BEGINNING.

CONTAINING 1.005 Acres.

THE above description was taken from a draft of survey of Adams County

Surveyors, dated May 28, 1986, being Tract No. 2 thereon, and duly filed in the Office of the Recorder of Deeds of Adams County, Pennsylvania, on June 16, 1986 and recorded in Plat Book 44 at page 26.

TITLE TO SAID PREMISES IS VESTED IN John F. Kaczorowski by Deed from James S. MacPherson and Barbara E. MacPherson dated 5/23/1997 and recorded 5/27/1997 in Record Book 1378 Page 120.

Premises being: 306 Belmont Road, Gettysburg, PA 17325

Tax Parcel No. 79 Map #E11

SEIZED and taken into execution as the property of **John F. Kaczorowski** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 10, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/29, 11/5 & 12

NOTICE

NOTICE IS HEREBY GIVEN that DAVID M. McGLAUGHLIN, ESQUIRE, intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 30th day of November, 2004, and that he intends to practice law as an Assistant District Attorney in the Office of the District Attorney, County of Adams, Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania.

10/29, 11/5 & 12

The Plaintiffs' Motion in Limine to Preclude Statements of the Decedent Concerning her Relationship with the Plaintiffs and the Decedent's Medical History

The final motions filed before the Court center upon the Decedent's relationship with her children, the Plaintiffs. In this regard, the Plaintiffs seek to exclude testimony concerning statements attributable to the Decedent concerning the nature of her relationship with the Plaintiffs. Additionally, the Plaintiffs seek to exclude testimony and medical records concerning ailments suffered by the Decedent prior to her death. Snyder seeks the admission of this testimony in order to contest damages claimed by the Plaintiffs. He argues that prior to her death, the Decedent made statements concerning her dissatisfaction with her relationship with her children. He argues that evidence concerning the Decedent's medical status indicates a lack of knowledge on the part of the Plaintiffs concerning significant issues in the Decedent's life.² Snyder argues, therefore, this testimony is proper to refute claims for damages related to loss of companionship, society and support. The Plaintiffs, on the other hand, argue that this evidence is inadmissible as improper hearsay and is irrelevant.

In response to the hearsay objection, Snyder cites Pennsylvania Rule of Evidence 803(25) as justification for admission of the Decedent's statements. That rule permits the admission of statements, regardless of whether or not the declarant is available as a witness, if the out-of-court statement is the statement of a party to the litigation. The Plaintiffs object to admission on this ground arguing that the Decedent is not a "party" within the meaning of this exception.

Traditionally, statements against interest have been admitted as evidence based upon the rationale that a party cannot complain that their own out-of-court statement was not made under oath or not subject to cross-examination. As it was recently stated by the Pennsylvania Superior Court:

[I]t is too obvious for comment that the party whose declarations are offered against him is in no position to object on the score of lack of confrontation or lack of

²Snyder has agreed that this evidence is irrelevant in regard to contesting the life expectancy of the Decedent since he is unable to link the evidence to a decreased life expectancy.

opportunity for cross-examination. It seems quite as clear that he ought to not be heard to complain that he was not under oath.

Durkin v. Equine Clinics, Inc., 546 A.2d 665, 674 (Pa.Super. 1988) (quoting Morgan, Admissions as an exception to a hearsay rule, 30 Yale L.J. 355, 361 (1921)).

Our Supreme Court has extended this general rule by finding that the admission of a non-party statement is admissible if the person making the statement is beneficially and directly interested in the action. *Geelen v. Pa. R.R. Co.*, 161 A.2d 595 (Pa. 1960). In *Geelen*, the Supreme Court reversed the decision of the trial judge who prohibited the introduction of a statement by the widow of a deceased in an action for wrongful death brought in the name of the personal representative of the deceased. In holding that the statement was admissible under the party admission exception to the hearsay rule, the Supreme Court concluded that although not a party, the widow was "to all intents and purposes a party to the action". *Id.* at 599.

Prior to *Geelen*, the Pennsylvania Supreme Court held that an admission by a plaintiff's decedent is admissible in a subsequent wrongful death action. *Rudisill v. Cordes*, 5 A.2d 217 (Pa. 1939). *Rudisill* involved a fatal accident wherein the deceased was struck by a vehicle which had skidded while traveling a roadway covered by a quarter inch of thick ice. Following the accident, the decedent indicated that "accidents will happen, this man could not help it". *Id.* at 218. In an action initiated by the decedent's widow, the trial court permitted the introduction of this statement as an admission against interest. In affirming the admissibility of this statement by the trial court, the Pennsylvania Superior Court stated:

Any act or omission of the plaintiff inconsistent with his claim or with the testimony submitted to sustain it, was pertinent to the issue, and therefore admissible. In the instant case, the 'act' which was 'inconsistent with the claim' was not the 'act' of the plaintiff but of the man from whom plaintiff derived whatever rights in the matter she had, and this act or declaration, which was so utterly at variance with the claim made, was admissible in evidence.

Id. at 220.

Finally, admissions by a deceased tort-feasor have been found to be admissible in litigation against the tort-feasor's administrator. See *Webb v. Martin*, 364 F.2d 229 (3d Cir. 1966). Again, the basis for admitting the decedent's statement in such an instance is based upon the theory that the party involved in the litigation is actually a successor in interest to the decedent's right of action.

Clearly, the rationale of these cases is equally applicable to a survival action. As mentioned above, a survival action is not a new cause of action but rather is a continuation in the deceased's personal representative of the cause of action which accrued to the deceased. Similarly, a wrongful death action, although brought for the benefit of a decedent's survivors, is an action which is derivative of a decedent's injury and dependent upon a decedent's own cause of action being viable at the time of his death. *Reasor v. Cabot Corp.*, 223 F.Supp.2d 644, 647 (E.D. Pa. 2002); *Moyer v. Rubright*, 651 A.2d 1139, 1143 (Pa.Super. 1994). Although the Plaintiffs correctly argue that an action for wrongful death is not for damages sustained by the Decedent but rather for damages sustained by the Plaintiffs, this argument ignores the reality that wrongful death actions confer rights to recover damages which are dependent and derivative upon a plaintiff's ability to establish liability on the part of a defendant causing a decedent's death. See *Tyree v. City of Pittsburgh*, 669 A.2d 487, 492 (Pa.Cmwlth. 1995). Accordingly, consistent with the Supreme Court's decision in *Rudisill*, cited above, I find that the Decedent's statements concerning her relationship with the Plaintiffs are admissible as party admissions. This finding, however, does not completely resolve the issue. The Plaintiffs further object to the admissibility of this testimony based upon relevancy. In order to rule upon the relevancy of these particular statements, it is necessary to understand the causes of action brought by the Plaintiffs.

Although survival actions and wrongful death actions are similar in that either cause of action may be filed by the administrator of a decedent's estate, 42 Pa.C.S.A. § 8301; *Holt v. Lenko*, 791 A.2d 1212 (Pa.Super. 2002), they are separate and distinct causes of action. See generally *Donlan v. Ridge*, 58 F.Supp.2d 604, 607-08 (E.D. Pa. 1999). A survival action is an action which a decedent himself could have instituted had he survived and, in effect, is brought on behalf of a decedent. *In re Pozzuolo's Estate*, 249 A.2d 540, 544 (Pa. 1969); *In*

re Endrickson, 274 B.R. 138, 149-50 (Bkrcty. W.D. Pa. 2004) (interpreting Pennsylvania law). Whereas the purpose of the wrongful death statute is to compensate enumerated relatives for pecuniary loss and, thus, is brought on behalf of a decedent's survivors and not the estate. *In re Pozzuolo's Estate*, 249 A.2d at 544; *Walsh v. Strenz*, 63 F.Supp.2d 548, 550 (M.D. Pa. 1999).

The nature of the recoverable damages in each cause of action are also separate and distinct. The measure of damages in a survival action involve the Decedent's pain and suffering and loss of gross earning power from the date of injury until death. *Teamann*, 811 A.2d at 64-65. On the other hand, damages recoverable in a wrongful death action include funeral and medical expenses as well as the present value of the services the deceased would have rendered to the family had she lived. *In re Estate of Coleman*, 772 A.2d 1026, 1027 (Pa.Super. 2001). Under Pennsylvania law, damages in a wrongful death action permit children to recover for the loss of parental companionship, comfort, society and guidance. *Id.*; *Machado v. Kunkel*, 804 A.2d 1238, 1245 (Pa.Super. 2002). At least one appellate court has described this element of damages as the " 'loss of guidance, tutelage, and moral upbringing' ". *Machado*, 804 A.2d at 1245 (quoting *Buchecker v. Redding Co.*, 412 A.2d 147, 158 (Pa.Super. 1979)). Thus, while a survival action is aimed at compensating the Decedent's estate, a wrongful death action is intended to compensate the Decedent's survivors for damages which they have sustained as a result of the Decedent's death. See generally *Id.*; *Linebaugh v. Lehr*, 505 A.2d 303, 304-05 (Pa.Super. 1986). Importantly, the appropriate amount of damages awarded in a wrongful death action is determined from the standpoint of the beneficiaries, not from that of a deceased. *Heffner v. Allstate Ins. Co.*, 401 A.2d 1160 (Pa.Super. 1979).

In light of the instruction of our appellate courts in regard to proper measure of damages in a survival action, the Plaintiffs' objections are well taken. Clearly, the Decedent's relationship with her children has no bearing on either liability, causation or the damages which are available and applicable to a survival action.

Similarly, in regard to the wrongful death action, I find the testimony of Marlene Davidson concerning discussions with the Decedent relating to her perception of her relationship with the Plaintiffs to be of tenuous relevancy. In reaching this conclusion, it

is important to keep in mind that the critical inquiry when assessing damages for loss of companionship and society is the value of those services **to the beneficiaries**. Thus, regardless of whether a parent has a negative perception of the parent-child relationship, if the child receives value from the society and comfort derived from that relationship, the child is entitled to monetary damages for that loss. While it is true that the Decedent's perception of that relationship may be probative to a determination of the actual value of the relationship, it can only be probative if the evidence contains indications of a negative, or positive, effect on the companionship. By way of example, although a parent may not like the way she is being treated by her children, it may or may not have a direct relationship on how that parent treats the children in return. The critical focus, therefore, is how the Decedent treated the Plaintiffs. Clearly, relevant inquiry involves the Plaintiffs' perception of the companionship and society provided by the Decedent. However, how the Decedent perceived her treatment at the hands of her children, or her perceptions of the relationship with her children, is of limited relevancy and unfairly prejudicial to the Plaintiffs. Since evidence is properly excluded if its probative value is outweighed by the danger of unfair prejudice, confusion of issues, or its potential for misleading the jury, Pa.R.Evid. 403; *Commonwealth v. Wharton*, 607 A.2d 710 (Pa. 1990), Marlene Davidson's testimony in this regard will be excluded.³

Similarly, I find the probative value of the testimony and medical records relating to the Decedent's previous health to be inadmissible. Although this evidence may shed some light on the extent and quality of the relationship between the Decedent and her children, it is speculative in many respects. Lack of knowledge by a child as to the parent's medical status may be equally indicative of a parent withholding information so as not to alarm a child as it is indicative of a child's lack of interest in the parent. Moreover, the introduction of this evidence presents the danger of it being confused by a jury as a proper consideration in assessing life expectancy. In this regard, in

³This ruling is limited solely to Marlene Davidson's testimony concerning statements the Decedent made about her perception of the relationship between her and her children. It does not preclude statements, if any, relating to the quantity of interactions between the Decedent and her children. Additionally, since this ruling is made on the basis of relevancy, testimony precluded in either party's case in chief may subsequently become admissible should trial testimony open the door.

light of its speculative probative value, I find a curative instruction insufficient. Therefore, the Plaintiffs' Motion in Limine to preclude medical records and testimony concerning the medical condition of the Decedent is inadmissible. This ruling, however, is subject to reexamination should trial testimony open the door to greater relevancy.

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 31st day of October, 2003, it is hereby Ordered:

1. The issue of pre-impact fright will not be submitted to the jury;
2. The testimony of George Davis is inadmissible;
3. Evidence concerning the factual circumstances of the accident is inadmissible;
4. Evidence concerning the injuries and circumstances of Mrs. Snyder's death is inadmissible, however, the jury will be given a cautionary instruction as more specifically set forth in the accompanying Opinion;
5. Testimony of Marlene Davidson or any other witness concerning statements by the Decedent referencing her perception of her relationship with the Plaintiffs is excluded unless trial evidence makes the evidence otherwise relevant; and
6. Evidence concerning the medical status of the Decedent is excluded unless trial evidence makes the evidence otherwise relevant.

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 PAUL E. CRUM, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executors: Roger E. Crum, 1681 Carlisle Road, Aspers, PA 17304; Delmar A. Crum, 112 Artillery Drive, Gettysburg, PA 17325

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

ESTATE OF LOUISE A. DEE, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executors: Ann Marie Dee, 69 Lynwood Avenue, Franklin Park, NJ 08823; Thomas James Dee, Jr., 617 Heritage Drive, Gettysburg, PA 17325

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

ESTATE OF GRACE E. MYERS, DEC'D

Late of Union Township, Adams County, Pennsylvania

Personal Representatives: Richard F. Myers, 115 Pine Grove Rd., Hanover, PA 17331; Joyce A. Rager, 50 Valley Dr., Hanover, PA 17331

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

ESTATE OF BERNARD J. STORM, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executors: Thomas J. Miller, 852 Fair Avenue, Hanover, PA 17331; Betty L. Millhimes, 3808 Carlisle Pike, New Oxford, PA 17350

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

SECOND PUBLICATION

ESTATE OF HARRY E. BAUGHER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Connie J. Leathery, c/o 29 North Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, PC, 29 Duke Street, York, PA 17401

ESTATE OF CAROLYN BROWN, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Gwenn Forsythe, 1065 Binghamman Road, Orrtanna, PA 17353

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

ESTATE OF HELEN E. DAINTY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrator: R. Richard Starner, Jr., 2924 Sunset Drive, Dallastown, PA 17313

ESTATE OF GEORGE F. ELLINGER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Lani E. Lindeman, 249 Ridge Avenue, Gettysburg, PA 17325

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

ESTATE OF HENRIETTA M. GAMBRILL, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Cynthia A. Bushey, 660 Mehring Rd., Littlestown, PA 17340

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

ESTATE OF MELVIN G. GARRETT, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Wendy Weikal-Beauchat, 63 West High Street, Gettysburg, PA 17325

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

ESTATE OF RITA AGNES McMASTER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: Robert McMaster, 2581 Old Harrisburg Rd., Lot 13, Gettysburg, PA 17325; Albert McMaster, 825 Low Dutch Road, Gettysburg, PA 17325

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

ESTATE OF ANNA-MARIE NEAL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Keith R. Nonemaker, Esq., 40 York Street, Hanover, PA 17331

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

ESTATE OF GLENN W. PIFER, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executor: James Pifer, 4912 Zeiglers Church Road, Spring Grove, PA 17362

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

ESTATE OF BEATRICE M. RICKRODE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Donna J. Yake, c/o 141 Broadway, Suite 230, Hanover, PA 17331

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

ESTATE OF A. FLORENCE SMITH a/k/a ANNA FLORENCE SMITH, DEC'D

Late of York Springs Borough, Adams County, Pennsylvania

Executors: Robert E. Smith, 640 Buttonwood Rd., York Springs, PA 17372; Lois Ann Moore, 1975 Freysville Road, York, PA 17402

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

ESTATE OF JANE M. STALLSMITH, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: James A. Roth, 209 Second Avenue, Hanover, PA 17331

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

(continued on page 4)

SECOND PUBLICATION (continued)

ESTATE OF JOHN D. STEM, JR.,
DEC'D

Late of Hamiltonban Township, Adams
County, Pennsylvania

Terry L. Stem, 5 Ski Run Trail,
Fairfield, PA 17320

Attorney: Matthew R. Battersby, Esq.,
Battersby & Sheffer, P.O. Box 215,
Fairfield, PA 17320

ESTATE OF NOAH M. STREVIG,
DEC'D

Late of the Borough of Littlestown,
Adams County, Pennsylvania

James N. Strevig, Susan J. Rabert,
Joyce E. Feeser, Edward L. Strevig,
c/o James N. Strevig, 58 Mummert
Drive, Littlestown, PA 17340

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

THIRD PUBLICATION

ESTATE OF MARIE M. KLUNK, DEC'D

Late of the Borough of McSherrystown,
Adams County, Pennsylvania

Executors: Janet M. Boyers, 136 East
King Street, Abbottstown, PA 17301;
Patrick J. Klunk, 523 Delone
Avenue, McSherrystown, PA 17344

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

ESTATE OF ESTHER LUELLA WAR-
REN, DEC'D

Late of Cumberland Township, Adams
County, Pennsylvania

Executors: Regina Rosenwald &
Robert Rosenwald, 36 Carrolls Tract
Road, Fairfield, PA 17320; Annie
McClain & Ira McClain, 57 High
Trail, Fairfield, PA 17320

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

ESTATE OF KARL FREDERIC
WILLIAMS, DEC'D

Late of Hamiltonban Township, Adams
County, Pennsylvania

Administrators: Paul J. McNickle, 18
West 13th St., Frederick, MD 21701;
Barbara J. McNickle, 18 West 13th
St., Frederick, MD 21701

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execu-
tion, Judgment No. 04-S-825 issuing out
of the Court of Common Pleas of Adams
County, and to me directed, will be ex-
posed to Public Sale on Friday, the 10th
day of December, 2004, at 10:00 o'clock
in the forenoon at the Sheriff's Office
located in the Courthouse, Borough of
Gettysburg, Adams County, PA, the fol-
lowing Real Estate, viz.:

ALL THAT CERTAIN lot or piece of
ground situate in Biglerville Borough,
County of Adams, Commonwealth of
Pennsylvania, more particularly bounded
and described in accord with a final sub-
division plan prepared by Boyer Surveys,
dated February 16, 1990, recorded in the
Office of the Recorder of Deeds of
Adams County, Pennsylvania, in Plat
Book 54 at Page 89, and being designat-
ed as Lot No. 4 thereon; bounded and
described as follows:

BEGINNING at a chisel mark set on
the curb line of Fourth Street at the
Southern side of Lot No. 5 as shown on
said plan; thence along the Southern
edge of said Lot No. 5, North 87 degrees
10 minutes 00 seconds East, 130.00 feet
to a point; thence by same, South 2
degrees 50 minutes 00 seconds East,
20.00 feet to a point on the Northern
edge of Lot No. 3 as shown on said plan;
thence along said Lot No. 3, South 87
degrees 10 minutes 00 seconds West,
130.00 feet to a chisel mark set on the
curb line of Fourth Street; thence along
same, North 2 degrees 50 minutes 00
seconds West, 20.00 feet to a chisel
mark set at the point and place of
BEGINNING.

Map #4 Parcel 88

TITLE TO SAID PREMISES IS VEST-
ED IN Kelly L. Ellicker, by Deed from J.
Larry Boyer and Martha R. Boyer, hus-
band and wife, dated 8/1/2002 and
recorded 8/5/2002 in Record Book 2754,
Page 337.

Premises being: 12 4th Street,
Biglerville, PA 17307

SEIZED and taken into execution as
the property of **Kelly L. Ellicker a/k/a
Kelly L. Hansford** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on January 3, 2005,
and distribution will be made in accor-
dance with said schedule, unless excep-
tions are filed thereto within 10 days after
the filing thereof. Purchaser must settle
for property on or before filing date.

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

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

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

10/22, 29 & 11/5

NOTICE

The Adams County Tax Claim Bureau
herby gives notice that it presented a
Consolidated Return of Sales to the
Court of Common Pleas of Adams
County, Pennsylvania on September 30,
2004, of sales of real estate for delin-
quent taxes made September 17, 2004.
The Court confirmed said Return Nisi on
September 30, 2004. Objections or
exceptions thereto may be filed by any
owner or lien creditor within Thirty (30)
days from the date of the Return, other-
wise the Return will be confirmed
absolutely

Adams County Tax Claim Bureau
By: Danielle Asper, Director

10/29

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that
Articles of Incorporation were filed by
KOL INDUSTRIES, INC. with the
Department of State of the Common-
wealth of Pennsylvania on September
22, 2004 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,

Timothy J. Shultis, Esq.
Solicitor
Miller & Shultis, P.C.
249 York Street
Hanover, PA 17331

10/29

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pur-
suant to the provisions of the Fictitious
Names Act, 54 Pa. C.S.A. 311, of the fil-
ing of an application with the Department
of State of the Commonwealth of
Pennsylvania on April 22, 2004, for a cer-
tificate for the conducting of a business
under the assumed or fictitious name of
KREATIONS GALLERY, with its principal
place of business at 15 Baltimore Street,
Gettysburg, PA 17325. The name and
address of the individual interested in
said business is Kenneth A. Koll, 8974
Bakner Road, Waynesboro, PA 17268.

Clinton T. Barkdoll, Esq.
Kulla, Barkdoll, Ullman and Painter, P.C.
9 East Main Street
Waynesboro, PA 17268

10/29