

Adams County Legal Journal

Vol. 42

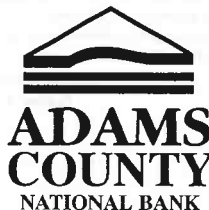
April 6, 2001

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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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CONTINUING LEGAL EDUCATION PROGRAM

Malpractice Avoidance Seminar

May 30, 2001 - 1:30 p.m. - 3:00 p.m.

Hotel Gettysburg

Credits: Ethics - 1.5

REGISTRATION THROUGH PA BAR ASSOCIATION 1-800-932-0311

5% premium discount given to attending firms on PBA sponsored professional liability insurance

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-128 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of May, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point at North Queen Street aforesaid at lands now or formerly of L. Irene Crouso; thence by said lands in a Northeasterly direction for a distance of 200 feet, more or less, to a point at an alley; thence by said alley in a Northwestery direction for a distance of 47 feet, more or less, to a point at lands now or formerly of Wallace R. Gullickson; thence by said lands in a Southwestery direction for a distance of 200 feet, more or less, to a at North Queen Street aforesaid; thence by said street in a Southeastery direction for a distance of 47 feet, more or less, to a point, the place of BEGINNING.

BEING KNOWN AS 57 North Queen Street, Littlestown, PA 17340

PROPERTY ID# 8-93

TITLE TO SAID PREMISES IS VESTED IN Timothy S. Kelley and Debra L. Kelley, husband and wife, as tenants of an estate by the entireties by deed from Douglas R. Murren and Jacqueline E. Murren, husband and wife dated 8/19/1994 and recorded 8/24/1994 in Deed Book 929 Page 305.

SEIZED and taken into execution as the property of Timothy S. & Debra L. Kelley 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 May 29, 2001, 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.

3/23, 30 & 4/6

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for NEW OXFORD GYM, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on February 26, 2001, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444,

Guthrie, Nonemaker, Guthrie & Yingst

4/6

NOTICE

NOTICE IS HEREBY GIVEN that the First and Final Account of Bank of Hanover and Trust Company, Trustee under Deed of Trust of Irvin A. Karam dated August 6, 1982, as amended and restated January 31, 1985 and December 11, 1989, has been filed in the office of the Clerk of Orphans' Court Division for confirmation and distribution of the balance therein shown to the creditors, legatees, next to kin, heirs and others legally entitled thereto on April 9, 2001 at 9:00 A.M., and will be called for audit and distribution by said Court, in the Adams County Courthouse, in the City of Gettysburg, Pennsylvania.

3/23, 30 & 4/6

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Act of Assembly No. 295 of 1982, of the filing in the Office of the Secretary of Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about March 16, 2001, a certificate for the conduct of business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of "UNION LINE GRILLE" with its principal place of business at 619 Baltimore Street, Gettysburg, Pennsylvania. The names and addresses of the persons owning or interested in said business are Village Holdings, Inc., 516 Baltimore Street, Gettysburg, PA 17325.

David K. James, III, Esq. Wilcox & James

4/6

COMMONWEALTH VS. KESSELRING

1. The veracity of facts establishing probable cause recited in an affidavit supporting a warrant can be challenged and examined at a suppression hearing. This right, however, "must not be construed as....granting a license to the defense for a fishing expedition beyond the fact of the affidavit. Permitting inquiry into the veracity of statements included in the affidavit is not conditioned upon the defendant having to produce a "substantial preliminary showing" of the potential falsity of those averments.

2. A criminal defendant may only challenge the search warrant by attacking the veracity of the affiant and not the veracity of the informant. The constitutional protection against unreasonable searches is not violated if the affiant has a reasonable belief in the truthfulness of the averments in the affidavit even though mistaken.

3. Misstatements of fact will invalidate a search and require suppression only if they are deliberate and material. In determining whether a misstatement is material for this purpose "the test is not whether the statement strengthens the application for the search warrant, but rather whether it is essential to it."

4. Where it can be established that evidence was withheld, showing that an informant had a reason to falsify his information, it would follow that the magistrate's determination of probable cause was neither neutral or detached.

5. Information from an unnamed informant can form the basis for probable cause to issue a search warrant if there is adequate evidence of the informant's reliability. However, that reliability must be determined from the fact supplied by the affiant in the affidavit.

6. The United States Supreme Court defined an ex post facto law as: 1st. Every law that makes an action done before the passing of the law, and which was innocent when done, criminal; and punishes such action. 2d. Every law that aggravates a crime, or makes it greater than it was, when committed. 3d. Every law that changes the punishment, and inflicts a greater punishment, than the law annexed to the crime, when committed. 4th. Every law that alters the legal rules of evidence, and receives less, or different, testimony, than the law required at the time of the commission of the offense, in order to convict the offender.

7. In determining whether a statute constitutes punishment and therefore violates the ex post facto clause, our Supreme Court recently adopted the three-prong Artway/Verniero test which provides that,

A particular measure will be considered punishment where: (1) the legislature's actual purpose is punishment, (2) the objective purpose is punishment, or (3) the effect of the statute is so harsh that "as a matter of degree" it constitutes punishment.

In the Court of Common Pleas of Adams County, Pennsylvania,
Criminal, No. CC-575-98. COMMONWEALTH VS. RONALD
ANDREW KESSELRING.

Michael A. George, Esq., District Attorney
Anthony Miley, Esq., for Defendant
Kuhn, J., March 14, 2000.

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

Appellant raises five issues for consideration. The following background is relevant. On June 20, 1998, the Pennsylvania State Police applied for and obtained a warrant to search the barn, residence, camper, outbuildings, vehicles and curtilage at 2630 Hunterstown-Hampton Road, Reading Township, Adams County, which is property owned by Appellant. The Affidavit stated that on May 18, 1998, the police were given information regarding motorcycles stolen from the Baltimore area being "chopped". The investigation focused on Appellant. On June 20, a confidential informant told the police that he had observed controlled substances and illegal firearms, including an AK assault rifle, in the barn where Charles Knight had an apartment, cocaine in a camper, and dismantled motorcycles at the subject property. Specifically, in regard to the motorcycle parts, the Affidavit read, in part,

The C.I. also stated that while frequenting the location in the last several weeks, he observed a man bringing motorcycles to the garage-type building beside the main building. The motorcycles were then dismantled and the parts that were not wanted, were discard (sic) at the rear of the property near the camper. Later the parts were to have been thrown away in a dumpster at Hardees.

The Affidavit further stated that the informant had been used by another police department (Penn Township) in the past and his information led to the issuance of a search warrant and arrest of several persons.

On June 20, 1998, the police conducted a search of the property and on a shelf in the garage they found a Norinko AK47 assault rifle, a 12 gauge Eastfield shotgun, and a 12 gauge Glenfield shotgun. Appellant was charged with violating 18 Pa. C.S.A. §6105(a)(1) (Persons Not to Possess Firearms) along with several drug offenses.

On February 3, 1999, Appellant filed a Motion to Suppress alleging, inter alia, that there was insufficient probable cause to issue the search warrant. The parties appeared before President Judge Oscar F. Spicer on February 22, 1999. At that time, the hearing was continued to March 16, 1999, with the Order noting that the issue "involved is whether the defendant has a general right to inquire into the credibility of the confidential informant, or whether that inquiry

is limited to false information alleged to have been given by the police to the issuing authority". On March 16, 1999, Judge Spicer denied Appellant's suppression motion.

On August 19, 1999, a jury found Appellant guilty of violating 18 Pa. C.S.A. §6105(a)(1). On December 23, 1999, Appellant was sentenced to 24 months of intermediate punishment, which included three months of incarceration followed by five months of house arrest.

The first issue raised by Appellant is whether the Suppression Court improperly precluded him from examining the trooper-affiant regarding the veracity, knowledge, bias and criminal history of the confidential informant referred to in the affidavit for the search warrant. Essentially, Appellant wanted to explore a) whether the informant had a motive to fabricate, which the affiant failed to divulge to the magistrate and, b) whether the affiant provided the magistrate with knowingly false information about the informant's reliability. The Suppression Court limited Appellant's inquiry of the affiant to an examination of whether the affiant had, in fact, actually received information that the informant provided reliable information to Penn Township police in the past. Thus, the court precluded examination beyond the veracity of the affiant. Appellant was precluded from seeking any other information about the informant because the Suppression Court viewed the issue as strictly whether an examination of the four corners of the affidavit revealed sufficient probable cause for issuance of the warrant. It is currently well-settled that,

Before an issuing authority may issue a constitutionally valid search warrant, he or she must be furnished with information sufficient to persuade a reasonable person that probable cause exists to conduct a search. The standard for evaluating whether probable cause exists for the issuance of a search warrant is the "totality of the circumstances" test as set forth in *Illinois v. Gates*, 462 U.S. 213, 103 S. Ct. 2317, 76 L.Ed.2d 527 (1983), and adopted by our supreme court in *Commonwealth v. Gray*, 509 Pa. 476, 484, 503 A.2d 921, 925 (1985). A magistrate is to make a "practical, common sense decision, whether, given all the circumstances set forth in the affidavit before him, including the 'veracity' and 'basis of knowl-

edge' of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place." . . . The information offered to establish probable cause must be viewed in a common sense, non-technical manner . . . Probable cause is based on a finding of the probability, not a prima facie showing of criminal activity, and deference is to be accorded a magistrate's finding of probable cause.

Commonwealth v. Dean, 693 A.2d 1360, 1365 (Pa. Super. 1997) (citations omitted).

Because the magistrate is required to make a detached and objective determination of probability cause, he/she is prevented from making such a determination if he/she is furnished and reviews falsified information. From this premise arises the concept "that the veracity of facts establishing probable cause recited in an affidavit supporting a warrant can be challenged and examined at a suppression hearing" *Commonwealth v. Miller*, 513 Pa. 118, 128, 518 A.2d 1187, 1192 (1986). This right, however, "must not be construed as . . . granting a license to the defense for a fishing expedition beyond the face of the affidavit" *Commonwealth v. Miller, supra.*, 513 Pa. at 129, 518 A.2d at 1193. However, permitting inquiry into the veracity of statements included in the affidavit is not conditioned upon the defendant having to produce a "substantial preliminary showing" of the potential falsity of those averments. *Commonwealth v. Miller, supra.*, 513 Pa. at 133, 518 A.2d at 1194-5.

An examination of several cases clarifies the limitations placed upon a defendant's inquiry into the veracity of the averments contained in an affidavit for a search warrant. In *Commonwealth v. Bradshaw*, 290 Pa. Super. 164, 434 A.2d 181 (1981), a search warrant was issued, which was facially valid. The affidavit was based upon an informant's tip which the suppression court found to have been falsely reported to the affiant. The affiant had acted on the good faith belief that the information appeared reliable. The Superior Court reversed the lower court's suppression of the evidence seized from Bradshaw's home. Relying upon *Franks v. Delaware*, 438 U.S. 154, 98 S. Ct. 2674, 57 L.Ed. 2d 667 (1978), the Court held that a criminal defendant may only challenge the search warrant by attacking the veracity of the affiant and not the veracity of the informant. The constitutional protection against unreasonable searches is not

violated if the affiant has a reasonable belief in the truthfulness of the averments in the affidavit even though mistaken. Furthermore, the exclusionary rule has been developed to deter police misconduct. That goal is not promoted if police act in good faith upon an informant's misstatement and the evidence is nevertheless suppressed. Therefore, the Suppression Court in the instant case acted properly in limiting Appellant's inquiry to the Affiant's knowledge.

When attacking the veracity of the affiant, the inquiry is addressed to whether the affiant made a knowing misstatement of material fact in the affidavit. Thus, "[m]isstatements of fact will invalidate a search and require suppression only if they are deliberate and material". *Commonwealth v. Bonasorte*, 337 Pa. Super. 332, 347, 486 A.2d 1361, 1369 (1984). In determining whether a misstatement is material for this purpose "the test is not whether the statement strengthens the application for the search warrant, but rather whether it is essential to it" *Commonwealth v. Cameron*, 445 Pa. Super. 165, 171, 664 A.2d 1364, 1367 (1995), Alloc den. 675 A.2d 1242 (1996).

In *Commonwealth v. Baker*, 532 Pa. 121, 615 A.2d 23 (1992) the defendant argued that information was withheld concerning the informant's motives in supplying the officer with the information of illegal drug activity used to secure a search warrant. The defendant contended that the magistrate should have been told that the informant had recently been convicted of robbery, that he had a drug problem, and that the Commonwealth had agreed to nolle pros an escape charge in exchange for his cooperation because with such information the magistrate could have drawn an inference that the informant was not credible. The Supreme Court stated that,

Evidence of a corrupting influence by the police is a relevant consideration which should be made available to a magistrate so that he might make a neutral and detached decision about whether all the information shows probable cause . . . Such evidence which tends to show that an informant's information is untrue or that he had a reason to falsify the information or mislead the police would be highly relevant in assessing credibility and reliability, because these are still relevant considerations in the total-ity-of-the-circumstances analysis that guide probable cause determinations under *Gates* and *Gray*. Thus, where

it can be established that evidence was withheld, showing that an informant had a reason to falsify his information, it would follow that the magistrate's determination of probable cause was neither neutral or detached.

532 Pa. at 129, 615 A.2d at 26 (citation omitted).

In the instant case, Appellant wanted to examine the affiant regarding whether the informant had been offered any deal on pending charges for his cooperation. He was able to elicit from the affiant that the informant was under arrest for retail theft when he supplied the background information placed in the affidavit. The informant's arrest was not made known to the magistrate. Appellant did not ask whether the informant was offered a deal on these charges for his cooperation. However, even if this informant had been offered a deal, the *Baker* court ruled that without more, the failure to provide that information to the magistrate was not critical. The court reasoned that two inferences could be drawn from the information, if presented. Those inferences are that the informant provided false information or that the agreement provided a reason or motive to cooperate. Without more, a corrupting influence has not been presented.

In evaluating the totality of the circumstances, information from an unnamed informant can form the basis for probable cause to issue a search warrant if there is adequate evidence of the informant's reliability. However, that reliability must be determined from the facts supplied by the affiant in the affidavit. In determining the credibility of the informant and the reliability of his information, the magistrate should consider the following factors:

- (1) Did the informant give prior reliable information?
- (2) Was the informant's story corroborated by another source?
- (3) Were the informant's statements a declaration against interest?
- (4) Does the defendant's reputation support the informant's tip?

Commonwealth v. Gindlesperger, 706 A.2d 1216, 1225 (Pa. Super. 1997).

Not all four criteria must be satisfied. *Id.*

In the instant case, the affidavit indicated that the informant provided reliable information in the past, which led to the issuance of a search warrant and arrests. Appellant was permitted to examine the

affiant concerning whether he had, in fact, obtained this information from Penn Township Police. The affiant testified that he did verify this information.

Thus, it appears that Appellant was not precluded by the Suppression Court from examining the affiant regarding relevant and permissible areas of inquiry about the confidential informant.

Second, Appellant contends that the search warrant did not contain probable cause to search the garage and, therefore, the Suppression Court erred in not suppressing the weapons found there.

When applying the standards recited above for analyzing whether an affidavit for securing a search warrant sets forth sufficient probable cause, the Suppression Court ruled properly. First, the affidavit stated that the informant had seen motorcycles dismantled in the garage and the unwanted parts discarded. It follows that parts having value or usefulness were not discarded. The affiant had previously received information that motorcycles were being stolen in the Baltimore area and "chopped". The affiant began focusing his investigation on Appellant. Based upon the totality of the circumstances, the Suppression Court concluded that the magistrate had a sufficient basis to permit a search of the garage for stolen motorcycle parts. Once inside the garage, the weapons were located on a shelf where it was reasonable to look for motorcycle parts. The officers were not required to ignore what was in plain view.

The third issue raised by Appellant concerns whether he was denied his constitutional right to confront adverse witnesses at trial because the trial court precluded him from examining Trooper Graham regarding alleged prior criminal conduct on the part of the trooper. This issue was raised in Appellant's Motion in Limine, filed April 8, 1999, and disposed of in an Order and Memorandum Opinion adverse to Appellant, dated May 20, 1999.

Fourth, Appellant complains that the Court erred in denying his Petition to Recuse the Office of District Attorney of Adams County, filed May 5, 1999. As a collateral result of the alleged conduct of Trooper Graham in 1996 (and discussed in the aforementioned Memorandum Opinion dated May 20, 1999) the trooper filed a civil action against Appellant's counsel, Anthony Miley, Esq., alleging defamation. In the civil action, Trooper Graham scheduled the deposition of District Attorney, Michael George. Attorney Miley

averred that Mr. George would be an adverse witness and, therefore, would be in an adversarial position with him. He contended that a conflict of interest would result with respect to Mr. George's duty to disclose exculpatory information relating to Trooper Graham or the investigation and his participation as a witness on behalf of the trooper.

By Order dated July 22, 1999, the Petition to Recuse was denied. At that time, Appellant 1) offered no evidence that Mr. George had given his deposition, 2) offered no evidence that Mr. George would testify adverse to Attorney Miley when deposed, 3) offered no evidence that the District Attorney's Office had withheld or was withholding discoverable evidence and 4) offered no case authority for his position.

Finally, Appellant alleges that the trial court erred by not quashing Count I of the information which charged Appellant with a violation of 18 Pa. C.S.A. §6105(a).

Section 6105(a) provides that a person who has been convicted of certain enumerated offenses is prohibited from possessing a firearm. In 1987, Appellant was convicted of delivery of a controlled substance, an enumerated offense. §6105(e)(2).¹ On August 16, 1999, the day of jury selection, Appellant, for the first time, claimed that Section 6105, as applied to him, was unconstitutional as an ex post facto law because it enhanced the punishment for his prior conviction. The sections applicable to Appellant were enacted on June 13, 1995, Special Session No. 1, Act 17, to take effect 120 days thereafter (October 11, 1995). Prior to the effective date, Appellant's conviction would not have made him ineligible to possess a firearm under Section 6105, because at that time the prohibition on possessing firearms was limited to persons convicted of crimes of violence.

With nearly identical language, both the United States (Art. 1, Sec. 10) and Pennsylvania (Art. 9, Sec. 17) constitutions prohibit the enactment of ex post facto laws. As far back as 1798, the United States Supreme Court defined an ex post facto law as:

¹ Persons convicted of an offense under the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. §780-101 et seq., having a possible term of imprisonment of more than two years are prohibited from possessing a firearm. Appellant was convicted of an offense satisfying that requirement.

1st. Every law that makes an action done before the passing of the law, and which was innocent when done, criminal; and punishes such action. 2d. Every law that aggravates a crime, or makes it greater than it was, when committed. 3d. Every law that changes the punishment, and inflicts a greater punishment, than the law annexed to the crime, when committed. 4th. Every law that alters the legal rules of evidence, and receives less, or different, testimony, than the law required at the time of the commission of the offense, in order to convict the offender.

Commonwealth v. Young, 536 Pa. Super. 57, 637 A.2d 1313, 1317 (1993), cert. den. 511 U.S. 1012, 113 S. Ct. 1389, 128 L.Ed.2d 63 (1994) (emphasis in original).

In determining whether a statute constitutes punishment and therefore violates the ex-post facto clause, our Supreme Court in *Commonwealth v. Gaffney*, 733 A.2d 616, 618 (Pa. 1999) recently adopted the three-prong Artway/Verniero test² which provides that,

A particular measure will be considered punishment where: (1) the legislature's actual purpose is punishment, (2) the objective purpose is punishment, or (3) the effect of the statute is so harsh that "as a matter of degree" it constitutes punishment.

Under the first prong, if the legislature intended the statute in question to have retribution as one of its actual purposes, then it constitutes punishment and is constitutionally invalid. However, if the restriction arises as an incident to a regulation, it is valid. *Gaffney, supra.*, 733 A.2d at 619. In determining the actual purpose, it is relevant to examine the declaration of purpose set forth in Act 17 (SSI) of 1995, which provides:

The General Assembly hereby declares that the purpose of this act is to provide support to law enforcement in the area of crime prevention and control, that it is not the purpose of this act to place any undue or unnecessary restrictions or burdens on law-abiding citizens with

² This test was derived from the Third Circuit's opinions in *Artway v. Attorney General*, 81 F.3d 1235 (3rd Cir. 1996) and *E.B. Verniero*, 119 F.3d 1077 (3rd Cir. 1997), cert. den. 522 U.S. 1109, 118 S. Ct. 1039, 140 L.Ed. 2d 105 (1998).

respect to the acquisition, possession, transfer, transportation or use of firearms, rifles or shotguns for personal protection, hunting, target shooting, employment or any other lawful activity . . .

It is clear that the legislature's intent was to control crime by prohibiting convicted drug dealers from possessing firearms. It is well known that drug dealers often carry firearms and that violence is not uncommon in the affairs of that culture. Former §6105 placed restrictions upon violent offenders from possessing firearms. Such restrictions historically have not been regarded as punishment but rather "as a traditional governmental method of regulating who in our society will be allowed to possess objects which are capable of effectuating criminal activity". *Commonwealth v. Miller*, 38 Ad. Co. L.J. 248, 251 (1996). Where, as here, the legislature's actual purpose is not punishment but to effectuate, through remedial legislation, the non-punitive goal of public safety, the first prong is satisfied. *Gaffney, supra.*, 733 A.2d at 619.

The second prong requires an analysis of whether the objective purpose of the statute is punishment. This prong

Focuses on "whether analogous measures have traditionally been regarded in our society as punishment," and has three subparts: (A) "proportionality – whether the remedial purpose of [the measure] . . . can explain all the adverse effects on those involved," (B) whether the measure has been historically considered punishment, and (C) whether the measure serves both a remedial and a deterrent purpose. If question (C) is answered in the affirmative, then a measure will be considered punitive if: (a) the "deterrent purpose is an unnecessary complement to the measure's salutary operation," (b) "the measure is operating in an unusual manner inconsistent with its historically mixed purposes," or (c) "the deterrent purposes overwhelms the salutary purpose".

Gaffney, supra., 733 A.2d at 619-20.

We concluded that Act 17 (SSI) amending §6105 satisfies this prong as it relates to convicted drug dealers. As noted above, prohibiting certain convicted criminals from possessing firearms has not been traditionally considered as punishment. The intent and purpose

of the measure is to promote public safety and that purpose can explain the minimal adverse effect upon convicted drug dealers who are deprived of the right to otherwise lawfully possess a firearm. Although the prohibition, in theory, might serve to deter convicted drug dealers from committing further crimes, there is no evidence that the threat of future prohibition from possession of firearms deters anyone from unlawfully delivering controlled substances. Therefore, whatever deterrent effect the measure might have, it is minimal and overwhelmingly disproportionate to the measure's salutary purpose.

The final prong examines the effect of the statute to determine whether it is so harsh as to constitute punishment. The discussion related to the other prongs is likewise applicable here and need not be repeated.

Finally, we concluded that our decision regarding Appellant's ex post facto claim would be the same whether examined by federal or state constitutional standards.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-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 4th day of May, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Mount Pleasant Township, Adams County, Pennsylvania, being Lot No. 53 of Colonial Ridge Subdivision, more particularly bounded and described as follows:

BEGINNING at a point on the edge of a 50 foot right of way known as Cannon Lane at corner of Lot No. 52, as shown on the hereinafter referred to draft of survey; thence along Lot No. 52, and running through the center of a party wall in a seven unit townhouse separating said Lot 52 and the lot hereby described, South 42 degrees 17 minutes 22 seconds East, 125.00 feet to a point at corner of Lot No. 52 and along land now or formerly of Barton L. Breighner; thence along said land now or formerly of Barton L. Breighner South 47 degrees 42 minutes 38 seconds West, 20.00 feet to a point at corner of Lot No. 54; thence by Lot No. 54, and running through the center of a party wall in a seven unit townhouse separating said Lot No. 54 and the lot hereby described, North 42 degrees 17 minutes 22 seconds West, 125.00 feet to a point at corner of Lot No. 54 and on the edge of a 50 foot right of way known as Cannon Lane; thence by said right of way North 47 degrees 42 minutes 38 seconds East, 20.00 feet to a point at corner of Lot No. 52, the point and place of BEGINNING. CONTAINING 2,500 square feet.

THE above description for Lot No. 53 was taken from a draft of survey prepared by Gettysburg Engineering Co., Inc., for Colonial Ridge, Phase II, dated August 1993, and recorded in the Office of the Recorder of Deeds of Adams County in Plat Book 65 at page 55, and Sheet No. 7 of the final subdivision plan showing curve data and general notes recorded in Record Book 1022 at page 7.

TITLE TO SAID PREMISES IS VESTED IN Dennis P. Cooper by Deed from Thomas P. Gebhart and Mary L. Gebhart, husband and wife dated 11/17/98, recorded 11/19/98, in Record Book 1705, Page 344.

BEING KNOWN AS: 16 Cannon Lane, Gettysburg, PA 17325

TAX PARCEL: 11-45

SEIZED and taken into execution as the property of **Dennis P. Cooper** 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 May 29, 2001, 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.

3/23, 30 & 4/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1188 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of May, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stone at corner of lands now or formerly of Harvey Raffensperger's heirs and Henry Lupp; thence by lands now or formerly of the said Henry Lupp, North 83 degrees East 65.6-1/2 perches to a stone; thence by lands now or formerly of James Miller and Henry Deardorff, South 4-1/2 degrees East 50.9 perches to a stone; thence by lands now or formerly of Oliver Bushey, South 89-3/4 degrees West 66.3 perches to a stone; thence by lands now or formerly of Harvey Raffensperger's heirs, North 3 degrees West 43.2 perches to a stone, the place of BEGINNING. CONTAINING 19 acres and 73 perches, neat measure.

LESS, however, all that portion thereof containing three acres which Charles Shank and Ruth E. Shank, his wife, by deed dated May 14, 1954, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 206 at page 275, conveyed to Charles D. Shank Et Al.

BEING KNOWN AS 125 Clear Spring Road, Biglerville, PA.

TAX I.D. No. E8-13

Also excepting out all those portions thereof described as follows:

Deed dated August 1, 1986 between Russell E. Deshong, Sr. and Mary L. Deshong, h/w, Grantors and T. J. Sobota and Carol B. Sobota, h/w, as tenants of an estate by entireties, Grantees which was recorded in Deed Book 432, page 802.

Deed dated June 8, 1987 between Russell E. Deshong, Sr. and Mary L. Deshong, h/w, Grantors and Lottie Bittinger, Grantee which was recorded in Deed Book 459, page 248.

Deed dated November 8, 1988 between Russell E. Deshong, Sr. and Mary L. Deshong, h/w, Grantors and Robert E. Kauffman and Carol A. Kauffman, h/w as tenants of an estate by entireties, Grantees which was recorded in Deed Book 506, page 701.

SEIZED and taken into execution as the property of **Russell E. Deshong, Sr. & Mary L. Deshong** 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 May 29, 2001, 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.

3/30, 4/6 & 12

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Pennsylvania "Fictitious Names Act", 54 Pa.C.S.A. Sections 301 et seq., of the filing of an Application for Registration for Fictitious Name under the said Act. The fictitious name is GREEN HORNET EXPRESS. The address of the principal office or place of business to be carried on under or through the fictitious name is 55 Thomas Circle, Arendtsville, Adams County, Pennsylvania 17303. The names and address of the individuals who are interested in the business are Oakley Green and Joye Green, 55 Thomas Circle, Arendtsville, PA 17303 and Jeffrey Green, 83 Crestview Drive, East Berlin, PA 17316. An Application for Registration of the said Fictitious Name was filed in the Office of the Secretary of the Commonwealth of Pennsylvania on March 23, 2001.

Wolfe & Rice, LLC
47 West High Street
Gettysburg, PA 17325
Attorneys for Applicants

4/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1209 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of May, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

Docket No. 00-S-1209

Judgment Amt: \$106,375.75

Executing Creditor's Atty: Jeffrey N. Yoffe, Esquire, 214 Senate Avenue, Suite 203, Camp Hill, PA 17011. 717-975-1838

ALL THAT unimproved tract of land situate in Butler Township, Adams County, Pennsylvania, on the South side of a private 15 feet right of way which leads from a West to East fashion from Township Road T-535, and being more particularly bounded and described as follows:

BEGINNING at a steel pin set at or near the Northern side of an existing gravel lane at lands of Mary Lou Eckert; thence by lands of Mary Lou Eckert, South 89 degrees 16 minutes 0 seconds East 26.45 feet to a steel pin; thence continuing through said gravel lane and said 15 foot right of way and through a utility pole set back 13.04 feet from the beginning hereof and through another steel pin set back 220.70 feet from the beginning hereof and by lands of Clyde D. Lady and Janet A. Lady, South 26 degrees 27 minutes 4 seconds East, 545.44 feet to a steel pin at lands of Mt. Ridge Farms, Inc.; thence by lands of Mt. Ridge Farms, Inc., South 43 degrees 23 minutes 14 seconds West, 155.91 feet to an existing pipe; thence continuing by lands of same, North 19 degrees 49 minutes 32 seconds West, 363.95 feet to a steel pin set; thence continuing by lands of same and crossing the 15 feet right of way in the aforesaid gravel lane, North 8 degrees 31 minutes no seconds West, 262.50 feet to a steel pin set, the point and place of BEGINNING. CONTAINING 1.314 acres.

BEING a portion of the same tract of land which Earl A. Lady and Mildred I. Lady, his wife, by their deed dated May 21, 1964, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 247, Page 847, sold and conveyed unto Clyde D. Lady and Janet A. Lady, husband and wife, Grantors herein.

Said lot of ground is conveyed together with and subject to the following easements which are set forth in the foregoing deed of conveyance which reads as follows:

"TOGETHER WITH a perpetual right-of-way and privilege irrevocably in, over, upon and under the lands of the Grantors herein, BEGINNING at a tack on the Eastern side of Township Route T-535,

said tack being South 48 degrees 46 minutes West 11.2 feet from a nail at lands of Duane Eckert; thence through the lands of the Grantors herein, about to be conveyed unto Aksel Tange and Dorothy H. Tange, said right-of-way running parallel along lands of Duane Eckert, South 89 degrees 16 minutes East 191.2 feet to a tack on the Western edge of the land hereinabove described. Said right-of-way and privilege having a uniform width of 15 feet and is over the course as now laid out and being used and shall be exercised in common by the Grantors and their heirs and assigns and the Grantees and their heirs and assigns. Said right-of-way to be used as a means of ingress, egress and regress from Township Route T-535 to the lands hereinabove described and conveyed. Said right-of-way shall be kept free and clear of all obstacles and hindrances to the flow of traffic by all of the parties to said private right-of-way and easement.

EXCEPTING AND RESERVING, unto the Grantors and their heirs and assigns and the Grantees and their heirs and assigns, a perpetual right-of-way and privilege irrevocably, in, over, upon and under the lands of the Grantors herein, a 15 feet wide right-of-way BEGINNING at a tack set in the last course of the above description and thence running parallel with lands of Duane Eckert, South 89 degrees 16 minutes East 189 feet to a point on the Eastern edge of the tract hereinabove described, to lands of the Grantors about to be conveyed unto Aksel Tange and Dorothy H. Tange. Said right-of-way and privilege shall have a uniform width of 15 feet and shall be laid out over a course running parallel to the first course of the tract herein described, and shall be used and exercised in common by the Grantors and their heirs and assigns and the Grantees and their heirs and assigns. Said right-of-way to be used in conjunction with the first portion above described as a means of ingress, egress and regress from Township Route T-535 to the lands of the Grantors about to be conveyed unto Aksel Tange and Dorothy H. Tange. Said right-of-way to be kept free and clear of all obstacles and hindrances to the flow of traffic by all of the parties to said private right-of-way and easement."

To be sold as the property of Bradley E. Lady and Pamela T. Lady under Adams County Judgment No. 00-S-1209.

SEIZED and taken into execution as the property of **Bradley E. Lady & Pamela T. Lady** 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 June 4, 2001, 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.

3/23, 30 & 4/6

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Monday, April 9, 2001, at 9:00 o'clock a.m.

MEHRING—Orphans' Court Action Number OC-17-01. The First and Final Account of Walter G. Mehring, Executor of the Estate of Walter S. Mehring, deceased, late of the Borough of Littlestown, Adams County, Pennsylvania.

HEITMANN—Orphans' Court Action Number OC-18-01. The First and Final Account of Adams County National Bank, Executor of the Estate of Marguerite Michel Heitmann, deceased, late of the Borough of Carroll Valley, Adams County, Pennsylvania.

ALDEN—Orphans' Court Action Number OC-27-00. The First and Final Account of Alice S. Alden, Executrix of the Last Will and Testament of Clinton R. Alden, deceased, late of Cumberland Township, Adams County, Pennsylvania.

SIPLING—Orphans' Court Action Number OC-92-96. The First and Final Account of Cheryl A. Markel Kline, Administratrix of the Estate of Donald Francis Sipling, deceased, late of Oxford Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

4/6

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 R. EDWIN STONER, a/k/a R. E. STONER, a/k/a RALPH EDWIN STONER, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Executrix: Julee J. Ziegler, 354 Longstreet Drive, Gettysburg, PA 17325

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

ESTATE OF PAULINE E. STONESIFER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Irma G. Shields, 227 Pegram Street, Gettysburg, PA 17325

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

ESTATE OF EMORY C. YOHE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Herbert C. Yohe, P.O. Box 110, West Hartford, VT 05084-0110; Rachel D. Topper, 316 High Street, Hanover, PA 17331

Attorney: Donald W. Dorr, Esq., Buchen, Wise & Dorr, 126 Carlisle Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF RAYMOND B. BOWLING, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executrices: Regina R. Heflin, 1060 Centennial Road, New Oxford, PA 17350; Veronica Zinn, 476 Irishtown Road, New Oxford, PA 17350

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

ESTATE OF DONNA M. LIVELSBARGER, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executors: Michael R. Livelsberger, Jr., 36 Sunset Drive, Gettysburg, PA 17325; Debra Ann Eline, 2850 Centennial Road, Hanover, PA 17331

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

ESTATE OF DAVID J. TOPPER, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executrix: Robin I. Bowling, 60 Hickory Bridge Road, Orrtanna, PA 17353

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

THIRD PUBLICATION

ESTATE OF SHIRLEY A. FRANTZ, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: Dennis M. Frantz, 6 Ewell Drive, East Berlin, PA 17316

Attorney: Rupp and Meikle, Attorneys, 355 North 21st Street, Suite 205, Camp Hill, PA 17011

ESTATE OF GLADYS E. RINEHART, DEC'D

Late of the Borough of Hanover, York County, Pennsylvania

Executor: Richard L. Rinehart, 211 Maple Street, Hanover, PA 17331

Attorney: Lynn G. Peterson, Esq., Peterson & Peterson, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF B. GUY SMITH a/k/a BENEDICT GUY SMITH a/k/a JOHN SMITH, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executor: Thomas B. Redding, Jr., 101 Panther Drive, Hanover, PA 17331

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

ESTATE OF CRAIG GERALD TSCHIDA, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Administrator: Keith J. Tschida, c/o Ann Margaret Grab, Esq., 110 South Northern Way, York, PA 17402

Attorney: Ann Margaret Grab, Esq., 110 South Northern Way, York, PA 17402

Adams County Legal Journal

Vol. 42

April 12, 2001

No. 46, pp. 252-260

CONTINUING LEGAL EDUCATION PROGRAM

Malpractice Avoidance Seminar

May 30, 2001 – 1:30 p.m. - 3:00 p.m.

Hotel Gettysburg

Credits: Ethics – 1.5

REGISTRATION THROUGH PA BAR ASSOCIATION 1-800-932-0311

5% premium discount given to attending firms on PBA sponsored professional liability insurance

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1188 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of May, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stone at corner of lands now or formerly of Harvey Raffensperger's heirs and Henry Lupp; thence by lands now or formerly of the said Henry Lupp, North 83 degrees East 65.6-1/2 perches to a stone; thence by lands now or formerly of James Miller and Henry Deardorff, South 4-1/2 degrees East 50.9 perches to a stone; thence by lands now or formerly of Oliver Bushey, South 89-3/4 degrees West 66.3 perches to a stone; thence by lands now or formerly of Harvey Raffensperger's heirs, North 3 degrees West 43.2 perches to a stone, the place of BEGINNING. CONTAINING 19 acres and 73 perches, neat measure.

LESS, however, all that portion thereof containing three acres which Charles Shank and Ruth E. Shank, his wife, by deed dated May 14, 1954, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 206 at page 275, conveyed to Charles D. Shank Et Al.

BEING KNOWN AS 125 Clear Spring Road, Biglerville, PA.

TAX I.D. No. E8-13

Also excepting out all those portions thereof described as follows:

Deed dated August 1, 1986 between Russell E. Deshong, Sr. and Mary L. Deshong, h/w, Grantors and T. J. Sobota and Carol B. Sobota, h/w, as tenants of an estate by entireties, Grantees which was recorded in Deed Book 432, page 802.

Deed dated June 8, 1987 between Russell E. Deshong, Sr. and Mary L. Deshong, h/w, Grantors and Lottie Bittinger, Grantee which was recorded in Deed Book 459, page 248.

Deed dated November 8, 1988 between Russell E. Deshong, Sr. and Mary L. Deshong, h/w, Grantors and Robert E. Kauffman and Carol A. Kauffman, h/w as tenants of an estate by entireties, Grantees which was recorded in Deed Book 506, page 701.

SEIZED and taken into execution as the property of **Russell E. Deshong, Sr. & Mary L. Deshong** and to be sold by me

Raymond W. Newmar
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 May 29, 2001, and distribution will be made in accordance 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.

3/30, 4/6 & 12

INCORPORATION NOTICE

Articles of incorporation for W.L. MAYERS & ASSOCIATES, INC. were filed with the Pa. Department of State on March 13, 2001, under the Business Corporation Law of 1988.

Walton V. Davis
Solicitor

4/12

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1230 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of May, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN improved lot of ground situate in the Borough of Gettysburg, Adams County, Pennsylvania, whose address is 851 Highland Avenue, and which is more particularly bounded and described as follows:

BEGINNING at an iron pin on the Northern property line of King Street where the same is intersected by the Western property line of Highland Avenue; thence along said Northern property line of King Street, North 55 degrees 45 minutes West, 125 feet to a point on the Northern property line aforesaid at the Southernmost corner of lot now or formerly of Eugene Sanders; thence by said Sanders lot, and by lot now or formerly of Agnes Price, North 34 degrees 15 minutes East, 130 feet to a point at the Westernmost corner of lot now or formerly of Peter Tarantino; thence by said last mentioned lot, South 55 degrees 45 minutes East, 125 feet to the Western property line, South 34 degrees 15 minutes West, 130 feet to the above described place of BEGINNING.

UNDER AND SUBJECT, nevertheless, to all easements, restrictions, encumbrances and other matters of record or that a physical inspection or survey of the premises would reveal.

SEIZED and taken into execution as the property of **Edmond Trostle & Janet Trostle** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 18, 2001, 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.

4/12, 20 & 27

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-53 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of May, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece, parcel or tract of land, together 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 at a point on the northern right-of-way line of Poplar Street, a sixty (60) feet wide right-of-way, at corner of Lot No. 87 on the subdivision plan hereinafter referred to; thence along the northern right-of-way line of Poplar Street, North fifty-nine (59) degrees thirty-one (31) minutes twenty-one (21) seconds West, one hundred fifty-six and thirty-eight hundredths (156.38) feet to a point at the intersection of Poplar Street with Madison Street; thence along the right-of-way line of Madison Street; the following two (2) courses and distances: (1) North twenty-six (26) degrees thirty-eight (38) minutes thirty-seven (37) seconds West, twenty-five and nineteen hundredths (25.19) feet to a point; and (2) North six (06) degrees fourteen (14) minutes seven (07) seconds East, twenty-three (23) feet to a point Lot No. 90 on the subdivision plan hereinafter referred to; thence along Lot No. 90, North eighty-one (81) degrees two (02) minutes four (04) seconds East, one hundred fifty-seven and ninety-six hundredths (157.96) feet to a point at Lot No. 86 on the subdivision plan hereinafter referred to; thence along Lot No. 86, South thirty-seven (37) degrees fifty-nine (59) minutes thirty (30) seconds East, sixty-nine and eighty-eight hundredths (69.88) feet to a point at Lot 87 on the Subdivision plan hereinafter referred to; thence along Lot No. 87, South thirty (30) degrees twenty-eight (28) minutes thirty-nine (39) seconds West, one hundred nine and thirty-six hundredths (109.36) feet to a

point on the northern right-of-way line of Poplar Street, the point and place of BEGINNING.

CONTAINING 17,916 square feet and being Lots Nos. 88 and 89 on plan prepared for Diller's Village, Phase II, by Donald E. Worley, Registered Surveyor, dated April 29, 1987, designated as File No. G-93, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 47, page 22.

UNDER AND SUBJECT, NEVERTHELESS, to easements and setbacks as more particularly set forth on the hereinabove referenced subdivision plan recorded in Plan Book 47, page 22, including ten (10) feet wide utility and drainage easements to the rear and sides of the hereinabove described premises.

BEING the same premises which Daniel V. Nolan, by Deed dated June 22, 1992 and recorded in the Office of the Recorder of Deeds of Adams County on June 30, 1992, in Deed Book Volume 632, Page 1005, granted and conveyed unto Ray L. Dickensheets and Brenda K. Dickensheets.

GRENE & BIRSIC, P.C.

By: /s/Daniel J. Birsic, Esquire

Attorneys for Plaintiff

One Gateway Center, Nine West

Pittsburgh, PA 15222

(412) 281-7650

Parcel No.: 9-224

SEIZED and taken into execution as the property of **Ray L. & Brenda K. Dickensheets** 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 June 18, 2001, 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.

4/12, 20 & 27

COMMONWEALTH VS. FIELDS, HARLEY AND PRESTON

1. Although Pennsylvania accords automatic standing to defendants charged with possessory crimes, the rule is subject to the existence of a reasonable expectation of privacy. Overnight guests generally are granted standing. Anyone who is more than a casual visitor in a place where drugs are sold enjoys standing.

2. Absent consent or exigent circumstances, private homes may not be constitutionally entered to conduct a search or to effectuate an arrest without a warrant, even where probable cause exists. Exigent circumstances will excuse the need for a warrant where the need for prompt police action is imperative. Included in such circumstances are the likelihood that evidence will be secreted, and reasonable belief that defendants were armed.

3. Probable cause alone does not justify entry, and evidence relating to urgency must be more than speculation or generalizations.

4. Courts do not look favorably on failures to obtain search warrants when the opportunity existed to obtain one.

5. The independent source rule has been recognized in Pennsylvania. The rule may be applied only in very limited situations where probable cause is based upon a source independent from both the tainted evidence and the police who engaged in the misconduct.

6. Violations of the (knock and announce) rule will result in suppression of evidence even when obtained through a valid warrant. The rule has constitutional dimensions. The rule has been applied to warrantless entries. Violation of the rule may be excused if we find exigent circumstances.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, Nos. CC-723-99, CC-724-99, and CC-722-99. COMMONWEALTH OF PENNSYLVANIA VS. TYRONE FIELDS; COMMONWEALTH OF PENNSYLVANIA VS. CHARLES HARLEY; COMMONWEALTH OF PENNSYLVANIA VS. ERIC PRESTON.

Michael A. George, District Attorney, for Commonwealth
Roy A. Keefer, Esq., for Eric Preston
Patrick W. Quinn, Esq., for Tyrone Fields
Jeffery M. Cook, Esq., for Charles Harley
Spicer, P.J., March 20, 2000

ADJUDICATION

EXPLANATORY NOTE

On June 8, 1999, police entered the home of Maddie White located at 233 South Washington Street, Gettysburg, Pennsylvania. After securing the premises, the police obtained a search warrant. Three individuals were arrested as a result of drugs found in the dwelling. All three filed an omnibus pre-trial motion in the nature of a motion to suppress.

A hearing on defendants' motions was conducted December 3, 1999. Counsel requested and were given leave to file memoranda. The time involved has become somewhat extended because of the need for a transcript and surgery involving one of the lawyers.

Issues were discussed prior to hearing, and at least one defense counsel said (page 5) that the knock and announce rule was not "really a very strong portion of the argument." Nonetheless, it was addressed in testimony.

In our recitation of facts, this judge refers to two vehicles as car #1 and car #2. The numbers were assigned solely because of the order in which these cars were stopped by the police.

FACTS

The following facts are relevant to explain the background leading to a warrantless entry into a residence in the Borough Of Gettysburg on June 8, 1999:

Some time before June 6, 1999, Simon Wellman, a member of the Pennsylvania State Police, procured a search warrant for two automobiles, based upon information received from a confidential informant.¹ The officer was told that four individuals, two of whom were named Eric and Junior², planned on driving two rented cars³ to Florida from Adams County. The makes, models, years and license numbers of the cars were provided. The informant described the purpose of the trip as involving 1) to visit relatives in Florida and 2) in the case of two defendants⁴, to obtain cocaine. Four males, Preston, Harley, Otis Woolbright and Clifton Carroll, rode in car #2, while John Anderson, Jr., Dwayne Dorsey and an unnamed female traveled in car #1. The informant reported that Anderson had purchased a handgun, which information was verified by a check of records of the vendor, Redding's Hardware in Gettysburg.

¹ Officer Wellman at times referred to information he received, without specifying the source, as received from a confidential source, and as received from John Madigan. Although Mr. Madigan may have been the source of all such information, that fact was never developed. Reference to sources in this adjudication may be technically incorrect at times.

² Presumably Eric Preston and Charles Harley, Jr.

³ Wellman said the cars were rented from agencies in Hanover and Lancaster, by John Madigan, who then provided the cars to defendants.

⁴ See page 10 of the transcript. The two were never identified.

The informant notified Wellman that defendants arrived in Florida and all but Woolbright were returning to Adams County on June 6, 1999. Another individual⁵ took Woolbright's place. The two cars became separated and car #2 arrived in Adams County later than expected. Police stopped car #1 (in which Anderson, Dorsey and the female rode), and found an unloaded .380 caliber pistol wrapped securely in the trunk. Finding nothing else, the police released those three individuals and the gun. Unsure as to the location of car #2, Wellman went home.

Later, Wellman learned by telephone that car #2 was at the 7-11 store in New Oxford. Police were dispatched, arrested defendants and seized the car. The automobile was towed to the Pennsylvania State Police barracks for purposes of effectuating a search. No contraband was found.

Wellman went to the barracks, and later learned from other police officers, and the confidential informant that, 1: Clifton Carroll was in car #2 when it proceeded from Florida; 2: Defendants were the only individuals in car #2 when the arrest and seizure occurred; 3: A private citizen observed an occupant of car #2 leave the scene with a suit case after being picked up at the 7-11; 4: That occupant was Clifton Carroll; 5: Someone in car #1 tipped the occupants of car #2, about being stopped; 6: Occupants of car #2 got rid of the cocaine before the seizure.

Wellman interviewed defendant at the state police station. A check of records indicated an outstanding warrant for the arrest of Preston in Florida for possession with the intent to deliver a controlled substance.⁶ Dorsey and Anderson had arrest records, but offenses were not identified. Harley had no criminal or arrest record. Fields had been arrested for aggravated assault on a police officer, although it was subsequently learned those charges were dismissed. There was no indication that the charge involved a firearm.

After the interview, defendants were released. John Madigan drove them to where they stayed the night.

The following facts are directly related to issues raised by the omnibus pre-trial motion, as established at the hearing on December 3, 1999:

⁵ The person was not named but apparently was defendant Fields.

⁶ Officer Wellman said that Florida would not extradite for the crime.

1. During the interview with defendants on June 6, 1999, Wellman was told that all three defendants planned on staying with Harley's aunt, Maddie White, at 233 South Washington Street, Gettysburg. At that time, Fields planned on remaining only one night, and then going to Baltimore to visit relatives there.

2. On June 8, 1999, John Madigan telephoned Wellman twice. During the first conversation, Madigan said that Harley wanted Madigan to take Harley somewhere and that Madigan could probably buy cocaine from Harley.

During the second conversation, around 6:00 p.m., Madigan said he had just left the South Ridge Motel, where defendants had been engaged in "cooking crack cocaine." (p. 23). Additionally:

- a. When defendants were finished, they packed everything in Madigan's car and he drove them to 233 South Washington Street in Gettysburg.
- b. Madigan drove to the rear of that property and watched defendants take the cocaine in through the back door.

3. Shortly thereafter, also around 6:00 p.m., Wellman met with Madigan and observed within Madigan's van a hot plate, Pyrex cooking ware and a fork both with white residue all over them and baking soda. Madigan provided the officer with cocaine crumbs that defendants gave him for his services. The crumbs field tested positive for cocaine.

4. Wellman testified that the white residue was consistent with the preparation of crack cocaine.

5. Between 6:15 and 6:30 p.m., Wellman telephoned the District Attorney for advice.

6. After concluding that surveillance was impractical because of daylight, there was a possibility that the cocaine could be placed outside the home and hidden⁷, and that the ethnic population of the neighborhood made it likely that a white police officer would be spotted, Wellman decided to enter Ms. White's residence, arrest defendants, secure the premises and then apply for a search warrant.

⁷While it might be true that drugs could have been squirreled away in hard-to-find spots, it is also true, in this particular case, that police were provided information by Mr. Madigan that always seemed current.

7. Wellman's belief that drugs could have been hidden was based on information and his observation, in an unrelated prior incident, of a drug seller procuring drugs from outside a residence.

8. Wellman's supposition that surveillance would have been detected was based upon his understanding that:

- a. The population in the area was primarily black,
- b. Members of the Adams County Drug Task Force, including himself, were white and known to inhabitants and defendants,
- c. There was not enough time to arrange for black law enforcement personnel who would not have been familiar to the population and defendants, and,
- d. Drug activity in the neighborhood is relatively high, raising the likelihood that persons unsympathetic to the police would have observed surveillance.

9. Three or four police officers, including Wellman, went to the front door of the residence, and two to the back door. After one of the officers knocked, Wellman saw Harley inside. Harley stood and looked at Wellman. Wellman said things transpired quickly, that he thought there was a 20 to 30 second interlude between a knock and entry, and did not remember clearly what was said, other than "police." Someone may have said "search warrant," but he was not sure.

10. The police did not announce the purpose of their entry.

11. The police entered and secured the premises around 7:00 p.m.

12. Maddie White, upon being informed of the purpose of the entry, told Wellman there were no drugs on the premises, and that he could go ahead and look.

13. Wellman responded that he would procure a warrant.⁸

14. Wellman left, went to the office of District Justice Thomas Carr, which is located approximately two blocks from the premises, and procured a warrant. He returned around 9:55 p.m.

15. A search was conducted and cocaine was found.

⁸Because of Ms. White's statement, the Commonwealth has argued that the search could be viewed as consensual. If so, there would have been no reason to detain the occupants, including Ms. White, for some three hours, while a warrant was being acquired.

CONCLUSIONS OF LAW

1. All defendants have standing to contest the validity of the search warrant.
2. The police had probable cause to believe that cocaine was within the residence at 233 South Washington Street prior to entering the residence.
3. The police had probable cause to believe that defendants were within the premises and possessed cocaine with intent to deliver it.
4. Commonwealth has failed to prove exigent circumstances excusing the need for a warrant.
5. The search warrant was issued on probable cause that was independent from and untainted by the warrantless entry.
6. Police violated the knock and announce rule.
7. The evidence obtained must be suppressed.

DISCUSSION

Standing: Although Pennsylvania accords automatic standing to defendants charged with possessory crimes, the rule is subject to the existence of a reasonable expectation of privacy. Cases involving overnight visitors were collected in *Commonwealth v. Santiago*, Pa. Super., 736 A.2d 624 (1999), *alloc. dn.* While results may vary, and there is some question as to which party bears the burden of proof,⁹ overnight guests generally are granted standing. Factors to be considered are: possession of a key, unlimited access, presence of clothes or other possessions on the premises, involvement in illegal activity, ability to exclude others and expressions of a subjective expectation of privacy. Superior Court has held that anyone who is more than a casual visitor in a place where drugs are sold enjoys standing. *Commonwealth v. Govens*, 429 Pa. Super. 464, 632 A.2d 1316 (1993) (en banc), *alloc. dn.* 539 Pa. 675, 652 A.2d 1321 (1994).

Evidence indicates that all defendants planned on staying at Ms. White's while in Gettysburg. Although one stated he intended to travel to Baltimore, he obviously was in Gettysburg when the search occurred. Defendants stored cocaine and the court can infer that

⁹See the dissent in *Commonwealth v. Carlton*, 549 Pa. 174, 701 A.2d 143 (1997).

defendants kept clothes in the house. They entered without seeking Ms. White's consent.

Exigent Circumstances: In this case, there was a warrantless entry, but not a warrantless search. Even so, it is settled law that "absent consent or exigent circumstances, private homes may not be constitutionally entered to conduct a search or to effectuate an arrest without a warrant, even where probable cause exists." *Id.* 652 A.2d at 1322; cited and quoted in *Commonwealth v. Santiago*, *supra* 736 A.2d at 631. Exigent circumstances will excuse the need for a warrant where the need for prompt police action is imperative. Included in such circumstances are the likelihood that evidence will be secreted, *Commonwealth v. Flowers*, Pa. Super., 735 A.2d 115 (1999), and reasonable belief that defendants were armed, *Commonwealth v. Davis*, 418 Pa. Super. 318, 614 A.2d 291 (1992).

Officer Wellman was the only person to testify in this case. While this court should not arbitrarily disregard his testimony, we do not believe we must ignore familiarity with the area in question. South Washington Street is not a ghetto area. If we accept his testimony as to the imperative need for police action, based upon his observations of the neighborhood, we would have to conclude that the police having probable cause to believe that drugs were in any home in that area would have the right to enter without a warrant during daylight hours. This would effectively make constitutional guarantees inapplicable for all of South Washington Street. Probable cause alone does not justify entry, *Commonwealth v. Santiago*, *supra*, and evidence relating to urgency must be more than speculation or generalizations. *Commonwealth v. Bull*, 422 Pa. Super. 67, 618 A.2d 1019 (1993), *aff'd*, 539 Pa. 150, 650 A.2d 874 (1994), *cert. dn.*, 515 U.S. 1141, 115 S.Ct. 2577, 132 L.Ed.2d 827 (1995). *See also*, *Commonwealth v. Dean*, Pa. Super., 693 A.2d 1360 (1997), *alloc. dn.*, 549 Pa. 724, 702 A.2d 1058 (1997).

While failures to obtain warrants are more likely to be forgiven if committed during an ongoing investigation, it has been said that courts do not look favorably on failures to obtain search warrants when the opportunity existed to obtain one. *Commonwealth v. Govens*, *supra*; *Commonwealth v. Conn*, 377 Pa. Super. 442, 547 A.2d 768 (1988), *alloc. dn.*, 521 Pa. 617, 557 A.2d 721 (1989). In our case, the Commonwealth made a deliberate decision to secure the house before applying for a warrant.

In *Commonwealth v. Roland*, 535 Pa. 595, 637 A.2d 269 (1994), Supreme Court discussed the following factors in ruling on a warrantless entry into a home: 1) gravity of the offense: although drugs can well be said to be the scourge of our society, and the offense was a felony, it was not a violent crime. See *Commonwealth v. Govens, supra*, *Commonwealth v. Santiago, supra*; 2) whether there is above and beyond a clear showing of probable cause: facts established in this case were based upon information from a confidential informant and John Madigan. The latter's connection with the police was not described, and he could be classified as an accomplice. Still, detailed information was provided to the police and probable cause clearly existed. See *Commonwealth v. Flowers, supra*; 3) whether there was strong reason to believe a suspect is within the premises: although entry was made to seize cocaine, and not necessarily to arrest defendants, it was highly likely that defendants were present; 4) whether there is a strong likelihood that suspect will escape if not swiftly apprehended: there was no showing that this was true; 5) whether entry was reasonable: entry might be classified as peaceful, except it was in violation of the knock and announce rule and was, therefore, unreasonable; and 6) time of entry: entry was during daylight hours.

After balancing all factors and circumstances, we are impelled to rule that Commonwealth has failed to show exigent circumstances.

Independent basis for the search warrant: The independent source rule has been recognized in Pennsylvania. *Commonwealth v. Frank*, 413 Pa. Super. 273, 605 A.2d 356 (1992). In that case, a search was validated because of independent information known to police before an unlawful entry into a home. However, Supreme Court has indicated that the rule may be applied only in very limited situations where probable cause is based upon a source independent from both the tainted evidence and the police who engaged in the misconduct. *Commonwealth v. Melendez*, 544 Pa. 323, 676 A.2d 226 (1996). Although information was provided to Wellman, who engaged in the entry, the source of the information had nothing to do with that officer. Thus, we conclude that the rule would normally be applicable. However, for reasons we will now discuss, it does not save the admissibility of Commonwealth's evidence.

Knock and announce rule: Violations of the (knock and announce) rule will result in suppression of evidence even when

obtained through a valid warrant. In fact, the rule is embodied in Pa. R.Crim.P.2007, which applies specifically to search warrants. Supreme Court has said that the rule has constitutional dimensions. *Commonwealth v. Means*, 531 Pa. 504, 614 A.2d 220 (1992). The rule has been applied to warrantless entries. *Commonwealth v. Conn*, *supra*.

We have found that the police did not announce the purpose of the entry because Wellman's testimony was very equivocal. See *Commonwealth v. Douventzidis*, 451 Pa. Super. 280, 679 A.2d 795 (1996).

The officer's estimate of time, 20 to 30 seconds, does not fall within the definition of reasonable time as decided by our appellate courts. Thirty seconds has been held unreasonably short. *Id.* See also *Commonwealth v. Bull*, *supra*.

Violation of the rule may be excused if we find exigent circumstances. In the context of the rule, these may consist of the following: 1) occupants remain silent after repeated knocking and announcing; 2) police are virtually certain occupants already know the purpose; 3) police have reason to believe an announcement prior to entry would imperil their safety; and, 4) police have reason to believe evidence is about to be destroyed. *Commonwealth v. Crompton*, 545 Pa. 586, 682 A.2d 286 (1996).

None of these circumstances have been shown in this case. In fact, the factual situation is very similar to the one involved in *Crompton*, *id.*

ORDER

AND NOW, this 20th day of March, 2000, omnibus pretrial motions are granted and evidence obtained during the search is suppressed.

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 GARY F. BERKHEIMER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Personal Representatives: Kathy A. Campbell, 5 Lee Street, Hanover, PA 17331; Sherry L. Shaffer, 230 Mt. Misery Road, New Oxford, PA 17350

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

ESTATE OF MIRIAM S. BORTNER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Henry W. Mowery, 31 Brewster Street, Hanover, PA 17331

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

ESTATE OF CLAIR F. DITZLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Diane K. Ditzler Barbour, P.O. Box 180, 142 West Hanover Street, Biglerville, PA 17307

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

ESTATE OF CHARLES C. HANER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: James B. Newman, 224 Ewell Ave., Gettysburg, PA 17325

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

ESTATE OF JOSEPHINE M. MILLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: Patricia A. Braucher & Stephen R. Miller, c/o Robert M. Strickler, Esq., 110 South Northern Way, York, PA 17402

Attorney: Robert M. Strickler, Esq., 110 South Northern Way, York, PA 17402

ESTATE OF FLORENCE E. ROHRBAUGH, DEC'D

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

Executor: Harvey J. Hunter, c/o 106 Harrisburg Street, East Berlin, PA 17316

Attorney: Sharon E. Myers, Esq., Countess Gilbert Andrews

ESTATE OF MERLE D. SHANK, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Abbie R. Shank Bange, 3141 Grandview Road, Hanover, PA 17331

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

SECOND PUBLICATION

ESTATE OF R. EDWIN STONER, a/k/a R. E. STONER, a/k/a RALPH EDWIN STONER, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Executrix: Julee J. Ziegler, 354 Longstreet Drive, Gettysburg, PA 17325

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

ESTATE OF PAULINE E. STONESIFER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Irma G. Shields, 227 Pegram Street, Gettysburg, PA 17325

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

ESTATE OF EMORY C. YOHE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Herbert C. Yohe, P.O. Box 110, West Hartford, VT 05084-0110; Rachel D. Topper, 316 High Street, Hanover, PA 17331

Attorney: Donald W. Dorr, Esq., Buchen, Wise & Dorr, 126 Carlisle Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF RAYMOND B. BOWLING, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executrices: Regina R. Heflin, 1060 Centennial Road, New Oxford, PA 17350; Veronica Zinn, 476 Irishtown Road, New Oxford, PA 17350

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

ESTATE OF DONNA M. LIVELSBERGER, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executors: Michael R. Livelsberger, Jr., 36 Sunset Drive, Gettysburg, PA 17325; Debra Ann Eline, 2850 Centennial Road, Hanover, PA 17331

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

ESTATE OF DAVID J. TOPPER, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executrix: Robin I. Bowling, 60 Hickory Bridge Road, Orrtanna, PA 17353

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

CIVIL ACTION/COMPLAINT IN MORTGAGE FORECLOSURE

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW NO. 00-S-1223

CONSECO FINANCE CONSUMER DISCOUNT COMPANY

v.

JAMES ANDREW RACINE, KNOWN SURVIVING HEIR OF LAURA RACINE, DECEASED MORTGAGOR AND REAL OWNER

and

SUE LYNN FOGLE, KNOWN SURVIVING HEIR OF LAURA RACINE, DECEASED MORTGAGOR AND REAL OWNER

and

VENUE NOBLE, KNOWN SURVIVING HEIR OF LAURA RACINE, DECEASED MORTGAGOR AND REAL OWNER

and

THOMAS RACINE, KNOWN SURVIVING HEIR OF LAURA RACINE,

DECEASED MORTGAGOR AND REAL OWNER

and

ALL UNKNOWN SURVIVING HEIRS OF LAURA RACINE, DECEASED MORTGAGOR AND REAL OWNER

TO: All Unknown Surviving Heirs of Laura Racine, Deceased Mortgagor and Real Owner

TYPE OF ACTION: CIVIL ACTION/ COMPLAINT IN MORTGAGE FORECLOSURE

PREMISES SUBJECT TO FORECLOSURE: 135 Clapsaddle Road, Gettysburg, PA 17325

NOTICE

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

by the Plaintiff. You may lose money or property or other rights important to you.

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

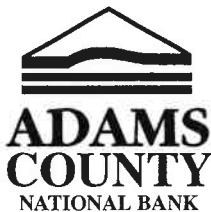
Court Administrator Adams County Courthouse Gettysburg, PA 17325 (717) 337-9846

McCabe, Weisberg and Conway, P.C. By: Terrence J. McCabe, Esq. Attorney for Plaintiff Identification Number 16496 First Union Building 123 South Broad Street, Suite 2080 Philadelphia, Pennsylvania 19109 215-790-1010

4/12



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Adams County Legal Journal

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April 20, 2001

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-112 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of June, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a p.k. nail in the center line of Township Road T-364, known as New Road, which p.k. nail is located South 56 degrees 45 minutes East 57.30 feet from an existing railroad spike in the center line of said road along land now or formerly of LeRoy Baker; thence in the center of New Road, South 56 degrees 45 minutes East 170 feet to another p.k. nail in the center line of said Road; thence by other land now or formerly of Helen E. Baker, and running through a reference steel rod located 30 feet from the beginning of this line, South 62 degrees 30 minutes West 302.04 feet to a steel rod; thence by the same, North 56 degrees 45 minutes West 170 feet to a steel rod; thence along a 50 ft. strip of land now or formerly of Helen E. Baker and running through a reference steel rod located 30 feet from the end of this line, North 62 degrees 30 minutes East 302.04 feet to a p.k. nail in the center line of New Road, the place of BEGINNING. CONTAINING 1.028 ACRES

The foregoing description was obtained from a draft of a survey made by J. Riley Redding, Registered Surveyor, trading as Adams County Surveyors, dated May 24, 1984, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 40, at page 65.

HAVING ERECTED THEREON a dwelling known as 1210 New Road, Oртanna, Pennsylvania.

BEING THE SAME PREMISES WHICH Edwin J. Baker, by his Deed dated June 2, 1989 and recorded June 2, 1989 in Adams County Deed Book 524, Page 463, granted and conveyed unto Robert D. Trimmer and Marie E. Trimmer.

SEIZED IN EXECUTION AS THE PROPERTY OF ROBERT D. TRIMMER

AND MARIE E. TRIMMER UNDER ADAMS COUNTY JUDGMENT NO. 00-S-112.

MAP & PARCEL #C9-1E

SEIZED and taken into execution as the property of **Robert D. & Marie E. Trimmer** 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 June 25, 2001, 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.

4/20, 27, & 5/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-940 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of June, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate on the northwest side of a 30-foot wide gravel road (which gravel road leads from State Highway Route 233 running from Caledonia to Pine Grove) in Menallen Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center line of the 30-foot wide road aforesaid at lands now or formerly of Lowell C. Heefner, said point being South 50 degrees West, 1346.5 feet from an iron pin, which iron pin is on the State Forest Boundary Line; thence by lands now or formerly of Lowell C. Heefner, and through a stake at the side of the road, North 40 degrees West, 313 feet, more or less, through a stake on the bank of a mountain creek to a point in the center of

said creek; thence down said creek in a northeasterly direction for a distance of 100 feet, more or less, to a point in said creek at lands now or formerly of Jacob O. Funk; thence by said lands and through a stake on the bank of the creek, South 40 degrees East, 330 feet, more or less, through a stake on the side of the road to a point in the center line of the 30-foot wide road aforesaid; thence in the center line of said road, South 50 degrees West, 100 feet to a point, the place of BEGINNING. CONTAINING 0.7 acre, more or less.

HAVING ERECTED THEREON a dwelling known as 124 Norris Road, Biglerville, Pennsylvania.

BEING THE SAME PREMISES WHICH Roberta L. Page, by her Deed dated April 30, 1998 and recorded May 12, 1998 in Adams County Deed Book 1578, Page 259, granted and conveyed unto Darren S. Woodring and Tiffani R. Woodring.

SEIZED IN EXECUTION AS THE PROPERTY OF DARREN S. WOODRING AND TIFFANI R. WOODRING UNDER ADAMS COUNTY JUDGMENT NO. 00-S-940.

MAP & PARCEL #C5-12

SEIZED and taken into execution as the property of **Darren S. & Tiffani R. Woodring** 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 June 25, 2001, 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.

4/20, 27, & 5/4

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1230 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of May, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN improved lot of ground situate in the Borough of Gettysburg, Adams County, Pennsylvania, whose address is 851 Highland Avenue, and which is more particularly bounded and described as follows:

BEGINNING at an iron pin on the Northern property line of King Street where the same is intersected by the Western property line of Highland Avenue; thence along said Northern property line of King Street, North 55 degrees 45 minutes West, 125 feet to a point on the Northern property line aforesaid at the Southernmost corner of lot now or formerly of Eugene Sanders; thence by said Sanders lot and by lot now or formerly of Agnes Price, North 34 degrees 15 minutes East, 130 feet to a point at the Westernmost corner of lot now or formerly of Peter Tarantino; thence by said last mentioned lot, South 55 degrees 45 minutes East, 125 feet to the Western property line, South 34 degrees 15 minutes West, 130 feet to the above described place of BEGINNING.

UNDER AND SUBJECT, nevertheless, to all easements, restrictions, encumbrances and other matters of record or that a physical inspection or survey of the premises would reveal.

SEIZED and taken into execution as the property of **Edmond Trostle & Janet Trostle** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 18, 2001, 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.

4/12, 20 & 27

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-53 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of May, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece, parcel or tract of land, together 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 at a point on the northern right-of-way line of Poplar Street, a sixty (60) feet wide right-of-way, at corner of Lot No. 87 on the subdivision plan hereinafter referred to; thence along the northern right-of-way line of Poplar Street, North fifty-nine (59) degrees thirty-one (31) minutes twenty-one (21) seconds West, one hundred fifty-six and thirty-eight hundredths (156.38) feet to a point at the intersection of Poplar Street with Madison Street; thence along the right-of-way line of Madison Street; the following two (2) courses and distances:

- (1) North twenty-six (26) degrees thirty-eight (38) minutes thirty-seven (37) seconds West, twenty-five and nineteen hundredths (25.19) feet to a point; and
- (2) North six (06) degrees fourteen (14) minutes seven (07) seconds East, twenty-three (23) feet to a point Lot No. 90 on the subdivision plan hereinafter referred to; thence along Lot No. 90, North eighty-one (81) degrees two (02) minutes four (04) seconds East, one hundred fifty-seven and ninety-six hundredths (157.96) feet to a point at Lot No. 86 on the subdivision plan hereinafter referred to; thence along Lot No. 86, South thirty-seven (37) degrees fifty-nine (59) minutes thirty (30) seconds East, sixty-nine and eighty-eight hundredths (69.88) feet to a point at Lot 87 on the Subdivision plan hereinafter referred to; thence along Lot No. 87, South thirty (30) degrees twenty-eight (28) minutes thirty-nine (39) seconds West, one hundred nine and thirty-six hundredths (109.36) feet to a

point on the northern right-of-way line of Poplar Street, the point and place of BEGINNING.

CONTAINING 17,916 square feet and being Lots Nos. 88 and 89 on plan prepared for Diller's Village, Phase II, by Donald E. Worley, Registered Surveyor, dated April 29, 1987, designated as File No. G-93, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 47, page 22.

UNDER AND SUBJECT, NEVERTHELESS, to easements and setbacks as more particularly set forth on the hereinabove referenced subdivision plan recorded in Plan Book 47, page 22, including ten (10) feet wide utility and drainage easements to the rear and sides of the hereinabove described premises.

BEING the same premises which Daniel V. Nolan, by Deed dated June 22, 1992 and recorded in the Office of the Recorder of Deeds of Adams County on June 30, 1992, in Deed Book Volume 632, Page 1005, granted and conveyed unto Ray L. Dickensheets and Brenda K. Dickensheets.

GRENEN & BIRSIC, P.C.
By: /s/Daniel J. Birsic, Esquire
Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

Parcel No.: 9-224

SEIZED and taken into execution as the property of **Ray L. & Brenda K. Dickensheets** 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 June 18, 2001, 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.

4/12, 20 & 27

COMMONWEALTH VS. GOETZ ET AL

1. The general rule is that in a sheriff's interpleader proceeding, a claimant has the burden of proof as to title by clear and convincing evidence.

2. Tenancy by the entireties is a form of co-ownership of property, either real or personal, by a husband and wife, with its essential characteristic being that "each spouse is seised per tout et non per my, i.e. of the whole or the entirety and not of a share, moiety or divisible part."

3. Because of the unity of interest in entireties property, there is no separate interest owned by one spouse which can be reached by that spouse's individual creditors.

4. It is clear that where property is placed in the names of husband and wife, the creation of an estate by the entireties is presumed even if the funds used to acquire the property came from one of the spouses only.

5. In order to overcome the presumption that an estate by the entireties exists and that a complete gift ensued therefrom, there must be clear and convincing evidence to the contrary.

6. A business partnership does not arise merely by reason of the marital relationship.

7. An indispensable requisite of a partnership is the co-ownership of the business as distinguished from the assets...and a partnership cannot be established merely upon a showing that the assets of the business are owned by the entireties...whether persons are partners inter se is in reality a question of the intention of the parties.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 99-N-206, COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION VS. ROBERT K. GOETZ, JR. t/a GOETZ DEMOLITION COMPANY.

Stuart M. Bliwas, Esq., for Plaintiff

Sally J. Winder, Esq., for Defendant

Kuhn, J., April 10, 2000.

MEMORANDUM OPINION ON OBJECTIONS TO SHERIFF'S DETERMINATION OF OWNERSHIP OF PROPERTY

On March 29, 1999, Commonwealth of Pennsylvania, Department of Environmental Protection, hereinafter "DOEP", filed a judgment against Defendant, Robert K. Goetz, Jr., t/a Goetz Demolition Company, in the amount of \$111,000. Defendant's attempt to open the judgment was denied on September 23, 1999. On November 23, 1999, Commonwealth filed a praecipe for writ of execution pursuant to which the Sheriff of Adams County levied upon certain items of personal property.

On February 8, 2000, Linda M. Goetz, hereinafter "Claimant", filed a Property Claim wherein she alleged that some items levied

upon were titled in the name of her and Defendant as tenants by the entireties, that some items were titled in her name alone, and that some untitled items were held jointly as husband and wife as tenants by the entireties. The Sheriff then made a determination that Claimant was entitled to all items set forth in her Property Claim. On February 11, 2000, Commonwealth filed the Objections to Sheriff's Determination of Ownership of Property which are now before the Court for disposition. Therein, Commonwealth only listed 10 enumerated items to which it objected, specifically,

1. D66S Komatsu Loader;
2. Komatsu Trackhoe (PC220LC);
3. Fiat Allis 745 Front End Loader;
4. Case 580K Backhoe;
5. DNG Bulldozer;
6. Dresser 570 Payloader;
7. Drott 50 Trackhoes (2);
8. 621 CAT Scraper;
9. 3 CAT 983 Front End Loaders;
10. Komatsu Trackhoe (PC 300LC).

This list essentially constitutes those items to which Claimant was not able to produce a title.

Hearing on the Objections was held on April 3, 2000. The general rule is that in a sheriff's interpleader proceeding, a claimant has the burden of proof as to title by clear and convincing evidence. 13 Standard Pa. Prac. §73:45. The only evidence produced in the hearing came from Defendant.

Evidence revealed that Defendant operates a business known as Goetz Demolition Company. He and Claimant were married on April 26, 1991. On May 20, 1991, they entered into a Postnuptial Agreement (PX 2) which provided, inter alia, that all vehicles and construction equipment would thereafter be held jointly, as tenants by the entireties. Although it wasn't entirely clear what equipment was owned at that time, Defendant indicated that most of the equipment at issue was purchased over 10 years ago. Defendant further testified that the DNG Bulldozer, the Dresser 570 Payloader, the 621 CAT Scraper and one of the Komatsu Trackhoes were purchased with funds from a joint account. He further testified that the

intention of the parties was that the Postnuptial Agreement would be applicable to equipment purchased subsequent thereto. Credence to this statement is found in language that the agreement was to settle matters "relating to the present and future ownership of their . . . construction and shop equipment".

Evidence also revealed that the D66S Komatsu loader, two Komatsu Trackhoes, the Case 580K Backhoe, and two CAT 983 Front End Loaders were pledged as collateral to Adams County National Bank on a joint debt as set forth on a UCC-1 Financing Statement (PX 1). Defendant testified that the loan provided funds to operate his business and that claimant was required to sign as debtor because of her joint interest in the collateral.

Basically, Defendant operates his business with equipment jointly owned by Defendant and Claimant. Claimant does some bookkeeping and secretarial work for the business. When Defendant bids on a job, Claimant is required to sign the bonding documents because of her joint interest in the equipment. Profits earned from the business are shared by Defendant and Claimant.

Claimant contends that at least since 1991, she had an entireties interest in the subject equipment and that she and Defendant have consistently operated on that premise. In *Estate of Maljovec*, 412 Pa. Super. 80, 602 A.2d 1317 (1991), the court stated that,

It is well established that tenancy by the entireties is based upon the common law concept that husband and wife were but one legal entity . . . Tenancy by the entireties is a form of co-ownership of property, either real or personal, by a husband and wife, with its essential characteristic being that "each spouse is seised per tout et non per my, i.e. of the whole or the entirety and not of a share, moiety or divisible part." . . .

412 Pa. Super. at 84, 602 A.2d at 1319 (citations omitted).

Because of the unity of interest in entireties property, there is no separate interest owned by one spouse which can be reached by that spouse's individual creditors. *Howard Savings Bank v. Cohen*, 414 Pa. Super. 555, 560, 607 A.2d 1077, 1079-80 (1992); *Stop 35, Inc. v. Haines*, 374 Pa. Super. 604, 607, 543 A.2d 1133, 1135 (1988). Claimant argues that if she proves the equipment in question is

entireties property, it would not be subject to execution upon Defendant's individual judgment.

It is clear that where property is placed in the names of husband and wife, the creation of an estate by the entireties is presumed even if the funds used to acquire the property came from one of the spouses only.

“The placing of the property in both names, without more, creates an estate by the entireties. It is their actual marital status and not necessarily the words stated or omitted in the instrument that determines their right to take as tenants by the entireties[.] In order to overcome the presumption that an estate by the entireties exists and that a complete gift ensued therefrom, there must be clear and convincing evidence to the contrary.”

In re: Holmes Estate, 414 Pa. 403, 406, 200 A.2d 745, 747 (1964) (citations omitted).

See also, *Constitution Bank v. Olson*, 423 Pa. Super. 134, 620 A.2d 1146.

Here, the evidence clearly demonstrated that in 1991 it was the intention of the parties to create a tenancy by the entireties in all construction equipment. DOEP has produced no evidence to the contrary.

Instead, DOEP argues that Defendant and Claimant have joint control over the business, therefore, the equipment used in the business is partnership property and not entireties property. DOEP contends that Defendant's interest in the partnership property is subject to execution. The burden of proof is on DOEP to establish the existence of a partnership. DOEP cites *Vacco v. Marcus*, 336 Pa. Super. 210, 485 A.2d 506 (1984) as authority for its position.

In *Vacco*, the plaintiff was awarded a judgment against defendant-husband. The defendant and his wife owned a bar. Plaintiff contended that the bar was owned by defendant-husband in partnership with his wife and that husband's share therein was subject to the judgment against the husband. Although Superior Court ruled that holding the liquor license and the fictitious name registration in both names did not, alone, rebut the tenancy by the entireties presumption the admission that the parties “were partners in a business entity”,

that they “shared in the possession and control of the assets and in the profits generated,” and that each shared in the active management of the business was sufficient to establish the existence of a partnership.

The evidence in the matter sub judice is distinguishable from *Vacco*. First, and importantly, neither Defendant nor Claimant admitted the existence of a partnership. Second, there is no evidence that Claimant’s name is associated with the business. Third, Claimant’s only interest is in the equipment used in the business and not in the business itself. Fourth, Claimant does some bookkeeping and secretarial service for the business but there is no evidence that she has any active management or decisional authority in the business. And finally, although Defendant admitted that Claimant shares in the profits from the business, he seemed to clarify that acknowledgment by stating that he “sometimes brings some money home”. Sharing of profits from a business pursuant to a partnership where the profits are divided in accordance with the interests of the individual partner is significantly different than a husband bringing home money from his business and sharing it with his wife to pay family and household expenses.

As noted in *Burkholder v. Cherry*, 414 Pa. Super. 432, 440, 607 A.2d 745, 749 (1992), evidence does not establish a husband and wife business partnership where an entireties bank account was used for business purposes and the wife was seen at the job site. A business partnership does not arise merely by reason of the marital relationship.

Several lower court decisions are illustrative of the differences between a husband and wife business partnership and a tenancy by the entireties. In *Sperry v. Sperry*, 32 Somerset L.J. 148 (1976) wife filed a complaint seeking one-half interest in a business known as Sperry Drilling Service. Three years after the parties’ marriage, husband bought his employer’s drilling business. Wife signed the bank note for purchase of the business and the names of both spouses appeared on the business checking account. Wife withdrew money from a joint savings account and deposited it in the business account for the purchase of a truck and supplies for the business. However, this money was later repaid from the business account. Title to the truck was placed in husband’s name. Several other vehicles were

purchased from the business account and titled in husband's name. A drilling license was issued to the business and signed by husband as licensee. Tax returns listed the business as "Sperry Drilling Service, Bernard G. Sperry". The business was operated out of the jointly titled family home. Wife did all the bookwork, billing preparation, reconciliation of bank statements, responses to correspondence and telephone calls, and sometimes picked up supplies, fueled trucks, operated equipment and did physical labor. She did not receive a salary. However, husband had all the technical knowledge necessary to operate the business. The Honorable Norman A. Shaulis, Jr. determined that the business was not entirety property nor a business partnership.

Likewise, in *Nesley v. Nesley*, 23 Chester Co. Rep. 77 (1975) wife claimed the existence of a partnership with her husband in a business known as Charles J. Nesley Excavating Contractor. The business commenced five years after marriage and was operated for 19 years out of a bedroom in the marital home. During that time, wife answered business calls, dispatched messages, and performed book-keeping services but received no salary for these services. All equipment requiring a title was entitled in husband's name. On one occasion both spouses executed a chattel mortgage to permit the purchase of business equipment. The parties had never filed partnership tax returns nor executed a partnership agreement.

In finding no business partnership, Judge Sugarman noted that,

A partnership is an association of two or more persons to carry on, as co-owners, a business for profit. The relationship is created by contract, and comes into being as do all contractual relationships, through agreement . . . The contract or agreement, essential to all partnerships need not be in writing . . . but may be made orally or found to exist by implication from all the attending circumstances

...

An indispensable requisite of a partnership is the co-ownership of the business as distinguished from the assets . . . and a partnership cannot be established merely upon a showing that the assets of the business are owned

by the entirety . . . whether persons are partners inter se is in reality a question of the intention of the parties . . .

23 Chester Co. Rep. at 82 (citations omitted).

The court found none of the usual attributes of a partnership relationship such as partnership tax returns, acknowledgment by the parties of the relationship, or a joint measure of control over the affairs of the business. He determined wife's occasional services for the business to be consistent with her position as a housewife and a beneficiary of the profits the business might earn. Furthermore, the execution of a chattel mortgage does not make one a partner.

In the instant case, DOEP produced no evidence of 1) the existence of a partnership agreement nor admission of the existence of a partnership, 2) partnership tax returns, 3) claimant's name associated with any business document, 4) claimant's managerial authority, or 5) any evidence of an intention to create a business partnership. Claimant provided some business services not inconsistent with her role as a spouse. Claimant appears to be nothing more than co-owner of the assets used in the business. This evidence standing alone is insufficient to establish a business partnership.

Accordingly, the attached order is entered.

ORDER OF COURT

AND NOW, this 10th day of April, 2000, the Court does hereby deny the Objections to Sheriff's Determination of Ownership of Property filed by Plaintiff on February 11, 2000, and thereby affirms the Property Claim of Linda M. Goetz, filed February 8, 2000.

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF CATHERINE G. GEBHART, DEC'D

Late of Conewago Township, Adams County, Pennsylvania
Administrators: Leonard F. Gebhart, 38 Meade Avenue, Hanover, PA 17331; Robert J. Gebhart, 109 Paul Street, Hanover, PA 17331
Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JACOB W. HARGET, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Co-Executors: John W. Harget and Nancy M. Pinkerton, c/o Richard R. Reilly, Esq., 56 S. Duke Street, York, PA 17401-1402
Attorney: Richard R. Reilly, Esq., 56 S. Duke Street, York, PA 17401-1402

SECOND PUBLICATION

ESTATE OF GARY F. BERKHEIMER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania
Personal Representatives: Kathy A. Campbell, 5 Lee Street, Hanover, PA 17331; Sherry L. Shaffer, 230 Mt. Misery Road, New Oxford, PA 17350
Attorney: G. Steven McKonly, Esq., 119 Baltimore Street, Hanover, PA 17331

ESTATE OF MIRIAM S. BORTNER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania
Executor: Henry W. Mowery, 31 Brewster Street, Hanover, PA 17331
Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CLAIR F. DITZLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania
Executrix: Diane K. Ditzler Barbour, P.O. Box 180, 142 West Hanover Street, Biglerville, PA 17307
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF CHARLES C. HANER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
Executor: James B. Newman, 224 Ewell Ave., Gettysburg, PA 17325
Attorney: John W. Phillips, Esq., 101 W. Middle St., Gettysburg, PA 17325

ESTATE OF JOSEPHINE M. MILLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania
Co-Executors: Patricia A. Braucher & Stephen R. Miller, c/o Robert M. Strickler, Esq., 110 South Northern Way, York, PA 17402
Attorney: Robert M. Strickler, Esq., 110 South Northern Way, York, PA 17402

ESTATE OF FLORENCE E. ROHRBAUGH, DEC'D

Late of the Borough of East Berlin, Adams County, Pennsylvania
Executor: Harvey J. Hunter, c/o 106 Harrisburg Street, East Berlin, PA 17316
Attorney: Sharon E. Myers, Esq., Countess Gilbert Andrews

ESTATE OF MERLE D. SHANK, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
Executrix: Abbie R. Shank Bange, 3141 Grandview Road, Hanover, PA 17331
Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF R. EDWIN STONER, a/k/a R. E. STONER, a/k/a RALPH EDWIN STONER, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania
Executrix: Julee J. Ziegler, 354 Longstreet Drive, Gettysburg, PA 17325
Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF PAULINE E. STONESIFER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
Executrix: Irma G. Shields, 227 Pegram Street, Gettysburg, PA 17325
Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF EMORY C. YOHE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Executors: Herbert C. Yohe, P.O. Box 110, West Hartford, VT 05084-0110; Rachel D. Topper, 316 High Street, Hanover, PA 17331
Attorney: Donald W. Dorr, Esq., Buchen, Wise & Dorr, 126 Carlisle Street, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-572 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of June, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that hereinafter certain 3 lots of ground situate, lying and being on the West side of Carlisle Street Extended, in the Township of Oxford, County of Adams, and State of Pennsylvania, bounded and described as follows:

Lot No. 1:

BEGINNING at a post on the West side of said Carlisle Street Extended; thence along property now or formerly of the Oxford Township School District, South sixty-eight and three-fourths (68 3/4) degrees West, one hundred and eighty and one-tenth (180.1) feet to a stake on the East side of a twenty (20) feet alley; thence along said alley, North twenty-three and three-fourths (23 3/4) degrees West, one hundred and sixteen (116) feet to a stake; thence along property now or formerly of John N. Hersh, formerly Grier Hersh, North six and one-fourth (6 1/4) degrees East, one hundred and eighty (180) feet to said Carlisle Street Extended; thence along said Carlisle Street Extended, South twenty-three and three-fourths (23 3/4) degrees East, one hundred and twenty-four (124) feet to the place of BEGINNING.

Subject, nevertheless, to restrictions of record.

Lot No. 2:

BEGINNING at a post on the West side of Carlisle Street Extended, at lands now or formerly of Mary Grace Stock; thence Westwardly along said lands one hundred and eighty (180) feet, more or less, to the Eastern line of a twenty (20) feet wide alley; thence Northwardly along said alley, sixty (60) feet to other

lands now or formerly of the said John N. Hersh (formerly Grier Hersh); thence Eastwardly along said lands, one hundred and eighty (180) feet, more or less, to said Carlisle Street Extended; thence Southwardly, along said Carlisle Street Extended, sixty (60) feet to said post at the place of BEGINNING.

Subject, nevertheless, to restrictions of record.

Lot No. 3:

BEGINNING at a point on the West side of the State Highway aforesaid at corner of lands now or formerly of Mary Grace Stock; thence by said lands now or formerly of Mary Grace Stock North sixty-eight (68) degrees West, one hundred ninety-seven and five-tenths (197.5) feet to a point at land now or formerly of Grier Hersh; thence by the same South twenty-three and one-half (23 1/2) degrees West, nine and one-half (9 1/2) feet to a point at other land now or formerly of The L. P. Kooken Company, South sixty-eight (68) degrees East one hundred ninety-seven and one half (197 1/2) feet, more or less, to a point on the West side of the State Highway aforesaid; thence by the West side of said State Highway, North twenty-three (23) degrees East, nine and one-half (9 1/2) feet to the point, the place of BEGINNING.

SEIZED and taken into execution as the property of David J. Smith & Marian M. Smith 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 June 25, 2001, 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.

4/20, 27, & 5/4

CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN that an application has been made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, by GEA POWER COOLING SYSTEMS, INC., a foreign corporation formed under the Laws of the State of Delaware, where its principal office is located at 5355 Mira Sorrento Place, Suite 600, San Diego, CA 92121, County of San Diego, 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 1515 Market Street, Suite 1210, Philadelphia, PA 19102, County of Philadelphia.

Jeanne Vilett
GEA Power Cooling Systems, Inc.
5355 Mira Sorrento Pl., Suite 600
San Diego, CA 92121

4/20

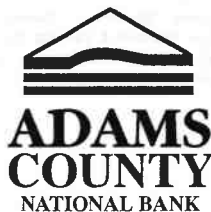
INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for KINETIC ELECTRIC, INC., were filed with the Department of State of the Commonwealth of Pennsylvania on March 29, 2001, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Guthrie & Yingst Solicitor

4/20

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Adams County Legal Journal

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No. 48, pp. 268-270

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**Strong.
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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1230 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of May, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN improved lot of ground situate in the Borough of Gettysburg, Adams County, Pennsylvania, whose address is 851 Highland Avenue, and which is more particularly bounded and described as follows:

BEGINNING at an iron pin on the Northern property line of King Street where the same is intersected by the Western property line of Highland Avenue; thence along said Northern property line of King Street, North 55 degrees 45 minutes West, 125 feet to a point on the Northern property line aforesaid at the Southernmost corner of lot now or formerly of Eugene Sanders; thence by said Sanders lot and by lot now or formerly of Agnes Price, North 34 degrees 15 minutes East, 130 feet to a point at the Westernmost corner of lot now or formerly of Peter Tarantino; thence by said last mentioned lot, South 55 degrees 45 minutes East, 125 feet to the Western property line, South 34 degrees 15 minutes West, 130 feet to the above described place of BEGINNING.

UNDER AND SUBJECT, nevertheless, to all easements, restrictions, encumbrances and other matters of record or that a physical inspection or survey of the premises would reveal.

SEIZED and taken into execution as the property of **Edmond Trostle & Janet Trostle** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 18, 2001, 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.

4/12, 20 & 27

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-53 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of May, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece, parcel or tract of land, together 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 at a point on the northern right-of-way line of Poplar Street, a sixty (60) feet wide right-of-way, at corner of Lot No. 87 on the subdivision plan hereinafter referred to; thence along the northern right-of-way line of Poplar Street, North fifty-nine (59) degrees thirty-one (31) minutes twenty-one (21) seconds West, one hundred fifty-six and thirty-eight hundredths (156.38) feet to a point at the intersection of Poplar Street with Madison Street; thence along the right-of-way line of Madison Street; the following two (2) courses and distances: (1) North twenty-six (26) degrees thirty-eight (38) minutes thirty-seven (37) seconds West, twenty-five and nineteen hundredths (25.19) feet to a point; and (2) North six (06) degrees fourteen (14) minutes seven (07) seconds East, twenty-three (23) feet to a point at Lot No. 90 on the subdivision plan hereinafter referred to; thence along Lot No. 90, North eighty-one (81) degrees two (02) minutes four (04) seconds East, one hundred fifty-seven and ninety-six hundredths (157.96) feet to a point at Lot No. 86 on the subdivision plan hereinafter referred to; thence along Lot No. 86, South thirty-seven (37) degrees fifty-nine (59) minutes thirty (30) seconds East, sixty-nine and eighty-eight hundredths (69.88) feet to a point at Lot 87 on the Subdivision plan hereinafter referred to; thence along Lot No. 87, South thirty (30) degrees twenty-eight (28) minutes thirty-nine (39) seconds West, one hundred nine and thirty-six hundredths (109.36)

feet to a point on the northern right-of-way line of Poplar Street, the point and place of BEGINNING.

CONTAINING 17,916 square feet and being Lots Nos. 88 and 89 on plan prepared for Diller's Village, Phase II, by Donald E. Worley, Registered Surveyor, dated April 29, 1987, designated as File No. G-93, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 47, page 22.

UNDER AND SUBJECT, NEVERTHELESS, to easements and setbacks as more particularly set forth on the hereinabove referenced subdivision plan recorded in Plan Book 47, page 22, including ten (10) feet wide utility and drainage easements to the rear and sides of the hereinabove described premises.

BEING the same premises which Daniel V. Nolan, by Deed dated June 22, 1992 and recorded in the Office of the Recorder of Deeds of Adams County on June 30, 1992, in Deed Book Volume 632, Page 1005, granted and conveyed unto Ray L. Dickensheets and Brenda K. Dickensheets.

GRENN & BIRSIC, P.C.

By: /s/Daniel J. Birsic, Esquire
Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

Parcel No.: 9-224

SEIZED and taken into execution as the property of **Ray L. & Brenda K. Dickensheets** 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 June 18, 2001, 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.

4/12, 20 & 27

CUOMO ET AL VS. HIKES

1. Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.

2. Actions may be maintained on lost instruments.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 97-S-1016. DENNIS E. CUOMO, PERSONAL REPRESENTATIVE OF THE ESTATE OF FRANKIE LAMAR MOORE, a/k/a FRANKIE LAMAR, LATE OF BALTIMORE CITY, MARYLAND, VS. CRAIG W. HIKES AND TRACY J. HIKES, FORMERLY HUSBAND AND WIFE.

Robert L. McQuaide, Esq., for Plaintiff

Eugene R. Campbell, Esq., for Defendant, Craig W. Hikes

Spicer, P.J., April 10, 2000

OPINION ON POST VERDICT MOTIONS

Plaintiff, who is the personal representative of Frankie Lamar Moore, also known as Frankie Lamar, (decedent) filed a complaint on October 24, 1997 seeking to recover money owing on a bond that accompanied a purchase money mortgage. The complaint stated that defendants, who were then husband and wife, purchased real estate from decedent August 24, 1988 for \$50,000.00. After paying \$3500.00, defendants executed a mortgage and bond to secure payment of the balance (\$46,500). After decedent died November 9, 1992, plaintiff was granted letters of administration by the Register of Wills of Baltimore City, Maryland, on November 24, 1993.

Although the complaint gave little indication¹ that the action proceeded otherwise than on a written and signed instrument, it soon developed that plaintiff was unable to find the original bond. Thus, the action resolved into an attempt to recover on a lost bond. Tracy J. Hikes admitted signing the bond, and the case now involves only Craig W. Hikes' contention that not only did he not sign, but that decedent expressly waived the requirement for a bond.

Jury trial occurred January 13, 2000. After the jury was selected, but before trial actually started, defendant moved to exclude portions of testimony of the settlement attorney:

¹The mortgage copy attached to the complaint displayed signatures, the bond did not.

Q May I just ask you at this point, with that particular Mortgage Bond, do you have a recollection as to whether or not it was signed by Mr. and Mrs. Hikes?

A Yes. Our practice in the office would have been to sign first the Mortgage Bond and then the mortgage. And I would have been the witness on the first line to Mr. Hikes, and my secretary would have been the witness on the second line to Tracy Hikes.

+++++++

Q Also with respect to this Mortgage Bond, would you have then delivered that to anyone?

A Frankie Lamar left settlement with that among other papers the day of settlement. She had that and the Settlement Sheet, net proceeds check and that sort — copy of the Amortization Schedule. She took that with her.

And although I don't specifically recall, I probably would have put it in a Bigham and Raffensperger envelope as a matter of convenience for her.

+++++++

Q So I see on the mortgage that you did not conform the signatures there so it was not your practice to do that I take it?

A That's correct, on neither the mortgage nor the Bond. And I would have signed as attorney for mortgagee on the back page.

Q Would it have been your practice ever to have used the mortgage that you've used here and not have an accompanying Bond with it?

A No, I can't recall — that wouldn't have been the practice. There — I'm sure there have been some instances where a specific lender may have provided a separate form of note or something like that perhaps with individuals.

Bigham deposition, pp. 8, 9

Cross examination clearly indicated that the witness had no specific recollection of what occurred during settlement, and based his testimony on routine practice. However, it was clear that decedent was unrepresented, and that the settlement attorney prepared a mortgage bond and billed defendant for his work.

Defendant made payments on the bond amount until decedent's death.

Defendant's post verdict motions revive his argument that the testimony was inadmissible. Clearly, this contention cannot be sustained. Evidence of habit, routine and practice has always been admissible in our Commonwealth, and case law is now reflected in Pa. R.E. 406:

Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.

Thus, the settlement attorney's testimony that he routinely required mortgagors to sign mortgage bonds was relevant to show that he required defendant to sign the purchase money mortgage bond in question. There is good reason for the rule. People who handle numerous transactions can hardly be faulted for forgetting details of those events. However, it is reasonable to expect they would remember exceptions to the routine.

Defendant reworks his objection as a challenge to the sufficiency of evidence. Actions may be maintained on lost instruments. 23 P.L.E. *Lost Instruments* §5; 4 Standard Pennsylvania Standard Practice 2d §22:165. Plaintiff proved, albeit through testimony of the settlement attorney, the execution and delivery of the bond. Plaintiff testified that he made an exhaustive search for the original and found neither bond nor mortgage. A copy of the bond prepared by the settlement attorney was introduced to clearly show its terms and conditions. Defendant was given credit for all payments he claimed to have made.

This case presented no Statute of Fraud or estoppel issues.² The jury was properly instructed as to plaintiff's burden of proof. We find no reason to disturb its determination.

Accordingly, the court denies post verdict motions.

ORDER

AND NOW, this 10th day of April, 2000, Defendant's post verdict motions are denied.

² It therefore contrasts with the situation in *Manley v. Manley*, 238 Pa. Super. 296, 357 A.2d 641 (1976) where a plaintiff attempted to establish ownership of land through a lost deed.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-60 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of June, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL Those certain lots of ground, together with improvements erected thereon, situate, lying and being in Conewago Township, Adams County, Pennsylvania, known on the plat or general plan of a series of lots, streets, avenues, etc., of lands formerly of Hanover Improvement Company as Lots Nos. 1, 2, and 3 on the South side of Maple Avenue in Block No. 15, adjoining Lot No. 4 on the East, a public alley on the South, Jefferson Street on the West and Maple Avenue on the North.

The general plan aforementioned appears of record in Deed Book WW, Page 600, in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

HAVING ERECTED THEREON a dwelling known as 518 Maple Avenue, Hanover, Pennsylvania.

BEING THE SAME PREMISES WHICH John R. Weaver, by Marilyn H. Weaver, his Attorney-in-fact, by his Deed dated June 12, 1995 and recorded June 16, 1995 in Adams County Deed Book 1042, Page 155, granted and conveyed unto Michael A. Coan and Terrie L. Vincent-Coan.

SEIZED IN EXECUTION AS THE PROPERTY OF MICHAEL A. COAN AND TERRI L. VINCENT-COAN UNDER ADAMS COUNTY JUDGMENT NO. 01-S-60.

MAP & PARCEL #8-75

SEIZED and taken into execution as the property of **Michael A. Coan & Terri L. Vincent-Coan** 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 June 25, 2001, 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.

4/27, 5/4 & 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-494 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of June, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

TRACT NO. 1

BEGINNING at a post at corner of lands of the Estate of W.A. Dutters; thence by said land South 59 degrees West, about 118 feet to the East side of South Monarch Street; thence by said Street, North 41 degrees West, about 468 feet to a corner at reserve road along land of the Littlestown Board of Trade; thence along said road, North 59 degrees East, about 118 feet to line of land of said estate; thence by same South 41 degrees East, about 465 feet to the place of BEGINNING.

TRACT NO. 2

BEGINNING at the corner of other lands of the said Littlestown Silk Company and on line of lands of the Estate of W.A. Dutters, deceased; thence by land of said estate, South 59 degrees West, 167.5 feet to a point at a public alley; thence along the East side of said alley North 41 degrees West, 468 feet to a point; thence North 59 degrees East, 167.5 feet to a corner of the aforesaid other lands of said Company; thence by lands of the said Company, South 41 degrees East, 468 feet to the place of BEGINNING. CONTAINING 78,390 Square Feet (1 Acre and 128 Perches) of land, more or less.

SEIZED and taken into execution as the property of **Dale A. Roberts, Paul E.V. Foltz, David M. Belt Co-Partners T/A Foltz Architectural Millwork** 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 July 2, 2001, 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.

4/27, 5/4 & 11

VACANCIES

U.S. DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Vacancies exist in U.S. District Court for the Middle District of Pennsylvania and other vacancies may arise in the near future.

The Federal Judicial Nominating Commission, through its Chairman, Fred W. Anton, III, and Regional Chairman, LeRoy S. Zimmerman, encourages all applicants who are interested in being considered for these vacancies to obtain a Questionnaire from LeRoy S. Zimmerman by calling his office at (717) 237.6081. Applicants should leave their full name, telephone number and facsimile number; a Questionnaire will be tele-faxed immediately.

The completed Questionnaire (one copy only) must be delivered no later than Tuesday, May 15, 2001 to Mr. Zimmerman at 213 Market Street, 8th Floor, Harrisburg, Pennsylvania 17101. Prior years' applicants must resubmit an updated Questionnaire. You will then be contacted for an interview, which will be held in Harrisburg.

U.S. ATTORNEY AND U.S. FEDERAL MARSHALL FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

The United States Attorney and United States Federal Marshall Nominating Commission, through its Chairman, Fred W. Anton, III, and Regional Chairman, LeRoy S. Zimmerman, encourages all applicants who are interested in being considered for the position of United States Attorney or United States Federal Marshall for the Middle District of Pennsylvania to mail your resume and any written materials you wish to be considered to LeRoy S. Zimmerman, Esquire at (717) 237.6019.

All materials must be delivered no later than Tuesday, May 1, 2001 to Mr. Zimmerman at 213 Market Street, 8th Floor, Harrisburg, Pennsylvania 17101. You will then be contacted for an interview, which will be held in Harrisburg.

4/27

INCORPORATION NOTICE

THE OLD BARN, INC. has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended.

Brian R. Keyes, Solicitor
P.O. Box 727
31 North Sugas Road
New Hope, PA 18938

4/27

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-918 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of June, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the centerline of New Chester Road (T-514), which point is located at the Southwestern corner of Lot No. 5 on the hereinafter described plan of lots; thence running in the centerline of the New Chester Road (T-514) South 22 degrees 36 minutes 05 seconds West 87.08 feet to a p.k. nail in the centerline of said road; thence running in the centerline of said road and by a curve to the right the radius of which is 741.53 feet with an arc distance of 278.69 feet and a chord bearing of South 34 degrees 29 minutes 00 seconds West for a chord length of 277.05 feet to a p.k. nail in the centerline of New Chester Road; thence continuing in the centerline of New Chester Road South 47 degrees 02 minutes 45 seconds West 204.67 feet to a point in the centerline of said road at the corner of land now or formerly of Randolph Swartz; thence running by land now or formerly of Randolph Swartz and through an existing steel rod set back 22.62 feet from the start of this course North 79 degrees 16 minutes 30 seconds West 277.41 feet to an existing steel rod; thence continuing by the same North 43 degrees 11 minutes 35 seconds West 151.58 feet to an existing steel rod; thence continuing by the same, through an existing steel rod near the line (.3 feet North) 116.1 feet from the start of this course and by Armatha Ford North 62 degrees 56 minutes 35 seconds West 346.98 feet to an existing "eye" steel rod on line of land of Armatha Ford; thence running by land now or formerly of Armatha Ford North 19 degrees 32 minutes 50 seconds East 509.45 feet to a steel rod at the Northwestern corner of Lot No. 5 on the hereinafter described plan of lots; thence running by Lot No. 5 and through a steel rod set back 250 feet from the start of this course and through a steel rod set back 25 feet from the end of this course South 67 degrees 38 minutes 00 seconds East 924.53 feet to a point in the center of New Chester Road (T-514) the point and place of BEGINNING. CONTAINING 10.905 acres.

The description was taken from a draft of survey of J. Riley Redding, R.S., dated October 25, 1991 and recorded in Adams County Plat Book 61 at Page 15. The lot described is Lot No. 6 on said plan of lots.

TITLE TO SAID PREMISES IS VESTED IN Richard L. Henry and Sherry L. Henry, husband and wife by Deed from Philip Reuben Wessel, single, dated 11/9/94 recorded 11/18/94 in Record Book 966 Page 235.

PARCEL NUMBER: I-10-15D

SEIZED and taken into execution as the property of **Richard L. & Sherry L. Henry** 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 July 2, 2001, 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.

4/27, 5/4 & 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-572 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of June, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that hereinafter certain 3 lots of ground situate, lying and being on the West side of Carlisle Street Extended, in the Township of Oxford, County of Adams, and State of Pennsylvania, bounded and described as follows:

Lot No. 1:

BEGINNING at a post on the West side of said Carlisle Street Extended; thence along property now or formerly of the Oxford Township School District, South sixty-eight and three-fourths (68 3/4) degrees West, one hundred and eighty and one-tenth (180.1) feet to a stake on the East side of a twenty (20) feet alley; thence along said alley, North twenty-three and three-fourths (23 3/4) degrees West, one hundred and sixteen (116) feet to a stake; thence along property now or formerly of John N. Hersh, formerly Grier Hersh, North six and one-fourth (6 1/4) degrees East, one hundred and eighty (180) feet to said Carlisle Street Extended; thence along said Carlisle Street Extended, South twenty-three and three-fourths (23 3/4) degrees East, one hundred and twenty-four (124) feet to the place of BEGINNING.

Subject, nevertheless, to restrictions of record.

Lot No. 2:

BEGINNING at a post on the West side of Carlisle Street Extended, at lands now or formerly of Mary Grace Stock; thence Westwardly along said lands one hundred and eighty (180) feet, more or less, to the Eastern line of a twenty (20) feet wide alley; thence Northwardly along said alley, sixty (60) feet to other lands now or formerly of the said John N. Hersh (formerly Grier Hersh); thence Eastwardly along said lands, one hundred and eighty (180) feet, more or less, to said Carlisle Street Extended; thence Southwardly, along said Carlisle Street Extended, sixty (60) feet to said post at the place of BEGINNING.

Subject, nevertheless, to restrictions of record.

Lot No. 3:

BEGINNING at a point on the West side of the State Highway aforesaid at corner of lands now or formerly of Mary Grace Stock; thence by said lands now or formerly of Mary Grace Stock North sixty-eight (68) degrees West, one hundred ninety-seven and five-tenths (197.5) feet to a point at land now or formerly of Grier Hersh; thence by the same South twenty-three and one-half (23 1/2) degrees West, nine and one-half (9 1/2) feet to a point at other land now or formerly of The L. P. Kooken Company, South sixty-eight (68) degrees East one hundred ninety-seven and one-half (197 1/2) feet, more or less, to a point on the West side of the State Highway aforesaid; thence by the West side of said State Highway, North twenty-three (23) degrees East, nine and one-half (9 1/2) feet to the point, the place of BEGINNING.

SEIZED and taken into execution as the property of **David J. Smith & Marian M. Smith** 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 June 25, 2001, 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.

4/20, 27, & 5/4

PETITION TO TRANSFER TITLE OF MOTOR VEHICLE FREE AND CLEAR OF LIENS AND RULE TO SHOW CAUSE

KUHN BROTHERS NEW OXFORD MECHANICAL, INC. vs. BRIAN KEEFER AND ROY L. DINGES Respondents

NO. 01-S-349

NOTICE OF PUBLICATION

TO: ROY L. DINGES

TAKE NOTICE that on the 2nd day of April, 2001, Kuhn Brothers New Oxford Mechanical, Inc., filed its Petition to Transfer Title of Motor Vehicle Free and Clear of Liens against the above-named Respondents in Civil Action - Law docketed to No. 01-S-349, with reference to a 1984 Kenworth tractor and that upon consideration of said Petition a Rule to Show Cause was entered by the Court on April 4, 2001.

SAID PETITION requests the Court to enter an Order extinguishing the right, title and interest of the Respondent, Roy L. Dinges, in a nature of a lien on the title of the aforesaid vehicle and to direct the Pennsylvania Department of Transportation to transfer title to the aforesaid vehicle to the Petitioner free and clear of the liens of Roy L. Dinges.

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Petition and Rule to Show Cause are served by entering a written appearance personally or by any attorney and filing in writing with the Court, your defenses and objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Petition or for any other claim or relief requested by the Petitioner. You may lose money or property or other rights important to you.

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

Lawyer Referral Service of the York County Bar Association 137 E. Market Street York, PA 17401 (717) 854-8755

Douglas H. Gent, Esq. Attorney for Petitioner

4/27

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-112 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of June, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a p.k. nail in the center line of Township Road T-364, known as New Road, which p.k. nail is located South 56 degrees 45 minutes East 57.30 feet from an existing railroad spike in the center line of said road along land now or formerly of LeRoy Baker; thence in the center of New Road, South 56 degrees 45 minutes East 170 feet to another p.k. nail in the center line of said Road; thence by other land now or formerly of Helen E. Baker, and running through a reference steel rod located 30 feet from the beginning of this line, South 62 degrees 30 minutes West 302.04 feet to a steel rod; thence by the same, North 56 degrees 45 minutes West 170 feet to a steel rod; thence along a 50 ft. strip of land now or formerly of Helen E. Baker and running through a reference steel rod located 30 feet from the end of this line, North 62 degrees 30 minutes East 302.04 feet to a p.k. nail in the center line of New Road, the place of BEGINNING. CONTAINING 1.028 ACRES.

The foregoing description was obtained from a draft of a survey made by J. Riley Redding, Registered Surveyor, trading as Adams County Surveyors, dated May 24, 1984, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 40, at page 65.

HAVING ERECTED THEREON a dwelling known as 1210 New Road, Orttanna, Pennsylvania.

BEING THE SAME PREMISES WHICH Edwin J. Baker, by his Deed dated June 2, 1989 and recorded June 2, 1989 in Adams County Deed Book 524, Page 463, granted and conveyed unto Robert D. Trimmer and Marie E. Trimmer.

SEIZED IN EXECUTION AS THE PROPERTY OF ROBERT D. TRIMMER AND MARIE E. TRIMMER UNDER ADAMS COUNTY JUDGMENT NO. 00-S-112.

MAP & PARCEL #C9-1E

SEIZED and taken into execution as the property of Robert D. & Marie E. Trimmer 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 June 25, 2001, 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.

4/20, 27, & 5/4

INCORPORATION NOTICE

JIM & JIMMY, L.L.C. has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended.

Brian R. Keyes, Solicitor P.O. Box 727 31 North Sugan Road New Hope, PA 18938

4/27

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 00-S-642
Action to Quiet Title

DENNIS R. BISHOP, Plaintiff
vs.

WILLIAM MALONE, TOBIAS MILLER, HENRY KNOUSE, MILTON KNOUSE, SARAH JANE KNOUSE, AKA JANI KNOUSE, ANN KNOUSE, WILLIAM KNOUSE, GEORGE KNOUSE, DANIEL HEIGES, ELIZABETH HEIGES, LEVI HEIGES, HIRAM F HEIGES, AARON HEIGES, LENA PETERS, SARAH ORR, LEVI MINTER, MAGDALENA MINTER, DANIEL C. JACOBS, PETER BALL, CATHARINE BALL, JOHN BALL, ALOYSIUS F. BAKER, JACOB MICKLEY, WILLIAM E. BAKER, JOHN MCDONALD, CLIFFORD B. PRICE, JR., MARY H. PRICE, BARRY L. SHOWERS, EDNA R. SHOWERS, THOMAS REEVE, JOAN E. REEVE, WAYNE E. BAKER, BARBARA A. BAKER, JAMES A. PENNINGTON, JOYCE R. PENNINGTON, HAROLD W. SANDUSKY, PATRICIA A. SANDUSKY, NANCY C. SANDUSKY KRASOWSKI, ANDREW T. KRASOWSKI, JON WEIRETHER, DAVID B. THOMAS, JOSEPH H. G. BERGER, H. G. HESS AND SUMMIT MINING CORPORATION, their respective heirs, successors and assigns, Defendants.

TO: William Malone, Tobias Miller, Henry Knouse, Milton Knouse, Sarah Jane Knouse - aka Jani Knouse, Ann Knouse, William Knouse, George Knouse, Levi Minter, Jacob Mickley, William Baker, Daniel Heiges, Elizabeth Heiges, Levi Heiges, Hiram Heiges, Aaron Heiges, Lena Peters, Sarah Orr, Magdalena Minter, Daniel C. Jacobs, Aloysius F. Baker, Peter Ball, Catharine Ball, John Ball, and their respective heirs and/or assigns:

NOTICE

You are notified that the Plaintiff has commenced an action to quiet title against you by complaint filed to the above docket number on June 26, 2000, which action you are required to defend.

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

This action concerns the premises hereinafter described:

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

BEGINNING at a cotton gin spindle set 6 feet West of the center line of New Road, at corner of land now or formerly of David Thomas; thence in said New Road, South 34 degrees 12 minutes 15 seconds East, 146.92 feet to a cotton gin

spindle in the center line of said New Road; thence continuing in same, South 25 degrees 45 minutes 45 seconds East, 355.86 feet to a magnetic spike; thence continuing in same, South 22 degrees 47 minutes 40 seconds East, 146.33 feet to a cotton gin spindle in the center line of said New Road; thence in the same, South 20 degrees 17 minutes 25 seconds East, 293.59 feet to a cotton gin spindle in the center line of said New Road; thence continuing in same, South 14 degrees 04 minutes 00 seconds East, 115.54 feet to a cotton gin spindle in the center line of said road; thence in same, South 02 degrees 51 minutes 15 seconds West, 76.95 feet to a magnetic spike in the center line of said road; thence in same South 07 degrees 42 minutes 45 seconds West, 65.62 feet to a cotton gin spindle in the center line of said road; thence continuing in same, South 04 degrees 34 minutes 30 seconds West, 40.10 feet to a cotton gin spindle in the center line of said road; thence continuing in same, South 00 degrees 21 minutes 40 seconds East, 95.88 feet to a cotton gin spindle in the center line of said New Road at corner of land now or formerly of John McDonald; thence by land now or formerly of John McDonald, North 50 degrees 40 minutes 40 seconds East, 22.02 feet to an existing steel rod in tall pipe at corner of land now or formerly of Clifford Price; thence by said land now or formerly of Clifford Price and crossing a private gravel road, South 37 degrees 38 minutes 15 seconds East, 632.94 feet to an existing steel rod at stones on line of land now or formerly of Thomas Reeve, thence by said land now or formerly of Thomas Reeve, South 52 degrees 06 minutes 05 seconds West, 240.30 feet to an existing steel rod at corner of land now or formerly of Barry Showers; thence by said land now or formerly of Barry Showers, North 74 degrees 55 minutes 20 seconds West, 148.09 feet to an existing steel rod; thence continuing by same, South 23 degrees 18 minutes 20 seconds West, 59.87 feet to an existing steel rod; thence continuing by same, and passing through an existing steel rod set back 15.0 feet from the next mentioned point, North 75 degrees 04 minutes 45 seconds West, 123.21 feet to a magnetic spike set 2 feet East of the center line of said New Road; thence in said New Road, South 23 degrees 21 minutes 40 seconds West, 393.92 feet to an existing magnetic spike set 1 foot East of the center line of said New Road; thence leaving New Road, and by land now or formerly of Wayne Baker, South 50 degrees 18 minutes 30 seconds West 74.04 feet to an existing steel rod (square top) at corner of land now or formerly of James A. Pennington; thence by said land now or formerly of James A. Pennington, and for a portion of this course running in a 10-foot wide gravel drive, South 52 degrees 16 minutes 20 seconds West, 794.58 feet to a point at previous existing steel rod on the

Southern edge of said gravel drive; thence leaving said gravel drive, and continuing by land now or formerly of James A. Pennington, North 37 degrees 55 minutes 18 seconds West, 1,014.91 feet to a steel rod at corner of land now or formerly of Harold W. Sandusky et al; thence by said land now or formerly of Harold W. Sandusky et al, North 53 degrees 53 minutes 15 seconds East, 656.09 feet to an existing steel rod in large stone pile; thence continuing by same, North 15 degrees 34 minutes 50 seconds West, 506.73 feet to an existing steel rod in stones; thence by same, North 53 degrees 00 minutes 50 seconds East, 237.72 feet to an existing steel rod in stones; thence continuing by same and crossing a dirt road, North 36 degrees 05 minutes 45 seconds West, 413.87 feet to a steel rod on line of land now or formerly of John Weirether; thence by said land of John Weirether and by land now or formerly of David Thomas, passing through steel rod set 189.80 feet from the last-mentioned point and also passing through an existing square steel rod set back 53.56 feet from the next mentioned point, North 52 degrees 33 minutes 10 seconds East, 993.30 feet to a cotton gin spindle set 6 feet West of the center line of New Road, the point and place of BEGINNING. CONTAINING 60.238 Acres.

The above description was taken from a draft of survey prepared by Adams County Surveyors, dated May 16, 1999, a copy of which is attached hereto and marked "Exhibit C."

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

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

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

Puhl, Eastman & Thrasher
By /s/Edward G. Puhl, Esquire
Attorney for Plaintiff
220 Baltimore Street
Gettysburg, PA 17325
(717) 334-2159

4/27

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 EVELYN K. HORWEDEL, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Francis E. Horwedel, 19 Michael Street, Hanover, PA 17331

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

ESTATE OF FRANCES G. SWOPE a/k/a FRANCES G. ASHBAUGH, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Charles B. Ashbaugh, 200 Bradshaw Drive, Sanford, FL 32771

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

ESTATE OF C. HARRIETTE TRAVIS, DEC'D

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

Executrix: Karen A. Sutch, 11 Aspen Trail, S.W., Fairfield, PA 17320

ESTATE OF GLADYS A. WEILAND a/k/a GLADYS S. WEILAND, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Glenn Robert Weiland, 90 Confederate Drive, Gettysburg, PA 17325; Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325

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

ESTATE OF SARA E. WHITE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Harvey M. White, 105 South Columbus Street, Beverly Hills, FL 34465

Attorney: John A. Wolfe, Esq., 47 W. High St., Gettysburg, PA 17325

ESTATE OF CHARLES W. WOLF, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Administrator C.T.A.: Karen B. Arthur, 105 Hoke Drive, Gettysburg, PA 17325

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

SECOND PUBLICATION

ESTATE OF CATHERINE G. GEBHART, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administrators: Leonard F. Gebhart, 38 Meade Avenue, Hanover, PA 17331; Robert J. Gebhart, 109 Paul Street, Hanover, PA 17331

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

ESTATE OF JACOB W. HARGET, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: John W. Harget and Nancy M. Pinkerton, c/o Richard R. Reilly, Esq., 56 S. Duke Street, York, PA 17401-1402

Attorney: Richard R. Reilly, Esq., 56 S. Duke Street, York, PA 17401-1402

THIRD PUBLICATION

ESTATE OF GARY F. BERKHEIMER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Personal Representatives: Kathy A. Campbell, 5 Lee Street, Hanover, PA 17331; Sherry L. Shaffer, 230 Mt. Misery Road, New Oxford, PA 17350

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

ESTATE OF MIRIAM S. BORTNER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Henry W. Mowery, 31 Brewster Street, Hanover, PA 17331

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

ESTATE OF CLAIR F. DITZLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Diane K. Ditzler Barbour, P.O. Box 180, 142 West Hanover Street, Biglerville, PA 17307

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

ESTATE OF CHARLES C. HANER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: James B. Newman, 224 Ewell Ave., Gettysburg, PA 17325

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

ESTATE OF JOSEPHINE M. MILLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: Patricia A. Braucher & Stephen R. Miller, c/o Robert M. Strickler, Esq., 110 South Northern Way, York, PA 17402

Attorney: Robert M. Strickler, Esq., 110 South Northern Way, York, PA 17402

ESTATE OF FLORENCE E. ROHRBAUGH, DEC'D

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

Executor: Harvey J. Hunter, c/o 106 Harrisburg Street, East Berlin, PA 17316

Attorney: Sharon E. Myers, Esq., Countess Gilbert Andrews

ESTATE OF MERLE D. SHANK, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Abbie R. Shank Bange, 3141 Grandview Road, Hanover, PA 17331

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-940 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of June, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate on the northwest side of a 30-foot wide gravel road (which gravel road leads from State Highway Route 233 running from Caledonia to Pine Grove) in Menallen Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center line of the 30-foot-wide road aforesaid at lands now or formerly of Lowell C. Heefner, said point being South 50 degrees West, 1346.5 feet from an iron pin, which iron pin is on the State Forest Boundary Line; thence by lands now or formerly of Lowell C. Heefner, and through a stake at the side of the road, North 40 degrees West, 313 feet, more or less, through a stake on the bank of a mountain creek to a point in the center of said creek; thence down said creek in a northeasterly direction for a distance of 100 feet, more or less, to a point in said creek at lands now or formerly of Jacob O. Funk; thence by said lands and through a stake on the bank of the creek, South 40 degrees East, 330 feet, more or less, through a stake on the side of the road to a point in the center line of the 30-foot-wide road aforesaid; thence in the center line of said road, South 50 degrees West, 100 feet to a point, the place of BEGINNING. CONTAINING 0.7 acre, more or less.

HAVING ERECTED THEREON a dwelling known as 124 Norris Road, Biglerville, Pennsylvania.

BEING THE SAME PREMISES WHICH Roberta L. Page, by her Deed dated April 30, 1998 and recorded May 12, 1998 in Adams County Deed Book 1578, Page 259, granted and conveyed unto Darren S. Woodring and Tiffani R. Woodring.

SEIZED IN EXECUTION AS THE PROPERTY OF DARREN S. WOODRING AND TIFFANI R. WOODRING UNDER ADAMS COUNTY JUDGMENT NO. 00-S-940.

MAP & PARCEL #C5-12

SEIZED and taken into execution as the property of **Darren S. & Tiffani R. Woodring** 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 June 25, 2001, 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.

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