

Adams County Legal Journal

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No. 40, pp. 219-224

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-754 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 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 Butler Township, Adams County, Pennsylvania bounded and described as follows:

BEGINNING at a point in the Township Road T-539 also known as Bull Valley Road and at the Northwestern corner of Lot No. 2; thence along said Lot No. 2 now or formerly of Donald E. Scott South 22 degrees, 32 minutes, 10 seconds East 756.98 feet to an iron pin at land now or formerly of Glenn E. Smith; thence along land now or formerly of Glenn E. Smith South 79 degrees, 03 minutes, 25 seconds West 150.00 feet to an iron pin at the Southeast corner of Lot No. 4 now or formerly of Doris M. Sherman and Mervin R. Spangler, Jr.; thence along said Lot No. 4 North 20 degrees, 23 minutes, 25 seconds West 722.36 feet to a point in the center of Township Road T-539 also known as Bull Valley Road; thence along and through said Township Road T-539 North 65 degrees, 04 minutes, 55 seconds East 120.00 feet to a point in Township Road T-539, also known as Bull Valley Road the place of BEGINNING. CONTAINING 2.267 acres. Being Lot No. 3 prepared by Boyer Surveys.

The foregoing description was taken from a plot plan of Raymond D. Carter, Jr. and Faye E. Carter as prepared by Richard W. Boyer dated August 26, 1977 and having been approved by the various municipal subdivisions of Adams County and duly recorded in Adams County Plat Book 17 page 22 and identified thereon as Lot No. 3.

TAX PARCEL #G-6-77

BEING KNOWN AS 373 BULL VALLEY ROAD, ASPERS, PA 17304

SEIZED and taken into execution as the property of **Steven G. Livesay, Sr. & Carol R. Livesay** 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 14, 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.

2/23, 3/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-136 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 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 Unit in the property known, named and identified in the Declaration referred to below as Oxford Commons Condominiums, located in the Borough of New Oxford, Adams County, PA which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101 et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, PA of a declaration dated September 13, 1996 and recorded October 18, 1996 in Record Book 58 page 41 (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such Declaration as Unit No. 4D as more fully bounded and described in such Declaration, together with a proportionate undivided interest in the Common Elements as defined in such Declaration.

Tax Parcel # 5-184A

SEIZED and taken into execution as the property of **Thomas R. Carrick a/k/a Thomas Robert Carrick & Rebecca A. Carrick a/k/a Rebeca A. Holt** 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 14, 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.

2/23, 3/2 & 9

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, March 5, 2001, at 9:00 o'clock a.m.

CROSS—Orphans' Court Action Number OC-63-99. The First and Final Account of Sharon E. Pierce a/k/a Sharon E. Pierce-Cross, Executrix under the Last Will and Testament of Thomas E. Cross, deceased, late of Franklin Township, Adams County, Pennsylvania.

WAYBRIGHT—Orphans' Court Action Number OC-2-01. The First and Final Account of Garnette Reeve Grimes and John Martin Frock, Executors of the Estate of Beatrice Irene Waybright, deceased, late of Straban Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

2/23 & 3/2

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on February 5, 2001, for the purpose of obtaining a Certificate of Incorporation of a business corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, approved December 21, 1988, P.L. 144, #177, as amended.

The name of the corporation is A.M. ZEIGLER, INC.

Charles E. Shoemaker, Jr.
727-729 North 19th Street
Allentown, PA 18104-4040

3/2

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1074 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of March, 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, lying and being in Germany Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point on the center line of State Route 2014, known as Harney Road, and lands now or formerly of Douglas J. Mummt; thence along the center line of said Harney Road, North seventy-eight (78) degrees thirty-seven (37) minutes fifty (50) seconds West, thirty-five and one hundredth (35.01) feet to a point at Lot No. 7 of the hereinafter referenced subdivision plan; thence along same, the following three courses and distances: 1) North eleven (11) degrees fifty-six (56) minutes fifty (50) seconds East, three hundred two and seventy-nine hundredths (302.79) feet to a steel pin; thence 2) North twenty-three (23) degrees ten (10) minutes twenty-one (21) seconds East, one hundred thirty-four and forty hundredths (134.40) feet to a steel pin; thence 3) and continuing along Lots 6 and 5 of said plan, North fifty-eight (58) degrees one (01) minute eight (08) seconds West, four hundred eleven and ninety-nine hundredths (411.99) feet to lands now or formerly of Neal D. Krichen; thence along same, the following three courses and distances: 1) North thirty-one (31) degrees fifty-eight (58) minutes fifty-two (52) seconds East, six hundred sixteen and twenty-seven hundredths (616.27) feet to a point; thence 2) North fifty-two (52) degrees two (02) minutes ten (10) seconds East, one hundred sixty-one and sixty-six hundredths (161.66) feet to a steel pin; thence 3) South nineteen (19) degrees five (05) minutes thirty-four (34) seconds East, three hundred eighty-six and eighteen hundredths (386.18) feet to a steel pin at Lot No. 1 of said plan; thence along same, the following two courses and distances: 1) South twenty-three (23) degrees ten (10) minutes twenty-one (21) seconds West, six hundred fifty-nine and forty-one hundredths (659.41) feet to an iron pipe; thence 2) South ten (10) degrees three (03) minutes nineteen (19) seconds West, three hundred and fifty-five hundredths (300.55) feet to a point on the

center line of Harney Road, the point and place of BEGINNING.

CONTAINING 6.1161 acres and identified as Lot No. 8 on a plan of lots prepared by Worley Surveying on April 19, 1996, as revised on May 31, 1996, July 2, 1996, July 10, 1996, and August 13, 1996. Said plan is recorded in the Recorder of Deeds' Office in and for Adams County, Pennsylvania, in Map Book 69, page 66.

Tax Parcel #H18-87

SEIZED and taken into execution as the property of **Michael L. Brune, Sr. & Shirley E. Brune a/k/a Shirley Ellen Brune a/k/a Shirley E. Cole** 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 April 23, 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.

2/16, 23 & 3/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-978 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of March, 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 ground together with improvements thereon, in Reading Township, Adams County, Pennsylvania, bounded and described in a plan of lots prepared by John Lazarowicz dated June 30, 1966 and recorded in the Recorder of Deeds Office of Adams County, Pennsylvania, in Miscellaneous Book 1, Page 7, as follows, to wit:

BEGINNING at a point at the common boundary line of Lots 621 and 620 on the said plan at the edge of Curtis Drive

North 59 degrees 31 minutes 37 seconds East 212.85 feet to a point at the line of lands now or formerly of Anderson; thence South 43 degrees 13 minutes 30 seconds East 67.69 feet to a point; thence South 03 degrees 40 minutes 36 seconds East 141.70 feet to a point at the common boundary between Lots 619 and 618; thence along the last said boundary line South 81 degrees 42 minutes 43 seconds West 201.65 feet to a point along Curtis Drive; thence along a curve to the left on Curtis Drive having a chord length of 60.62 feet an arc distance of 60.72 feet to a point and then along another curve to the left having a chord length of 68.44 feet an arc distance of 68.50 feet to a point and first mentioned place of BEGINNING.

PREVIOUSLY KNOWN as Lots 619 and 620 on aforesaid plan.

PARCEL #2-121

TITLE TO SAID PREMISES IS VESTED IN Jennings E. O'Dell and Minerva Mae O'Dell, husband and wife by Deed from Mary E. Becker Myers and Timothy A. Myers, husband and wife, dated 6/27/86, recorded 6/27/86, in Deed Book 430, Page 382.

AND THE SAID Jennings E. O'Dell has since departed this life on the _____ day of _____, whereas title to said premises became vested in Minerva Mae O'Dell by right of survivorship.

BEING KNOWN AS: 47 CURTIS DRIVE, EAST BERLIN, PA 17316

SEIZED and taken into execution as the property of **Minerva M. O'Dell a/k/a Minerva Mae O'Dell** 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 April 23, 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.

2/16, 23 & 3/2

HERSHEY EQUIPMENT VS. SNYDER ET AL

1. Where one (Zoning Board) meeting concluded all testimony and a second meeting was scheduled to announce a decision and where the decision was published within 45 days of the second meeting but not within 45 days of the earlier meeting, deemed approval was merited.
2. A meeting scheduled solely for the purposes of announcing a decision is not a hearing for purposes of calculating the 45-day period.
3. Section [10]908(9) of the MPC does not limit the term 'hearing' to proceedings where substantive evidence is received, but also includes specially scheduled sessions for argument by counsel. Accordingly, a meeting scheduled for the purposes of allowing argument is a hearing for purposes of calculating the 45-day period.
4. A meeting scheduled solely for the purposes of announcing a decision after the submission of memoranda on the conditions to be placed on a permit is not a hearing for purposes of calculating the 45-day period.
5. The Code is specific about the need for a written or recorded agreement by the applicant for an extension of time for the board's decision after the 'last' hearing in the matter...Thus, whether there exists a written or recorded agreement to waive the 45-day time limit is key. If there is no written or recorded waiver, the applicant is entitled to relief.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 99-S-292. HERSHEY EQUIPMENT COMPANY VS. R. GLENN SNYDER, STRABAN TOWNSHIP ZONING HEARING BOARD AND STRABAN TOWNSHIP.

Henry O. Heiser, III, Esq., for Plaintiff
Catherine J. Gault, Esq., for Hearing Board
Bigham, J., January 19, 2000.

OPINION ON PLAINTIFF'S SUIT FOR DEEMED APPROVAL

Much of the history of this case has been previously set out by the Court in its Opinion on Susan C. Mosser's Petition to Intervene, dated September 13, 1999. After that Opinion and Order were entered, the matter was listed for pre-trial conference and the parties filed appropriate memoranda. On November 10, 1999, after the conference, the Court entered an Order directing the parties to appear on December 16, 1999 for hearing and argument; the sole issue is Plaintiff's entitlement to deemed approval of its request for special exception. Argument has been heard, and the record and this issue are now before the Court for disposition.

STATEMENT OF FACTS

Plaintiff's application for a special exception was filed in April of 1998. Hearings on this application were held by the Straban Township Zoning Hearing Board ("the Board") throughout 1998, including one on November 24, 1998. At the November session, at the conclusion of comments from the public and after opportunity for counsel to question the commenting public, the Chairman stated:

"What we're going to do at this point, we will set a date and we will allow the attorneys to present their summations. And then after that, we will then study all the information, all that we have gathered and put together. And at the next public meeting that we set, at that time we will take a vote on the decision. But the next meeting will be for the attorneys' summation."

Nov. 24, 1998 Transcript, p. 811. The Board scheduled a session for counsel to present rebuttal testimony and summation; after that, the Board would review all the information, and then, apparently at a second session, the Board would take a vote on the decision. Nov. 24, 1998 Transcript, p. 811. There was also discussion of counsel submitting written memoranda of authority at the summation session or soon thereafter. Nov. 24, 1998 Transcript, p. 812.

The Board reconvened on December 22, 1998. At this December session, rebuttal testimony with cross-examination was heard, in addition to the closings of Attorney Davis for Straban Township, Attorney Kachur for intervening parties, and Attorney Heiser for Plaintiff. The Board Chairman stated: "At this stage, what we're going to do is the Board will be sitting down and going over all of those documents and all the material that has been presented to us. We will then have a hearing on January 26th at 7:30 p.m. here at which time we will make our decision as to whether to approve or deny the petition." Dec. 22, 1998 Transcript, p. 875. Attorney Kachur inquired as to whether the Board would accept legal memoranda within a reasonable time, to which the Board urged quick submission of any briefs. Attorney Kachur also inquired about the impressions held by Board members as a result of the view of Plaintiff's Lancaster County, PA, facility, taken in early November of 1998, and whether those impressions would be stated on the record. Attorney Gault, representing the Board, stated that the Board wished

that “at the last hearing when they do their decisions, each of them intends to do an extensive report of what they’ve done and what their conclusions and thoughts are. And as part of that, each of them who was there will speak to their impressions from that view.” Dec. 11, 1998 Transcript, p. 876.

The Board reconvened on January 26, 1999. Attorney Gault set “ground rules” at the start of the session, stating that there was no input expected or to be accepted from the audience, and that “the time past [sic] which any kind of testimony or comment can be made.” Jan. 26, 1999 Transcript, p. 880. Attorney Gault stated “[f]or your information, what happens after the decision is made, the Board has 45 days from the day of decision, which is now, to do a written decision and issue that.” Jan. 26, 1999 Transcript, p. 880-881. All three Board members, including the two members who participated in the view with Attorney Heiser and Applicant Donald Hershey’s brother, spoke at length regarding their reflections and deliberations on the application, and at the conclusion, voted to deny the application. No testimony was heard, nor exhibits presented, nor argument or closings given. The only persons speaking on record are the members of the Board and Attorney Gault.

The Board published its decision to deny the special exception on March 12, 1999; Plaintiff filed the instant mandamus action on April 6, 1999, as well as a protective appeal docketed at 99-S-293.

Plaintiff argues that the December 22, 1998 session was the final hearing which triggered the 45-day deadline, such that the oral announcement on January 26, 1999, and the published announcement of on March 12, 1999, do not meet the requirement of section 10908(5) of the Municipal Planning Code, 53 P.S. 10908. Plaintiff argues that Plaintiff did not waive the right to a deemed approval, and that the facts merit the granting of deemed approval for Plaintiff.

The Board argues that the January 26, 1999 session was the final hearing such that the March 12, 1999 published decision is timely, and that a deemed approval is not merited. In the alternative, the Board argues that Plaintiff waived the right to a published decision within 45 days of the December 22, 1998 session by failing to object to the Board’s announcement at the January 26, 1999 session to issue its decision within 45 days of that session.

LEGAL DISCUSSION

The first issue in this case is to determine which session, either the December 22, 1998 or the January 26, 1999 session, constitutes the final hearing under section 10908(9) of the MPC, and triggers the 45-day deadline for a decision.

Section 10908 of the MPC, 53 P.S. §10908, describes the requirements placed on zoning boards when conducting hearings and making decisions. Section 10908(5) of the MPC provides: "The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues." 53 P.S. §10908(5). Section 10908(9) of the MPC provides: "The board ... shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the board . . ." 53 P.S. §10908(9). No provision addresses the significance of open deliberations or oral announcement of a decision when determining which session triggers the 45-day period.

In *Quality Foods Market, Inc. v. Zoning Hearing Board of South Lebanon Twp.*, 50 Pa. Cmwlth. 569 (1980), the Commonwealth Court held that, where one meeting concluded all testimony and a second meeting was scheduled to announce a decision and where the decision was published within 45 days of the second meeting but not within 45 days of the earlier meeting, deemed approval was merited. The Commonwealth Court supported the trial court's finding that the earlier meeting was the last hearing, and triggered the 45-day period, "on its finding that the presentation of evidence was concluded at that meeting." *Quality Foods Market, Inc.*, at 572. Accordingly, a meeting scheduled solely for the purposes of announcing a decision is not a hearing for purposes of calculating the 45-day period.

In *Gaster v. Township of Nether Providence*, 124 Pa. Cmwlth. 595 (1989), the Commonwealth Court held that, where one meeting concluded all testimony, and the record was left open until a second meeting for the board to question the attorneys and for closings, and that a third meeting was scheduled to announce a decision, and the decision was published within 45 days of both the second and third meeting, deemed approval was not merited. The Commonwealth

Court supported the trial court's holding that "section [10]908(9) of the MPC does not limit the term 'hearing' to proceedings where substantive evidence is received, but also includes specially scheduled sessions for argument by counsel." *Gaster*, at 601. Accordingly, a meeting scheduled for the purposes of allowing argument is a hearing for purposes of calculating the 45-day period.

In *South Lebanon Twp. Zoning Hearing Board v. Weber*, 140 Pa. Cmwlth. 177 (1991), the Commonwealth Court held that, where one meeting concluded all testimony, and the parties were given 15 days to submit proposals regarding conditions to be placed on the permit and a second meeting was scheduled to announce a decision, and the decision was published within 45 days of the second meeting but not within 45 days of the earlier meeting, deemed approval was merited. The Commonwealth Court supported the trial court's finding that the earlier meeting was the last hearing, and triggered the 45-day period, on the finding that "any subsequent gathering of the board constituted merely a meeting to announce the decision of the board." *South Lebanon Twp.*, at 181. Accordingly, a meeting scheduled solely for the purposes of announcing a decision after the submission of memoranda on the conditions to be placed on a permit is not a hearing for purposes of calculating the 45-day period.

The Court is persuaded that the final hearing in the matter at hand was held on December 22, 1998, and that the January 26, 1999 session was merely to announce the decision of the Board, despite the recorded reflections of two Board members on their impressions of the view. Unlike the applicants in *Gaster*, the parties in the case at bar had no opportunity to present evidence or argument at the January 26, 1999 session.

The second issue in this case is whether Plaintiff waived the 45-day deadline. The Superior Court in *South Lebanon Twp.* affirmed the trial court's finding of no waiver, and quoted the trial court as saying "[t]he Code is specific about the need for a written or recorded agreement by the applicant for an extension of time for the board's decision after the 'last' hearing in the matter... Thus, whether there exists a written or recorded agreement to waive the 45-day time limit is key. If there is no written or recorded waiver, the applicant is entitled to relief... In the present case, there is no written or recorded waiver." *South Lebanon Twp.* at 184.

In the case at bar, as in *South Lebanon Twp.*, there is no written or recorded waiver, and the absence of an objection to the Board that they had 45 days from the present meeting to publish a decision does not amount to written or recorded waiver.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 19th day of January, 2000, Plaintiff's suit for mandamus and prayer for relief in the form of deemed approval of the special exception permit is granted.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1055 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of March, 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 or parcel of land situate within the Borough of Gettysburg, Adams County, Pennsylvania, shown as Lot 6 on that certain "Corrective As-Built Subdivision Plat" prepared by Robert A. Sharrah, PLS, for Frederick Douglass Townhouses, dated June 29, 1996, bearing Drawing Number E-293 (the "Corrective Plat"), and recorded on or about July 16, 1996 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 69 at Page 54, which Corrective Plat is herein incorporated by reference, and more particularly bounded and described as follows:

FROM a steel rod in the northern line of a certain twelve foot (12') wide paved alley known as Pape Alley and located at or near the northeast corner of the intersection of Pape Alley and South Franklin Street, continue North 05° 45' 00" East along the eastern line of South Franklin Street, a distance of 149.99 feet to a point at the dividing line between Lot 6 and Lot 5 as shown on said Corrective Plat, and being the place of beginning; thence along the said eastern line of South Franklin Street, North 05° 45' 00" East a distance of 20.33 feet to a point being a 5/8" rebar reset by Robert A. Sharrah, PLS in the concrete walk at the southeast corner of the intersection of South Franklin Street with West High Street; thence along the southern line of West High Street, South 84° 31' 00" East, a distance of 65.50 feet to a point at the dividing line between Lot 6 and Lot 7 on said Corrective Plat; thence along said dividing line between Lot 6 and Lot 7, South 05° 44' 58" West, a distance of 20.63 feet to a point at the dividing line between Lot 6 and Lot 5 as shown on the Corrective Plat; thence along said dividing line between Lot 6 and Lot 5, North 84° 15' 00" West, a distance of 65.50 feet to a point, the place of BEGINNING.

Tax Parcel #10-217F

SEIZED and taken into execution as the property of **Gildardo Espinoza a/k/a Giraldo Espinoza & Loretta Espinoza a/k/a Loretta S. Garland** 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 April 23, 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.

2/16, 23 & 3/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-1232 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of March, 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, situate, lying and being in Highland Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to-wit:

TRACT NO. 1

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

TRACT NO. 2

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

Spence, husband and wife, North 81 degrees 15 minutes East, 10 feet to an iron pin; thence by other land of Estate of Allen L. Mallow, back across the small stream, South 8 degrees 45 minutes East, 214 feet through an iron pin set back 21.1 feet to a spike in the center of the highway, the place of BEGINNING. CONTAINING 7 perches and 204.11 square feet.

TRACT NO. 3

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

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

BEING Tax Parcel # D-14-22. BEING KNOWN AS: 3115 FAIRFIELD ROAD, GETTYSBURG, PA 17325

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

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 23, 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.

2/23, 3/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1221 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 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 two (2) lots of ground situated, lying and being in Reading Township, Adams County, Pennsylvania, bounded, limited and described as follows, to wit:

LOT NO. 1:

BEGINNING at an iron pin at land now or formerly of George H. Miller and other land now or formerly of W.A. Bosserman; thence by the last mentioned lands South fifty-nine (59) degrees thirty (30) minutes West fifty (50) feet to an iron pin at lands now or formerly of W.A. Bosserman; thence by the same North twenty-nine (29) degrees West twenty-nine and seven-tenths (29.7) feet to an iron pin; thence North fifty-nine (59) degrees thirty (30) minutes East fifty (50) feet to an iron pin at Lot No. 2 hereof; thence by the same and lands now or formerly of George H. Miller, aforesaid, South twenty-nine (29) degrees East twenty-nine and seven-tenths (29.7) feet to an iron pin the place of BEGINNING.

LOT NO. 2:

BEGINNING at a point in the Great Conewago Creek at corner of lands now or formerly of George Miller; thence along lands now or formerly of George Miller south fifty-eight and one-half (58 1/2) degrees West two hundred ninety-seven (297) feet to an iron pin at Lot No. 1 hereof; thence by the same and other lands North thirty (30) degrees West sixty-five (65) feet to lands now or formerly of Paul A. Swartz; thence along said Swartz's land North fifty-eight and one-half (58 1/2) degrees East two hundred ninety-seven (297) feet to a point at the Great Conewago Creek, aforesaid; thence along said Conewago Creek South twenty and one-fourth (20 1/4) degrees East sixty-five (65) feet to a point, the place BEGINNING.

Premises being known as: 45 South Hickory Lane, New Oxford, PA 17350

Tax Parcel No. J090074

SEIZED and taken into execution as the property of **David & Lois Schoolcraft** 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 14, 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.

3/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-259 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 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 or parcel of real estate Situated in the Township of Reading, County of Adams and Commonwealth of Pennsylvania, being known and described as Lot No. 407 on a Plan of Lots known as "Lake Meade Subdivision", said Plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 1 page 4.

BEING known and numbered as 8 Sherman Drive, East Berlin, Pennsylvania.

Tax Parcel # 2-26

TITLE TO SAID PREMISES IS VESTED IN Lorraine D. Greene, single woman by Deed from Kenneth P. Nagle and Martha S. Nagle, formerly known as Martha S. Windigler, his wife dated 10/19/98, recorded 11/3/98, in Deed Book 1693, Page 306.

SEIZED and taken into execution as the property of **Lorraine Green a/k/a Lorraine D. Greene** 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 14, 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.

3/2, 9 & 16

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

NO. 01-S-135
Action to Quiet Title

RANDALL B. INSKIP, Plaintiff

vs.

LEWIS G. LAMOTHE and OLA K. LAMOTHE, husband and wife, their heirs and assigns, Defendants.

TO: Lewis G. Lamothe and Ola K. Lamothe, their heirs and assigns.

NOTICE

You are notified that Plaintiff has commenced an action to quiet title against you which you are required to defend. You are required to plead to the Complaint within twenty (20) days after the service has been completed by publication. This action concerns 151 North Main Street, in the Borough of Bendersville, Adams County, Pennsylvania, more fully described in Adams County Deed Book 367 at page 540.

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

Court Administrator
Adams County Court House
Gettysburg, PA 17325
Phone 1-888-337-9846

By: John C. Zepp, III, Esq.
P.O. Box 204
York Springs, PA 17372
Phone: (717) 528-8900

3/2

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 PHYLLIS B. BIGHAM a/k/a PHYLLIS J. BIGHAM, DEC'D**

Late of Hamiltonban Township, Adams County, Pennsylvania

Personal Representative: James C. Bigham, c/o Patterson & Kiersz, P.C., 239-B East Main Street, Waynesboro, PA 17268-1681

Attorney: Patterson & Kiersz, P.C., 239-B East Main Street, Waynesboro, PA 17268-1681

ESTATE OF CAROL L. FUNT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

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

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

ESTATE OF HAROLD S. GUISE, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executor: Donald E. Guise, 50 Van Cleve Road, New Oxford, PA 17350

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

ESTATE OF IDA S. KNOCH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

PNC Bank, N.A., c/o Linda Lundberg, P.O. Box 308, Camp Hill, PA 17001-0308

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

ESTATE OF RUTH E. SHIRA, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Bank of Hanover and Trust Company

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

Administrator d.b.n.c.t.a.: Thomas B. Redding, Jr., 101 Panther Drive, Hanover, PA 17331

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

ESTATE OF LYNN E. SMITH, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executor: 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 MARY R. SMITH a/k/a MARY P. SMITH, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Administrator d.b.n.c.t.a.: Thomas B. Redding, Jr., 101 Panther Drive, Hanover, PA 17331

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

ESTATE OF EDNA W. TEMPLE, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Mary Elizabeth Wood, 828 Sunset Avenue, Gettysburg, PA 17325

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

SECOND PUBLICATION**ESTATE OF JEAN ALWINE, DEC'D**

Late of the Borough of Abbotstown, Adams County, Pennsylvania

Executor: Alan B. Extence, c/o Joel O. Sechrist, Esq., 568 Old York Road, Eiters, PA 17319

Attorney: Joel O. Sechrist, Esq., 568 Old York Road, Eiters, PA 17319

ESTATE OF ROMAINE ELIZABETH DECKER, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executor: William Gary Decker, 94420 Aniani Place, Waipahu, HI 96797

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

ESTATE OF EVELYN M. EPLEY, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Virginia D. Epley, 2422 York Road, Gettysburg, PA 17325; Arlene I. Heintzelman, 1454 Granite Station Road, Gettysburg, PA 17325; Charles A. Heintzelman, 1454 Granite Station Road, Gettysburg, PA 17325

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

ESTATE OF LOIS M. WILSON, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executor: William B. Wilson, 625 Quaker Valley Road, Biglerville, PA 17307

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

THIRD PUBLICATION**ESTATE OF WILLIAM E. CAREY, a/k/a WILLIAM EUGENE CAREY, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

Executrix: Shirley Y. Claar, now by marriage Shirley Y. Carey, 1350 Coon Road, Aspers, PA 17304

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

ESTATE OF FLORA A. KIPE, DEC'D

Late of Liberty Township, Adams County, Pennsylvania

Personal Representatives: Betty J. Kauffman, Lola M. Baker, Raymond P. Kipe, Clifton A. Kipe, c/o Patterson & Kiersz, PC, 239-B East Main Street, Waynesboro, PA 17268-1681

Attorney: Patterson & Kiersz, P.C., 239-B East Main Street, Waynesboro, PA 17268-1681

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1158 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 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 described lot of ground, with improvements thereon erected, situate in Germany Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING for a point on the Northwestern edge of Kensington Drive and lands now or formerly of Harold R. Bixler; then along said Western edge of Kensington Drive, South thirty-seven (37) degrees thirty-nine (39) minutes thirty (30) seconds West, fifty and zero one-hundredths (50.00) feet to a point at Lot No. 37 on the hereinafter referenced subdivision plan; then along same the following two courses and distances; 1) North fifty-two (52) degrees twenty (20) minutes thirty (30) seconds West, three hundred and zero one-hundredths (300.00) feet to a point; then 2) North sixty-five (65) degrees twenty-one (21) minutes zero (00) seconds West, six hundred seventy-four and fifty-three one-hundredths (674.53) feet to a point at Lot No. 40 on said Plan; then along same, North thirty-three (33) degrees fifty-five (55) minutes forty-eight (48) seconds East, four hundred eighty-five and zero one-hundredths (485.00) feet to a point at Lot No. 39 of said Plan; then along same, South sixty-three (63) degrees thirty-seven (37) minutes one (01) second East, four hundred eighty-nine and

two one-hundredths (489.02) feet to a point at lands now or formerly of Richard E. Zentz; then along same, South twenty-five (25) degrees twelve (12) minutes thirty-four (34) seconds West, two hundred twenty-five and one one-hundredths (225.01) feet to a point at lands now or formerly of Edgar W. Stover and the center of a 20 foot wide drainage easement which traverses this lot as shown on said plan; then along said Stover lands, South thirty-seven (37) degrees forty-three (43) minutes thirty-five (35) seconds West, one hundred eighty-three and four one-hundredths (183.04) feet to a point; then continuing along lands now or formerly of Edgar W. Stover and lands now or formerly of Harold R. Bixler, South fifty-two (52) degrees twenty (20) minutes thirty (30) seconds East, thirty-five and thirty-six one-hundredths (35.36) feet to a point on the Western edge of Kensington Drive, the point and place of BEGINNING. CONTAINING 5.888 acres and identified as Lot No. 38 on a Plan of Lots identified as Wildwycke Village, Phase II. Said plan was prepared by Mort, Brown & Associates on May 4, 1994 as recorded in the Adams County Recorder of Deeds Office in Plan Book 40, page 91.

Being Known as: 93 Kensington Drive, Littlestown, PA

SEIZED and taken into execution as the property of **Tracey Wallen & Rudolph A. Fuhrman, Jr.** 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 14, 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.

3/2, 9 & 16

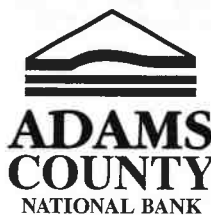
FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Name Act, 54 Pa. C.S.A. §§301, et seq., that an Application to conduct business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of RESULTS FLIGHT TRAINING was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, in Harrisburg, Pennsylvania, on February 15, 2001. The business is located at 10 Plank Road, Gettysburg, Pennsylvania. The name and address of the persons who are party to the registration is Gary M. Brown, Sr., 10 Plank Road, Gettysburg, Pennsylvania.

Robert E. Campbell
Campbell & White
112 Baltimore Street
Gettysburg, PA 17325
Attorneys for Applicant

3/2

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



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Adams County Legal Journal

Vol. 42

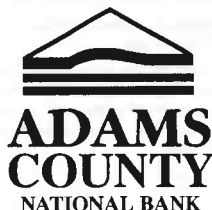
March 9, 2001

No. 41, pp. 225-228

IN THIS ISSUE

McINTYRE ET AL VS. WOODY'S RESTAURANT ET AL

**Strong.
Rooted Upon Traditional Values.
Dedicated to Quality.
Customer Service.
Dependable.
Branching Into The Future.
Our Commitment Is You.**



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-754 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 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 Butler Township, Adams County, Pennsylvania bounded and described as follows:

BEGINNING at a point in the Township Road T-539 also known as Bull Valley Road and at the Northwestern corner of Lot No. 2; thence along said Lot No. 2 now or formerly of Donald E. Scott South 22 degrees, 32 minutes, 10 seconds East 756.98 feet to an iron pin at land now or formerly of Glenn E. Smith; thence along land now or formerly of Glenn E. Smith South 79 degrees, 03 minutes, 25 seconds West 150.00 feet to an iron pin at the Southeast corner of Lot No. 4 now or formerly of Doris M. Sherman and Mervin R. Spangler, Jr.; thence along said Lot No. 4 North 20 degrees, 23 minutes, 25 seconds West 722.36 feet to a point in the center of Township Road T-539 also known as Bull Valley Road; thence along and through said Township Road T-539 North 65 degrees, 04 minutes, 55 seconds East 120.00 feet to a point in Township Road T-539, also known as Bull Valley Road the place of BEGINNING. CONTAINING 2.267 acres. Being Lot No. 3 prepared by Boyer Surveys.

The foregoing description was taken from a plot plan of Raymond D. Carter, Jr. and Faye E. Carter as prepared by Richard W. Boyer dated August 26, 1977 and having been approved by the various municipal subdivisions of Adams County and duly recorded in Adams County Plat Book 17 page 22 and identified thereon as Lot No. 3.

TAX PARCEL #G-6-77

BEING KNOWN AS 373 BULL VALLEY ROAD, ASPERS, PA 17304

SEIZED and taken into execution as the property of **Steven G. Livesay, Sr. & Carol R. Livesay** 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 14, 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.

2/23, 3/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-397 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of April, 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 the right, title, interest and claim of James A. Mellott and to:

ALL the following described real estate situated in the township of Franklin, Adams County, Pennsylvania. Having erected thereon a dwelling known and numbered as 379 Church Road, Ortanna, Pennsylvania 17353. Deed Book Volume 1457, Page 163, Parcel 123F.

Civil Action No: 99-S-397

SEIZED and taken into execution as the property of **James A. Mellott** 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 21, 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.

3/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-136 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 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 Unit in the property known, named and identified in the Declaration referred to below as Oxford Commons Condominiums, located in the Borough of New Oxford, Adams County, PA which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101 et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, PA of a declaration dated September 13, 1996 and recorded October 18, 1996 in Record Book 58 page 41 (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such Declaration as Unit No. 4D as more fully bounded and described in such Declaration, together with a proportionate undivided interest in the Common Elements as defined in such Declaration.

Tax Parcel # 5-184A

SEIZED and taken into execution as the property of **Thomas R. Carrick a/k/a Thomas Robert Carrick & Rebecca A. Carrick a/k/a Rebeca A. Holt** 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 14, 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.

2/23, 3/2 & 9

McINTYRE ET AL VS. WOODY'S RESTAURANT ET AL

1. The essential elements of unjust enrichment are: 1) benefits conferred on defendant by plaintiff, 2) appreciation of such benefits by defendant and 3) acceptance and retention of the benefits under such circumstances that it would be inequitable for defendant to retain the benefit without payment of value. When considering the validity of a claim for unjust enrichment, the court must focus on whether the enrichment of defendant is unjust.

2. Plaintiff's right to recover on an unjust enrichment theory does not depend upon the intention of the parties, or whether Plaintiff has alleged wrongdoing or wrongful intent on the part of Defendant. Rather, the focus is upon whether it would be inequitable for Defendant to retain benefits without paying for them.

3. One who claims on an express contract to pay a fixed compensation but fails to prove his contract, cannot recover on quantum meruit by proving simply the value of the services without showing an actual promise to pay.

4. If plaintiff is successful in establishing a contract, he would be foreclosed from pursuing quasi contract. He may not recover on both theories. If he fails to prove a contract, he may still recover on a theory of unjust enrichment. Plaintiff may not simply base his claim on the contract price. The proper measure of damages is the value of the benefit conferred on Defendant.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 99-S-1062. JAMES A. McINTYRE d/b/a JAMES A. McINTYRE NEW HOMES AND REMODELING, VS. WOODY'S RESTAURANT AND NIGHTCLUB, INC., A PENNSYLVANIA CORPORATION, AND E. MATTHEW STAMBAUGH, INDIVIDUALLY.

Patrick W. Quinn, Esq., for Plaintiff

Richard E. Thrasher, Esq., for Defendants.

Spicer, P.J., January 28, 2000

OPINION ON PRELIMINARY OBJECTIONS

In his complaint, filed November 23, 1999, Plaintiff states that he provided labor and materials to improve Defendant's property, in return for an oral promise to \$138,000. The oral agreement was made in April, 1998, and work was completed November 29, 1998. Other than making a down payment of \$55,000, and "sporadic payments" on the balance, Defendant paid nothing. In his two count complaint, Plaintiff sues for the balance on theories of breach of contract and unjust enrichment.

Defendant has filed preliminary objections to Count II, unjust enrichment, in the nature of a demurrer.

Plaintiff's complaint properly includes separate counts that state alternative causes of action arising out of the same transaction or occurrence. Pa. R.C.P. 1020(d)(1).

Generally, a preliminary objection in the nature of a demurrer will be sustained only when it appears with certainty that the law permits no recovery under the allegations pleaded; and any doubts should be resolved by overruling the objection. *Willet v. Pennsylvania Medical Catastrophe Loss Fund*, 549 Pa. 613, 702 A.2d 850 (1997), reh. dn.

The essential elements of unjust enrichment are: 1) benefits conferred on defendant by plaintiff, 2) appreciation of such benefits by defendant and 3) acceptance and retention of the benefits under such circumstances that it would be inequitable for defendant to retain the benefit without payment of value. *Wiernik v. PHH U.S. Mortgage Corp.*, Pa. Super. , 736 A.2d 616 (1999). When considering the validity of a claim for unjust enrichment, the court must focus on whether the enrichment of defendant is unjust. *Id.*

Defendant relies on *Rogers v. Cooper*, 39 ACLJ 121 (1999) to support his argument that Plaintiff must aver a factual basis, such as inducement or fraud, to support a conclusion that the enrichment is unjust. The factual situation in *Rogers* involved a third party who leased a barn from defendant and contracted with plaintiff to make repairs to the barn following a fire. The court in *Rogers* found that plaintiff's complaint did not establish that defendant/owner induced or misled plaintiff in any way or knew that the repairs were being made and stood by passively while benefits were being bestowed. See also, *D.A. Hill Co. v. CleveTrust Realty Investors*, 524 Pa. 425, 573 A.2d 1005 (1990).

Those two cases are inapplicable to the situation before us. The complaint clearly alleges that plaintiff and defendant dealt directly with one another.

Plaintiff's right to recover on an unjust enrichment theory does not depend upon the intention of the parties, or whether Plaintiff has alleged wrongdoing or wrongful intent on the part of Defendant. Rather, the focus is upon whether it would be inequitable for Defendant to retain benefits without paying for them. *Gee v. Eberle*, 279 Pa. Super. 101, 118, 420 A.2d 1050, 1059 (1980); *Burgettstown-Smith Tp. Joint Sewage Authority v. Langeloth Township Co.*, 403 Pa. Super. 84, 588 A.2d 43 (1991).

Defendant argues that Plaintiff is precluded from proceeding on a theory of unjust enrichment because he has alleged an express contract. The law in this area is a trifle murky. There is authority that, when the relationship between the parties is based upon an express agreement, which governs the very issue involved, no quantum meruit/unjust enrichment recovery is allowed. "One who claims on an express contract to pay a fixed compensation but fails to prove his contract, cannot recover on quantum meruit by proving simply the value of the services without showing an actual promise to pay." *Coldwell Banker Phyllis Rubin Real Estate v. Romano*, 422 Pa. Super. 319, 330, 619 A.2d 376, 382 (1993) (quoting *Schlecter v. Folts*, 179 Pa. Super. 119, 115 A.2d 910 (1955)). One authority may carry this one step further, suggesting that pleading both restitution and contract, in the alternative, is improper.

Caution: A person who is prevented from performing an agreement must sue on the agreement, and not in quantum meruit; thus, a plaintiff claiming on an express contract to pay a fixed compensation who fails to prove the contract cannot recover upon quantum meruit, since the law implies a promise to pay what the services are worth only where the amount of compensation has not been agreed upon by the parties.

Standard Pennsylvania Practice 2d §22.7

Supreme Court affirmed the general rule in *Schott v. Westinghouse Electric Corp.*, 436 Pa. 279, 290, 259 A.2d 443, 448 (1969) (citing *Third National Bank & Trust Co. of Scranton v. Lehigh Valley Coal Company*, 353 Pa. 185, 193, 44 A.2d 571 (1945)). However, it said "having found that no legal contract bound the parties, it would be manifestly unjust to fail to consider appellant's claim¹ on the ground that there may have been a contract or that the parties had attempted to enter into a contract." 436 Pa. at 290.

We find it inappropriate to dismiss Count II at this stage of the proceedings. If plaintiff is successful in establishing a contract, he would be foreclosed from pursuing quasi contract. He may not recover on both theories, see *Smith v. Brink*, 385 Pa. Super. 597, 561

¹Of unjust enrichment.

A.2d 1253 (1989). If he fails to prove a contract, language², if not the holding, in *Schott, supra*. would indicate he may still recover on a theory of unjust enrichment.

Defendant correctly argues that Plaintiff's demand for damages is not supported by allegations in the complaint. Plaintiff may not simply base his claim on the contract price. The proper measure of damages in Count II is the value of the benefit conferred on Defendant. *D.A. Hill Co., supra*. Even though this portion of the complaint may be deficient, the proper remedy is amendment, not dismissal. *Harkins v. Zamichieli*, 266 Pa. Super. 401, 405 A.2d 495 (1979).

ORDER OF COURT

AND NOW, this 28th day of January, 2000, Defendant's preliminary objections are sustained. Plaintiff may amend his complaint within 20 days with regard to Count II.

²In that case, the court determined that no contract existed as a matter of law and sustained preliminary objections. However, it reversed the trial court's dismissal of unjust enrichment. Thus, at an early pleading stage, it was determined that no action could be maintained for breach of contract. Even so, we prefer to interpret case authority as preventing recovery and not banning pleading quasi contract when an express contract is proven.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-1232 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of March, 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, situate, lying and being in Highland Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to-wit:

TRACT NO. 1

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

TRACT NO. 2

BEGINNING at spike in the center of Pennsylvania Route #116 leading from Gettysburg to Fairfield at Southwest corner of the Estate of Allen L. Mallow, said spike being South 8 degrees 45 minutes East from an iron pin set back 21.1 feet along the line; thence in the center of said road, South 81 degrees 15 minutes West, 10 feet to a spike in the center of said road; thence along other land now or formerly of J.J. Spence and Ruth J. Spence, husband and wife, through an iron pin set back 21.1 feet along the line, North 8 degrees 45 minutes West, 214 feet through a small stream to an iron pin, thence along other land now or formerly of J.J. Spence, husband and wife, North 81 degrees 15 minutes East, 10 feet to an iron pin; thence by other land of Estate of Allen L. Mallow, back across the small stream, South 8 degrees 45 minutes East, 214 feet through an iron pin set back 21.1 feet to a spike in the center of the highway, the place of BEGINNING. CONTAINING 7 perches and 204.11 square feet.

TRACT NO. 3

BEGINNING at a point in the center of

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

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

BEING Tax Parcel # D-14-22. BEING KNOWN AS: 3115 FAIRFIELD ROAD, GETTYSBURG, PA 17325

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

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 23, 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.

2/23, 3/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-259 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 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 or parcel of real estate Situated in the Township of Reading, County of Adams and Commonwealth of Pennsylvania, being known and described as Lot No. 407 on a Plan of Lots known as "Lake Meade Subdivision", said Plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 1 page 4.

BEING known and numbered as 8 Sherman Drive, East Berlin, Pennsylvania.

Tax Parcel # 2-26

TITLE TO SAID PREMISES IS VESTED IN Lorraine D. Greene, single woman by Deed from Kenneth P. Nagle and Martha S. Nagle, formerly known as Martha S. Windigler, his wife dated 10/19/98, recorded 11/3/98, in Deed Book 1693, Page 306.

SEIZED and taken into execution as the property of Lorraine Green a/k/a Lorraine D. Greene 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 14, 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.

3/2, 9 & 16

CERTIFICATE OF AUTHORITY

ROBEY & SONS INC., a foreign business corporation incorporated under the laws of Maryland, where its principal office is located at 1730 Old Liberty Road, Westminster, Maryland, has applied for a certificate of authority in Pennsylvania, where its registered office is located at 198 West York Street, Biglerville. The registered office shall be deemed for venue and official publication purposes to be located in Adams County.

3/9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1221 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 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 two (2) lots of ground situate, lying and being in Reading Township, Adams County, Pennsylvania, bounded, limited and described as follows, to wit:

LOT NO. 1:

BEGINNING at an iron pin at land now or formerly of George H. Miller and other land now or formerly of W.A. Bosserman; thence by the last mentioned lands South fifty-nine (59) degrees thirty (30) minutes West fifty (50) feet to an iron pin at lands now or formerly of W.A. Bosserman; thence by the same North twenty-nine (29) degrees West twenty-nine and seven-tenths (29.7) feet to an iron pin; thence North fifty-nine (59) degrees thirty (30) minutes East fifty (50) feet to an iron pin at Lot No. 2 hereof; thence by the same and lands now or formerly of George H. Miller, aforesaid, South twenty-nine (29) degrees East twenty-nine and seven-tenths (29.7) feet to an iron pin the place of BEGINNING.

LOT NO. 2:

BEGINNING at a point in the Great Conewago Creek at corner of lands now or formerly of George Miller; thence along lands now or formerly of George Miller south fifty-eight and one-half (58 1/2) degrees West two hundred ninety-seven (297) feet to an iron pin at Lot No. 1 hereof; thence by the same and other lands North thirty (30) degrees West sixty-five (65) feet to lands now or formerly of Paul A. Swartz; thence along said Swartz's land North fifty-eight and one-half (58 1/2) degrees East two hundred ninety-seven (297) feet to a point at the Great Conewago Creek, aforesaid; thence along said Conewago Creek South twenty and one-fourth (20 1/4) degrees East sixty-five (65) feet to a point, the place BEGINNING.

Premises being known as: 45 South Hickory Lane, New Oxford, PA 17350

Tax Parcel No. J090074

SEIZED and taken into execution as the property of **David & Lois Schoolcraft** 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 14, 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.

3/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1158 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 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 described lot of ground, with improvements thereon erected, situate in Germany Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING for a point on the Northwestern edge of Kensington Drive and lands now or formerly of Harold R. Bixler; then along said Western edge of Kensington Drive, South thirty-seven (37) degrees thirty-nine (39) minutes thirty (30) seconds West, fifty and zero one-hundredths (50.00) feet to a point at Lot No. 37 on the hereinafter referenced subdivision plan; then along same the following two courses and distances; 1) North fifty-two (52) degrees twenty (20) minutes thirty (30) seconds West, three hundred and zero one-hundredths (300.00) feet to a point; then 2) North sixty-five (65) degrees twenty-one (21) minutes zero (00) seconds West, six hundred seventy-four and fifty-three one-hundredths (674.53) feet to a point at Lot No. 40 on said Plan; then along same, North thirty-three (33) degrees fifty-five (55) minutes forty-eight (48) seconds East, four hundred eighty-five and zero one-hundredths (485.00) feet to a point at Lot No. 39 of said Plan; then along same, South sixty-three (63) degrees thirty-seven (37) minutes one (01) second East, four hundred eighty-nine and two one-hundredths (489.02) feet to a point at lands now or formerly of Richard E. Zentz; then along same, South twenty-five (25) degrees twelve (12) minutes thirty-four (34) seconds West, two hundred twenty-five and one one-hundredths (225.01) feet to a point at lands now or formerly of Edgar W. Stover and the center of a 20 foot wide drainage easement which traverses this lot as shown on said plan; then along said Stover lands, South thirty-seven (37) degrees forty-three (43) minutes thirty-five (35) seconds West, one hundred eighty-three and four one-hundredths (183.04) feet to a point; then continuing along lands now or formerly of

Edgar W. Stover and lands now or formerly of Harold R. Bixler, South fifty-two (52) degrees twenty (20) minutes thirty (30) seconds East, four hundred thirty-five eighty-nine one-hundredths (435.89) feet to a point; then North eighty-two (82) degrees thirty-nine (39) minutes thirty (30) seconds East, thirty-five and thirty-six one-hundredths (35.36) feet to a point on the Western edge of Kensington Drive, the point and place of BEGINNING, CONTAINING 5.888 acres and identified as Lot No. 38 on a Plan of Lots identified as Wildwycke Village, Phase II. Said plan was prepared by Mort, Brown & Associates on May 4, 1994 as recorded in the Adams County Recorder of Deeds Office in Plan Book 40, page 91.

Being Known as: 93 Kensington Drive, Littlestown, PA

SEIZED and taken into execution as the property of **Tracey Wallen & Rudolph A. Fuhrman, Jr.** 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 14, 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.

3/2, 9 & 16

NOTICE

NOTICE IS HEREBY GIVEN that the First and Final Account of Bank of Hanover and Trust Company, Trustee under Deed of Trust 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.

3/9, 16 & 23

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 MARGUERITE S. KOONTZ, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Co-Executrices: Virginia E. Armacost, 36 Locust Drive, Littlestown, PA 17340; Janet S. Lightner, 659 Barlow-Two Taverns Road, Gettysburg, PA 17325; Judy Ann Bream, 90 Knight Road, Gettysburg, PA 17325

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

ESTATE OF KATHRYN M. MILLER, DEC'D

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

Personal Representative: Marlene K. Wildasin, 382 St. Bartholomew Road, Hanover, PA 17331

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

ESTATE OF EVELYN M. REICHAERT, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Gary L. Reichart, P.O. Box 501, Hanover, PA 17331

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

ESTATE OF KATHERINE WIESINGER a/k/a K. LOUISE WIESINGER a/k/a LOUISE K. WIESINGER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Rodney Wiesinger, 2425 59th Place, Cheverly, MD 20785

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

SECOND PUBLICATION

ESTATE OF PHYLLIS B. BIGHAM a/k/a PHYLLIS J. BIGHAM, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Personal Representative: James C. Bigham, c/o Patterson & Kiersz, P.C., 239-B East Main Street, Waynesboro, PA 17268-1681

Attorney: Patterson & Kiersz, P.C., 239-B East Main Street, Waynesboro, PA 17268-1681

ESTATE OF CAROL L. FUNT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

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

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

ESTATE OF HAROLD S. GUISE, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executor: Donald E. Guise, 50 Van Cleve Road, New Oxford, PA 17350

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

ESTATE OF IDA S. KNOCH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

PNC Bank, N.A., c/o Linda Lundberg, P.O. Box 308, Camp Hill, PA 17001-0308

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

ESTATE OF RUTH E. SHIRA, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Bank of Hanover and Trust Company

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

Administrator d.b.n.c.t.a.: Thomas B. Redding, Jr., 101 Panther Drive, Hanover, PA 17331

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

ESTATE OF LYNN E. SMITH, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executor: 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 MARY R. SMITH a/k/a MARY P. SMITH, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Administrator d.b.n.c.t.a.: Thomas B. Redding, Jr., 101 Panther Drive, Hanover, PA 17331

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

ESTATE OF EDNA W. TEMPLE, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Mary Elizabeth Wood, 828 Sunset Avenue, Gettysburg, PA 17325

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

THIRD PUBLICATION

ESTATE OF JEAN ALWINE, DEC'D

Late of the Borough of Abbotstown, Adams County, Pennsylvania

Executor: Alan B. Extence, c/o Joel O. Sechrist, Esq., 568 Old York Road, Eiters, PA 17319

Attorney: Joel O. Sechrist, Esq., 568 Old York Road, Eiters, PA 17319

ESTATE OF ROMAINE ELIZABETH DECKER, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executor: William Gary Decker, 94420 Aniani Place, Waipahu, HI 96797

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

ESTATE OF EVELYN M. EPLEY, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Virginia D. Epley, 2422 York Road, Gettysburg, PA 17325; Arlene I. Heintzelman, 1454 Granite Station Road, Gettysburg, PA 17325; Charles A. Heintzelman, 1454 Granite Station Road, Gettysburg, PA 17325

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

ESTATE OF LOIS M. WILSON, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executor: William B. Wilson, 625 Quaker Valley Road, Biglerville, PA 17307

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

NOTICE OF ACTION IN
MORTGAGE FORECLOSURE

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 01-S-27

BANK UNITED, Plaintiff

vs.

ROBERT L. RUHLMAN, MORTGAGOR,
and JANET L. RUHLMAN, MORT-
GAGOR, Defendants

TO: Robert L. Ruhlman and Janet
Ruhlman, Defendants, whose last known
address is 351 Rupp Road, Gettysburg,
PA 17325:

YOU ARE HEREBY NOTIFIED that
Plaintiff, BANK UNITED has filed an
Mortgage Foreclosure Complaint
endorsed with a Notice to Defend,
against you in the Court of Common
Pleas of Adams County, Pennsylvania,
docketed to NO. 01-S-27, wherein
Plaintiff seeks to foreclose on the mort-
gage secured on your property located,
351 Rupp Road, Gettysburg,
Pennsylvania 17325, whereupon your
property would be sold by the Sheriff of
Adams County.

NOTICE

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 Complaint and Notice are served, 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 judg-
ment may be entered against you by the
Court without further notice for any
money claimed in the Complaint or for
any other claim or relief requested by the
Plaintiff. You may lose money or prop-
erty 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 TELE-
PHONE THE OFFICE SET FORTH
BELOW TO FIND OUT WHERE YOU
CAN GET LEGAL HELP.

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

Mark J. Udren
Attorney for Plaintiff
Mark J. Udren and Associates
1040 N. Kings Highway, Suite 500
Cherry Hill, NJ 08034
856-482-6900

3/9

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that
Articles of Incorporation have been filed
with the Department of State of the
Commonwealth of Pennsylvania, at
Harrisburg, Pennsylvania, on January
26, 2001, for the purpose of obtaining a
Certificate of Incorporation under the
Business Corporation Law of 1988, Act
of December 21, 1988, P.L. 1444, No.
177, as amended. The name of the cor-
poration is: BARBARA BLACK TRAIN-
ING, INC.

The purpose of the corporation is to
lease building space for end user training
(phone systems) and all activities con-
nected therewith, and shall have unlim-
ited power to engage in and to do any law-
ful act concerning any and all lawful
business for which corporations may be
incorporated under the Business
Corporation Law of 1988.

Harry M. Baturin, Esq.
Law Offices of Baturin & Baturin
717 North Second Street
Harrisburg, PA 17102

3/9

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that
Articles of Incorporation have been filed
with the Department of State of the
Commonwealth of Pennsylvania, at
Harrisburg, Pennsylvania, on January
26, 2001, for the purpose of obtaining a
Certificate of Incorporation under the
Business Corporation Law of 1988, Act
of December 21, 1988, P.L. 1444, No.
177, as amended. The name of the cor-
poration is: MOUSESMALL ENTER-
PRISES, INC.

The purpose of the corporation is for
wiring contracts on new or existing com-
mercial buildings and all activities con-
nected therewith, and shall have unlim-
ited power to engage in and to do any law-
ful act concerning any and all lawful busi-
ness for which corporations may be
incorporated under the Business
Corporation Law of 1988.

Harry M. Baturin, Esq.
Law Offices of Baturin & Baturin
717 North Second Street
Harrisburg, PA 17102

3/9

Adams County Legal Journal

Vol. 42

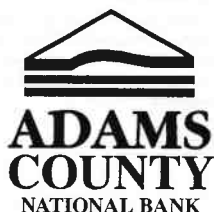
March 16, 2001

No. 42, pp. 229-231

IN THIS ISSUE

COMMONWEALTH VS. MICHAEL

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



Member FDIC

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-259 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 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 or parcel of real estate Situated in the Township of Reading, County of Adams and Commonwealth of Pennsylvania, being known and described as Lot No. 407 on a Plan of Lots known as "Lake Meade Subdivision", said Plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 1 page 4.

BEING known and numbered as 8 Sherman Drive, East Berlin, Pennsylvania.

Tax Parcel # 2-26

TITLE TO SAID PREMISES IS VESTED IN Lorraine D. Greene, single woman by Deed from Kenneth P. Nagle and Martha S. Nagle, formerly known as Martha S. Windigler, his wife dated 10/19/98, recorded 11/3/98, in Deed Book 1693, Page 306.

SEIZED and taken into execution as the property of **Lorraine Green a/k/a Lorraine D. Greene** 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 14, 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.

3/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-1124 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.:

BEGINNING at a point in the center of Finch Trail at Lot No. 101; thence by said lot, South 63 degrees East, 174.06 feet to Lot No. 100; thence by said lot, South 71 degrees 10 minutes 20 seconds East, 65.20 feet to Lot No. 89; thence by said lot and by Lot No. 88, South 44 degrees 20 minutes West, 161.71 feet to Lot No. 103; thence by said lot, North 45 degrees 40 minutes West, 225 feet to a point in the center of said Finch Trail; thence in said Finch Trail, North 44 degrees 20 minutes East, 81.78 feet to the place of BEGINNING.

BEING designated as Map and Parcel No. 35-132.

BEING THE SAME premises which Allen W. Beckett, 1/d/b/a Allen Beckett Construction, granted and conveyed to Daniel W. Myers by Deed dated June 12, 1998 and recorded June 12, 1998 in the Recorder of Deeds Office of Adams County in Deed Book 1600, page 38.

SEIZED and taken into execution as the property of **Daniel W. Myers** 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.

3/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-397 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of April, 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 the right, title, interest and claim of James A. Mellott and to:

ALL the following described real estate situated in the township of Franklin, Adams County, Pennsylvania. Having erected thereon a dwelling known and numbered as 379 Church Road, Orrtanna, Pennsylvania 17353. Deed Book Volume 1457, Page 163, Parcel 123F.

Civil Action No: 99-S-397

SEIZED and taken into execution as the property of **James A. Mellott** 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 21, 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.

3/9, 16 & 23

COMMONWEALTH VS. MICHAEL

1. The law is clear with respect to the right to withdraw a plea after imposition of the sentence. When one moves to withdraw a plea after sentencing, he must show prejudice on the order of manifest injustice by demonstrating that the plea was involuntary or entered without knowledge of the charge.

2. The defendant must carry a substantial burden to establish manifest injustice.

3. Whether the plea is entered as a guilty plea or a nolo contendere plea, once entered "it is presumed that the defendant was aware of what he was doing, and the burden of proving involuntariness is upon him."

In the Court of Common Pleas of Adams County, Pennsylvania,
Criminal, No. CC-808-99. COMMONWEALTH VS. CHRISTOPHER BERNARD MICHAEL.

Christine Simpson, Asst. D.A., for Commonwealth

Jeffery M. Cook, Esq., for Defendant

Kuhn, J., February 1, 2000.

MEMORANDUM OPINION ON DEFENDANT'S MOTION FOR WITHDRAWAL OF NOLO CONTENDERE PLEA, OR IN THE ALTERNATIVE, FOR MODIFICATION OF SENTENCE

The background relevant to disposition of the motion before the Court reveals that on August 30, 1999, a criminal complaint was filed charging Defendant, Christopher Bernard Michael, with Theft by Receiving, 18 Pa. C.S.A. §3925(a); specifically, having possession of two stolen ATV's. On September 13, 1999, Defendant waived his right to a preliminary hearing. At arraignment on October 12, 1999, Defendant appeared pro se and entered pleas of nolo contendere to two counts of Theft by Receiving. As part of the plea agreement, Commonwealth agreed to reduce the gradation of the offenses from third degree felonies to first degree misdemeanors. Pursuant to the plea agreement, Defendant was sentenced on each count to three years of intermediate punishment (IPP) beginning with Phase III (supervised probation). Standard IPP conditions were imposed. Each sentence was to run concurrently.

Following sentencing, Defendant met with a probation officer and received and executed a copy of the IPP conditions. Apparently, Defendant was dissatisfied with the restrictions imposed by some of the IPP conditions so, on October 20, 1999, through counsel, he filed

a motion to withdraw his plea or, in the alternative, for modification of sentence. A hearing on the motion was held on November 23, 1999. At that time, Defendant expressed his concern with conditions relating to curfew, prohibition against entering an establishment which sells alcohol, the requirement to report to the Probation Office one time per week because he intended to move to Carroll County, Maryland, and a restriction on possessing firearms. The hearing was continued to December 21, 1999, to allow for preparation of the transcript of the October 12, 1999, proceeding.

At hearing on December 21, 1999, Defendant, through counsel, withdrew his request for modification of sentence and stated he was proceeding only on the motion to withdraw his plea. In addition to the IPP conditions Defendant discussed on November 23, he also expressed dissatisfaction with the prohibition on consumption of alcohol, the performance of 40 hours of public service, the need to secure permission to leave his county of residence for more than 24 hours without prior permission from his probation officer, and a possible warrantless search of his residence by a probation officer upon suspicion that the residence contained contraband or evidence of a probation violation. Essentially, Defendant seeks to withdraw his plea based on the contention that he was not aware of the "ramifications" of the IPP conditions when he entered his plea. Instead, Defendant said he "just thought all I had to do was keep my nose clean".

The law is clear with respect to the right to withdraw a plea after imposition of the sentence. When one moves to withdraw a plea after sentencing, he must show prejudice on the order of manifest injustice by demonstrating that the plea was involuntary or entered without knowledge of the charge. *Commonwealth v. Stork*, 737 A.2d 789, 790 (Pa. Super. 1999); *Commonwealth v. Riebling*, 37 Ad. Co. L.J. 93 (1995). The defendant must carry a substantial burden to establish manifest injustice. *Commonwealth v. Vance*, 376 Pa. Super. 493, 499, 546 A.2d 632, 635 (1988), Alloc. den. 557 A.2d 723. Whether the plea is entered as a guilty plea or a nolo contendere plea, once entered "it is presumed that the defendant was aware of what he was doing, and the burden of proving involuntariness is upon him." *Commonwealth v. Myers*, 434 Pa. Super. 221, 642 A.2d 1103, 1105 (1994) (citation omitted). In order to determine whether a plea was

voluntarily entered, the court should determine whether the colloquy complied with the dictates of Pa. R.Crim.P. 319. *Commonwealth v. Stark*, 698 A.2d 1327, 1329-30 (1997).

Essentially, the judge is required to elicit the following information:

- 1) Does the defendant understand the nature of the charge to which he is entering his plea?
- 2) Is there a factual basis for the plea?
- 3) Does the defendant understand that he has the right to trial by jury?
- 4) Does the defendant understand that he is presumed innocent until found guilty?
- 5) Is the defendant aware of the permissible range of sentences and/or fines for the offenses charged?
- 6) Is the defendant aware that the judge is not bound by the terms of any plea agreement tendered unless the judge accepts such agreement?

Nowhere in the record can we find that requirement number four was satisfied. Therefore, we cannot conclude that Defendant's plea was voluntarily entered. We will allow him to withdraw his plea but not for the reason that he did not understand the full ramifications of the probationary conditions that would be imposed upon him.

Accordingly, the attached order is entered.

ORDER OF COURT

AND NOW, this 1st day of February, 2000, Defendant's Motion for Withdrawal of Nolo Contendere Pleas is granted. Defendant is released from his sentence.

Trial is continued through the week beginning March 20, 2000. Unless otherwise directed by the Court or the District Attorney's Office, Defendant shall appear in Courtroom No. 1 at 9:00 a.m., March 3, 2000.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1221 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of April, 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 two (2) lots of ground situate, lying and being in Reading Township, Adams County, Pennsylvania, bounded, limited and described as follows, to wit:

LOT NO. 1:

BEGINNING at an iron pin at land now or formerly of George H. Miller and other land now or formerly of W.A. Bosserman; thence by the last mentioned lands South fifty-nine (59) degrees thirty (30) minutes West fifty (50) feet to an iron pin at lands now or formerly of W.A. Bosserman; thence by the same North twenty-nine (29) degrees West twenty-nine and seven-tenths (29.7) feet to an iron pin; thence North fifty-nine (59) degrees thirty (30) minutes East fifty (50) feet to an iron pin at Lot No. 2 hereof; thence by the same and lands now or formerly of George H. Miller, aforesaid, South twenty-nine (29) degrees East twenty-nine and seven-tenths (29.7) feet to an iron pin the place of BEGINNING.

LOT NO. 2:

BEGINNING at a point in the Great Conewago Creek at corner of lands now or formerly of George Miller; thence along lands now or formerly of George Miller south fifty-eight and one-half (58 1/2) degrees West two hundred ninety-seven (297) feet to an iron pin at Lot No. 1 hereof; thence by the same and other lands North thirty (30) degrees West sixty-five (65) feet to lands now or formerly of Paul A. Swartz; thence along said Swartz's land North fifty-eight and one-half (58 1/2) degrees East two hundred ninety-seven (297) feet to a point at the Great Conewago Creek, aforesaid; thence along said Conewago Creek South twenty and one-fourth (20 1/4) degrees East sixty-five (65) feet to a point, the place BEGINNING.

Premises being known as: 45 South Hickory Lane, New Oxford, PA 17350

Tax Parcel No. J090074

SEIZED and taken into execution as the property of **David & Lois Schoolcraft** 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 14, 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.

3/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-959 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 CERTAIN tract of land situate in Reading Township, Adams County, Pennsylvania, bounded and described in accordance with a survey by John Lazarowicz, registered surveyor, No. 11419E.

BEGINNING at a point on Schofield Drive at the Southwest corner of Lot 63 on the plan of lots of Lake Meade subdivision as recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 1, Page 1; thence along said Lot 63, North sixty-eight (68) degrees thirteen (13) minutes forty-nine (49) seconds East, one hundred ninety-one and sixty-nine hundredths (191.69) feet to a point; thence South twenty-three (23) degrees fifty-five (55) minutes one (01) second East, one hundred sixty and six hundredths (160.06) feet to a point at the boundary line of Lot 66 on the aforesaid plan; thence along the boundary line of said Lot 66, South sixty-eight degrees thirteen (13) minutes forty-nine (49) seconds West, one hundred ninety-seven and fifty-eight hundredths (197.58) feet to a point on Schofield Drive; thence along the arc of a curve to the right, having an arc length of thirty-three and ninety-eight hundredths (33.98) feet and a chord bearing of North twenty-one (21) degrees fifty-seven (57) minutes twelve (12) seconds West, with a chord distance of thirty-three and ninety-eight hundredths (33.98) feet to a point along the Eastern boundary line of Schofield Drive; thence along said line, North twenty-one (21) degrees forty-six (46) minutes eleven (11) seconds West, one hundred twenty-five and ninety-six hundredths (125.96) feet to a point on the Southern boundary line of Lot 63 in the aforesaid plan the first mentioned point and place of BEGINNING.

BEING the combined Lots 64 and 65 on the aforesaid plan.

BEING KNOWN AS 6 Schofield Drive, East Berlin, PA 17316

Property ID# 93

TITLE TO SAID PREMISES IS VESTED IN Jeffrey A. Zinn and Sherry J. Zinn, husband and wife as tenants by the entirety by deed from William M. Heiland,

Jr., and Brigitte A. Heiland, husband and wife dated 1/30/1996 and recorded 2/6/1996 in Deed Book 1143 Page 144.

SEIZED and taken into execution as the property of **Jeffrey A. Zinn & Sherry J. Zinn** 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.

3/16, 23 & 30

NOTICE

NOTICE IS HEREBY GIVEN that the First and Final Account of Bank of Hanover and Trust Company, Trustee under Deed of Trust 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.

3/9, 16 & 23

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN of the filing in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, PA of an application for registration under the Fictitious Name Act. The name of the business is CENTRE MILLS ANTIQUE FLOORS with its principal place of business at 624 Center Mills Road, P.O. Box 16, Aspers, Pennsylvania 17304. The owner of the business is John R. Longanecker, of 10 Windbriar Lane, Gettysburg, Pennsylvania 17325.

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

3/16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-1053 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 Conewago Township, Adams County, Pennsylvania, known on a Plat of general plan of a series of lots, streets, avenues, etc. of land of Hanover Improvement Company as Lot No. 23 on the North side of the Hanover and McSherrystown Turnpike in Block #2, adjoining Lot No. 22 on the West (now lands of Richard B. and Margaret I. Fuhman); a public alley on the North; and Lot No. 24 on the East (Irene E. Carr and Lillian E. Carr); and the Hanover and McSherrystown Turnpike on the South. The Plat or general plan of lots above referred to is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book WW, Page 600.

SUBJECT to the reservation of six feet in depth along the front of said Lot for public use as a sidewalk.

BEING KNOWN AS 657 3rd Street, Hanover, PA 17331

Property ID# 8-134

TITLE TO SAID PREMISES IS VESTED IN Shawn L. Marks, single person and Yvonne M. Rider, single person, as joint tenants with the right of survivorship by deed from Robert H. Gotwalt and Barbara A. Gotwalt, his wife dated 3/12/1999 and recorded 3/15/1999 in Deed Book 1785 Page 196.

SEIZED and taken into execution as the property of **Shawn L. Marks & Yvonne M. Rider** 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.

3/16, 23 & 30

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is MOHR ENTERPRISES, INC.

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

3/16

NOTICE

NOTICE IS HEREBY GIVEN that Steve Rice intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania on the 9th day of April, 2001, and that he will be practicing law as an Assistant Public Defender at the Adams County Public Defender's Office located at the Adams County Courthouse, Gettysburg, Pennsylvania 17325.

3/16, 23 & 30

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 WALTER E. CROW, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Marie Crow Higgins, 3 Tennis Court Lane, Bernville, PA 19506, c/o Patricia A. Shoap, Esq., Shoap Law Offices, 139 E. Washington Street, Chambersburg, PA 17201

Attorney: Patricia A. Shoap, Esq., Shoap Law Offices, 139 E. Washington Street, Chambersburg, PA 17201

ESTATE OF GERTRUDE L. DUNCAN a/k/a G. LORRAINE DUNCAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrices: Joyce M. Offutt, 575 Russell Tavern Rd., Gettysburg, PA 17325; Mary F. Brandt, 710 Hers Ridge Rd., Gettysburg, PA 17325

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

ESTATE OF HARRISON F. HARBACH, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Craig A. Showvaker, 781 Highland Avenue, Gettysburg, PA 17325

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF GLENN C. JOSEPH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Dolores E. Baker, c/o Gates & Gates, 250 York Street, Hanover, PA 17331

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

ESTATE OF LORING L. KELLER, DEC'D

Late of Highland Township, Adams County, Pennsylvania

Executrices: Marie E. Dillon, 1465 Buchanan Valley Road, Orrtanna, PA 17353; Joan L. Swanger, 349 Barberry Drive, Hanover, PA 17331; Irene P. Steinberger, 122 Walnut Street, Mont Alto, PA 17237

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

ESTATE OF GENEVIEVE G. LAWRENCE a/k/a GENEVIEVE E. LAWRENCE, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Patricia A. Deamer, 123 Chapel Road, Hanover, PA 17331

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

ESTATE OF VIOLET C. LONG, DEC'D

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

Executrix: Kathleen D. Ebersole, 2700 Stoney Point Rd., East Berlin, PA 17316

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

ESTATE OF J. DOUGLAS SHAND a/k/a JACK DOUGLAS SHAND a/k/a JACK D. SHAND, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: PNC Bank, c/o Thomas W. Bergen, Esq., 221 East Chestnut Street, Lancaster, PA 17602

Attorney: Hartman Underhill & Brubaker LLP

ESTATE OF MELVIN EDWARD SPANGLER a/k/a MELVIN E. SPANGLER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Mary Elizabeth Hemler Spangler, c/o Kagen, MacDonald & France, P.C., 2675 Eastern Boulevard, York, PA 17402

Attorney: Andrew F. Kagen, Esq., Kagen, MacDonald & France, P.C., 2675 Eastern Boulevard, York, PA 17402

SECOND PUBLICATION

ESTATE OF MARGUERITE S. KOONTZ, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Co-Executrices: Virginia E. Amacost, 36 Locust Drive, Littlestown, PA 17340; Janet S. Lightner, 659 Barlow-Two Taverns Road, Gettysburg, PA 17325; Judy Ann Bream, 90 Knight Road, Gettysburg, PA 17325

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

ESTATE OF KATHRYN M. MILLER, DEC'D

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

Personal Representative: Marlene K. Wildasin, 382 St. Bartholomew Road, Hanover, PA 17331

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

ESTATE OF EVELYN M. REICHART, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Gary L. Reichart, P.O. Box 501, Hanover, PA 17331

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

ESTATE OF KATHERINE WIESINGER a/k/a K. LOUISE WIESINGER a/k/a LOUISE K. WIESINGER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Rodney Wiesinger, 2425 59th Place, Cheverly, MD 20785

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

THIRD PUBLICATION

ESTATE OF PHYLLIS B. BIGHAM a/k/a PHYLLIS J. BIGHAM, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Personal Representative: James C. Bigham, c/o Patterson & Kiers, P.C., 239-B East Main Street, Waynesboro, PA 17268-1681

Attorney: Patterson & Kiers, P.C., 239-B East Main Street, Waynesboro, PA 17268-1681

ESTATE OF CAROL L. FUNT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

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

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

ESTATE OF HAROLD S. GUISE, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executor: Donald E. Guise, 50 Van Cleve Road, New Oxford, PA 17350

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

(continued on page 6)

THIRD PUBLICATION (continued)**ESTATE OF IDA S. KNOCH, DEC'D**

Late of Oxford Township, Adams
County, Pennsylvania

PNC Bank, N.A., c/o Linda Lundberg,
P.O. Box 308, Camp Hill, PA 17001-
0308

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

ESTATE OF RUTH E. SHIRA, DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Executor: Bank of Hanover and Trust
Company

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

Administrator d.b.n.c.t.a.: Thomas B.
Redding, Jr., 101 Panther Drive,
Hanover, PA 17331

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

ESTATE OF LYNN E. SMITH, DEC'D

Late of Latimore Township, Adams
County, Pennsylvania

Executor: 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 MARY R. SMITH a/k/a
MARY P. SMITH, DEC'D**

Late of Mt. Pleasant Township, Adams
County, Pennsylvania

Administrator d.b.n.c.t.a.: Thomas B.
Redding, Jr., 101 Panther Drive,
Hanover, PA 17331

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

ESTATE OF EDNA W. TEMPLE, DEC'D

Late of the Borough of Gettysburg,
Adams County, Pennsylvania

Executrix: Mary Elizabeth Wood, 828
Sunset Avenue, Gettysburg, PA
17325

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

Adams County Legal Journal

Vol. 42

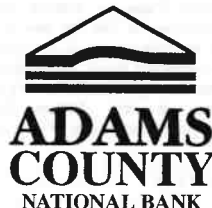
March 23, 2001

No. 43, pp. 232-235

IN THIS ISSUE

O'DAY VS. SMITH ET AL

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-1124 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.:

BEGINNING at a point in the center of Finch Trail at Lot No. 101; thence by said lot, South 63 degrees East, 174.06 feet to Lot No. 100; thence by said lot, South 71 degrees 10 minutes 20 seconds East, 65.20 feet to Lot No. 89; thence by said lot and by Lot No. 88, South 44 degrees 20 minutes West, 161.71 feet to Lot No. 103; thence by said lot, North 45 degrees 40 minutes West, 225 feet to a point in the center of said Finch Trail; thence in said Finch Trail, North 44 degrees 20 minutes East, 81.78 feet to the place of BEGINNING.

BEING designated as Map and Parcel No. 35-132.

BEING THE SAME premises which Allen W. Beckett, V/d/b/a Allen Beckett Construction, granted and conveyed to Daniel W. Myers by Deed dated June 12, 1998 and recorded June 12, 1998 in the Recorder of Deeds Office of Adams County in Deed Book 1600, page 38.

SEIZED and taken into execution as the property of Daniel W. Myers 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.

3/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-397 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of April, 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 the right, title, interest and claim of James A. Mellott and to:

ALL the following described real estate situated in the township of Franklin, Adams County, Pennsylvania. Having erected thereon a dwelling known and numbered as 379 Church Road, Orrtanna, Pennsylvania 17353. Deed Book Volume 1457, Page 163, Parcel 123F.

Civil Action No: 99-S-397

SEIZED and taken into execution as the property of James A. Mellott 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 21, 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.

3/9, 16 & 23

NOTICE

NOTICE IS HEREBY GIVEN that Steve Rice intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania on the 9th day of April, 2001, and that he will be practicing law as an Assistant Public Defender at the Adams County Public Defender's Office located at the Adams County Courthouse, Gettysburg, Pennsylvania 17325.

3/16, 23 & 30

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

NO. 01-S-135

Action to Quiet Title

RANDALL B. INSKIP, Plaintiff

vs.

LEWIS G. LAMOTHE and OLA K. LAMOTHE, husband and wife, their heirs and assigns, Defendants.

TO: Lewis G. Lamothe and Ola K. Lamothe, their heirs and assigns.

IMPORTANT NOTICE

You are in default because you have failed to take action required of you in this case. Unless you act within ten days from the date of this notice, a judgment may be entered against you without a hearing and you may lose your property or other important rights. You should take this notice to a lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the following office to find out where you can get legal help.

Court Administrator Adams County Courthouse Gettysburg, PA 17325 Phone (717) 337-9846 or 1-888-337-9846

By: John C. Zepp, III, Esq. P.O. Box 204 York Springs, PA 17372 Phone: (717) 528-8900

3/23

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

O'DAY VS. SMITH ET AL

1. A complaint may be amended at any time, when it is necessary for a proper decision of the case on its merits. Amendment should be allowed at any stage of the proceedings unless it violates the law or unfairly prejudices the rights of the other party.

2. There is no absolute limit on time when an amendment may be made. However, an amendment to confirm the pleadings to the proof will not be permitted after the statute of limitations has run, if it introduces a new cause of action.

3. Prejudice must be something more than detriment to the opposing party.

4. Prejudice will be found when amendment follows the close of testimony and defendant did not contemplate the subject matter of the amendment in preparation and trial of the case. However, unfair surprise will not be found if an amendment was implicit in the development of the evidence from early in the trial and the opposing party never objected.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 97-S-120. PATTI S. O'DAY VS. DIANE SMITH, INDIVIDUALLY AND IN HER CAPACITY AS THE POWER OF ATTORNEY OF STEPHEN D. OLINGER, AND STEPHEN D. OLINGER, INDIVIDUALLY.

John J. Mooney, Esq., for Plaintiff

Wendy Weikal-Beauchat, Esq., for Defendant, Stephen D. Olinger

DiAne A. Smith, Defendant *pro se*

Spicer, P.J., February 2, 2000

OPINION ON POST-TRIAL MOTION

This case now comes before the court on post verdict motions filed by defendant, Stephen D. Olinger. Although a verdict was entered against her, DiAne Smith has filed no motions. The court understands she has been discharged of liability through bankruptcy. For sake of simplicity, when we refer to defendant, we mean Mr. Olinger. Otherwise, we will refer to the parties generally by their last names.

On August 30, 1999, following a one-day bench trial, the parties waived the requirements of Pa. R.C.P. 1038 and closing arguments were scheduled for September 28, 1999. However, the parties were not ready on that date and ultimately it was decided that a verdict would be entered and that issues would be addressed on post verdict motions. Accordingly, a verdict was entered on October 25, 1999 in favor of Plaintiff and against both Defendants.

The sole issue presented for resolution concerns our propriety in allowing Plaintiff to amend her pleadings to conform to the evidence. During remarks by Plaintiff's counsel, following the close of evidence, the court pointed out that Plaintiff had failed to prove fraud. With this observation, this judge said that he would allow Plaintiff to amend her complaint to conform to the evidence, and would hear arguments on the subject of restitution. The motion was promptly made and granted.

Facts established that Olinger was forced by circumstances to rely upon someone to conduct his business affairs and empowered Ms. Smith, through a power of attorney. Included within her authority was the right to sell real estate. Although Smith and Olinger presented different views on the state of his finances, it was clear that he was asset rich and cash poor. Smith said that it was necessary to combine their cash to maintain his property.

Olinger owned real estate at 110 Chambersburg Street, in Gettysburg. At a time when at least Smith and Plaintiff were on friendly terms, it was decided to sell that particular piece of property to Plaintiff. Smith said she set the price at \$200,000.00, after obtaining an appraisal. Plaintiff said the price was \$185,000.00. Plaintiff borrowed \$15,000.00 from a bank, with the check payable jointly to herself and Smith, and was to pay an additional \$5,000.00 later. Smith deposited the money in an account held jointly between herself and Olinger.

Although a sales agreement was prepared, it was not signed. Plaintiff said it was because of a dispute concerning the purchase price. Smith disagreed, saying that every time she asked Plaintiff to sign, she was told that Plaintiff wasn't feeling well. Plaintiff asked for her deposit back. This suit resulted from Defendant's refusal to comply.

Although Defendant counterclaimed for damages to the real estate and the value of rent during occupancy by Plaintiff, these counterclaims were not pursued at trial.

Olinger's main contention, during trial, was that Smith alone was responsible, despite the power of attorney. Not surprisingly, he did not support this argument with legal authority, probably because it could not be supported. See *Baker v. Cambridge Chase, Inc.* Pa. Super., 725 A.2d 757 (1999) *alloc. denied.*

Plaintiff could not identify any misrepresentation that was made by Smith and, hence, could not prove fraud imputable to Olinger. However, it was clear from the evidence that, even assuming that the oral contract was enforceable, it was rescinded. Furthermore, the complaint clearly alleged an oral agreement of sale, money paid as a down payment, and the lack of performance. We were, and are, convinced that amendment was proper that Defendant is responsible for making restitution to plaintiff. *Id.*

A complaint may be amended at any time, when it is necessary for a proper decision of the case on its merits. Pa. R. Civ. P. Rule 1033. Amendment should be allowed at any stage of the proceedings unless it violates the law or unfairly prejudices the rights of the other party. Pa. R. Civ. P. Rule 126. Defendant argues that this judge wrongly invited amendment following the close of testimony. The court could have, however, even on its own motion, permitted the amendment. *Sullivan v. Allegheny Ford Truck Sales*, 283 Pa. Super. 351, 423 A.2d 1292 (1980).

There is no absolute limit on time when an amendment may be made. *Id.* However, an amendment to conform the pleadings to the proof will not be permitted after the statute of limitations has run, if it introduces a new cause of action. *Del Turco v. Peoples Home Savings Ass'n*, 329 Pa. Super. 258, 478 A.2d 456 (1984). There are no limitations problems involved. The check was written August 23, 1996. The statute of limitations had not run. 42 Pa. C.S.A. § 5525.

Since any amendment will probably strengthen one party's position and correspondingly weaken the other's, prejudice must be something more than detriment to the opposing party. *W.I. Snyder Corp. v. Caracciolo*, 373 Pa. Super. 486, 541 A.2d 775 (1988); *Standard Pipeline Coating Co. v. Solomon & Teslovich, Inc.*, 344 Pa. Super. 367, 496 A.2d 840 (1985) *alloc. denied*. Just because defendant lost his case on the merits does not amount to prejudice justifying denial of leave to amend. *Gutierrez v. Pennsylvania Gas & Water Co.*, 352 Pa. Super. 282, 507 A.2d 1230 (1986).

Defendant argues that amendment after all evidence had been presented at trial prejudiced him. Prejudice will be found when amendment follows the close of testimony and defendant did not contemplate the subject matter of the amendment in preparation and trial of the case. However, unfair surprise will not be found if an amendment

was implicit in the development of the evidence from early in the trial and the opposing party never objected. *Aiello v. Ed Saxe Real Estate Inc.*, 327 Pa. Super. 429, 476 A.2d 27 (1984), rev'd on other grounds 508 Pa. 553, 499 A.2d 282 (1985).

As we have said earlier in this opinion, Defendant contended that Smith, and not himself, was responsible for refund. Allegations in the complaint supported recovery based on restitution. That theory clearly called out for recognition based upon the facts established during trial. Plaintiff sought only the return of her down payment. Relief in the form of restitution was manifestly appropriate. Under these circumstances, it is hard to imagine that prejudice occurred, and we find none.

The attached order is entered.

ORDER

AND NOW, this 2nd day of February, 2000, Defendant's post verdict motions are denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-959 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 CERTAIN tract of land situate in Reading Township, Adams County, Pennsylvania, bounded and described in accordance with a survey by John Lazarowicz, registered surveyor, No. 11419E.

BEGINNING at a point on Schofield Drive at the Southwest corner of Lot 63 on the plan of lots of Lake Meade subdivision as recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 1, Page 1; thence along said Lot 63, North sixty-eight (68) degrees thirteen (13) minutes forty-nine (49) seconds East, one hundred ninety-one and sixty-nine hundredths (191.69) feet to a point; thence South twenty-three (23) degrees fifty-five (55) minutes one (1) second East, one hundred sixty and six hundredths (160.06) feet to a point at the boundary line of Lot 66 on the aforesaid plan; thence along the boundary line of said Lot 66, South sixty-eight degrees thirteen (13) minutes forty-nine (49) seconds West, one hundred ninety-seven and fifty-eight hundredths (197.58) feet to a point on Schofield Drive; thence along the arc of a curve to the right, having an arc length of thirty-three and ninety-eight hundredths (33.98) feet and a chord bearing of North twenty-one (21) degrees fifty-seven (57) minutes twelve (12) seconds West, with a chord distance of thirty-three and ninety-eight hundredths (33.98) feet to a point along the Eastern boundary line of Schofield Drive; thence along said line, North twenty-one (21) degrees forty-six (46) minutes eleven (11) seconds West, one hundred twenty-five and ninety-six hundredths (125.96) feet to a point on the Southern boundary line of Lot 63 in the aforesaid plan the first mentioned point and place of BEGINNING.

BEING the combined Lots 64 and 65 on the aforesaid plan.

BEING KNOWN AS 6 Schofield Drive, East Berlin, PA 17316

Property ID# 93

TITLE TO SAID PREMISES IS VESTED IN Jeffrey A. Zinn and Sherry J. Zinn, husband and wife as tenants by the entirety by deed from William M. Heiland, Jr., and Brigitte A. Heiland, husband and wife dated 1/30/1996 and recorded 2/6/1996 in Deed Book 1143 Page 144.

SEIZED and taken into execution as the property of **Jeffrey A. Zinn & Sherry J. Zinn** 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.

3/16, 23 & 30

NOTICE

NOTICE IS HEREBY GIVEN that the First and Final Account of Bank of Hanover and Trust Company, Trustee under Deed of Trust 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.

3/9, 16 & 23

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, of Act 1982 - 295 (54 Pa. C.S. 311), the undersigned entity (ies) announce their intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania, on approximately March 7, 2001, a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of PELICAN INVESTIGATIONS, with its principal place of business at 73 McCandless Dr., East Berlin, PA 17316. The names and addresses of the persons owning or interested in said business are William S. Nelson, residing at 73 McCandless Dr., East Berlin, PA 17316. The character or nature of the business is Private Investigations/Security.

3/23

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 Northwesterly 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 Southwesterly direction for a distance of 200 feet, more or less, to a North Queen Street aforesaid; thence by said street in a Southeasterly 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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-1053 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 Conewago Township, Adams County, Pennsylvania, known on a Plat of general plan of a series of lots, streets, avenues, etc. of land of Hanover Improvement Company as Lot No. 23 on the North side of the Hanover and McSherrystown Turnpike in Block #2, adjoining Lot No. 22 on the West (now lands of Richard B. and Margaret I. Fuhrman); a public alley on the North; and Lot No. 24 on the East (Irene E. Carr and Lillian E. Carr); and the Hanover and McSherrystown Turnpike on the South. The Plat or general plan of lots above referred to is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book WW, Page 600.

SUBJECT to the reservation of six feet in depth along the front of said Lot for public use as a sidewalk.

BEING KNOWN AS 657 3rd Street, Hanover, PA 17331

Property ID# 8-134

TITLE TO SAID PREMISES IS VESTED IN Shawn L. Marks, single person and Yvonne M. Rider, single person, as joint tenants with the right of survivorship by deed from Robert H. Gotwalt and Barbara A. Gotwalt, his wife dated 3/12/1999 and recorded 3/15/1999 in Deed Book 1785 Page 196.

SEIZED and taken into execution as the property of **Shawn L. Marks & Yvonne M. Rider** 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.

3/16, 23 & 30

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

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 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. Hagaman, 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

SECOND PUBLICATION

ESTATE OF WALTER E. CROW, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Marie Crow Higgins, 3 Tennis Court Lane, Bernville, PA 19506, c/o Patricia A. Shoap, Esq., Shoap Law Offices, 139 E. Washington Street, Chambersburg, PA 17201

Attorney: Patricia A. Shoap, Esq., Shoap Law Offices, 139 E. Washington Street, Chambersburg, PA 17201

ESTATE OF GERTRUDE L. DUNCAN a/k/a G. LORRAINE DUNCAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrices: Joyce M. Offutt, 575 Russell Tavern Rd., Gettysburg, PA 17325; Mary F. Brandt, 710 Herrs Ridge Rd., Gettysburg, PA 17325

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

ESTATE OF HARRISON F. HARBACH, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Craig A. Showvaker, 781 Highland Avenue, Gettysburg, PA 17325

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF GLENN C. JOSEPH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Dolores E. Baker, c/o Gates & Gates, 250 York Street, Hanover, PA 17331

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

ESTATE OF LORING L. KELLER, DEC'D

Executrices: Marie E. Dillon, 1465 Buchanan Valley Road, Orrtanna, PA 17353; Joan L. Swanger, 349 Barberry Drive, Hanover, PA 17331; Irene P. Steinberger, 122 Walnut Street, Mont Alto, PA 17237

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

ESTATE OF GENEVIEVE G. LAWRENCE a/k/a GENEVIEVE E. LAWRENCE, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Patricia A. Deamer, 123 Chapel Road, Hanover, PA 17331

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

ESTATE OF VIOLET C. LONG, DEC'D

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

Executrix: Kathleen D. Ebersole, 2700 Stony Point Rd., East Berlin, PA 17316

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

ESTATE OF J. DOUGLAS SHAND a/k/a JACK DOUGLAS SHAND a/k/a JACK D. SHAND, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: PNC Bank, c/o Thomas W. Bergen, Esq., 221 East Chestnut Street, Lancaster, PA 17602

Attorney: Hartman Underhill & Brubaker LLP

ESTATE OF MELVIN EDWARD SPANGLER a/k/a MELVIN E. SPANGLER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Mary Elizabeth Hemler Spangler, c/o Kagen, MacDonald & France, P.C., 2675 Eastern Boulevard, York, PA 17402

Attorney: Andrew F. Kagen, Esq., Kagen, MacDonald & France, P.C., 2675 Eastern Boulevard, York, PA 17402

THIRD PUBLICATION

ESTATE OF MARGUERITE S. KOONTZ, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Co-Executrices: Virginia E. Armacost, 36 Locust Drive, Littlestown, PA 17340; Janet S. Lightner, 659 Barlow-Two Taverns Road, Gettysburg, PA 17325; Judy Ann Bream, 90 Knight Road, Gettysburg, PA 17325

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

ESTATE OF KATHRYN M. MILLER, DEC'D

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

Personal Representative: Marlene K. Wildasin, 382 St. Bartholomew Road, Hanover, PA 17331

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

ESTATE OF EVELYN M. REICHART, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Gary L. Reichart, P.O. Box 501, Hanover, PA 17331

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

ESTATE OF KATHERINE WIESINGER a/k/a K. LOUISE WIESINGER a/k/a LOUISE K. WIESINGER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Rodney Wiesinger, 2425 59th Place, Cheverly, MD 20785

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

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 feet 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 hinderances 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 hinderances 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

Adams County Legal Journal

Vol. 42

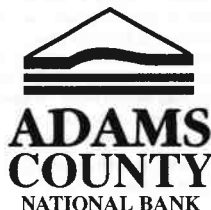
March 30, 2001

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IN THIS ISSUE

DEMOCRAT PRINTING VS. ARCHIBALD ET AL

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-1124 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.:

BEGINNING at a point in the center of Finch Trail at Lot No. 101; thence by said lot, South 63 degrees East, 174.06 feet to Lot No. 100; thence by said lot, South 71 degrees 10 minutes 20 seconds East, 65.20 feet to Lot No. 89; thence by said lot and by Lot No. 88, South 44 degrees 20 minutes West, 161.71 feet to Lot No. 103; thence by said lot, North 45 degrees 40 minutes West, 225 feet to a point in the center of said Finch Trail; thence in said Finch Trail, North 44 degrees 20 minutes East, 81.78 feet to the place of BEGINNING.

BEING designated as Map and Parcel No. 35-132.

BEING THE SAME premises which Allen W. Beckett, t/d/b/a Allen Beckett Construction, granted and conveyed to Daniel W. Myers by Deed dated June 12, 1998 and recorded June 12, 1998 in the Recorder of Deeds Office of Adams County in Deed Book 1600, page 38.

SEIZED and taken into execution as the property of Daniel W. Myers 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.

3/16, 23 & 30

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 Northwesterly 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 Southwesterly direction for a distance of 200 feet, more or less, to a at North Queen Street aforesaid; thence by said street in a Southeasterly 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

NOTICE

NOTICE IS HEREBY GIVEN that Steve Rice intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania on the 9th day of April, 2001, and that he will be practicing law as an Assistant Public Defender at the Adams County Public Defender's Office located at the Adams County Courthouse, Gettysburg, Pennsylvania 17325.

3/16, 23 & 30

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

DEMOCRAT PRINTING VS. ARCHIBALD ET AL

1. Rule 1019(a) requires fact pleading. A complaint therefore must do more than "give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests" it should formulate the issues by fully summarizing the material facts. "Material facts" are "ultimate facts," i.e., those facts essential to support the claim.

2. We recognize the proposition that the Rules of Civil Procedure are to be liberally interpreted. "However, liberal construction does not entail total disregard of those rules concerning pleading."

3. In an action prosecuted against an association it shall be sufficient to name as defendant either the association by its name...or any officer of the association as trustee ad litem for such association...

4. Rule 2153(c) is a procedural rule, which pertains to joinder of parties. It is not a rule of substantive law intended to make individual members liable for claims against the association.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 99-S-1125. DEMOCRAT PRINTING AND LITHOGRAPHING COMPANY, AN ARKANSAS CORPORATION, VS. ROBERT D. ARCHIBALD, INDIVIDUALLY AND AS TRUSTEE AD LITEM FOR WHAM MEDIA AND WHAM MEDIA, INC.

Patrick W. Quinn, Esq., for Plaintiff
Samuel E. Teeter, Esq., for Defendant
Kuhn, J., March 6, 2000.

OPINION ON DEFENDANT'S PRELIMINARY OBJECTIONS

On December 13, 1999 Democrat Printing and Lithographing Company, an Arkansas corporation (Plaintiff), filed a complaint for breach of contract against "Robert D. Archibald, individually and as Trustee ad Litem for WHAM Media and WHAM Media, Inc." Archibald filed preliminary objections on January 11, 2000, which include a Motion to Strike under Pa.R.C.P. Rule 1019(a), averring that the complaint is not concise and otherwise fails to state the material facts as against him, together with a Motion to Dismiss in the nature of demurrer. Both parties have submitted briefs in accordance with Adams C. Civ. R. 211. The Preliminary Objections are now before the Court for disposition.

In the Complaint, Plaintiff avers that "Defendant WHAM Media and WHAM Media, Inc.", hereinafter "WHAM", is an unincorporated association. (Compl. ¶ 2.) Plaintiff further avers that "Defendant, Robert D. Archibald" is both an officer and a member of WHAM

(Compl. ¶¶ 3, 4.) Throughout the balance of the Complaint Plaintiff refers to “Defendant” without indicating to which defendant it is referring.

Plaintiff has pleaded an alleged oral agreement between it and “Defendant” whereby printing services would be provided by Plaintiff and paid for by Defendant. (Compl. ¶ 5.) Plaintiff alleges that it did perform the printing services as agreed, in a proper and satisfactory manner. (Compl. ¶¶ 6-7.) Damages are set forth in the amount of \$124,246.09, which includes sums for services rendered, interest and payments made as described in the Complaint. (Compl. ¶¶ 8-18.) Plaintiff has attached a copy of a letter, dated December 16, 1996, printed on WHAM Media, Inc. letterhead and signed on behalf of WHAM Media, Inc. by Sandra H. Sells, Vice President, which promises to repay the amount of \$131,891.81 pursuant to a schedule. (Compl. ¶ 9; Plt.’s Ex. A.) A Promissory Note, dated September 15, 1997, in the amount of \$153,971.63 is also attached. (Compl. ¶ 10; Plt.’s Ex. B.) The Promissory Note is purportedly signed on behalf of WHAM Media, Inc. by its President and promises to repay the amount in 24 equal monthly installments, with interest. Plaintiff alleges that “Defendant” has only paid \$53,731.45 on the note with no payments having been received since August 10, 1999. Plaintiff claims a principal balance owing of \$124,246.09.

Archibald contends that the Complaint fails to allege in a concise manner how he is individually liable on Plaintiff’s claim and therefore violates Pa.R.C.P. 1019(a). We agree.

Recently, in addressing that rule, this Court observed that,

A motion to strike is appropriate where a pleading fails to conform to law or rule of court. Pa.R.C.P. 1028(a)(2). Pleading rules require that material facts on which a cause of action is based must be stated in a concise and summary form. Pa.R.C.P. 1019(a). The rules also permit preliminary objections challenging the sufficiency of the specificity in the pleading.

Superior Court in *Baker v. Rangos*, 229 Pa. Super. 333, 324 A.2d 498 (1974) set forth the standard for pleading material facts. It stated,

Rule 1019(a) requires fact pleading... “The purpose of [1019(a)] is to require the pleader to disclose the ‘material facts’ sufficient to enable the adverse party to prepare his case.”... A complaint therefore must do more than “give the defendant fair notice of what the plaintiff’s claim is and the grounds upon which it rests.”... It should formulate the issues by fully summarizing the material facts. “Material facts” are “ultimate facts,” i.e., those facts essential to support the claim. Evidence from which such facts may be inferred not only need not but should not be alleged... Allegations will withstand challenge under 1019(a) if (1) they contain averments of all of the facts the plaintiff will eventually have to prove in order to recover... and (2) they are “sufficiently specific so as to enable defendant to prepare his defense,”...

229 Pa. Super. at 349-50, 324 A.2d at 505-6 (citations omitted).

More recently Superior Court added that,

Pa.R.C.P. 1019(a) has been construed to mean that the complaint must not only apprise the defendant of the claim being asserted, but it must also summarize the essential facts to support the claim... We recognize the proposition that the Rules of Civil Procedure are to be liberally interpreted. See Pa.R.C.P. 126. “However, liberal construction does not entail total disregard of those rules concerning pleading.”...

Krajsa v. Key punch, Inc., 424 Pa. Super. 230, 235, 622 A.2d 355, 357 (1993).

McGlaughlin v. Gettysburg Hospital, et al., ___ Ad. Co. L. J. ___ (December 1999); *Collins v. Gettysburg Hospital and Shah*, 39 Ad. Co. L. J. 63-64 (1996).

The confusion in this Complaint begins with the caption and continues through the body of the pleading. When suing an unincorporated

association,¹ and any member thereof, a Plaintiff is directed to Pa.R.C.P. 2153. That rule provides, in pertinent part,

Rule 2153. Actions against Associations

- (a) In an action prosecuted against an association it shall be sufficient to name as defendant either the association by its name ... or any officer of the association as trustee ad litem for such association in the manner prescribed by Rule 2152.

...

- (c) In addition to the parties defendant permitted by subdivision (a) of the rule, the plaintiff may join as parties defendant one or more members of such association in their individual capacity, including members already named as trustees ad litem, for the purpose of enforcing any individual liability of such members upon the cause of action sued upon.

In the caption of this Complaint Plaintiff chose not to sue the association in its name but by an officer as trustee ad litem. However, reference to Rule 2152 makes clear that Plaintiff should have identified that defendant as “WHAM Media and WHAM Media, Inc. by Robert D. Archibald, Trustee ad Litem.” If that was the only deficiency the Court would have invoked Rule 126 and, by order, have amended the caption.

As noted, Rule 2153(c) allows Plaintiff to sue Archibald individually as a member of the association even if he was already named as trustee ad litem in his role as an officer of the association. This is a procedural rule, which pertains to joinder of parties. It is not a rule of substantive law intended to make individual members liable for claims against the association. Goodrich Amram, 2nd § 2153(c):1.

¹The Rule refers to “association” however that term is defined to mean an “unincorporated association”. Rule 2151. We assume for purposes of this Opinion that WHAM is an unincorporated association, despite the confusion generated by the reference to “Inc.” in its name and the fact that both Plaintiff’s Exhibits “A” and “B” refer only to WHAM Media, Inc. It is well known that corporations are to be sued in the name of the corporation. Rule 2177. However, this issue is more properly raised in an answer and/or new matter and not by way of preliminary objections.

A plaintiff may only sue individual members where it is shown that some basis for individual liability exists. *Binkowski v. Highway Truckers and Helpers, Local 107*, 389 Pa. 116, 117, 132 A.2d 281, 284 (1957); *Standard Pennsylvania Practice*, 2nd § 111:17.

The issue properly raised by Archibald is—what averments show his individual liability? As noted above, throughout the Complaint Plaintiff simply refers to “Defendant” without distinguishing Archibald or the association. For example, it is not clear whether the printing services were done for the association or Archibald, however, it is clear that if Plaintiff is suing on the “promise to pay” (Plt.’s Ex. A) or the promissory note (Plt.’s Ex. B) that Archibald’s name appears nowhere on either document. Unless Plaintiff can conform to the pleading rules Archibald must be individually dismissed from this action.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 6th day of March 2000, Preliminary Objections filed by Robert D. Archibald on January 11, 2000 are sustained. Plaintiff is granted twenty (20) days from date of mailing of this Order to file an amended Complaint. If that pleading is not filed the action will proceed against WHAM Media and WHAM Media, Inc. by Robert D. Archibald, as Trustee ad Litem, and said defendant will be granted twenty (20) days to answer the Complaint.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-1053 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 Conewago Township, Adams County, Pennsylvania, known on a Plat of general plan of a series of lots, streets, avenues, etc. of land of Hanover Improvement Company as Lot No. 23 on the North side of the Hanover and McSherrystown Turnpike in Block #2, adjoining Lot No. 22 on the West (now lands of Richard B. and Margaret I. Fuhrman); a public alley on the North; and Lot No. 24 on the East (Irene E. Carr and Lillian E. Carr); and the Hanover and McSherrystown Turnpike on the South. The Plat or general plan of lots above referred to is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book WW, Page 600.

SUBJECT to the reservation of six feet in depth along the front of said Lot for public use as a sidewalk.

BEING KNOWN AS 657 3rd Street, Hanover, PA 17331

Property ID# 8-134

TITLE TO SAID PREMISES IS VESTED IN Shawn L. Marks, single person and Yvonne M. Rider, single person, as joint tenants with the right of survivorship by deed from Robert H. Gotwalt and Barbara A. Gotwalt, his wife dated 3/12/1999 and recorded 3/15/1999 in Deed Book 1785 Page 196.

SEIZED and taken into execution as the property of **Shawn L. Marks & Yvonne M. Rider** 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.

3/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-959 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 CERTAIN tract of land situate in Reading Township, Adams County, Pennsylvania, bounded and described in accordance with a survey by John Lazarowicz, registered surveyor, No. 11419E.

BEGINNING at a point on Schofield Drive at the Southwest corner of Lot 63 on the plan of lots of Lake Meade subdivision as recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 1, Page 1; thence along said Lot 63, North sixty-eight (68) degrees thirteen (13) minutes forty-nine (49) seconds East, one hundred ninety-one and sixty-nine hundredths (191.69) feet to a point; thence South twenty-three (23) degrees fifty-five (55) minutes one (01) second East, one hundred sixty and six hundredths (160.06) feet to a point at the boundary line of Lot 66 on the aforesaid plan; thence along the boundary line of said Lot 66, South sixty-eight degrees thirteen (13) minutes forty-nine (49) seconds West, one hundred ninety-seven and fifty-eight hundredths (197.58) feet to a point on Schofield Drive; thence along the arc of a curve to the right, having an arc length of thirty-three and ninety-eight hundredths (33.98) feet and a chord bearing of North twenty-one (21) degrees fifty-seven (57) minutes twelve (12) seconds West, with a chord distance of thirty-three and ninety-eight hundredths (33.98) feet to a point along the Eastern boundary line of Schofield Drive; thence along said line, North twenty-one (21) degrees forty-six (46) minutes eleven (11) seconds West, one hundred twenty-five and ninety-six hundredths (125.96) feet to a point on the Southern boundary line of Lot 63 in the aforesaid plan the first mentioned point and place of BEGINNING.

BEING the combined Lots 64 and 65 on the aforesaid plan.

BEING KNOWN AS 6 Schofield Drive, East Berlin, PA 17316

Property ID# 93

TITLE TO SAID PREMISES IS VESTED IN Jeffrey A. Zinn and Sherry J. Zinn, husband and wife as tenants by the entirety by deed from William M. Heiland, Jr., and Brigitte A. Heiland, husband and wife dated 1/30/1996 and recorded 2/6/1996 in Deed Book 1143 Page 144.

SEIZED and taken into execution as the property of **Jeffrey A. Zinn & Sherry J. Zinn** 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.

3/16, 23 & 30

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

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 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

SECOND 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

THIRD PUBLICATION

ESTATE OF WALTER E. CROW, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Marie Crow Higgins, 3 Tennis Court Lane, Bernville, PA 19506, c/o Patricia A. Shoap, Esq., Shoap Law Offices, 139 E. Washington Street, Chambersburg, PA 17201

Attorney: Patricia A. Shoap, Esq., Shoap Law Offices, 139 E. Washington Street, Chambersburg, PA 17201

ESTATE OF GERTRUDE L. DUNCAN a/k/a G. LORRAINE DUNCAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrices: Joyce M. Offutt, 575 Russell Tavern Rd., Gettysburg, PA 17325; Mary F. Brandt, 710 Herrs Ridge Rd., Gettysburg, PA 17325

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

ESTATE OF HARRISON F. HARBACH, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Craig A. Showvaker, 781 Highland Avenue, Gettysburg, PA 17325

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF GLENN C. JOSEPH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Dolores E. Baker, c/o Gates & Gates, 250 York Street, Hanover, PA 17331

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

ESTATE OF LORING L. KELLER, DEC'D
Late of Highland Township, Adams County, Pennsylvania

Executrices: Marie E. Dillon, 1465 Buchanan Valley Road, Orrtanna, PA 17353; Joan L. Swanger, 349 Barberry Drive, Hanover, PA 17331; Irene P. Steinberger, 122 Walnut Street, Mont Alto, PA 17237

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

ESTATE OF GENEVIEVE G. LAWRENCE a/k/a GENEVIEVE E. LAWRENCE, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Patricia A. Deamer, 123 Chapel Road, Hanover, PA 17331

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

ESTATE OF VIOLET C. LONG, DEC'D

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

Executrix: Kathleen D. Ebersole, 2700 Stoney Point Rd., East Berlin, PA 17316

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

ESTATE OF J. DOUGLAS SHAND a/k/a JACK DOUGLAS SHAND a/k/a JACK D. SHAND, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: PNC Bank, c/o Thomas W. Bergen, Esq., 221 East Chestnut Street, Lancaster, PA 17602

Attorney: Hartman Underhill & Brubaker LLP

ESTATE OF MELVIN EDWARD SPANGLER a/k/a MELVIN E. SPANGLER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Mary Elizabeth Hemler Spangler, c/o Kagen, MacDonald & France, P.C., 2675 Eastern Boulevard, York, PA 17402

Attorney: Andrew F. Kagen, Esq., Kagen, MacDonald & France, P.C., 2675 Eastern Boulevard, York, PA 17402

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 feet 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 hinderances 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 hinderances 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