

# Adams County Legal Journal

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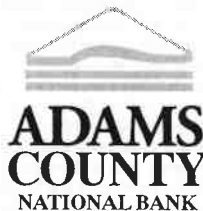
## ANNOUNCEMENT OF CONTINUING LEGAL EDUCATION PROGRAMS

1. *Buying and Selling a Business.*  
Wednesday, January 14, 1998—9:00 a.m.  
Adams County Cooperative Extension Office  
Substantive Law—3 credits. Ethics—0 credit.
2. *Representing an Individual Entering a Nursing Home.*  
Wednesday, March 18, 1998—9:00 a.m.  
Room 307, Adams County Courthouse  
Substantive Law—6 credits. Ethics—0 credit.
3. *Civil Litigation. Update*  
Wednesday, March 25, 1998—9:00 a.m.  
Adams County Cooperative Extension Office  
Substantive Law—5 credits. Ethics—1 credit.

**Registration through P.B.I. 800-932-4637**

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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. 97-S-829 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of the State Highway leading from McKnightstown to Arendtsville at the intersection of the right of way line of the new Lincoln Highway; thence in the center of said State Highway leading from McKnightstown to Arendtsville, South 35 degrees 30 minutes West, 90 feet to an iron pin; thence by other land now or formerly of Ray Williams, North 43 degrees 15 minutes West, 314 feet to a stake; thence by land now or formerly of Homer Baltzley, North 44 degrees East, 46 feet to a stake; thence by the same, North 45 degrees East, 64 feet to an iron pin at the southern right of way line of the new Lincoln Highway, South 39 degrees East, 301.5 feet to a point in the center of the State Highway leading from McKnightstown to Arendtsville, the place of BEGINNING.

HAVING erected thereon a commercial building known as 2720 Chambersburg Road.

CONTAINING 109 perches.

BEING THE SAME PREMISES which Raymond J. Smith and Rose M. Smith, by deed dated August 30, 1995, and recorded in the Office of the Recorder of Deeds for Adams County, in Record Book 1075, Page 295, granted and conveyed unto Benjamin Z. Siegel and Diana L. Siegel, Mortgagors herein.

TAX PARCEL MAP NO. D11-47

SEIZED and taken into execution as the property of **Benjamin Z. Siegel and Diana L. Siegel** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 4, 1997.

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 February 16, 1998, 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.

12/19, 26 & 1/2

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-623 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 1998, 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 Union Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center line of Bart's Church Road, Township Road No. T-459, at corner of Lot No. 9 on the subdivision plan hereinafter referred to; thence in and along the center line of Bart's Church Road, South 31 degrees 32 minutes 20 seconds East, 220 feet to a point in the center line of Clouser Road, Township Road T-455; thence in, along and through the center line of Clouser Road, South 46 degrees 45 minutes 00 seconds West, 165.61 feet to a point at Lot No. 1 on the subdivision plan hereinafter referred to, lands now or formerly of Charles H. Brown, et ux.; thence along Lot No. 1, and through a steel pin set 25 feet from the beginning of this course, North 56 degrees 53 minutes 30 seconds West, 280.64 feet to a steel pin at Lot No. 9 on the subdivision plan hereinafter referred to; thence along Lot No. 9, and through a steel pin set 25 feet from the terminus of this course, North 58 degrees 27 minutes 40 seconds East, 282.33 feet to a point in the center line of Bart's Church Road, the point and place of BEGINNING. CONTAINING 1.231 acres and designated as Lot No. 8 on the final subdivision plan prepared for Mildred C. Mummert by Mort, Brown and Associates, dated September 16, 1988, revised October 28, 1988, designated as File No. D-418, which said subdivision plan is recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 51 at Page 62.

The tract of land above described being the same which Ray C. Fleshman, Sr., unmarried, by deed dated April 23, 1993, and recorded the same date in the

Office of the Recorder of Deeds in and Adams County, Pennsylvania in Recd. - Book 714-121, granted and conveyed unto Mark A. Yingling and Alice M. Yingling, husband and wife.

Tax Map K-17, Parcel 135.

SEIZED and taken into execution as the property of **Mark A. Yingling and Alice M. Yingling** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 3, 1997.

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 February 16, 1998, 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.

12/19, 26 & 1/2

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of a Fictitious Name has been filed with the Department of State of the Commonwealth of Pennsylvania in Harrisburg, Pennsylvania, on November 24, 1997, pursuant to the Fictitious Name Act, Act No. 1982-295, setting forth that John M. Egloff and Judy A. Egloff of 305 Swift Run Road, Gettysburg, Adams County, Pennsylvania, are the only individuals engaged or interested in a business, the character of which is for the purpose of breeding, raising, sale of horses and related farming activities, and that the name, style and designation under which said business is and will be conducted is VIEUX CARRE FARMS, and the principal office or place of business is 305 Swift Run Road, Gettysburg, Adams County, Pennsylvania.

Daniel M. Frey & Associates  
Solicitor

1/2

## COMMONWEALTH VS. EDWARD

1. To be guilty of corrupting the morals of a minor, it is not necessary that Defendant's conduct actually corrupted the minor's morals, but only that it tended to corrupt her morals.

2. There is no question that purchasing and furnishing alcoholic beverages for a minor to consume is an act which would tend to corrupt the morals of that child.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-452-96 and CC-527-96, COMMONWEALTH VS. MAXIMILIAN KENNEDY EDWARD.

Michael A. George, Esq., District Attorney  
Robert Chester, Esq., for Defendant

### OPINION ON DEFENDANT'S POST SENTENCE MOTIONS

Kuhn, J., April 9, 1997.

On October 9, 1996, a jury returned verdicts of guilty against Defendant for Furnishing Alcohol to Minors in violation of 18 Pa. C.S.A. §6310.1 in CC-452-96 and to Corruption of Minors in violation of 18 Pa. C.S.A. §6301 in CC-527-96. On November 26, 1996, Defendant was sentenced to 12 months of intermediate punishment in CC-452-96 and to 23 months of intermediate punishment in CC-527-96, both effective the date of sentencing. On December 6, 1996, Defendant filed a Motion for Judgment of Acquittal and/or for a New Trial. Argument on the motion was set for February 7, 1997.

The background viewed in a light most favorable to the Commonwealth is as follows. The incident occurred on April 20, 1996. AB, then age 12, was to spend the night at the home of her friend, KL, then age 14 or 15. KL suggested that the girls "go to Kennedy's house." At that point KL called Defendant, then age 22, to meet the girls at the 7-11 store in Gettysburg. At that location the girls got into a car occupied by Defendant and driven by Kevin Johnson. AB knew neither of the men before this evening. Defendant asked KL if she wanted any beer and KL indicated that she wanted Zima which is a brewed malt beverage containing 0.5% alcohol. The Zima was obtained by Defendant at the School House Restaurant.

The group then traveled to Room No. 9 at the North Ridge Motel. With Defendant present in Room No. 9 KL picked up a bottle of Zima and handed it to AB who drank the contents. Defendant did not ask AB to drink the Zima nor did he pressure her to do so. Eventually the girls' mothers and the police were contacted.

First, Defendant challenges the sufficiency of the evidence as to each charge.

Section 6310.1 of the Crimes Code provides,

(a) Offense defined — . . . a person commits a misdemeanor of the third degree if he . . . intentionally and knowingly furnishes, . . . any . . . brewed beverage to a person who is less than 21 years of age.

There is no dispute that Zima is a brewed beverage, that Defendant is over age 21 or that he furnished the Zima to KL. The focus of Defendant's argument is the lack of evidence that he intentionally and knowingly furnished the Zima to AB. It should be noted that the information does not charge Defendant with furnishing the Zima to KL but rather only identifies AB as the victim of the offense.

Although there is no direct evidence whether Defendant acted with the requisite mental intent there is enough circumstantial evidence from which a reasonable inference can be drawn, albeit the issue is a close one. Defendant did not know AB before this night but he knew KL and bought the type of beverage she requested. At the motel room, in Defendant's presence KL handed AB a Zima which AB drank. Defendant offered no protest. The word "furnish" in its common usage means "to give." The jury was entitled to conclude that Defendant intended to give the Zima to either juvenile who wished to partake of it.

Section 6301 of the Crimes Code provides,

(a) Offense defined. - Whoever, being of the age of 18 years and upwards, by any act corrupts or tends to corrupt the morals of any minor less than 18 years of age, or who . . . encourages any such minor in the commission of any crime, . . . is guilty of a misdemeanor of the first degree.

Here, Commonwealth contended that Defendant, at least, recklessly encouraged AB to consume the Zima and thus commit the crime of underage drinking (18 Pa. C.S.A. §6308). This Court believes the evidence is sufficient to establish the offense.

It is not necessary that Defendant's conduct actually corrupted AB's morals, only that it tended to corrupt her morals. *Commonwealth v. Rodriguez*, 296 Pa. Super. 349, 353-4, 442 A.2d 803, 806 (1982). There is an unlimited variety of ways in which one's conduct may tend to encourage a child to engage in delinquent behavior. *Commonwealth v. Mumma*, 489 Pa. 547, 555, 414 A.2d 1026 (1980). There is no question that purchasing and furnishing alcoholic beverages for a minor to consume is an act which would tend to corrupt the morals of that child.

The relevant question is whether Defendant “encouraged” AB to consume alcohol. “Encouraging” in the context of §6301 and when given its common usage would mean that Defendant gave help to, fostered, or spurred on AB to consume alcohol. Whether Defendant encouraged AB is dependent upon his mental state at the time.

Section 6301 does not specify a particular level of culpability. Section 302(c), 18 Pa. C.S.A. §302(c), requires the Commonwealth to prove that Defendant acted either intentionally, knowingly, or recklessly with regard to committing an act which tends to corrupt the morals of a minor.

Section 302(b)(3) provides that,

A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and intent of the actor’s conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor’s situation.

Applied to the instant matter the evidence was sufficient for the jury to conclude that in purchasing the alcohol in response to KL’s reply, taking both girls to his motel room and not protesting their access to the alcohol Defendant was consciously disregarding a substantial and unjustifiable risk that his conduct was encouraging AB to consume the alcohol. In considering the risk that AB would drink the Zima, and the nature of Defendant’s conduct and the circumstances which were occurring in his presence, his disregard of the risk that AB would be encouraged to drink involved a gross deviation from the standard of conduct that a reasonable person would have observed in that situation.

Finally, Defendant contends that he is entitled to a new trial on the charge of Corruption of Minors because of the admission, over objection, to the introduction of certain testimony. Specifically, AB testified that Defendant hollowed out a cigar and filled it with a green leafy substance and ordered AB to smoke some of it. A leafy substance was recovered in Defendant’s room several days later which appeared to be tobacco.

Defendant argues that the information did not allege that ordering AB to smoke the cigar was an act which tended to corrupt her morals. Defendant is correct in that regard, however, it was made very clear to

the jury that Defendant could only be found guilty with regard to the alcohol matter and not as to the smoking matter. The testimony was permitted because it explained the sequence of events experienced by AB that evening and was not prejudicial to Defendant.

Accordingly, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 8th day of April, 1997, Defendant's Post-Sentence Motions are denied.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 94-N-76 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

LL those three (3) tracts of land situate, lying and being in Mt. Joy Township, Adams County, Pennsylvania, bounded and described as follows:

## TRACT NO. 1:

BEGINNING at a point in the center of the state highway leading from Gettysburg to Littlestown at corner of land now or formerly of Earl Benner; thence along said land now or formerly of Earl Benner, North 55 degrees 20 minutes East, 410 feet to a point on line of land now or formerly of Ellsworth E. Boyd; thence along said land now or formerly of Ellsworth E. Boyd, South 52 degrees 15 minutes East, 197.5 feet to corner of land now or formerly of Glenn W. McCleaf; thence along said land now or formerly of Glenn W. McCleaf, South 34 degrees West, 365.3 feet to a point in the center of the aforesaid state highway; thence in the center of said state highway, North 56 degrees West, 346.6 feet to the point and place of BEGINNING. CONTAINING 2 Acres 56 Perches.

## 'ACT NO. 2:

BEGINNING at an iron pipe at other land now or formerly of Maitland Bros. Co. and land now or formerly of Mrs. L. U. Collins; thence by land of said Maitland Bros. Co., North 52 degrees 7 minutes West, 547.3 feet to a post at land now or formerly of Maitland Bros. Co. and land retained by John S. Persons; thence by land retained by John S. Persons, North 39 degrees 1 minute East, 1021.2 feet to a point at land retained by John S. Persons; thence by the same and through an iron pipe (reference point 140.3 feet along the line) South 49 degrees 57 minutes East, 311.1 feet to an iron pipe at land now or formerly of Mrs. L. U. Collins aforesaid; thence by the same, South 25 degrees 46 minutes West, 1032.4 feet to an iron pipe, the place of BEGINNING. CONTAINING 10 Acres, more or less.

Said tract of land being the same which was surveyed by J.R. Hershey, R.E., on November 19, 1963.

LESS, HOWEVER, a tract of land containing 8.899 Acres which was sold to Gettysburg Asphalt Co. Inc. and recorded in Deed Book 249 at page 980.

## TRACT NO. 3:

BEGINNING at a tract in the center of the state highway leading from Gettysburg to Littlestown at corner of land now or formerly of Earl Benner; thence along said land now or formerly of Earl Benner, North 55 degrees 35 minutes East, 409.32 feet to an iron pin; thence continuing along same, North 52 degrees 17 minutes West, 275 feet to an iron pin on line of land now or formerly of Steve Fisher; thence along said land now or formerly of Steve Fisher, North 38 degrees 44 minutes East, 1021.60 feet

to an iron pin; thence continuing along same, South 50 degrees 7 minutes East, 311.1 feet to an iron pin on line of land now or formerly of Mrs. L. U. Collins; thence along said land now or formerly of Mrs. L. U. Collins, South 25 degrees 41 minutes West, 608.05 feet to an iron pin at corner of other land now or formerly of Maitland Bros. Co.; thence along other land of Maitland Bros. Co., North 56 degrees 27 minutes West, 174.85 feet to an iron pin; thence continuing along same, South 32 degrees 46 minutes West, 403.75 feet to an iron pin; thence continuing along same, South 40 degrees 4 minutes West, 380 feet to a tract in the center of the aforesaid state highway; thence in the center of said state highway, North 56 degrees West, 151.95 feet to the tack, the place of BEGINNING. CONTAINING 8.899 Acres.

The above description was taken from a draft of survey prepared by Gettysburg Engineering Co., Inc., dated November 11 and 12, 1964.

It is noted that Gettysburg Asphalt Co., Inc., Adams Industrial Park, Inc. merged into and with Maitland Bros. Co. by Certificate of Merger dated October 1, 1973, and recorded in Miscellaneous Book 19 at page 585.

SEIZED and taken into execution as the property of **Maitland Bros. Co.** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
November 19, 1997.

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 February 16, 1998, 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. 12/19, 26 & 1/2

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-413 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 January, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described tract of land situate, lying and being in Straban Township, Adams County, Pennsylvania, more particularly described as follows, to wit:

BEGINNING at a point in the center line of New Chester Road (T-514) which runs from U.S. Route 30 to Swift Run Road (T-515), where the dividing line between Lots 1 and 2 intersect same, Said beginning point is more exactly located as follows: from a point where

the center lines of the Western Maryland Railroad and New Chester Road intersect and running therefrom along the center line of New Chester Road, North 26 degrees 28 minutes 45 seconds East, 464.99 feet to a point, the point of beginning of Lot 2; thence continuing along the center line of New Chester Road, North 26 degrees 06 minutes 50 seconds East, 350.40 feet to a point and North 46 degrees 09 minutes 17 seconds East, 148.95 feet to a point in the dividing line between Lots 2 and 3 of "Jack's Acres," thence along the dividing line between Lots 2 and 3 of "Jack's Acres," the following courses and distances; South 61 degrees 41 minutes 10 seconds East, 499.33 feet to a point, South 26 degrees 06 minutes 50 seconds West, 156.16 feet to a point and South 64 degrees 19 minutes 37 seconds East, 933.89 feet to a point in the westerly line of lands, now or formerly of Harold R. Nevery; thence along said Nevery's land, South 30 degrees 12 minutes 50 seconds West, 285.00 feet to a point in the center line of the Western Maryland Railroad; thence along the center line of the Western Maryland Railroad, North 82 degrees 48 minutes 40 seconds West 587.07 feet to a point in the dividing line between Lots 1 and 2 of "Jack's Acres"; thence along the dividing line between Lots 1 and 2 of "Jack's Acres," the following courses and distances; North 31 degrees 11 minutes 40 seconds East, 226.39 feet to a point, North 63 degrees 53 minutes 10 seconds West, 584.88 feet to a point and North 76 degrees 12 minutes 10 seconds West, 351.59 feet to a point in the center line of New Chester Road, the point of BEGINNING. CONTAINING 12.16 acres of land, more or less and being composed of all of Lot 2 of "Jack's Acres" as shown on a plan recorded on June 7, 1966 in Plat Book 50 on page 1.

BEING THE SAME premises which John H. Vockroth and Hazel M. Vockroth, husband and wife, by their deed dated the 14th day of April, 1989, and recorded at Adams County in the Office of the Recorder of Deeds, in and for the County of Adams, in Adams County Record Book 519, Page 695, granted and conveyed unto Kathy P. Oberlin, single, the Defendant herein.

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

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 12, 1997.

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 February 23, 1998, 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. 12/26, 1/2 & 9

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-579 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 1998, 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) tracts of land situate, lying and being in the Borough of Carroll Valley, (formerly Liberty Township), Adams County, Pennsylvania, being Lots No. 431 and 433 in Section WA, bounded and described as follows:

TRACT NO. 1 (LOT WA-431):

BEGINNING at a point in the center of Lynn Trail at Lot No. 433; thence by said lot North 16 degrees 26 minutes 20 seconds West, 251.38 feet to Lot No. 432; thence by said Lot South 65 degrees 52 minutes East, 185.26 feet to a point in the center of Louise Trail; thence in said Louise Trail South 12 degrees 36 minutes 20 seconds East, 140 feet to a point in the intersection of Louise Trail and Lynn Trail; thence in said Lynn Trail South 77 degrees 23 minutes 40 seconds West, 131.66 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section WA, Charnita" dated January 17, 1970, prepared by Gordon L. Brown, R.S., and recorded in Adams County Plat Book No. 1 at Page 65.

TRACT NO. 1 TOGETHER WITH and SUBJECT TO the rights of way, covenants, conditions, reservations and restrictions contained in a deed recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 295 at Page 869.

TRACT NO. 2 (LOT WA-433):

BEGINNING at a point in the cul-de-sac of Lynn Trail at Lot No. 434; thence in the cul-de-sac and by said lot North 20 degrees 00 minutes 20 seconds West, 161.75 feet to Lot No. 273; thence by said lot North 28 degrees 4 minutes 40 seconds East, 135 feet to Lot No. 432; thence by said lot South 65 degrees 52 minutes East, 20 feet to Lot No. 431; thence by said lot South 16 degrees 26 minutes 20 seconds East, 251.38 feet to a point in the center of said Lynn Trail; thence in said Lynn Trail and in the cul-de-sac thereof South 77 degrees 23 minutes 40 seconds West, 100 feet to the place of BEGINNING.

The above description was taken from a plan of Lots labeled "Section WA, Charnita" dated January 17, 1970, prepared by Gordon L. Brown, R.S., and recorded in Adams County Plat Book 1 at Page 65.

TRACT NO. 2 TOGETHER WITH and SUBJECT TO the rights of way, covenants, conditions, reservations and restrictions contained in a deed recorded in the aforementioned Recorder's Office

in Deed Book 295 at Page 303.

BEING THE SAME PREMISES WHICH Allen W. Beckett, trading and doing business as Allen Beckett Construction, by Deed dated December 20, 1994, and recorded in the office for the Recorder of Deeds for the County of Adams on December 22, 1994, in Deed Book Volume 979, Page 87, granted and conveyed unto Charles F. Arp.

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

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
November 20, 1997.

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 February 16, 1998, 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.  
1/2, 9 & 16

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-840 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 1998, 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 Huntington Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a steel pin in the center of Oxford Road, S.R. 1016, at corner of Lot No. 3 and the northernmost corner of Lot No. 1 herein on the hereinafter described plan of lots; thence in the center of said road South 29 degrees 50 minutes 29 seconds East, 357.52 feet to a steel pin at the northernmost corner of Lot No. 2; thence by Lot No. 2, through a steel pin set back 27.66 feet from the beginning of this course, South 45 degrees 23 minutes 58 seconds West, 367.62 feet to steel pin on line of Lot No. 3; thence by Lot No. 3 North 29 degrees 42 minutes 07 seconds West, 292.45 feet to a concrete monument set; thence continuing by Lot No. 3, through a steel pin set back 27.66 feet from the end of this course, North 36 degrees 48 minutes 48 seconds East, 400 feet to a steel pin in the center of Oxford Road, S.R. 1016, the place of BEGINNING. CONTAINING 2.676 Acres.

This description was taken from a Sub-division Plan prepared by John R. Williams, PLS, dated June 16, 1994, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 65 at page 57, and designated as Lot No. 1 thereon.

It being part of the same tract of land which Weilden Pyle, Jr. and Helen R. Pyle, husband and wife, by their deed dated March 9, 1974, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 312 at page 336, sold and conveyed unto Eddie C. Altice and Virginia D. Altice, husband and wife; and Eddie C. Altice having died the 6th day of February, 1992, title in fee simple vested in Virginia D. Altice, a/k/a Virginia Altice, the decedent herein.

SEIZED and taken into execution as the property of **David E. Altice** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
November 12, 1997.

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 February 16, 1998, 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.

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12/19, 26 & 1/2



## 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 ROY K. HESS, DEC'D**  
Late of Butler Township, Adams County, Pennsylvania  
Co-Executors: Richard G. Hess, 1077 Ridge Road, York Springs, PA 17372; Leroy Hess, Jr., 2506 Heidlersburg Road, Gettysburg, PA 17325  
Attorney: John C. Zepp, III, Esquire, P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

**ESTATE OF HILDA N. KEENY, DEC'D**  
Late of Oxford Township, Adams County, Pennsylvania  
Executrix: Sandra Peters, 300 Maple Avenue, Hanover, Pennsylvania 17331  
Attorney: Donald E. Albright, Esquire, 515 Carlisle Street, Hanover, Pennsylvania 17331

**ESTATE OF HENRY E. LEPPA, DEC'D**  
Late of Conewago Township, Adams County, Pennsylvania  
Executrix: Janet L. Smith, 30 Oak Drive, Hanover, PA 17331  
Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

**ESTATE OF VIOLET A. SHILDT, DEC'D**  
Late of the Borough of Littlestown, Adams County, Pennsylvania  
Executrix: Janet M. Hawk, 1220 Fish and Game Road, Littlestown, PA 17340  
Attorney: David K. James, III, Esquire, 234 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF WILSON J. STAIR, DEC'D**  
Late of the Borough of Littlestown, Adams County, Pennsylvania  
Executrix: Margaret R. Stair, 703 West King Street, Littlestown, PA 17340  
Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

## SECOND PUBLICATION

**ESTATE OF DOROTHY M. BUCHER, DEC'D**  
Late of Franklin Township, Adams County, Pennsylvania  
Co-Executors: Mark R. Bucher, Jr., 190 Tillietown Road, Biglerville, PA 17307; Harry E. Bucher, 427 Silo Road, Orrtanna, PA 17353  
Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF CHRISTINE N. LOSMAN, a/k/a CHRISTINE NAOMI LOSMAN, DEC'D**  
Late of the Borough of McSherrystown, Adams County, Pennsylvania  
Executor: Bernard C. Brady  
Attorney: David C. Smith, Esquire, 334 Main Street, McSherrystown, PA 17344

**ESTATE OF LOVIE B. RUNKLE, DEC'D**  
Late of Adams County, Pennsylvania  
Co-Executors: Gloria A. Myers, 3968 Palmer Avenue, York, PA 17404; Rosie M. Rill, 4 Smeach Drive, Hanover, PA 17331; Galen Bortner, RD #5, Box 5248, Spring Grove, PA 17362  
Attorney: John James Mooney, III, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

**ESTATE OF DONALD J. WEAVER, DEC'D**  
Late of Mt. Pleasant Township, Adams County, Pennsylvania  
Administratrix c.t.a.: Debra A. Chin, 5822 Cub Stream Drive, Centreville, VA 20120  
Attorney: Swope, Heiser & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

## THIRD PUBLICATION

**ESTATE OF MILDRED W. BENNER, DEC'D**  
Late of Mt. Joy Township, Adams County, Pennsylvania  
Administrator: D. Edwin Benner, 230 Benner Road, Gettysburg, PA 17325  
Attorney: John A. Wolfe, Esq., Wolfe & Rice, 47 West High Street, Gettysburg, PA 17325

**ESTATE OF DONALD W. BROWN a/k/a DONALD WILLIAM BROWN, DEC'D**  
Late of Oxford Township, Adams County, Pennsylvania  
Executor: William D. Brown, 250 Bragg Circle, Hanover, PA 17331  
Attorney: Keith R. Nonemaker, Esquire, Rudsill, Guthrie, Nonemaker, Guthrie, & Yingst, 40 York Street, Hanover, PA 17331

**ESTATE OF MARTHA REXROTH a/k/a MARTHA M. REXROTH, DEC'D**  
Late of Biglerville Borough, Adams County, Pennsylvania  
Executrix: Helen Rexroth, 24 W. Hanover Street, Biglerville, PA 17307  
Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF EMILIE D. TYSON, DEC'D**  
Late of Huntingdon Township, Adams County, Pennsylvania  
Executor: Ralph W. Tyson, 4000 Carlisle Road, Gardners, PA 17324  
Attorney: John A. Wolfe, Esq., Wolfe & Rice, 47 West High Street, Gettysburg, PA 17325

## INCORPORATION NOTICE

**NOTICE IS HEREBY GIVEN** that Articles of Incorporation will be filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or before December 31, 1997, for the incorporation of CHOICE FAMILY PHARMACY, INC., under the Pennsylvania Business Corporation Law of 1988. The purpose for which the corporation is being organized is for the operation of a pharmacy business including sale of sundry goods, leasing of equipment and all other goods and services offered by a comprehensive pharmacy and all other activities permitted by the PA Business Corporation Law, as amended, within and outside the Commonwealth of Pennsylvania, and the corporation shall have unlimited powers to engage in and to do any lawful act concerning any and all business for which corporations may be incorporated under the Pennsylvania Business Corporation Law of 1988.

The initial registered office of the corporation is 8 South 6th Street, McSherrystown, Pennsylvania, 17344.

Wilcox, James and Cook  
Attorneys at Law  
234 Baltimore Street  
Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-925 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 January, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or tract of land with the improvements erected thereon situate in the Borough of New Oxford, Adams County, Pennsylvania, more commonly designated as Lot No. 26A as set forth on the Final Plan Re-Subdivision of Lot 26D Oxford Commons recorded in the Office of the Recorder of Deeds for Adams County, Pennsylvania in Plan Book 60, page 36 (erroneously stated as Plan Book 62, page 47 in the prior deed), said lot being more particularly bounded and described as follows, to wit:

BEGINNING at a steel pin set at the South corner of Lot No. 12 of Oxford Commons Phase I, said steel pin being located 30.00 feet Northeast from the centerline of Water Street and also located 150.00 feet Southeast from the centerline of Oxford Circle; thence along Lot Nos. 12 through 16 of Oxford Commons Phase I, North sixty-six (66) degrees nineteen (19) minutes twelve (12) seconds East one hundred thirty (130.00) feet to an existing steel pin; thence along Lot No. 24 of Oxford Commons Phase I, South twenty-three (23) degrees forty (40) minutes forty-eight (48) seconds East thirty and eight hundredths (30.08) feet to a steel pin set; thence along Lot No. 26B of Oxford Commons and through the centerline of a partition wall of an existing townhouse, South sixty-five (65) degrees twenty-three (23) minutes seven (7) seconds West one hundred thirty and two hundredths (130.02) feet to a steel pin set. Said steel pin being located 30.00 feet Northeast from the centerline of Water Street; thence along the right of way line of Water Street North twenty-three (23) degrees forty (40) minutes forty-eight (48) seconds West thirty-two and twenty; hundredths feet to a steel pin set and the place of BEGINNING. (This tract was erroneously described as 206 South Water Street in this prior deed. The correct address is 202 South Water Street, New Oxford, Pennsylvania).

Tax Parcel # 7-99

TITLE TO SAID PREMISES IS VESTED IN Cyril A. Kuhn by Deed from The Peoples State Bank dated 9/27/95 recorded 10/14/95 in Record Book 1091 Page 165.

SEIZED and taken into execution as the property of **Cyril A. Kuhn** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 8, 1997.

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 February 23, 1998, 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.  
12/19, 26 & 1/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-629 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 January, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground situate, lying and being in the Village of Heidlersburg, Tyrone Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to-wit:

BEGINNING at a steel pin set on the right-of-way line of Pennsylvania Route 234, Legislative Route 342-B, and at the corner of a 20 feet wide alley (unopened); thence along said right-of-way line of Pennsylvania Route 234, South 76 degrees 19 minutes 00 seconds East, 165.00 feet to a nail set on said right-of-way line and at a corner of the Public Square of the Village of Heidlersburg, South 23 degrees 16 minutes 00 seconds West, 75.00 feet to a steel pin set at a corner of said Public Square and on line of lands now or formerly of Franklin L. Weigle; thence by said lands now or formerly of Weigle, North 76 degrees 19 minutes 00 seconds West, 165.00 feet to a steel pin set along said 20 feet wide alley (unopened) at corner of said lands now or formerly of Weigle; thence along said 20 feet wide alley (unopened) on the right-of-way line of Pennsylvania Route 234, the place of BEGINNING. Containing 12,202 Square Feet or 0.280 Acre.

The above described lot of ground is the same which Mary L. Adams, Widow, by her Deed dated February 22, 1985 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book Volume 396, Page 38, sold and conveyed unto Lloyd L. Stevens and Ruth M. Stevens, husband and wife as tenants by the entireties.

SEIZED and taken into execution as the property of **Lloyd L. Stevens and Ruth M. Stevens** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 5, 1997.

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 February 23, 1998, 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.  
12/19, 26 & 1/2

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, January 5, 1998, at 10:30 a.m.

**KAEHLER**—Orphans' Court Action Number OC-146-97. The First and Final Account of Angela K. Hunter and Judith K. Sterner, Co-Executors of the Estate of Isabel H. Kaehler, deceased, late of Conewago Township, Adams County, Pennsylvania.

**WILLIAMS**—Orphans' Court Action Number OC-151-97. The First and Final Account of Adams County National Bank, Executor of the Last Will and Testament of Evelyn Eleanor Williams, deceased, late of Conewago Township, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

12/26 & 1/2

INCORPORATION NOTICE

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

Hursh & Hursh, P.C.  
Counselors at Law  
229 State Street  
Harrisburg, PA 17101

1/2

# Adams County Legal Journal

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Vol. 39

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No. 33, pp. 183-188

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## ANNOUNCEMENT OF CONTINUING LEGAL EDUCATION PROGRAMS

1. *Buying and Selling a Business.*  
Wednesday, January 14, 1998—9:00 a.m.  
Adams County Cooperative Extension Office  
Substantive Law—3 credits. Ethics—0 credit.
2. *Representing an Individual Entering a Nursing Home.*  
Wednesday, March 18, 1998—9:00 a.m.  
Room 307, Adams County Courthouse  
Substantive Law—6 credits. Ethics—0 credit.
3. *Civil Litigation. Update*  
Wednesday, March 25, 1998—9:00 a.m.  
Adams County Cooperative Extension Office  
Substantive Law—5 credits. Ethics—1 credit.

**Registration through P.B.I. 800-932-4637**

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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. 97-S-247 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of February, 1998, 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 Snow Plow Trail at Lot No. 267, thence by said lot North 64 degrees, 44 minutes, 25 seconds West, 225.16 feet to Lot No. 265; thence by said lot North 27 degrees 27 minutes 2 seconds East, 142.36 feet to a point in the center of Bunny Trail; thence in said Bunny Trail South 66 degrees 36 minutes 15 seconds East, 225.56 feet to a point in the intersection of Bunny Trail and Snow Plow Trail; thence in said Snow Plow Trail South 27 degrees 27 minutes 2 seconds West, 149.70 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section K, Charnita" dated March 3, 1969, prepared by Evans Hagan & Holdefer and recorded in Adams County Plat Book NO. 1 at Page 42.

BEING THE SAME PREMISES which Robert J. Gach and Patricia R. Gach, husband and wife, by deed dated June 8, 1989 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 0524-1081, granted and conveyed unto Lloyd D. Elzey and Flora J. Elzey, husband and wife.

SEIZED and taken into execution as the property of **Lloyd Douglas Elzey, a/k/a Lloyd D. Elzey and Flora Jane Elzey, a/k/a Flora J. Elzey** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 16, 1997.

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 March 2, 1998, 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.  
1/9, 16 & 23

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-326 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 January, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING for a point on the 60 foot right-of-way line of West Myrtle Street at Lot No. 7, as shown on the hereinafter described subdivision plan; thence along said Lot No. 7, North 64 degrees 49 minutes 18 seconds West, 148.07 feet to a point at land now or formerly of Nancy A. Beimler and Richard Ronner; thence along said lands now or formerly of Nancy A. Beimler and Richard Ronner North 33 degrees 25 minutes 15 seconds East, 96.63 feet (erroneously stated as 482.36 feet in prior deeds) to a point at Lot No. 9 as shown on the hereinafter described subdivision plan; thence along said Lot No. 9, South 47 degrees 53 minutes 36 seconds East, 148.44 feet to a point on the 60 foot right-of-way line of West Myrtle Street; thence by a curve to the left, the radius of which is 180 feet, with an arc distance of 53.18 feet and a long chord bearing and distance of South 33 degrees 38 minutes 33 seconds West, 52.99 feet to a point at Lot No. 7 aforesaid, the point and place of BEGINNING. CONTAINING 10,901 square feet.

BEING Lot #8 on the Final Plan of West Side Terrace, dated June 14, 1991 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plan Book 59 at Page 19.

SUBJECT to the "West Side" Subdivision Approval Agreement dated June 25, 1991 and recorded in the Adams County Recorder of Deeds Office in Record Book 600 at Page 367.

SUBJECT to Declaration of Protective Covenants and Restrictions as recorded in the Adams County Recorder of Deeds Office in Record Book 600 at page 375.

TAX PARCEL #7-124.

TITLE TO SAID PREMISES IS VESTED IN **Larry L. Herren**, a single man by Deed from **Slade S. McCalip** and **Pamela J. McCalip**, husband and wife dated 6/30/94, recorded 7/5/94, in Record Book 907 page 307.

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

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 9, 1997.

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 February 23, 1998, 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 higher, shall be paid forthwith to the Sheriff.  
1/9, 16 & 23

## COMMONWEALTH VS. MILLER

1. One's intention can be established by circumstantial evidence.
2. Impossibility per se is not a defense.
3. A court is required, even without request, to dismiss a prosecution if it determines that the Defendant's conduct involved a de minimus infraction of the law.
4. Section 312 of the Crimes Code governing de minimus infractions applies to situations in which there was no harm done to either a victim or society.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-172-96 COMMONWEALTH VS. RODNEY JAY MILLER.

Bernard Yannetti, Jr., Esq., Assistant D.A.  
R. Mark Thomas, Esq., for Defendant

### OPINION ON DEFENDANT'S POST-TRIAL MOTION

Kuhn, J. May 9, 1997.

The evidence viewed in a light most favorable to the Commonwealth reveals the following background. On December 20, 1995, Defendant, Rodney J. Miller, went to the Gettysburg Wal Mart to obtain a 12 gauge Mossberg shotgun he had placed on layaway two days earlier. Defendant paid for the weapon and executed various documents presented to him by the clerk, Teresa Hufnagel. The forms included an Application For Purchase of a Firearm (CX 1), a Record of Sale of Firearms (CX 2), a Department of The Treasury Firearms Transaction Record (CX 3) and an Addendum To Application For Purchase of A Firearm (CX 4). Defendant also provided the clerk with a picture identification.

While the clerk was completing paperwork Defendant walked around the store for 5-10 minutes. During his absence another customer advised the clerk that there might be a problem with Defendant's application so the clerk contacted the store manager who, in turn, contacted Trooper James Graham of the Pennsylvania State Police. When Defendant returned to the clerk she advised, upon instruction from the manager, that they had not located the shotgun in question.

Upon his arrival at Wal Mart, Trooper Graham reviewed the documents (CX 1-4) executed by Defendant. The shotgun itself was

never seized nor made part of the evidence. On two documents (CX 1 and 2) printed next to Defendant's signature were the words "I have never been convicted of a crime of violence in the Commonwealth of Pa. or elsewhere . . ." On another document (CX 3) next to the preprinted sentence "Have you been convicted in any court of a crime punishable by imprisonment for a term exceeding one year?" Defendant wrote "No." On the fourth document (CX 4) executed by Defendant were printed the words

Effective, October 11, 1995, 18 Pa. C.S. §6105 prohibit persons convicted of any of the following offenses under 18 Pa. C.S. from possessing . . . or obtaining a license to possess . . . a firearm in the Commonwealth of Pennsylvania . . .

I HAVE NEVER BEEN CONVICTED OF ANY OF THE FOLLOWING OFFENSES, OR IF I HAVE, I AM EXEMPTED PURSUANT TO 18 Pa. C.S. §6105(D):

...

#### §2702 Aggravated Assault

In fact, Defendant had been convicted of Aggravated Assault in 1989 and more than one year of imprisonment could have been imposed.

On January 9, 1996, a criminal complaint was filed charging Defendant with violations of Sections 901, 4904(a)(1) and (3), and 6105(a) of the Crimes Code. The alleged violation of §4904(a)(3) was withdrawn before formal arraignment. At trial on October 10, 1996, the undersigned dismissed Count I, Persons Not To Possess a Firearm, 18 Pa. C.S.A. §6105. The jury entered guilty verdicts on Count II, Unsworn Falsification To Authorities, 18 Pa. C.S.A. §4904(a)(1), and Count III, Criminal Attempt/Persons Not To Possess Firearms, 18 Pa. C.S.A. §901 (6105a). Sentencing occurred on November 26, 1996.

On December 5, 1996, Defendant filed a post sentence motion wherein he raised three issues.

As a preliminary background it should be noted that when Defendant was convicted of Aggravated Assault in 1989 the Pennsylvania Uniform Firearms Act, 18 Pa. C.S.A. §6101, et seq., prohibited one who had been convicted of a crime of violence (including aggravated

assault) from possessing a firearm (including any shotgun with a barrel less than 18 inches). The shotgun Defendant attempted to purchase had a barrel length in excess of 18 inches and would not constitute a firearm under the definition of that term in effect in 1989. Subsequently, the Pennsylvania Legislature enacted the Pennsylvania Uniform Firearms Act of 1995, Amended 1995, June 13, P.L. 1024, No. 17, effective October 11, 1995. Section 6105(a) remained substantially unchanged in that, inter alia, it prohibited anyone convicted of aggravated assault from possessing a firearm. Although the definitional section (§6102) of the Act defined a “firearm” as including a shotgun with a barrel length less than 18 inches or an overall length of less than 26 inches Section 6105(i) provided a definition for “firearm” specifically applicable to §6105 only. That provision defined firearm “to include any weapons which are designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon.”<sup>1</sup>

Defendant first argues that to the extent the 1995 enactment is applicable to him it is a constitutionally invalid ex post facto law. This issue was addressed and decided against Defendant in a Memorandum Opinion dated August 29, 1996, which is incorporated herein.

Next Defendant contends that the Commonwealth failed to prove that the shotgun in question fit the definition of a firearm under §6102 or §6105(i). Commonwealth concedes that the §6102 definition does not apply to this shotgun. Specifically, Defendant argues the absence of any evidence that this shotgun fit the §6105(i) definition. The only testimony on this issue was from Trooper Graham (T-48):

Q. What was this gun capable of shooting?

A. 12 gauge shotgun is capable of shooting either a 12 gauge shotgun shell or a rifled slug projectile.

What Defendant suggests this testimony lacks is an explanation of the mechanism by which the projectile is expelled, either “by the action of an explosive or the frame or receiver of such weapon.” As noted, the weapon was not retained or introduced nor was a photograph of it introduced into evidence. Furthermore, it could be argued that Trooper

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<sup>1</sup>Interestingly, this definition would apply to a bow and arrow.

Graham's response was generally applicable to 12 gauge shotguns but not this specific gun. Nevertheless, while many in the community may be generally familiar with the manner in which a projectile is expelled from a shot gun we are specifically focused on the shotgun which Defendant attempted to purchase. There is no testimony concerning the manner in which a projectile would be expelled from this gun. In fact, there is not testimony that this specific shotgun is operable or capable of expelling a projectile or whether it could be readily converted to do so except, the above exchange with Trooper Graham.

If one concedes that Trooper Graham was referring to this specific gun then the inquiry becomes whether "shooting" is a word of sufficient meaning that a jury could conclude that it connotes the explosive action necessary to qualify this gun as a "firearm." According to Webster's New Collegiate Dictionary "shoot" means (1) to eject or impel by a sudden release of tension, (2) to drive forth by an explosion, or (3) to drive forth by a sudden release of gas or air. Thus, one of the primary societal definitions of "shoot" involves not an explosive, the frame or the receiver but "a sudden release of gas or air." That type of shooting (if meant by Trooper Graham) would not suffice to make this object a "firearm." Therefore, based upon the vagueness of the testimony the Court feels compelled to dismiss this charge as not having been proven beyond a reasonable doubt.

Disposition of this issue in favor of Defendant renders moot the issue of whether Defendant had the requisite intent under Count III.

The last issue addresses whether Commonwealth presented sufficient evidence to prove Defendant guilty on Count II. The offense of Unsworn Falsification To Authorities, 18 Pa. C. S.A. §4904, provides in pertinent part,

(a) In general. - A person commits a misdemeanor of the second degree if, with the intent to mislead a public servant in performing his official function, he:

(1) makes any written false statement which he does not believe to be true; A "public servant" includes "any officer or employee of government . . . in performing a governmental function . . ." "Government" is limited to state or local government. 18 Pa. C.S.A. §4501.



Defendant does not contest that he signed the documents (CX 1-4) in question nor does he challenge that the representations regarding his criminal history were incorrect. Instead, he argues that under the law at the time of this incident these documents could not have misled a public servant because they were not required to be completed or were not to be presented to an "employee of government."

On December 20, 1995, the law did not require the completion of an application (CX 1) or record of sale (CX 2) for the purchase of a shotgun with a barrel length in excess of 18 inches. 18 Pa. C.S.A. §6111(b)(1.4). Trooper Graham also admitted that CX 4 had been declared obsolete prior to December 20, 1995, and was not required to be signed. (T 57-8). The other document (CX 3) is a federal document and not one given to public servants as defined above.

Where, as here, a material element of the offense "involves the nature of his conduct or a result thereof" a defendant acts intentionally with regard to that element when "it is his conscious object to engage in conduct of that nature or to cause such a result." 18 Pa. C.S.A. §302(b)(1)(i) One's intention can be established by circumstantial evidence. Here the evidence was sufficient to prove that Defendant intended to mislead a public servant when he misrepresented his criminal background on the various documents. On CX 1, 2 and 4 there was specific language that the form "will be used by public agencies in performing their duties."

The fact that the forms were not going to be used by any "public servant" is of no import in determining whether the elements are proven. It is, of course, impossible for the forms to mislead a "public servant" if no "public servant" will be utilizing the document for any purpose. However, impossibility per se is not a defense. See, for example, 18 Pa. C.S.A. §901(b).

Nevertheless, the Court feels compelled to reverse the jury's verdict. A court is required, even without request, to dismiss a prosecution if it determines that the defendant's conduct involved a de minimus infraction of the law. *Commonwealth v. Gemelli*, 326 Pa. Super. 388, 400, 474 A.2d 294, 300 (1984). The Crimes Code specifically provides

§312. De minimus infractions.

(a) General rule - The court shall dismiss a prosecution if, having regard to the nature of the conduct charged to constitute an offense and the nature of the attendant circumstances it finds that the conduct of the defendant:

...  
(2) did not actually cause or threaten the harm or evil sought to be prevented by the law defining the offense or did so only to an extent too trivial to warrant the condemnation of conviction . . .

This subsection applies to situations in which there was no harm done to either a victim or society. *Commonwealth v. Moses*, 350 Pa. Super. 231, 235, 504 A.2d 330, 332 (1986). In the instant matter Defendant's conduct resulted in no harm to either a victim or society. The forms he completed would not even be received or reviewed by a "public servant" thereby making it impossible to effectuate the harm (misleading a public servant) sought to be prevented by §4904(a)(1).

Accordingly, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 9th day of May, 1997, in consideration of Defendant's Post-Trial Motion and for the reasons set forth in the attached Opinion the guilty verdicts entered on Count II and III on October 10, 1996, are reversed and set aside.

## 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 CARL H. McDERMITT, DEC'D

Late of Latimore Township, Adams County, Pennsylvania  
 Executrix: Barbara A. Black, 2225 Cranberry Road, York Springs, PA 17372  
 Attorney: Swope, Heiser, & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

## SECOND PUBLICATION

## ESTATE OF ROY K. HESS, DEC'D

Late of Butler Township, Adams County, Pennsylvania  
 Co-Executors: Richard G. Hess, 1077 Ridge Road, York Springs, PA 17372; Leroy Hess, Jr., 2506 Heidlersburg Road, Gettysburg, PA 17325  
 Attorney: John C. Zepp, III, Esquire, P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

## ESTATE OF HILDA N. KEENY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania  
 Executrix: Sandra Peters, 300 Maple Avenue, Hanover, Pennsylvania 17331  
 Attorney: Donald E. Albright, Esquire, 515 Carlisle Street, Hanover, Pennsylvania 17331

## ESTATE OF HENRY E. LEPPA, DEC'D

Late of Conewago Township, Adams County, Pennsylvania  
 Executrix: Janet L. Smith, 30 Oak Drive, Hanover, PA 17331  
 Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

## ESTATE OF VIOLET A. SHILDT, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania  
 Executrix: Janet M. Hawk, 1220 Fish and Game Road, Littlestown, PA 17340  
 Attorney: David K. James, III, Esquire, 234 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF WILSON J. STAIR, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania  
 Executrix: Margaret R. Stair, 703 West King Street, Littlestown, PA 17340  
 Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

## THIRD PUBLICATION

## ESTATE OF DOROTHY M. BUCHER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania  
 Co-Executors: Mark R. Bucher, Jr., 190 Tillietown Road, Biglerville, PA 17307; Harry E. Bucher, 427 Silo Road, Orrtanna, PA 17353  
 Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF CHRISTINE N. LOSMAN, a/k/a CHRISTINE NAOMI LOSMAN, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania  
 Executor: Bernard C. Brady  
 Attorney: David C. Smith, Esquire, 334 Main Street, McSherrystown, PA 17344

## ESTATE OF LOVIE B. RUNKLE, DEC'D

Late of Adams County, Pennsylvania  
 Co-Executors: Gloria A. Myers, 3968 Palmer Avenue, York, PA 17404; Rosie M. Riill, 4 Smeach Drive, Hanover, PA 17331; Galen Bortner, RD #5, Box 5248, Spring Grove, PA 17362  
 Attorney: John James Mooney, III, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

## ESTATE OF DONALD J. WEAVER, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania  
 Administratrix c.t.a.: Debra A. Chin, 5822 Cub Stream Drive, Centreville, VA 20120  
 Attorney: Swope, Heiser & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

## INCORPORATION NOTICE

**NOTICE IS HEREBY GIVEN** that Articles of Incorporation have been filed with the Pennsylvania Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 144, No. 177, as amended. The name of the corporation is SUBJECTS & PREDICATES, INC.

1/9

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-579 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 1998, 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) tracts of land situate, lying and being in the Borough of Carroll Valley, (formerly Liberty Township), Adams County, Pennsylvania, being Lots No. 431 and 433 in Section WA, bounded and described as follows:

## TRACT NO. 1 (LOT WA-431):

BEGINNING at a point in the center of Lynn Trail at Lot No. 433; thence by said lot North 16 degrees 26 minutes 20 seconds West, 251.38 feet to Lot No. 432; thence by said Lot South 65 degrees 52 minutes East, 185.26 feet to a point in the center of Louise Trail; thence in said Louise Trail South 12 degrees 36 minutes 20 seconds East, 140 feet to a point in the intersection of Louise Trail and Lynn Trail; thence in said Lynn Trail South 77 degrees 23 minutes 40 seconds West, 131.66 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section WA, Charnita" dated January 17, 1970, prepared by Gordon L. Brown, R.S., and recorded in Adams County Plat Book No. 1 at Page 65.

TRACT NO. 1 TOGETHER WITH and SUBJECT TO the rights of way, covenants, conditions, reservations and restrictions contained in a deed recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 295 at Page 869.

## TRACT NO. 2 (LOT WA-433):

BEGINNING at a point in the cul-de-sac of Lynn Trail at Lot No. 434; thence in the cul-de-sac and by said lot North 20 degrees 00 minutes 20 seconds West, 161.75 feet to Lot No. 273; thence by said lot North 28 degrees 4 minutes 40 seconds East, 135 feet to Lot No. 432; thence by said lot South 65 degrees 52 minutes East, 20 feet to Lot No. 431; thence by said lot South 16 degrees 26 minutes 20 seconds East, 251.38 feet to a point in the center of said Lynn Trail; thence in said Lynn Trail and in the cul-de-sac thereof South 77 degrees 23 minutes 40 seconds West, 100 feet to the place of BEGINNING.

The above description was taken from a plan of Lots labeled "Section WA, Charnita" dated January 17, 1970, prepared by Gordon L. Brown, R.S., and recorded in Adams County Plat Book 1 at Page 65.

TRACT NO. 2 TOGETHER WITH and SUBJECT TO the rights of way, covenants, conditions, reservations and restrictions contained in a deed recorded in the aforementioned Recorder's Office in Deed Book 295 at Page 303.

BEING THE SAME PREMISES WHICH Allen W. Beckett, trading and doing business as Allen Beckett Construction, by Deed dated December 20, 1994, and recorded in the office for the Recorder of Deeds for the County of Adams on December 22, 1994, in Deed Book Volume 979, Page 87, granted and conveyed unto Charles F. Arp.

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

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
November 20, 1997.

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 February 16, 1998, 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.

1/2, 9 & 16

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-413 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 January, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described tract of land situate, lying and being in Straban Township, Adams County, Pennsylvania, more particularly described as follows, to wit:

BEGINNING at a point in the center line of New Chester Road (T-514) which runs from U.S. Route 30 to Swift Run Road (T-515), where the dividing line between Lots 1 and 2 intersect same. Said beginning point is more exactly located as follows: from a point where the center lines of the Western Maryland Railroad and New Chester Road intersect and running therefrom along the center line of New Chester Road, North 26 degrees 06 minutes 50 seconds East, 350.40 feet to a point and North 46 degrees 09 minutes 17 seconds East, 148.95 feet to a point in the dividing line between Lots 2 and 3 of "Jack's Acres," thence along the dividing line between Lots 2 and 3 of "Jack's Acres," the following courses and distances; South 61 degrees 41 minutes 10 seconds East, 499.33 feet to a point, South 26 degrees 06 minutes

50 seconds West, 156.16 feet to a point and South 64 degrees 19 minutes 37 seconds East, 933.89 feet to a point in the westerly line of lands, now or formerly of Harold R. Neverly; thence along said Neverly's land, South 30 degrees 12 minutes 50 seconds West, 285.00 feet to a point in the center line of the Western Maryland Railroad; thence along the center line of the Western Maryland Railroad, North 82 degrees 48 minutes 40 seconds West 587.07 feet to a point in the dividing line between Lots 1 and 2 "Jack's Acres"; thence along the dividing line between Lots 1 and 2 of "Jack's Acres," the following courses and distances; North 31 degrees 11 minutes 40 seconds East, 226.39 feet to a point, North 63 degrees 53 minutes 10 seconds West, 584.88 feet to a point and North 76 degrees 12 minutes 10 seconds West, 351.59 feet to a point in the center line of New Chester Road, the point of BEGINNING. CONTAINING 12.16 acres of land, more or less and being composed of all of Lot 2 of "Jack's Acres" as shown on a plan recorded on June 7, 1966 in Plat Book 50 on page 1.

BEING THE SAME premises which John H. Vockroth and Hazel M. Vockroth, husband and wife, by their deed dated the 14th day of April, 1989, and recorded at Adams County in the Office of the Recorder of Deeds, in and for the County of Adams, in Adams County Record Book 519, Page 695, granted and conveyed unto Kathy P. Oberlin, single, the Defendant herein.

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

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 12, 1997.

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 February 23, 1998, 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.

12/26, 1/2 & 9

# *Adams County* Legal Journal

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Vol. 39

January 16, 1998

No. 34, pp. 189-192

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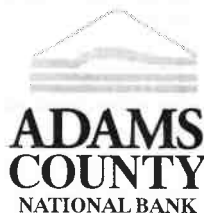
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## **IN THIS ISSUE**

GOOD VS. DRUM

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



Member FDIC

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-247 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of February, 1998, 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 Snow Plow Trail at Lot No. 267, thence by said lot North 64 degrees, 44 minutes, 25 seconds West, 225.16 feet to Lot No. 265; thence by said lot North 27 degrees 27 minutes 2 seconds East, 142.36 feet to a point in the center of Bunny Trail; thence in said Bunny Trail South 66 degrees 36 minutes 15 seconds East, 225.56 feet to a point in the intersection of Bunny Trail and Snow Plow Trail; thence in said Snow Plow Trail South 27 degrees 27 minutes 2 seconds West, 149.70 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section K, Charnita" dated March 3, 1969, prepared by Evans Hagan & Holdefer and recorded in Adams County Plat Book NO. 1 at Page 42.

BEING THE SAME PREMISES which Robert J. Gach and Patricia R. Gach, husband and wife, by deed dated June 8, 1989 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 0524-1081, granted and conveyed unto Lloyd D. Elzey and Flora J. Elzey, husband and wife.

SEIZED and taken into execution as the property of **Lloyd Douglas Elzey, a/k/a Lloyd D. Elzey and Flora Jane Elzey, a/k/a Flora J. Elzey** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 16, 1997.

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 March 2, 1998, 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.  
1/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-326 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 January, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING for a point on the 60 foot right-of-way line of West Myrtle Street at Lot No. 7, as shown on the hereinafter described subdivision plan; thence along said Lot No. 7, North 64 degrees 49 minutes 18 seconds West, 148.07 feet to a point at land now or formerly of Nancy A. Beimler and Richard Ronner; thence along said lands now or formerly of Nancy A. Beimler and Richard Ronner North 33 degrees 25 minutes 15 seconds East, 96.63 feet (erroneously stated as 482.36 feet in prior deeds) to a point at Lot No. 9 as shown on the hereinafter described subdivision plan; thence along said Lot No. 9, South 47 degrees 53 minutes 36 seconds East, 148.44 feet to a point on the 60 foot right-of-way line of West Myrtle Street; thence by a curve to the left, the radius of which is 180 feet, with an arc distance of 53.18 feet and a long chord bearing and distance of South 33 degrees 38 minutes 33 seconds West, 52.99 feet to a point at Lot No. 7 aforesaid, the point and place of BEGINNING. CONTAINING 10,901 square feet.

BEING Lot #8 on the Final Plan of West Side Terrace, dated June 14, 1991 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plan Book 59 at Page 19.

SUBJECT to the "West Side" Subdivision Approval Agreement dated June 25, 1991 and recorded in the Adams County Recorder of Deeds Office in Record Book 600 at Page 367.

SUBJECT to Declaration of Protective Covenants and Restrictions as recorded in the Adams County Recorder of Deeds Office in Record Book 600 at page 375.

TAX PARCEL #7-124.

TITLE TO SAID PREMISES IS VESTED IN Larry L. Herren, a single man by Deed from Slade S. McCallip and Pamela J. McCallip, husband and wife dated 6/30/94, recorded 7/5/94, in Record Book 907 page 307.

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

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 9, 1997.

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 February 23, 1998, 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.  
1/9, 16 & 23

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 **BEN'S LANDSCAPING AND LAWN SERVICE, INC.**

Puhl & Eastman  
16 Lincoln Square  
Gettysburg, PA 17325

## GOOD VS. DRUM

1. A compulsory nonsuit may only be granted in cases where it is clear that a cause of action has not been established.
2. On a Motion for a compulsory nonsuit, the plaintiff must be given the benefit of all favorable evidence along with all reasonable inferences of fact arising from the evidence.
3. Generally, expert testimony is necessary to prove that a doctor's care falls below accepted standards unless the matter is so simple and lack of skill or want of care so obvious as to be within the range of ordinary experience and comprehension of non-professionals.
4. Even though an expert's testimony must be read in its entirety, the person must testify somewhere that the acceptable standard of care has been breached.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 93-S-323, PAT W. GOOD VS. RAY K. DRUM, D.D.S.

Brian K. Zellner, Esq. for Plaintiff  
F. Lee Shipman, Esq. for Defendant

### OPINION ON MOTION TO REMOVE NONSUIT

Spicer, P.J., July 9, 1997.

This dental malpractice suit was tried before a jury on January 27 and 28, 1997. At the conclusion of plaintiff's case, the court granted defendant's motion for a compulsory nonsuit.

Plaintiff first saw defendant on May 31, 1988 because of an accident, which had loosened her, upper left bridge and fractured the enamel of teeth on her lower bridge. Plaintiff also complained about her temporomandibular joint. Following defendant's recommendations, plaintiff subsequently underwent extensive dental work in the nature of a full mouth reconstruction. Defendant provided appliances, bridges and crowns.

Although directly pertinent to the issue presently before us, plaintiff chewed gum incessantly, vigorously and copiously before and during Dr. Drum's treatment. After experiencing mobility and other problems, she sought the services of Dr. William H. Pfeffer, who replaced most, if not all of Dr. Drum's work. When plaintiff ceased chewing gum, most of her dental problems ended.

Plaintiff called Dr. Pfeffer as an expert witness to establish a breach of professional negligence by Dr. Drum. After Dr. Pfeffer said that he did not claim to be an expert, (NT 71), defendant unsuccessfully sought to prevent his testimony. The court denied the request, but instructed plaintiff's counsel that the witness would be required to establish his familiarity with an appropriate standard, and that defendant breached it. At the close of plaintiff's case, the following occurred:

THE COURT: (After comments pertaining to something else.) If I may cut this to the chase, that's not what really bothers me. What bothers me is that when I was telling plaintiff's counsel that we would allow him to testify if he were familiar with the standard of care in this community, he couldn't. He never really said that Dr. Drum was negligent or violated that standard. Not once did he say that. The closest he came was that Dr. Drum misdiagnosed the Plaintiff's habits, not the Plaintiff's problems but the Plaintiff's habits and that there was a breach I suppose, although he never used that word, of accountability and accountability appears from his testimony to be some kind of warranty that if the thing doesn't work, you give the patient the money back. I'm really trying hard to put a more favorable spin on his testimony. Do you want to address this?

MR. SHIPMAN: So I'm formally making a motion for a compulsory nonsuit, Your Honor.

MR. ZELLNER: I think as to Doctor Pfeffer being an expert, I believe he did testify yesterday that he was trained in prosthodontics.

THE COURT: Let's forget about the fact that he's an expert or nonexpert and assume that he's an expert. That's not the problem. As I told your adversary, the problem is that he never said he was familiar with the standard of care for this type of prosthodontic work and he never said that Doctor Drum violated that standard of care. Were you suing on some kind of implied warranty theory here?

MR. ZELLNER: No.

THE COURT: I don't think you could to tell you the truth, but that's about as much as his testimony amounted to that two closest parts of his testimony that came to substantiating your case, one he said that Doctor Drum was not accountable; he didn't pay the lady her money back, and number two, anybody who looked at this, dentist or non dentist, would know there was something wrong if something happened within two or three weeks of \$17,500 worth of work.

N.T. 114 et seq.



After more discussion, plaintiff's counsel suggested that the witness had testified that a misdiagnosis occurred. However, it was clear from the doctor's testimony that any misdiagnosis related to plaintiff's tenacity in sticking to her habits, not to her dental condition. One of those habits, as we have mentioned, was chewing gum. Although Dr. Pfeffer criticized Dr. Drum's decision to employ single crowns, he freely admitted it was an acceptable way of dealing with the problem. In addition, the following occurred during direct examination:

Q. Why don't you tell us, Doctor, what the standard of care in this case would be?

A. I think—this is a very general term. Standard of care basically to me to give the best possible care, the most conservative care, look out for the patient's best interest and in the end be accountable for it.

Q. How do you feel then, with that definition of standard of care, that Dr. Drum deviated from it?

A. The fact that the work didn't hold up. The work didn't hold up. The theory—and I'm not going to get in an argument with Ray about the theory. I have respect for his opinion. I wouldn't have done it that way. I don't know if Dr. Krill would have done it that way. Feldman in Baltimore wouldn't have done it that way, recommended that it wouldn't be done that way. It just didn't work out. I'm trying to be simple for these people. Maybe I just don't understand your question. N.T. 104

At another point during direct examination, Dr. Pfeffer, in response to a question concerning a deviation from standard of care, said "Mr. Zellner, I'm a rooky (sic) at this, Mr. Zellner. Tell me what a standard of deviation of care is. Apparently I'm not answering what you want me to say." N.T. 97-98. Later, N.T. 109 and 110, the witness said he "didn't understand the standard of care thing," and was careful to say that his testimony concerning misdiagnosis did not relate to standard of care.

A compulsory nonsuit may only be granted in cases where it is clear that a cause of action has not been established. The plaintiff must be given the benefit of all favorable evidence along with all reasonable inferences of fact arising from the evidence. All conflicts must be resolved in favor of the plaintiff. *Coatesville Contractors v. Borough of Ridley*, 509 Pa. 553, 506 A.2d 862 (1986).

Plaintiff concedes that she was required to establish a breach of professional care through an expert witness. *Lambert v. Soltis*, 422 Pa. 304, 221 A.2d 173 (1966); *Strain v. Ferroni* 405 Pa. Super. 349, 592 A.2d 698 (1991). Generally, expert testimony is necessary to prove that a doctor's care falls below accepted standards unless the matter is so simple and lack of skill or want of care so obvious as to be within the range of ordinary experience and comprehension of non-professionals. *Hoffman vs. Mogil*, 445 Pa. Super. 252, 665 A.2d 478 (1995). Plaintiff has not argued this to be this case, although Dr. Pfeffer suggested, at one point, that it should be obvious to anyone that something was wrong because Dr. Drum's work didn't hold up.

Even though an expert's testimony must be read in its entirety, the person must testify somewhere that the acceptable standard of care has been breached. *Cohen vs. Albert Einstein Medical Center*, 405 Pa. Super 392, 592 A.2d 720 (1991), alloc. den. 529 Pa. 644, 602 A.2d 855 (1991). A careful review of the record indicates that the court's comments made immediately prior to granting the nonsuit were supported by the record and the Plaintiff failed to establish negligence through the testimony of Dr. Pfeffer.

Accordingly, the attached order is entered.

#### ORDER

And now, July 9, 1997, the court refuses to remove the compulsory nonsuit entered at trial.

## 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 not delay to the executors or administrators or their attorneys named below.**

## FIRST PUBLICATION

**ESTATE OF HAZEL B. ACKER, DEC'D**  
Late of Oxford Township, Adams County, Pennsylvania

Executor: John Steven Acker, R.D. #6 Box 6147, Spring Grove, PA 17362

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

**ESTATE OF IRENE M. BEESON, DEC'D**

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Liane L. Taft

Attorney: Robert Clofine, Esquire

**ESTATE OF JOAN E. KARAM, DEC'D**  
Late of Mt. Joy Township, Adams County, Pennsylvania

Executrix: Victoria Karam Smith, 186 Longstreet Drive, Lake Heritage, Gettysburg, PA 17325

Attorney: John R. White, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF OLIVE L. SHEATS, DEC'D**  
Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Patricia Sheats May, 2645 Sandra Avenue, Red Lion, PA 17356-9024

Attorney: John R. White, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF CECIL R. SNYDER, DEC'D**  
Late of the Borough of Biglerville, Adams County, Pennsylvania

Co-Executors: Beth A. Snyder, 164 North Main Street, Biglerville, PA 17307; Carroll Cecil Snyder, 8 Chinkapin Drive, New Oxford, PA 17350

Attorney: John R. White, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

## SECOND PUBLICATION

**ESTATE OF CARL H. McDERMITT, DEC'D**

Late of the Latimore Township, Adams County, Pennsylvania

Executrix: Barbara A. Black, 2225 Cranberry Road, York Springs, PA 17372

Attorney: Swope, Heiser, & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

## THIRD PUBLICATION

**ESTATE OF ROY K. HESS, DEC'D**

Late of Butler Township, Adams County, Pennsylvania

Co-Executors: Richard G. Hess, 1077 Ridge Road, York Springs, PA 17372; Leroy Hess, Jr., 2506 Heidlersburg Road, Gettysburg, PA 17325

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

**ESTATE OF HILDA N. KEENY, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Sandra Peters, 300 Maple Avenue, Hanover, Pennsylvania 17331

Attorney: Donald E. Albright, Esquire, 515 Carlisle Street, Hanover, Pennsylvania 17331

**ESTATE OF HENRY E. LEPPA, DEC'D**

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Janet L. Smith, 30 Oak Drive, Hanover, PA 17331

Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

**ESTATE OF VIOLET A. SHILDT, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Janet M. Hawk, 1220 Fish and Game Road, Littlestown, PA 17340

Attorney: David K. James, III, Esquire, 234 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF WILSON J. STAIR, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Margaret R. Stair, 703 West King Street, Littlestown, PA 17340

Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Corporation Bureau of the Department of State of the Commonwealth of Pennsylvania for the purpose of incorporating a domestic business corporation.

1. The name of the corporation is GEMTONES DESIGNS, INC. and its registered office is located at the following: 38 Howard Drive, East Berlin, PA 17316

2. The Articles of Incorporation were filed pursuant to the provisions of the Pennsylvania Business Corporation Law, Act of December 21, 1988, P.L. 1444, as amended.

3. The business purpose of the corporation is design and sale of jewelry.

4. The Articles of Incorporation were filed with the Corporation Bureau of the Department of State on 12/16/97.

1/16

## 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 December 17, 1997, for the purpose of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the 1988 Pennsylvania Business Corporation Law of the Commonwealth of Pennsylvania.

The name of the corporation is MCSHERRYSTOWN FAMILY PRACTICE, P.C. The registered office is 70 Academy Street, McSherrystown, Pennsylvania 17344.

Kimberly S. Gray, Esquire  
Martin & Grey, P.C.  
38 North Main Street  
Chambersburg, PA 17201

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-579 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 1998, 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) tracts of land situate, lying and being in the Borough of Carroll Valley, (formerly Liberty Township), Adams County, Pennsylvania, being Lots No. 431 and 433 in Section WA, bounded and described as follows:

TRACT NO. 1 (LOT WA-431):

BEGINNING at a point in the center of Lynn Trail at Lot No. 433; thence by said lot North 16 degrees 26 minutes 20 seconds West, 251.38 feet to Lot No. 432; thence by said Lot South 65 degrees 52 minutes East, 185.26 feet to a point in the center of Louise Trail; thence in said Louise Trail South 12 degrees 36 minutes 20 seconds East, 140 feet to a point in the intersection of Louise Trail and Lynn Trail; thence in said Lynn Trail South 77 degrees 23 minutes 40 seconds West, 131.66 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section WA, Charnita" dated January 17, 1970, prepared by Gordon L. Brown, R.S., and recorded in Adams County Plat Book No. 1 at Page 65.

TRACT NO. 1 TOGETHER WITH and SUBJECT TO the rights of way, covenants, conditions, reservations and restrictions contained in a deed recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 295 at Page 869.

TRACT NO. 2 (LOT WA-433):

BEGINNING at a point in the cul-de-sac of Lynn Trail at Lot No. 434; thence in the cul-de-sac and by said lot North 20 degrees 00 minutes 20 seconds West, 161.75 feet to Lot No. 273; thence by said lot North 28 degrees 4 minutes 40 seconds East, 135 feet to Lot No. 432; thence by said lot South 65 degrees 52 minutes East, 20 feet to Lot No. 431; thence by said lot South 16 degrees 26 minutes 20 seconds East, 251.38 feet to a point in the center of said Lynn Trail; thence in said Lynn Trail and in the cul-de-sac thereof South 77 degrees 23 minutes 40 seconds West, 100 feet to the place of BEGINNING.

The above description was taken from a plan of Lots labeled "Section WA, Charnita" dated January 17, 1970, prepared by Gordon L. Brown, R.S., and recorded in Adams County Plat Book 1 at Page 65.

TRACT NO. 2 TOGETHER WITH and SUBJECT TO the rights of way, covenants, conditions, reservations and restrictions contained in a deed recorded in the aforementioned Recorder's Office in Deed Book 295 at Page 303.

BEING THE SAME PREMISES WHICH Allen W. Beckett, trading and doing business as Allen Beckett Construction, by Deed dated December 20, 1994, and recorded in the office for the Recorder of Deeds for the County of Adams on December 22, 1994, in Deed Book Volume 979, Page 87, granted and conveyed unto Charles F. Arp.

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

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
November 20, 1997.

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 February 16, 1998, 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.

1/2, 9 & 16

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Corporation Bureau of the Department of State of the Commonwealth of Pennsylvania for the purpose of incorporating a domestic business corporation. The name of the corporation is PROCESS EQUIPMENT ASSOCIATES, INC. The Articles of Incorporation were filed pursuant to the provisions of the Pennsylvania Business Corporation Law of 1988 contained in the Act of December 21, 1988, P.L. 1444, as amended.

Keefer Wood Allen & Rahal, LLP  
210 Walnut Street  
P.O. Box 11963  
Harrisburg, PA 17108-1963

1/16

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 December 22, 1998.

The name of the corporation is RIGGEAL'S PERFORMANCE FIBERGLASS, INC.

The corporation has been incorporated under the Pennsylvania Business Corporation Law of 1988.

John R. White  
Campbell & White  
122 Baltimore Street  
Gettysburg, PA 17325

1/16

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on December 12, 1997, pursuant to the Fictitious Name Act, setting forth that the authorized agent in the Commonwealth of Pennsylvania is Bernard A. Yannetti, Jr., 126 Baltimore Street, Gettysburg, PA 17325 and that the character of the business is the sale (wholesale and/or retail) of motor vehicles, and that the designation under which the business is and will be conducted is BATTLEFIELD MOTORCYCLES.

Bernard A. Yannetti, Jr.  
Solicitor

1/16

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA  
CIVIL ACTION—LAW  
NO. 91-S-354

RICHARD J. NEELY, Plaintiff,  
vs.  
KIMBERLY ANNE NEELY,  
Defendant.

LEGAL NOTICE  
INTENTION TO FILE  
MASTER'S REPORT

TO: KIMBERLY ANNE NEELY,  
Defendant

Please be advised that a Master's Report will be filed in the above-captioned case fourteen (14) days after publication of this Notice. Contact Attorney Kevin G. Robinson, Court-Appointed Master, at 717-334-3341 immediately to determine your rights, obligations and involvement in this matter. Your failure to do so will result in a Master's Report being submitted without any testimony on your behalf.

1/16

# Adams County Legal Journal

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Vol. 39

January 23, 1998

No. 35, pp. 193-196

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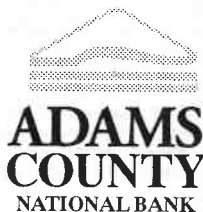
## ANNOUNCEMENT OF CONTINUING LEGAL EDUCATION PROGRAMS

1. *Criminal Trial Evidence*  
Friday, March 6, 1998 - 9:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law - 4, Ethics - 0
2. *Taxpayer Relief Act of 1997*  
Tuesday, March 17, 1998 - 9:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law - 4, Ethics - 0
3. *Litigating in Orphans' Court*  
Wednesday, April 22, 1998 - 9:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law - 5, Ethics - 1

**Registration through P.B.I. 800-932-4637**

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



Member FDIC

## ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-247 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of February, 1998, 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 Snow Plow Trail at Lot No. 267, thence by said lot North 64 degrees, 44 minutes, 25 seconds West, 225.16 feet to Lot No. 265; thence by said lot North 27 degrees 27 minutes 2 seconds East, 142.36 feet to a point in the center of Bunny Trail; thence in said Bunny Trail South 66 degrees 36 minutes 15 seconds East, 225.56 feet to a point in the intersection of Bunny Trail and Snow Plow Trail; thence in said Snow Plow Trail South 27 degrees 27 minutes 2 seconds West, 149.70 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section K, Charnita" dated March 3, 1969, prepared by Evans Hagan & Holdefer and recorded in Adams County Plat Book NO. 1 at Page 42.

BEING THE SAME PREMISES which Robert J. Gach and Patricia R. Gach, husband and wife, by deed dated June 8, 1989 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 0524-1081, granted and conveyed unto Lloyd D. Elzey and Flora J. Elzey, husband and wife.

SEIZED and taken into execution as the property of **Lloyd Douglas Elzey, a/k/a Lloyd D. Elzey and Flora Jane Elzey, a/k/a Flora J. Elzey** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 16, 1997.

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 March 2, 1998, 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.  
1/9, 16 & 23

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-326 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 January, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING for a point on the 60 foot right-of-way line of West Myrtle Street at Lot No. 7, as shown on the hereinafter described subdivision plan; thence along said Lot No. 7, North 64 degrees 49 minutes 18 seconds West, 148.07 feet to a point at land now or formerly of Nancy A. Beimler and Richard Ronner; thence along said lands now or formerly of Nancy A. Beimler and Richard Ronner North 33 degrees 25 minutes 15 seconds East, 96.63 feet (erroneously stated as 482.36 feet in prior deeds) to a point at Lot No. 9 as shown on the hereinafter described subdivision plan; thence along said Lot No. 9, South 47 degrees 53 minutes 36 seconds East, 148.44 feet to a point on the 60 foot right-of-way line of West Myrtle Street; thence by a curve to the left, the radius of which is 180 feet, with an arc distance of 53.18 feet and a long chord bearing and distance of South 33 degrees 38 minutes 33 seconds West, 52.99 feet to a point at Lot No. 7 aforesaid, the point and place of BEGINNING. CONTAINING 10,901 square feet.

BEING Lot #8 on the Final Plan of West Side Terrace, dated June 14, 1991 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plan Book 59 at Page 19.

SUBJECT to the "West Side" Subdivision Approval Agreement dated June 25, 1991 and recorded in the Adams County Recorder of Deeds Office in Record Book 600 at Page 367.

SUBJECT to Declaration of Protective Covenants and Restrictions as recorded in the Adams County Recorder of Deeds Office in Record Book 600 at page 375.

TAX PARCEL #7-124.

TITLE TO SAID PREMISES IS VESTED IN **Larry L. Herren**, a single man by Deed from **Slade S. McCalip** and

**Pamela J. McCalip**, husband and wife dated 6/30/94, recorded 7/5/94, in Rec. Book 907 page 307.

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

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 9, 1997.

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 February 23, 1998, 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.  
1/9, 16 & 23

## NOTICE

NOTICE IS HEREBY GIVEN to all beneficiaries and other concerned persons that **Robert G. Teeter**, Trustee of the **Karen S. Weissman Testamentary Trust**, has filed his First and Final Account and Statement of Proposed Distribution in the office of the Adams County Clerk of Courts in Orphans' Court No. OC-118-95. The same will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania for confirmation and approval on February 10, 1998 at 9:00 a.m. in Courtroom No. 1.

1/23 & 30

## 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 December 16, 1997 for the purpose of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the Business Corporation Law of 1988.

The name of the proposed corporation is: **AMM ACQUISITION, INC.**

Steven J. Schiffman, Esquire  
Serratelli, Schiffman,  
Brown & Calhoun, PC  
Suite 106, 2040 Linglestown Road  
Harrisburg, PA 17110

1/23

## PAPPAS VS. GATES, ET AL.

1. Plaintiff is entitled to no special consideration or advantage by reason of his proceeding pro se.
2. Prejudice to defendants is presumed by delay of two or more years.

In the Court of Common Pleas, Adams County, Pennsylvania,  
Civil No. 91-S-384, HARRY PAPPAS VS. SAMUEL KENT GATES,  
ESQUIRE AND JOHN J. MOONEY, ESGUIRE, T/A GATES &  
MOONEY, A PARTNERSHIP.

Harry Pappas, pro se  
Thomas D. Caldwell, Esq., for Defendant

### OPINION ON REQUEST FOR NON PROS

Spicer, P.J., July 14, 1997.

On January 10, 1997, defendants filed a petition to dismiss this action with prejudice and a rule was issued on plaintiff to show cause why this should not be done with prejudice. The rule was served February 1, 1997. On April 8, 1997, after the return date had passed, defendants listed the case for argument. No answer was filed to the petition. Plaintiff appeared pro se at oral argument June 27, 1997, but filed no brief.

The records indicate that plaintiff commenced this legal malpractice action by filing a complaint May 9, 1991. The last pleading was a reply to New Matter, which was filed June 1, 1992. A certificate of service relating to discovery was filed June 22, 1992. No further activity, of any kind, appeared until February 4, 1994, when plaintiff filed a belated request for a jury trial. On May 6, 1994, the undersigned issued an order with opinion granting the request. The relief was granted even though no excuse for the delay was found.

On September 19, 1994, plaintiff's counsel was given permission to withdraw from the case. Nothing transpired thereafter until defendants filed their present petition.

When plaintiff appeared at oral argument, he requested time to obtain a lawyer. It is obvious that he has had almost three years in which to obtain counsel. His failure to file an answer to the petition admitted defendants' allegations. Pa.R.C.P. 206.7. Plaintiff is entitled to no special consideration or advantage by reason of his proceeding pro se. *Myers v. Estate of Wilks*, 440 Pa. Super. 176, 655 A.2d 176 (1995).

Clearly, the docket signifies and absence of activity in excess of two years. No explanation has been given for plaintiff's failure to prosecute

his action. Numerous cases have applied the holding in *Penn Piping Inc. v. Insurance Company of North America* 529 Pa. 350, 603 A.2d 1006 (1992). It is clear that prejudice to defendants is presumed by delay of two or more years. Plaintiff was entitled to rebut the presumption by showing, inter alia, that defendants acted improperly. *Mudd v. Nosker Lumber, Inc.*, 443 Pa. Super 483, 662 A.2d 660 (1995), or for other compelling reasons beyond plaintiff's control. *Chase v. National Fuel Gas Corp.*, Pa. Super. , 692 A.2d 155 (1997). However, many times, delay attendant on discovery, settlement negotiations and/or financial considerations do not qualify. *Id.*

There is no hint that compelling reasons justified plaintiff's procrastination. Based on the record, the court feels impelled to grant defendants' request.

#### ORDER

AND NOW, this 14th day of July, 1997, this action is dismissed with prejudice, for failure to prosecute.

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#### HAFER, ET UX. VS. THE GETTYSBURG HOSPITAL, ET AL.

1. Subpoenas may not properly be used as an *ex parte* means of procuring the production of documents for discovery purposes.

2. While the right of a litigant to process is important, the Court thinks inconvenience and unwarranted expense to non parties should be kept to a minimum and that the power to subpoena should not be used to shift all inconvenience to another person.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 94-S-1098, THOMAS C. HAFER AND LISA J. HAFER VS. THE GETTYSBURG HOSPITAL, STEPHEN C. FREY, M.D. AND MARIE V. SPAGNOLI.

Lewis H. Markowitz, Esq., for Plaintiff

Evan Black Esq., for Defendant

Thomas J. Williams, Esq., for Defendant

#### OPINION ON MOTION FOR PROTECTIVE ORDER

Spicer, P.J., July 15, 1997.

Plaintiff Thomas Hafer (Hafer) brought this medical malpractice case, alleging that defendants improperly diagnosed and treated him for injuries sustained on December 23, 1992. During discovery, defendants learned that Hafer's injuries occurred during Hafer's course of employment at Littlestown Hardware and Foundry, and that



he received workers' compensation benefits through American International Group, Inc. (AI). AI conducts its business in Pittsburgh. Hafer's claim is presently being administered by a claims representative at AI, Lorrie Leonard. (Leonard). Counsel for Dr. Spagnoli attempted to conduct what is called a records deposition, by mailing a subpoena duces tecum to AI and asking that organization to furnish Spagnoli's counsel with a copy of Hafer's file. When AI failed to comply, Spagnoli filed, but never pursued, a contempt petition. Instead, Spagnoli's counsel scheduled a deposition, issued a subpoena and presented Leonard with a check for \$32.02. Leonard was directed to appear in Carlisle with records involving the workers' compensation claim. She has moved for a protective order and for quashal of the subpoena.

Although not necessary to this opinion, subpoenas may not properly be used as an ex parte means of procuring the production of documents for discovery purposes. *Cohen v. Pelagatti*, 342 Pa.Super. 626, 493 A.2d 767 (1985). *Grossinger v. Frank Martz Coach Company*, 2 D&C 4th 7 (Lackawanna County, 1988). Pa.R.C.P. 234.1[c]. The rule has no similar proscription against subpoenas for depositions, and Spagnoli argues that she is entitled to require Leonard's appearance with AI's file. Leonard and AI argue that many documents require Hafer's authorization for release, and that Spagnoli should request copies of documents through Hafer's counsel. Spagnoli's counsel retorts that he is not interested in privileged information, wants to be sure that he obtains the complete file, and argues that he should not be required to go through plaintiff's counsel to obtain records.

Neither AI nor Ms. Leonard is a party to this lawsuit and complain that they have already been required to expend time, money and effort to protect their positions in a case in which they have no interest.

Although arguing that the subpoena should be quashed, Ms. Leonard asks for reimbursement for actual expenses, including overnight lodging in Carlisle, should she be required to obey the subpoena. Spagnoli argues that she has advanced the amount legally required and that Leonard is entitled to no more.

Although Rule 234.1 authorizes the use of subpoenas as employed by Spagnoli's counsel, we must keep in mind that we deal with discovery. There are alternative means of obtaining the information sought by Spagnoli. In a somewhat analogous situation, another trial court directed a party to request opposing counsel to produce documents sought through a subpoena. To ensure that moving counsel obtained everything to which entitled, the Allegheny County court required the responding party to list and briefly describe those docu-

ments withheld. *Talarico v. Montefiore Hospital*, 138 P.L.J. 210 (1990). If this were done, availability of those documents could be determined in a motion to compel.

Although \$32.02 is legal tender requiring a witness to appear, we must keep in mind that the sum is woefully insufficient to cover realistic expenses. While the right of a litigant to process is important, we think inconvenience and unwarranted expense to non parties should be kept to a minimum. The power to subpoena should not be used to shift all inconvenience to another person.

PA.R.C.P. 402 gives us the power to protect persons from unreasonable annoyance, oppression, burden or expense. In the context of this case, we find that Leonard has shown good cause. The small inconvenience that counsel may face in requesting production pales in comparison to requiring Leonard to lose a day's work, travel from Pittsburgh and stay overnight. If, the request for production does not prove satisfactory, Spagnoli may request more direct access to AI's records.

#### ORDER

AND NOW, this 15th day of July 1997, the subpoena issued on Lorrie Leonard, Claims Representative for American International Group, Inc., is quashed. Defendant Spagnoli is directed to proceed with a Request for Production of Documents, directed to plaintiff Thomas C. Hafer. Defendant Spagnoli may not subpoena, for purposes of discovery, records held by American International Group, Inc., without leave of court.

If plaintiff does not provide the entire file, his counsel shall provide defense counsel with a list of omitted documents with an explanation of why they are being withheld.

## 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 HELEN R. BECHTEL, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executors: Wilbur M. Bechtel, 775 Littlestown Road, Littlestown, PA 17340; Redamay Garvick, 201 Filbert Street, Hanover, PA 17331

Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

## ESTATE OF WILLIAM C. BENSON, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: PNC Bank, N.A., 10 York Street, Gettysburg, PA 17325

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

## ESTATE OF ROBERT L. DONOHUE, DEC'D

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

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

## ESTATE OF ARLEAN FRANCES S. FAUST, a/k/a ARLEAN S. FAUST, DEC'D

Late of Huntingdon Township, Adams County, Pennsylvania

Executor: Lloyd Sheipe, P.O. Box 360, York Springs, PA 17372

Attorney: Richard E. Thrasher, Esquire, Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

## ESTATE OF JOHN N. IAEA, JR., DEC'D

Late of Adams County, Pennsylvania  
Executrix: Naida Iaea, 15 Lightning Trail, Fairfield, PA 17320

Attorney: Kimberly S. Gray, Esquire, Martin & Gray, P.C., 38 North Main Street, Chambersburg, PA 17201

## ESTATE OF SOLOMON GROVER STARNER a/k/a S. GROVER STARNER, DEC'D

Late of Huntingdon Township, Adams County, Pennsylvania

Executor: Cornelius Starnier, 756 Gun Club Road, York Springs, PA 17372

Attorney: Swope, Heiser & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

## SECOND PUBLICATION

## ESTATE OF HAZEL B. ACKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: John Steven Acker, R.D. #6 Box 6147, Spring Grove, PA 17362

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

## ESTATE OF IRENE M. BEESON, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Liane L. Taft

Attorney: Robert Cloline, Esquire

## ESTATE OF JOAN E. KARAM, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executrix: Victoria Karam Smith, 186 Longstreet Drive, Lake Heritage, Gettysburg, PA 17325

Attorney: John R. White, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF OLIVE L. SHEATS, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Patricia Sheats May, 2645 Sandra Avenue, Red Lion, PA 17356-9024

Attorney: John R. White, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF CECIL R. SNYDER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Co-Executors: Beth A. Snyder, 164 North Main Street, Biglerville, PA 17307; Carroll Cecil Snyder, 8 Chinkapin Drive, New Oxford, PA 17350

Attorney: John R. White, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

## THIRD PUBLICATION

## ESTATE OF CARL H. McDERMITT, DEC'D

Late of the Latimore Township, Adams County, Pennsylvania

Executrix: Barbara A. Black, 2225 Cranberry Road, York Springs, PA 17372

Attorney: Swope, Heiser, & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

## NOTICE

NOTICE IS HEREBY GIVEN to all beneficiaries and to all parties in interest that the Accounting of Charles W. Wolf, Esq., Trustee of the Laura G. Raffensperger Trust created by Testamentary Trust, has been filed in the office of the Clerk of the Courts of Adams County, Pennsylvania, and will be presented to said Court for confirmation and approval on March 23, 1998, at 9:00 a.m.

Peggy J. Breighner  
Clerk of the Courts

1/23 & 30

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Fictitious Names Act, 54 Pa. C.S. SS311, et seq., and its amendments and supplements, of the filing with the Secretary of the Commonwealth of Pennsylvania, Harrisburg, Pennsylvania on January 15, 1998, an application for conducting business under the assumed or fictitious name of PENN-ADAMS BUSINESS MARKETING, with its principal place of business at 266 Ridge Road, Gettysburg, Pennsylvania 17325. The names and addresses of all persons owning or interested in said business are: Donald E. Cool, 266 Ridge Road, Gettysburg, PA 17325

1/23

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that a certificate of organization for a domestic limited liability corporation was filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on or about January 6, 1998, for the purpose of obtaining a Certificate of Incorporation of a Pennsylvania limited liability company, organized under the Limited Liability Company Law of 1994, Act of December 7, 1994, P.L. 703.

The name of the corporation is J. KEITH JOHNSON, LIMITED.

The purpose for which the corporation has been organized is: The corporation shall have unlimited power to engage in and do any lawful act, including, but not limited to, the design, making and reproduction of wood sculptures, and such other business for which the corporation may be organized under the Pennsylvania Corporation Law.

Wolfe & Rice  
47 West High Street  
Gettysburg, PA 17325

1/23

## NOTICE

NOTICE IS HEREBY GIVEN to all beneficiaries and to all parties in interest that the Accounting of Charles W. Wolf, Esq., Trustee of the Elmer Raffensperger Trust created by Testamentary Trust, has been filed in the office of the Clerk of the Courts of Adams County, Pennsylvania, and will be presented to said Court for confirmation and approval on March 23, 1998, at 9:00 a.m.

Peggy J. Breighner  
Clerk of the Courts

1/23 & 30

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-794 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 February, 1998, 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 and identified in the Declaration referred to below as "Hampton Plains Condominium," located in Reading Township, Adams County, Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 Pa. C.S., Section 3101, et seq. by the recording in the Adams County Records of a Declaration dated November 13, 1990 and recorded on November 23, 1990 in Deed Book 573, Page 915, being and designated in such Declaration as UNIT NO. 69-3, as more fully described in such Declaration, together with a proportionate undivided interest in the Common Elements (as defined in such Declaration of sixteen and two-thirds (16 2/3%) percent.

UNDER AND SUBJECT to any and all covenants, conditions, restrictions, rights-of-way, easements and agreements of record.

IT BEING the same premises which David L. Trish, individual, by his Deed dated March 9, 1992 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 622, Page 987, granted and conveyed unto Ash-Mel, Inc., a Pennsylvania Corporation.

SEIZED and taken into execution as the property of **Ash-Mel, Inc., a/k/a Barry R. Rauhauser and Susan Rauhauser t/a Ash-Mel, Inc.** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 30, 1997.

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 March 16, 1998, 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.  
1/23, 30 & 2/6

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-221 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 February, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE FOLLOWING (3) described lots or parcels of land, lying and being in the Township of Franklin, in the development of Gettysburg Mountain Camp Sites, Inc., in Adams County, Pennsylvania, as follows:

## PREMISES "A":

BEING Lots Nos. 56 and 57 of Section "E," as shown on the survey and original Plat of Gettysburg Mountain Camp Sites, Inc., Adams County, Pennsylvania, and of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 4, at page 799; reference being made thereto for a more particular description of the lots hereinbefore described and herein conveyed.

## PREMISES "B":

BEING Lots Nos. 54 and 55, of Section "E," as shown on the survey and original Plat of Gettysburg Mountain Camp Sites, Inc., Adams County, Pennsylvania, and of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 4, at page 799; reference being made thereto for a more particular description of the lots hereinbefore described and herein conveyed.

## PREMISES "C":

BEING Lots Nos. 4, 5, 6, and 51, 52, and 53 of Section "E," respectively, as shown on the survey and original Plat of Gettysburg Mountain Campsites, Inc., Adams County, Pennsylvania, made by William L. Arrowood, Registered Surveyor, dated November 9, 1965, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book No. 4, at page 799, reference being made thereto for a more particular description of the lots hereinbefore described and herein conveyed.

TITLE TO SAID PREMISES IS VESTED IN Clyde Osborne by Deed from Millard L. Stermer and Ruth R. Stermer, his wife dated 6/8/83, recorded 6/10/83, in Record Book 368 page 710.

Tax Parcel #2-95

SEIZED and taken into execution as the property of **Clyde E. Osborne** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 24, 1997.

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 March 16, 1998, 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.  
1/23, 30 & 2/6

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-66 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 February, 1998, 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, bounded and limited as follows, to wit:

BEGINNING at a point three (3) feet from corner of the house now or formerly of Joseph Wolf's heirs and fronting on West King Street, formerly Frederick Street, running eastwardly thirty-three (33) feet, more or less, until it reaches or meets the lot now or formerly of Sylvannus Lynn; thence running southwardly along the line of land now or formerly of Sylvannus Lynn, two hundred and sixty (260) feet to an alley in the rear; thence westwardly along said alley about ninety (90) feet six (6) inches to the lot now or formerly of Joseph Wolf's heirs; thence northwardly to the first point named.

BEING THE SAME PREMISES which Jesse R. Bible and Edith A. Bible, husband and wife, by their deed dated June 28, 1991 and recorded July 3, 1991 in the Office of the Recorder of Deeds in and for Adams County in Record Book 593, page 316, granted and conveyed unto Timothy N. Harvey.

Parcel No. 27-8-224.

SEIZED and taken into execution as the property of **Timothy N. Harvey** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 23, 1997.

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 March 16, 1998, 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.  
1/23, 30 & 2/6

# Adams County Legal Journal

Vol. 39

January 30, 1998

No. 36, pp. 197-202

## NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, February 10, 1998, at 9:00 o'clock a.m.

**SITES**—Orphans' Court Action Number OC-153-97. The First and Final Account of Penelope S. Sites, Administrator of the Estate of Dale S. Sites, deceased, late of Franklin Township, Adams County, Pennsylvania.

**FOULK**—Orphans' Court Action Number OC-157-97. The First and Final Account of Alice Fisel Halter, Administrator c.t.a. of the Last Will and Testament

of Dorothy May Foulk, deceased, late of Straban Township, Adams County, Pennsylvania.

**REINAMAN**—Orphans' Court Action Number OC-161-97. The First and Final Account of Wayne A. Reinaman, Administrator c.t.a. of the Estate of Birnie W. Reinaman, also known as Bernie W. Reinaman, deceased, late of Germany Township, Adams County, Pennsylvania.

**WILSON**—Orphans' Court Action Number OC-163-97. The First and Final Account of Adams County National Bank, Executor of the Last Will and Testament of Mildred B. Wilson, deceased, late of the Borough of New Oxford, Adams County, Pennsylvania, with annexed First and Final Account of Adams County National Bank, Trustee under Revocable Inter Vivos Trust Agreement established May 17, 1990 by decedent, in accordance with Section 3501.2 of the Probate, Estates and Fiduciaries Code.

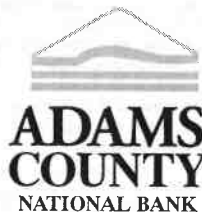
**WEAVER**—Orphans' Court Action Number OC-164-97. The First and Final Account of Richard J. Weaver and Roger R. Weaver, Co-Executors of the Last Will and Testament of Marie E. Weaver, deceased, late of the Borough of Bonneauville, Adams County, Pennsylvania.

**REED**—Orphans' Court Action Number OC-166-97. The First and Final Account of Peggy J. Breighner and John S. Reed, Co-Executors of the Estate of Ethel L. Reed, deceased, late of Cumberland Township, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

1/30 & 2/6

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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NOTICE

NOTICE IS HEREBY GIVEN to all beneficiaries and other concerned persons that Robert G. Teeter, Trustee of the Karen S. Weissman Testamentary Trust, has filed his First and Final Account and Statement of Proposed Distribution in the office of the Adams County Clerk of Courts in Orphans' Court No. OC-118-95. The same will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania for confirmation and approval on February 10, 1998 at 9:00 a.m. in Courtroom No. 1.

1/23 & 30

NOTICE

NOTICE IS HEREBY GIVEN to all beneficiaries and to all parties in interest that the Accounting of Charles W. Wolf, Esq., Trustee of the Laura G. Raffensperger Trust created by Testamentary Trust, has been filed in the office of the Clerk of the Courts of Adams County, Pennsylvania, and will be presented to said Court for confirmation and approval on March 23, 1998, at 9:00 a.m.

Peggy J. Breighner  
Clerk of the Courts

1/23 & 30

NOTICE

NOTICE IS HEREBY GIVEN to all beneficiaries and to all parties in interest that the Accounting of Charles W. Wolf, Esq., Trustee of the Elmer Raffensperger Trust created by Testamentary Trust, has been filed in the office of the Clerk of the Courts of Adams County, Pennsylvania, and will be presented to said Court for confirmation and approval on March 23, 1998, at 9:00 a.m.

Peggy J. Breighner  
Clerk of the Courts

1/23 & 30

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, with respect to a corporation which has been incorporated under the Business Corporation Law of 1988. The name of the corporation is QUALITY MANAGEMENT SPECIALISTS, INC.

Wendy Weikal-Beauchat, Esquire  
116 Baltimore Street  
Gettysburg, Pennsylvania 17325

1/30

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that on November 26, 1997, a certificate was filed under the Fictitious Name Act approved December 16, 1982, in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that Michael denyse Moran, 1295 Red Rock Road, Gettysburg, PA 17325 is (are) the only person (s) owning or interested in a business, the character of which is Transportation of industrial materials and that the name, style and designation under which said business is and will be conducted is MORAN TRANSPORTATION and the location where said business is and will be located is 3920 Chambersburg Road, Route 30 West, P.O. Box 52, Cashtown, PA 17310.

Alan M. Cashman, Esquire  
Solicitor

1/30

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 December 11, 1997.

The name of the corporation is WATSON ENVIRONMENTAL O & M, INC.

The corporation has been incorporated under the Pennsylvania Business Corporation Law of 1988.

Watson Environmental O & M, Inc.  
253R York Street  
Gettysburg, PA 17325

1/30

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for a Domestic Nonprofit Corporation were filed in the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on November 20, 1997.

The name of the corporation is TOWER COMMONS PROPERTY OWNERS ASSOCIATION, INC. The corporation has been incorporated under the provisions of the Nonprofit Corporation Law of 1988. The purpose of the corporation is to enforce rules and regulations in a planned unit community.

Robert E. Campbell  
Campbell & White  
122 Baltimore Street  
Gettysburg, PA 17325

1/30

IN THE  
COURT OF COMMON PLEAS  
OF ADAMS COUNTY,  
PENNSYLVANIA  
ORPHANS' COURT DIVISION

IN RE: The First and Final Account of Bank of Hanover and Trust Company, Trustee under the Will of Clarence R. Wolf, late of Oxford Township, Adams County, Pennsylvania.

TO ALL BENEFICIARIES, HEIRS AND OTHER PERSONS CONCERNED:

NOTICE IS HEREBY GIVEN that the First and Final Account and Statement of Proposed Distribution of Bank of Hanover and Trust Company, Trustee under the will of Clarence R. Wolf, have been filed in the Office of the Clerk of the Orphans' Court, and will be presented to the Court of Common Pleas of Adams County, Pennsylvania, at Gettysburg, Pennsylvania, for confirmation and approval on February 10, 1998, at 9:00 a.m.

Peggy J. Breighner, Clerk  
Swope, Heiser & McQuaid  
Attorneys for the Estate

1/30 & 2/6

NOTICE

The new Domestic Relations legislation signed into law by Governor Ridge in December of 1997, effective January 1, 1998, House Bill No. 1412 (printer's No. 2655) is available in the Adams County Law Library.

1/30

## SITES VS. PRICE

1. It is generally not proper for a judge to usurp the function of a jury and rule on issues of liability, when resolution is dependent upon the testimony of witnesses.

2. Where there is no surprise or prejudice, and an ample opportunity to rebut the proposed testimony is provided, the expert testimony should be admitted.

3. The test for whether a verdict is against the weight of the evidence is, based upon a review of all the evidence, whether the verdict shocks one's sense of justice and the granting of a new trial is imperative so that right may be given another opportunity to prevail and when considering the matter, the Court is not required to view the evidence in a light most favorable to the verdict winner.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 95-S-134, DALE S. SITES AND PENELOPE S. SITES VS. GEORGE T. PRICE.

W. Scott Sandusky, Esq., for Plaintiffs

Richard H. Wix, Esq., for Defendant

### OPINION ON POST-VERDICT MOTIONS

Spicer, P. J., January 3, 1997.

Although there are two plaintiffs in this case, for purposes of convenience, when we refer to plaintiff we mean Dale S. Sites.

This case is presently before the court on plaintiffs' post-verdict motions. Plaintiffs sought non-economic damages as a result of a vehicular accident which occurred around 5:00 p.m., June 19, 1994. Following a three day trial, which began March 25 and ended March 27, 1996, a jury found no negligence on the part of the defendant.

Descriptions of the accident, which occurred in the intersection of two township roads in Franklin Township, were presented in sharply conflicting versions at trial. However, there was no basic disagreement that the weather was nice and visibility unobstructed. There was a minor difference about the view westward from the intersection in question, but the parties agreed it was around 300 feet. Some witnesses described the roadway as wet, which might have accounted for the absence of skid marks, others, as dry. In light of plaintiff's testimony that he did not have time to react, road conditions were important only to explain the lack of tangible evidence. The central factual dispute involved the location of plaintiff's car when defendant began a left turn from what is called Old Route 30 (Township Road 304) onto Tilleytown Road (not otherwise identified). Plaintiff testified that the turn occurred abruptly, when he was only thirty or forty feet away, and that he had little chance to react. Defendant, on the other hand, said that he

looked, determined that no traffic was visible, and had almost completed his turn when plaintiff struck the rear of his pickup truck.

Defendant's version can be summarized by the following exchange which occurred at trial:

Q Is it your testimony that you looked this entire 100 yard length and did not see the Sites vehicle?

A Yes, sir.

Q So I'm clear, it's your position that the Sites vehicle must have been on the other side of the rise as opposed to you just not seeing it?

A Yes, sir.

Volume II, transcript, p168

Plaintiff's version was supported by his witnesses, who were members of his family. Similarly, defendant's testimony was corroborated by his son, Steven, who was a passenger in his truck.

Prior to the collision, defendant drove westward, and was preceded by an unidentified vehicle and a wagon loaded with hay. He and Steven described the turn as having begun slowly (5 to 10 m.p.h.), after visual observation indicated no danger and after signals were given. Defendant said he heard tires squealing, saw a blur in his rear view mirror, and then tried to accelerate. According to him and his son, he was almost completely in the Tilleytown Road when the plaintiff struck the rear of his truck. According to plaintiff's witnesses, only the front of the truck had entered the last mentioned road. Trooper John Tritle of the Pennsylvania State Police, opined that impact occurred near the south edge of Old Route 30.

Speed was a major, but not the sole, issue in this case. Plaintiff said he drove within the speed limit (40 m.p.h.). Immediately after the accident, defendant contended that plaintiff's speed caused the accident. Trooper Tritle could not determine the speed. However, after the collision, plaintiff's car struck a culvert and ended on its side. Plaintiff said his car rolled over twice. (Volume I, transcript, page 23). Dale Sites, Jr., a passenger in the plaintiff's vehicle, described this somewhat differently:

Q As I understand your testimony, you're saying that the vehicle went off the roadway and turned onto the driver's side?

A Yes, it did. It flipped up on the driver's side.

Q Did it just turn, in other words, did it just go off the roadway and turn on the driver's side once or did it roll over



several times and end up on the driver's side? Do you understand the question I'm asking you?

A It just ended up on the side airborne down the bank and then went airborne up on the driver's side.

Q So you didn't like the roll over?

A No, we didn't roll. No, we did not roll.

Transcript Volume I, page 48

Plaintiff submits three reasons for his request for a new trial. First, he contends that the court erred in refusing his motion for a directed verdict. Second, he argues that the court wrongfully denied his in limine motion to restrict the testimony of the defendant's medical expert. Lastly, he submits that the verdict was against the weight of evidence. We will discuss these contentions in the order recited

**Directed verdict:**

The propriety of granting or denying a motion fore directed verdict depends upon the facts and how they are presented.

The law is settled that issues of credibility are for the finder of fact to resolve. A jury may believe all, part or none of evidence presented during a trial. *Randt v. Abex Corporation*, 448 Pa. Super 224, 671 A.2d 228 (1996). This being so, it is generally not proper for a judge to usurp the function of a jury and rule on issues of liability, when resolution is dependent upon the testimony of witnesses. *Anderson v. Moore*, 437 Pa. Super 642, 650 A.2d 1090 (1994). *Moriens v. Albert Einstein Hospital*, 363 Pa. Super 557, 526 A.2d 1203 (1987).

In *Anderson v. Moore*, Superior Court reversed the grant of summary judgment entered in an intersection case, where the trial judge determined that plaintiff violated the assured clear distance rule. This holding contrasts, somewhat, with a directed verdict upheld in *Springer v. Luptowski*, 535 Pa. 332, 635, A.2d 134 (1993). In *Springer*, a driver topped a crest to discover two cars standing in the roadway and blocking his lane of travel. The trial judge directed verdicts against both parties as to negligence and directed the jury to apportion causation. Plaintiff appealed and the trial action was affirmed. The ruling was based upon uncontradicted testimony by plaintiff's expert that indicated that the assured clear distance rule had been breached.

No unequivocal and uncontradicted testimony was presented in our case, which would bind defendant. As has been mentioned, factual issues involved plaintiff's speed and position when defendant began his turn. Defendant's version, if believed by the jury, established that

plaintiff violated the assured distance rule. Plaintiff's version, if believed by the jury, established that defendant made a left hand turn without reasonably determining that it could have been done safely. This rises to no more than a conflict in evidence. Neither party so clearly established negligence on the part of the other to support a determination as a matter of law. Thus, we rule that denial of the motion for directed verdict was proper and affords plaintiff no grounds for relief.

**Expert testimony:**

In December 1995, defendant deposed Dr. Perry Eagle for purposes of providing trial testimony. At that time, trial was scheduled for the term beginning January 8, 1996. During the deposition, Dr. Eagle referred to a learned treatise, which plaintiff contended was not mentioned in his expert report. Plaintiff then sought to have this portion of the deposition declared inadmissible and the video tape accordingly reacted.

The Blizzard of 1996 and the state of emergency declared by Governor Ridge resulted in the cancellation of the January civil trial term. Dr. Eagle was deposed again before the March, 1996 trial.

Plaintiff argued that he was put to increased expense as a result of the court's denial of his in limine motion. That is not, however, a reason for excluding the evidence.

The purpose of an expert report is to provide sufficient notice of the expert's theory so as to enable the opposing party to prepare a rebuttal witness. *Christiansen v. Silfies*, 446 Pa.Super 464, 667 A.2d 396 (1995). When notice of the material or theory has been given well in advance of actual trial, it is hard to conceive of any prejudice that might attend omission from the original report. Where there is no surprise or prejudice, and an ample opportunity to rebut the proposed testimony is provided, the expert testimony should be admitted. *id.*

Additionally, since the jury did not reach the issue of damages, the court's ruling is moot.

**Weight of evidence:**

The test for whether a verdict is against the weight of the evidence is, based upon a review of all the evidence, whether the verdict shocks one's sense of justice and the granting of a new trial is imperative so that right may be given another opportunity to prevail. *Randt v. Abex Corporation*, *supra*. The court is not required to view the evidence in a light most favorable to the verdict winner. *Ditz v. Marshall*, 259 Pa.Super 31, 393 A.2d 701 (1978). If there is a mere conflict of evidence, or the issue is one of credibility, a new trial should not be granted. *Goldmas v. Acme Markets, Inc.*, 393 Pa.Super 245, 574 A.2d

100 (1990). *Smith v. Brooks*, 394 Pa.Super 327, 575 A.2d 926 (1990) alloc dn 527 Pa. 625, 592 A.2d 42.

The case sub judice bears some resemblance to the situation presented in *Marshall v. Ditz*, supra. In that case, Marshall testified that she looked, saw nobody coming and then turned into the path of an approaching vehicle driven by Ditz. Superior Court quoted the rule that a driver may not claim to have looked when she failed to see what the physical facts declare should have been seen, and granted a new trial. However, the holding rested in a significant degree on the testimony of a passenger in the defendant's car. That person, named Heath, said she saw plaintiff when defendant began her turn, yelled for the defendant to stop and, when defendant failed to do so, slid into the back seat.

Ms. Heath was called as a witness by Marshall. Therefore, the decision did not rest upon evidence presented by defendant in that case, and represents authority that a new trial can be ordered based upon testimony of a witness called by the party against whom the jury found. However, the rule must be carefully applied, because, to do otherwise would justify the grant of new trials anytime there is a conflict in testimony. Since this would run contrary to the rule, described supra, more is required than a discrepancy in evidence. Ms. Heath, unlike Dale Sites, Jr., does not appear to have been related to plaintiff and there was no indication that her description might have been affected by any relationship with that party.

In our case, the testimony of defendant and his passenger were consistent.

The granting of a new trial must rest upon more than a conflict between plaintiff and his witnesses and defendant and his. Plaintiff concedes that the jury was properly instructed and obviously resolved issues of credibility against him. We have searched the record to determine if Mr. Price's description was inherently unreliable or highly suspect, so that this judge's sense of justice would be shocked by the verdict in his favor.

It would seem to this writer that the verdict might have been based upon plaintiff's speed, his veering slightly to the right, or a combination of these factors. It would be easy to engage in algebraic exercises to determine if plaintiff's speed could have caused the accident, but the results would be unreliable, in this court's opinion, because of the lack of definitive measurements of time, defendant's speed and distances

involved.<sup>1</sup> Counsel may have used computations in final arguments, but declined to do so. We do not feel competent to engineer results based upon the evidence. Although plaintiff said he used his speedometer to measure the distance from the rise to the intersection, there is nothing to commend this testimony over other things which plaintiff said and the jury rejected. Photographs entered as evidence indicate that the distance between the crest and the intersection was relatively short.

The jury may have decided that, had plaintiff not veered to his right the accident would not have happened.

Frankly, the jury's verdict was not the one this judge would have entered. However, we do not consider it so against the weight of evidence as to shock our sense of justice. Therefore, we deny plaintiff's motion for a new trial.

#### ORDER

AND NOW, this 3rd day of January, 1997 plaintiff's motion for a new trial is denied.

---

<sup>1</sup>Assuming that defendant's truck traveled twenty-five feet, at ten miles per hour, during the same time that plaintiff's car traveled three hundred feet, plaintiff's speed would have to had been 120 m.p.h. However, differences in distances create considerable variables. For example, if defendant's truck actually traveled fifty feet, and the line of sight was two hundred feet, plaintiff's speed is reduced to 40 m.p.h.

## 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 D. EDWIN BENNER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania  
 Executrix: Susan Benner, 230 Benner Road, Gettysburg, PA 17325  
 Attorney: John A. Wolfe, Esq., Wolfe & Rice, 47 West High Street, Gettysburg, PA 17325

## ESTATE OF JOYCE ANDREA BROWN, DEC'D

Late of Fairfield, Adams County, Pennsylvania  
 Executor: Maurice G. Brown, Jr., 364 Mount Hope Road, Fairfield, PA 17320  
 Attorney: Matthew R. Battersby, Esq., 20 West Main Street, P.O. Box 215, Fairfield, Pennsylvania 17320

## ESTATE OF BERNARD F. FLICKINGER, DEC'D

Late of Union Township, Adams County, Pennsylvania  
 Executrices: Shirley A. Craig, 10 Clearview Road, Hanover, PA 17331; Dorothy B. Smith, 72 Mummert Drive, Littlestown, PA 17340  
 Attorney: Keith R. Nonemaker, Esquire, Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

## ESTATE OF KATHLEEN M. LEONARD, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania  
 Executor: Austin F. Leonard, Jr.  
 Attorney: David C. Smith, Esquire, 334 Main Street, McSherrystown, PA 17344

## ESTATE OF BERTHA I. NITCHMAN, DEC'D

Late of Reading Township, Adams County, Pennsylvania  
 Executrices: Betty I. Lauchman, 3755 East Berlin Road, East Berlin, PA 17316; Doris A. Shoemaker, R.D. #1, Box 854, East Berlin, PA 17316  
 Attorney: Sharon E. Myers, Esquire, c/o Countess Gilbert Andrews, 29 North Duke Street, York, PA 17401

## ESTATE OF MAURINE RINEHART, DEC'D

Late of Franklin Township, Adams County, Pennsylvania  
 Executrix: Judy D. Marks, 1550 Highland Avenue Road, Gettysburg, PA 17325  
 Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

## SECOND PUBLICATION

## ESTATE OF HELEN R. BECHTEL, DEC'D

Late of Union Township, Adams County, Pennsylvania  
 Executors: Wilbur M. Bechtel, 775 Littlestown Road, Littlestown, PA 17340; Redamay Garvick, 201 Filbert Street, Hanover, PA 17331  
 Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

## ESTATE OF WILLIAM C. BENSON, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania  
 Executor: PNC Bank, N.A., 10 York Street, Gettysburg, PA 17325  
 Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF ROBERT L. DONOHUE, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania  
 Executor: Alan M. Cashman, Esquire  
 Attorney: Alan M. Cashman, Esquire, 141 Broadway, Suite 230, Hanover, PA 17331

## ESTATE OF ARLEAN FRANCES S. FAUST, a/k/a ARLEAN S. FAUST, DEC'D

Late of Huntington Township, Adams County, Pennsylvania  
 Executor: Lloyd Sheipe, P.O. Box 360, York Springs, PA 17372  
 Attorney: Richard E. Thrasher, Esquire, Bulleit, Schultz & Thrasher, PA 17325

## ESTATE OF JOHN N. IAEA, JR., DEC'D

Late of Adams County, Pennsylvania  
 Executrix: Naida Iaea, 15 Lightning Trail, Fairfield, PA 17320  
 Attorney: Kimberly S. Gray, Esquire, Martin & Gray, P.C., 38 North Main Street, Chambersburg, PA 17201

## ESTATE OF SOLOMON GROVER STARNER a/k/a S. GROVER STARNER, DEC'D

Late of Huntington Township, Adams County, Pennsylvania  
 Executor: Cornelius Starnier, 756 Gun Club Road, York Springs, PA 17372  
 Attorney: Swope, Heiser & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

## THIRD PUBLICATION

## ESTATE OF HAZEL B. ACKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania  
 Executor: John Steven Acker, R.D. #6 Box 6147, Spring Grove, PA 17362  
 Attorney: James T. Yingst, Esquire, Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

## ESTATE OF IRENE M. BEESON, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania  
 Executrix: Liane L. Taft  
 Attorney: Robert Clofine, Esquire

## ESTATE OF JOAN E. KARAM, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania  
 Executrix: Victoria Karam Smith, 186 Longstreet Drive, Lake Heritage, Gettysburg, PA 17325  
 Attorney: John R. White, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF OLIVE L. SHEATS, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania  
 Executrix: Patricia Sheats May, 2645 Sandra Avenue, Red Lion, PA 17356-9024  
 Attorney: John R. White, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF CECIL R. SNYDER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania  
 Co-Executors: Beth A. Snyder, 164 North Main Street, Biglerville, PA 17307; Carroll Cecil Snyder, 8 Chinkapin Drive, New Oxford, PA 17350  
 Attorney: John R. White, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-794 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 February, 1998, 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 and identified in the Declaration referred to below as "Hampton Plains Condominium," located in Reading Township, Adams County, Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 Pa. C.S., Section 3101, *et seq.*, by the recording in the Adams County Records of a Declaration dated November 13, 1990 and recorded on November 23, 1990 in Deed Book 573, Page 915, being and designated in such Declaration as UNIT NO. 69-3, as more fully described in such Declaration, together with a proportionate undivided interest in the Common Elements (as defined in such Declaration of sixteen and two-thirds (16 2/3%) percent.

UNDER AND SUBJECT to any and all covenants, conditions, restrictions, rights-of-way, easements and agreements of record.

IT BEING the same premises which David L. Trish, individual, by his Deed dated March 9, 1992 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 622, Page 987, granted and conveyed unto Ash-Mel, Inc., a Pennsylvania Corporation.

SEIZED and taken into execution as the property of **Ash-Mel, Inc., a/k/a Barry R. Rauhauser and Susan Rauhauser t/a Ash-Mel, Inc.** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 30, 1997.

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 March 16, 1998, 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.  
1/23, 30 & 2/6

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-221 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 February, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE FOLLOWING (3) described lots or parcels of land, lying and being in the Township of Franklin, in the development of Gettysburg Mountain Camp Sites, Inc., in Adams County, Pennsylvania, as follows:

## PREMISES "A":

BEING Lots Nos. 56 and 57 of Section "E," as shown on the survey and original Plat of Gettysburg Mountain Camp Sites, Inc., Adams County, Pennsylvania, and of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 4, at page 799; reference being made thereto for a more particular description of the lots hereinbefore described and herein conveyed.

## PREMISES "B":

BEING Lots Nos. 54 and 55, of Section "E," as shown on the survey and original Plat of Gettysburg Mountain Camp Sites, Inc., Adams County, Pennsylvania, and of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 4, at page 799; reference being made thereto for a more particular description of the lots hereinbefore described and herein conveyed.

## PREMISES "C":

BEING Lots Nos. 4, 5, 6, and 51, 52, and 53 of Section "E," respectively, as shown on the survey and original Plat of Gettysburg Mountain Campsites, Inc., Adams County, Pennsylvania, made by William L. Arrowood, Registered Surveyor, dated November 9, 1965, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book No. 4, at page 799, reference being made thereto for a more particular description of the lots hereinbefore described and herein conveyed.

TITLE TO SAID PREMISES IS VESTED IN Clyde Osborne by Deed from Millard L. Stermer and Ruth R. Stermer, his wife dated 6/8/83, recorded 6/10/83, in Record Book 368 page 710. Tax Parcel #2-95

SEIZED and taken into execution as the property of **Clyde E. Osborne** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 24, 1997.

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 March 16, 1998, 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.  
1/23, 30 & 2/6

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-66 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 February, 1998, 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, bounded and limited as follows, to wit:

BEGINNING at a point three (3) feet from corner of the house now or formerly of Joseph Wolf's heirs and fronting on West King Street, formerly Frederick Street, running eastwardly thirty-three (33) feet, more or less, until it reaches or meets the lot now or formerly of Sylvannus Lynn; thence running southwardly along the line of land now or formerly of Sylvannus Lynn, two hundred and sixty (260) feet to an alley in the rear; thence westwardly along said alley about ninety (90) feet six (6) inches to the lot now or formerly of Joseph Wolf's heirs; thence northwardly to the first point named.

BEING THE SAME PREMISES which Jesse R. Bible and Edith A. Bible, husband and wife, by their deed dated June 28, 1991 and recorded July 3, 1991 in the Office of the Recorder of Deeds in and for Adams County in Record Book 593, page 316, granted and conveyed unto Timothy N. Harvey.

Parcel No. 27-8-224.

SEIZED and taken into execution as the property of **Timothy N. Harvey** and to be sold by me

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
December 23, 1997.

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 March 16, 1998, 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.  
1/23, 30 & 2/6