

# *Adams County* Legal Journal

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## IN THIS ISSUE

BECKER VS. CZAPP & GRIFFITH ET AL

*This opinion continued from last issue (7/25/2003)*

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### *Commitment:*

The philosophy upon which  
Adams County National Bank is  
founded and upon which we are planning  
for your future financial needs today.



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. 03-S-454 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of September, 2003, 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 lot of ground situate, lying and being in Germany Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a corner at a point in the center line of U.S. Route 140 at Lot No. 1 on the hereinafter referred to Subdivision Plan; thence along said Lot No. 1 South twenty-six (26) degrees twenty-two (22) minutes twelve (12) seconds West two hundred (200) feet to an iron pin set on the Northern boundary line of Lot No. 4 on the hereinafter referred to Subdivision Plan; thence along the Northern boundary line of said Lot No. 4 North seventy-seven (77) degrees twenty-six (26) minutes fifty-seven (57) seconds West fifty-six and eighty-five hundredths (56.85) feet to a point at the Northwest corner of said Lot No. 4; thence along other lands now or formerly of Laverne P. Louey and Jean S. Louey, husband and wife, North seventy-seven (77) degrees twenty-six (26) minutes fifty-seven (57) seconds West seventy-one and sixty-nine hundredths (71.69) feet to a point at the Southeast corner of Lot No. 3 on the hereinafter referred to Subdivision Plan; thence along the Eastern boundary line of said Lot No. 3 North twenty-six (26) degrees twenty-two (22) minutes twelve (12) seconds East, through an iron pin set forty (40) feet from the terminus of this call, two hundred (200) feet to a point in the center line of the aforesaid U.S. Route 140; thence along the centerline of said U.S. Route 140 South seventy-seven (77) degrees twenty-six (26) minutes fifty-seven (57) seconds East one hundred twenty-eight and fifty-four hundredths (128.54) feet to a point in the center of said U.S. Route 140, being the point and place of BEGINNING.

CONTAINING 24,963.867 Square Feet or 0.574 Acres.

The above description was taken from a Subdivision Plan prepared by Thomas Michael Englerth, Registered Surveyor, bearing date June 1, 1977, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 15, Page 43, and designated thereon as Lot No. 2.

TITLE TO SAID PREMISES IS VESTED IN Richard M. Myers and Christina Myers, His Wife by Deed from Larry E. Worley and Judy C. Worley, His Wife dated 6/20/1986 and recorded 6/30/1986 in Record Book 429, Page 683.

Premises being: 5085 Baltimore Pike, Littlestown, PA 17340

Tax Parcel No. 12B Map #1-17

SEIZED and taken into execution as the property of **Richard M. Myers & Christina Myers** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 6, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/25, 8/1 & 8

## 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, August 12, 2003, at 9:00 o'clock a.m.

**BRADY**—Orphans' Court Action Number OC-70-03. The First and Final Account of Adams County National Bank, Executor of the Estate of Richard A. Brady, deceased, late of the Borough of McSherrystown, Adams County, Pennsylvania.

**KANE**—Orphans' Court Action Number OC-71-03. The First and Final Account of Michael D. Kane and Patricia Kane, Executors of the Last Will and Testament of Grace E. Kane, deceased, late of Franklin Township, Adams County, Pennsylvania.

**KLINE**—Orphans' Court Action Number OC-74-03. The First and Final Account of Cynthia A. Kline, Executrix of the Estate of Madeline C. Kline, deceased, late of the Borough of Carroll Valley, Adams County, Pennsylvania.

**EICHELBERGER**—Orphans' Court Action Number OC-56-99. The First and Partial Account of PeoplesBank, A Codorus Valley Company, Executor of the Estate of Marjorie R. Eichelberger, deceased, late of Reading Township, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

8/1 & 8

BECKER VS. CZAPP & GRIFFITH ET AL

*Continued from last issue (7/25/2003)*

Czapp and Griffith also argues that Plaintiffs do not have the right to invoke a claim for indemnification because Plaintiffs have not had a judgment entered against them nor have they been compelled to pay money over to a third party based on a finding of liability. The Superior Court of Pennsylvania has defined indemnity as:

[A] right which enures to a person who without fault on his own part, has been compelled, by reason of some legal obligation, to pay damages occasioned by the initial negligence of another and for which he himself is only secondarily liable. *F.J. Schindler Equipment Company v. Raymond Company*, 418 A.2d 533, 534 (Pa.Super. 1980).

The Superior Court has also stated that this right of indemnity rests upon a difference between the primary and the secondary liability of two persons each of whom is made responsible by the law to an injured party. *Id.*

In this case, no court has ordered Plaintiffs to pay damages to an injured party in the manner suggested by the Superior Court. Rather, Plaintiffs allege that, as a result of Czapp and Griffith's conduct, they have incurred damages which include those associated with the environmental remediation of the area beneath their home and the retention of environmental consultants. Plaintiffs maintain that they were required to take such action in accordance with the Land Recycling and Environmental Remediation Standards Act, 35 P.S. §6026.101 et seq. In that sense, it could be argued that the law has in fact ordered Plaintiffs to pay damages to a third party. The United States Court of Appeals for the Third Circuit faced a similar situation in *Philadelphia Electric Co. v. Hercules, Inc.*, 762 F.2d 303 (1985). In that case, the Pennsylvania Department of Environmental Resources (DER) threatened to take legal action against the plaintiff pursuant to the Pennsylvania Clean Streams Law. The plaintiff negotiated and carried out a plan to clean up the contamination. The plaintiff then sought indemnification from the seller of the land who the plaintiff claimed was responsible for the contamination. The Court stated that the plaintiff was not required to fight DER to a final judgment in order to be eligible for indemnity. *Id.* at 317. The Court further stated that the plaintiff should not be penalized for acting responsibly. *Id.* Nevertheless, the Court also added that "to recover indemnity where there has been such a voluntary payment, however, it must

appear that the party paying was himself legally liable and could have been compelled to satisfy the claim.” *Id.* Finally, the Court held that “a mere showing by a party seeking indemnity that there was a reasonable possibility that it might have been held liable if it had not settled ... is not sufficient to recover indemnity; actual legal liability must be shown.” *Id.*

In this case, Plaintiffs have not entered into a settlement with anyone. Furthermore, Plaintiffs have not provided evidence to demonstrate that they were themselves legally liable and that they could have been compelled to satisfy a claim. Nevertheless, the United States District Court for the Middle District of Pennsylvania has recently indicated that such a situation could give rise to a claim for indemnity. In *Two Rivers Terminal, v. Chevron USA, Inc.*, 96 F.Supp.2d 432 (2000), Plaintiffs asserted a claim for indemnity, arguing that they incurred damages in the form of response costs and attorneys fees to assess, evaluate, remediate, monitor and clean up their property which they alleged Chevron had contaminated. *Id.* at 447. Two Rivers maintained that since Chevron caused the contamination, it should be responsible for the payments Two Rivers made, and would have to make, to remediate the site. *Id.* at 453. Chevron argued that Two Rivers was not entitled to indemnity because it had not made any payments to a third party. The Court, however, rejected this argument. *Id.* at 456, n. 9. Consequently, it is possible that a jury could determine that Plaintiffs are entitled to indemnification in this case even if they have not yet proven that they are legally liable to a third party and that they could be compelled to satisfy a claim. We therefore deny Czapp and Griffith’s preliminary objection with regard to Plaintiff’s claim for indemnification.

Czapp & Griffith next contends that Plaintiffs failed to set forth a claim for private nuisance based upon the facts averred in the Complaint and the applicable law. In *Waschak v. Moffat*, 379 Pa. 441, 109 A.2d 310 (1954), our Supreme Court adopted the predecessor to Section 822 of the Restatement (Second) of Torts as the test for determining the existence of a private nuisance in Pennsylvania. See *Karpiak v. J.S. Russo*, 676 A.2d 270, 272 (Pa.Super. 1996). See also *Kembel v. Schlegel*, 329 Pa. Super. 159, 478 A.2d 11 (1984). Section 822 states:

One is subject to liability for private nuisance if, but only if, his conduct is a legal cause of an invasion of another's interest in the private use and enjoyment of land, and the invasion is either:

- (a) intentional and unreasonable, or
- (b) unintentional and otherwise actionable under the rules controlling liability for negligent or reckless conduct, or for abnormally dangerous conditions or activities.

Section 821 of the Restatement (Second) of Torts states, "there is liability for a nuisance only to those to whom it causes significant harm, of a kind that would be suffered by a normal person in the community or by property in normal condition and used for a normal purpose." Comment C to section 821 further explains the meaning of the term "significant harm," stating:

By significant harm is meant harm of importance, involving more than slight inconvenience or petty annoyance... In the case of a private nuisance, there must be a real and appreciable interference with the plaintiff's use or enjoyment of his land before he can have a cause of action.

The Superior Court of Pennsylvania has held that before a nuisance may be found, there must appear an "unreasonable, unwarrantable, or unlawful use by a person of his own property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to one in the legitimate enjoyment of his reasonable rights of person or property." *Smith v. Alderson*, 396 A.2d 808, 810 (Pa.Super. 1979), citing *Maier v. Publicker Commercial Alcohol Company*, 62 F.Supp. 161, 165 (1945). The United States Court of Appeals for the Third Circuit has further stated that historically, private nuisance law has been a means of efficiently resolving conflicts between neighboring, contemporaneous land uses. *Philadelphia Elec. Co. v. Hercules, Inc.*, 762 F.2d at 314. In *Philadelphia Electric*, the Court declined to extend the concept of private nuisance beyond its historical limitations. Specifically, the Court denied a subsequent purchaser the right to pursue a claim for a private nuisance against a predecessor in title for conditions existing on the land prior to transfer. *Id.* at 315. See also, *Seils v. Gettysburg Area Industrial Development Authority*, 37 ACLJ 67 (1995). Furthermore, the Court noted in *Philadelphia Electric* that traditionally, tenants have not been

permitted to cast their cause of action for defective conditions existing on the premises as one for private nuisance. 762 F.2d at 313. In such situations, the Supreme Court of Pennsylvania has held that a landlord may not be liable to tenants for injuries resulting from a condition amounting to a nuisance; only the owners or occupants of near-by property, persons temporarily on such property, or persons on a neighboring highway or other places can recover under a nuisance theory. *Id.*, citing *Harris v. Lewistown Trust Co.*, 326 Pa. 145, 153, 191 A. 34, 38 (1937), *overruled in part on other grounds*, *Reitmeyer v. Sprecher*, 431 Pa. 284, 243 A.2d 395 (1968). Consequently, one seeking to recover under a nuisance theory must argue that he owns, occupies, or is otherwise temporarily on neighboring property affected by conditions amounting to a nuisance on another's property.

In this case, there is no conflict between neighboring contemporaneous land uses. There has been no unreasonable, unwarrantable, or unlawful use by a person of his own property that interfered with another's personal rights or property rights. It is possible that a jury would find that significant harm was done to Plaintiffs' land; however, a private nuisance claim is not appropriate in this case because the conditions allegedly amounting to a nuisance occurred on Plaintiffs' land rather than on neighboring land. Therefore, Czapp and Griffith's preliminary objection to Plaintiffs' private nuisance claim is sustained.

Czapp and Griffith also argues that Plaintiffs have failed to set forth a claim under the Unfair Trade Practices and Consumer Protection Law (UTCPL). Specifically, Czapp and Griffith maintain that Plaintiffs have failed to specify which subsections of Section 201-2(4) of the UTCPL they claim to be applicable. Section 201-2(4) sets forth a list of acts defined as constituting "unfair methods of competition" and "unfair or deceptive acts or practices." Czapp and Griffith argues that Plaintiffs have not stated which of those acts they claim to be applicable. In their Brief in Opposition to Defendant Czapp & Griffith's Preliminary Objections, Plaintiffs specify that they are making claims under subsection (vii) (Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another); subsection (xvi) (Making repairs, improvements

or replacements on tangible, real or personal property, of a nature or quality inferior to or below the standard of that agreed to in writing); and subsection (xxi) (Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding). See 73 P.S. §§ 201-2(4) (vii), (xvi), and (xxi).

Generally speaking, a complaint should give defendant notice of what plaintiffs' claim is and the ground upon which it rests. See *Alpha Tau Omega Fraternity v. University of Pennsylvania*, 464 A.2d 1349 (Pa.Super. 1983), citing Pa.R.C.P. 1019. Nevertheless, Pennsylvania trial courts have broad discretion in determining the amount of detail that must be averred in a pleading. See Goodrich-Amram § 1019(2)-10 & 11; See also, *United Refrigerator Co. v. Applebaum*, 410 Pa. 210, 213, 189 A.2d 253, 255 (1963). Consequently, because Plaintiffs are not repleading other things, we will not require them to replead based on their failure to specify the applicable subsections of 201-2(4) of the UTPCPL in their Complaint.

Plaintiffs argue that, in Section 201-9.2(a) of the UTPCPL, the Legislature specifically provided for the private right of action they allege. This section states:

Any person who purchases or leases goods or services primarily for personal, family or household purposes and thereby suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by any person of a method, act or practice declared unlawful by section 3 of this act, may bring a private action to recover actual damages... 73 P.S. §201-9.2(a).

The Supreme Court of Pennsylvania has stated that Sections 2 and 3 of the UTPCPL are expansive provisions which reflect the legislative judgment that "unfairness and deception in all consumer transactions must be halted." *Creamer v. Monumental Properties, Inc.*, 459 Pa. 450, 461, 329 A.2d 812, 817 (1974). The Court further stated that, in accordance with legislative intent, Sections 2 and 3 are to be liberally construed. *Id.*

The Superior Court of Pennsylvania has also stated that the remedies of the UTPCPL are not exclusive, but are in addition to other causes of action and remedies. See *Wallace v. Pastore*, 742 A.2d 1090, 1093 (Pa.Super. 1999), citing 73 P.S. § 201-1. Furthermore,

Pennsylvania courts have applied the UTPCPL to contractors who have provided services for “personal, family or household purposes.” For example, in *Commonwealth v. Burns*, 668 A.2d 308 (1995), the Commonwealth Court held that, where a contractor agreed in writing to perform a contract with workmanship of good quality but is shown to have performed with substandard and inferior work, a violation of Section 201-2(4)(xvi) of the UTPCPL is established. As noted above, Section 201-2(4)(xvi) states that “making repairs, improvements or replacements on tangible, real or personal property, of a nature or quality inferior to or below the standard of that agreed to in writing,” constitutes an unfair method of competition and an unfair trade practice.

Plaintiffs in this case contend that they purchased services from Czapp and Griffith, specifically the installation of a home heating oil tank, for personal, family and household purposes, specifically for the purpose of heating Plaintiffs’ personal residence. Furthermore, Plaintiffs maintain that Czapp & Griffith misrepresented that its tank installation services would conform to a particular quality or standard in the industry and that contrary to Czapp and Griffith’s representations, the work performed was of substandard and inferior quality.

Pennsylvania Rule of Civil Procedure 1019(h) requires that, when any claim or defense is based upon an agreement, the pleading must state specifically whether the agreement is oral or written. If the agreement is in writing, the writing must be attached to the pleading. Pa.R.C.P. 1019(i). Plaintiffs attached a one-page invoice from Czapp & Griffith which they allege to be the written contract between the two parties for the installation of the home heating oil storage tank. This is the only written agreement which Plaintiffs mentioned and/or attached to their Complaint. This invoice makes no specific reference to the quality of services to be provided. Therefore, we will assume that the references Plaintiffs made to Czapp & Griffith’s representations regarding quality of service stemmed from oral agreements or general industry standards.

Based on the holding in *Burns*, Plaintiffs have appropriately set forth a claim under Section 201-2(4) of the UTPCPL. Plaintiffs have also appropriately set forth a claim under the catchall provision of Section 201-2(4) which is designed to cover generally all unfair and deceptive acts or practices in the conduct of trade or commerce. See



*Hammer v. Nikol*, 659 A.2d 617, 619 (Pa. Cmwlth. 1995), citing *Creamer v. Monumental Properties, Inc.*, 459 Pa. 450, 329 A.2d 812. Plaintiffs may not be able to ultimately succeed with regard to these claims; however, the claims themselves are not inappropriate at this time. Therefore, Czapp & Griffith's preliminary objection to Plaintiffs' claims under the UTPCPL is denied.

Czapp and Griffith also motioned, in the alternative, for more specific pleadings with regard to the section(s) and subsection(s) of the UTPCPL upon which Plaintiffs based their claim. In their Brief in Opposition to Defendant Czapp & Griffith's Preliminary Objections, Plaintiffs stated that they are making claims under Sections 201-9.2(a), 201-3, and 201-2(4)(vii),(xvi), and (xxi) of the UTPCPL. Plaintiffs have therefore provided the information requested, and, as noted above, we will not require Plaintiffs to replead with regard to this issue.

Accordingly, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 22nd day of July, 2002, in consideration of Preliminary Objections of Defendant, Czapp & Griffith, to Plaintiffs' Complaint, the Court does hereby:

1. Deny the demurrer to Plaintiffs' claim for punitive damages in Count I.
2. Deny the demurrer to Plaintiffs' claim for indemnification in Count III.
3. Sustain the demurrer to Plaintiffs' claim for a private nuisance in Count IV. Plaintiff is denied the right to re-plead this count.
4. Deny the demurrer to Plaintiffs' claim under the Unfair Trade Practices and Consumer Protection law in Count VI.
5. Deny the motion for more specific pleadings with regard to Count VI.
6. Defendant shall have twenty days from the date of mailing of this Order in which to file an Answer to the Complaint.

**LEGAL NOTICE  
ADAMS COUNTY TAX CLAIM BUREAU**

Pursuant to Court Orders 03-S-539 through 03-S-552, the following real property will be offered for sale Friday, September 19, 2003 at 1:00 P.M. E.D.S.T., at the Adams County Courthouse, 111-117 Baltimore Street, 4th floor, Gettysburg, Pennsylvania. The purpose of this sale is to dispose at public sale the following parcels of real estate:

OWNERS OR REPUTED OWNERS	TOWNSHIP/ BOROUGH	MAP NO., PARCEL NO., LOT NO. OR PROPERTY DESCRIPTION
Garland Construction, Inc.	Abbottstown	3-90
Gonzalez, Ricardo, Etal	Berwick	1999 Sandpointe MH
Graham, Dwight T. & Frances B.	Gettysburg	7-63
Concannon, Raissa	Hamiltonban	A17-62
Michael, Timothy E.	Huntington	1988 Fleetwood MH
Garland Construction, Inc.	New Oxford	7-104
Kamot, Sana E.	Oxford	J11-131M
Reading Township	Reading	J8-107
Quinn, Michael K.	Reading	J8-110A
Whitworth, Douglas I.	Reading	J8-78
McKenna, Edward J. & Patricia E.	Straban	G10-13

**TERMS OF SALE:** CASH IN THE FORM OF CURRENCY OF THE UNITED STATES IF THE PURCHASE PRICE IS \$50.00 OR LESS. For properties selling for more than \$50.00, \$50.00 in the form of currency of the United States and a check or other satisfactory payment of the balance. All properties shall be paid for at the time the property is struck down. The purchaser(s) shall be required to pay, in addition to the bid price, the fees for preparing and recording a deed, and any applicable transfer taxes due (the assessed value x 2.65 x 2).

The above properties were previously advertised for sale in the *Adams County Legal Journal*, *The Gettysburg Times* and in *The Hanover Evening Sun* on August 2, 2002.

**ADAMS COUNTY TAX CLAIM BUREAU  
NOTICE OF PUBLIC TAX SALE**

TO OWNERS OF PROPERTIES DESCRIBED IN THIS NOTICE AND TO ALL PERSONS HAVING LIENS, JUDGMENTS OR MUNICIPAL OR OTHER CLAIMS AGAINST SUCH PROPERTIES.

Notice is hereby given by the Tax Claim Bureau in and for the County of Adams under the Act of 1947, P.L. 1368, as amended, that the Bureau will expose at public sale in the Adams County Courthouse, fourth floor, Jury Assembly Room, 111-117 Baltimore Street, in the Borough of Gettysburg, Pennsylvania at 9:00 a.m. E.D.S.T. on September 19, 2003, or any date to which the sale may be adjourned, re-adjourned or continued, for the purpose of collecting unpaid 2001 and any prior real estate taxes, prior liens, municipal, and all costs thereto, the following described set forth.

The sale of the property may, at the option of the Bureau, be stayed if the owner thereof or any lien creditor of the owner, on or before the date of the sale enters into an agreement with the Bureau to pay the taxes, claims, and all costs in installments in the manner provided by said Act, and the agreement be entered into.

There will be no Redemption Period after the date of the sale, but these taxes and costs can be paid up to the date of the sale, September 19, 2003.

It is strongly urged that the prospective purchasers have an examination made of the title of any property in which they may be interested. Every reasonable effort has been made to keep the proceedings free from error. However, in every case the Tax Claim Bureau is selling the taxable interest and the property is offered for sale by the Tax Claim Bureau without guarantee or warranty whatsoever.

The property so struck down will be settled for before the next property is offered for sale. Deeds for the premises will be prepared by the Tax Claim Bureau and recorded. Buyer(s) will be required to pay, in addition to their bid, at the time the property is struck down to them, the basic sum for preparing and recording the deed, and the costs of such realty transfer stamps as required (assessed value x 2.65 % X 2). The Tax Claim Bureau will mail the deeds to the address given by the purchaser.

A property will not be sold if the delinquent taxes and all costs are paid prior to the sale and it is suggested that this be done as soon as possible before the sale, as the earlier this is done, the more saving there will be in the amount of costs etc.

It is repeated that there is no redemption after the property is sold and all sales will be final. No adjustments will be made after the property is struck down.

**TERMS OF SALE:** In the case of all properties selling for one hundred dollars (\$100.00) or less, cash in the form of currency of the United States must be paid in full at the time the property is struck down. In the case of properties for which more than one hundred dollars (\$100.00) has been bid, the sum of one hundred dollars (\$100.00) cash in the form of currency of the United States must be paid in full when the property is struck down and a check on a bank or other satisfactory payment for the balance must be paid at the same time. If the balance of the purchase price is not paid for any reason (for example, if a check is not paid), the one hundred dollars (\$100.00) cash paid shall be forfeited as liquidated damages.

NOTICE TO PROSPECTIVE TAX SALE BIDDERS

IN ACCORDANCE WITH ACT NO. 133 P.L. 1368, NO. 542, PROSPECTIVE PURCHASERS AT ALL TAX SALES ARE NOW REQUIRED TO CERTIFY TO THE TAX CLAIM BUREAU AS FOLLOWS:

1. A SUCCESSFUL BIDDER SHALL BE REQUIRED TO PROVIDE CERTIFICATION TO THE BUREAU THAT, WITHIN THE MUNICIPAL JURISDICTION, SUCH PERSON IS NOT DELINQUENT IN PAYING REAL ESTATE TAXES OWED TO TAXING BODIES WITHIN ADAMS COUNTY, AND
2. A SUCCESSFUL BIDDER SHALL BE REQUIRED TO PROVIDE CERTIFICATION TO THE BUREAU THAT, WITHIN THE MUNICIPAL JURISDICTION, SUCH PERSON IS NOT DELINQUENT IN PAYING MUNICIPAL UTILITY BILLS OWED TO MUNICIPALITIES WITHIN ADAMS COUNTY.

David K. James, III  
 Solicitor, Tax Claim Bureau  
 Danielle Asper  
 Director, Tax Claim Bureau

OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
	ABBOTTSTOWN BOROUGH	
Wagaman, Bryan	5-1B	\$4,000
Deel, Denise	L10-40-127, 1991 Skyline	\$1,200
	ARENDTSTOWN BOROUGH	
Hays, Lawrence Walter & Bessie D.	4-8-0	\$5,100
	BERWICK TOWNSHIP	
Reese, Raymond	L10-40-427, Fleetwood MH	\$2,000
Luckenbaugh, Albert Lee & Vivian	L12-94-0	\$6,000
Miller, Joseph A. Jr. & Loretta	L10-40-268, 1985 Commodore	\$1,100
Smith, Gary L.	L11-91	\$3,600
Kennedy, David A. & Brenda E.	K11-48E-0	\$7,000
Burrows, James & Lisa	L10-40-219, 1994 Skyline	\$1,600
Parsley, Herb & Diana	L10-40-227, 1979 Suncrest	\$700
Schmidt, David	K11-150	\$6,000
Schmidt, David W. & Sandra F.	K11-152	\$14,000
Schmidt, David W. & Sandra F.	K11-162	\$600
	BIGLERVILLE BOROUGH	
Angel, Nevin L. & Penny L.	3-115B	\$1,000
Hartman, James M.	3-70	\$5,000
	BONNEAUVILLE BOROUGH	
Edwards, Glenn H. & Anita H.	8-61-0	\$4,300
	BUTLER TOWNSHIP	
Flanary, Brian K.	G09-12A-1, Fleetwood/Claremont MH	\$1,800
Flickinger, Donald W. & Pamela	F9-70	\$6,000
Lener, Phyllis J.	F10-38-74, 1989 Windgate	\$2,173
Kuhn, Toni L.	F10-38-81, 1998 Summerset	\$3,600
Stapleton, Shaun & Wendy Myers	F10-38-48, 1989 Windgate	\$1,800
Rinehart, Catherine	F9-13	\$3,200
Shultz, Kenneth W. & Lisa D.	F8-56	\$1,300
Hudson United Bank	F10-38-54, 1994 Redman MH	\$1,200
Cooper, Jack	F10-38-46, 1989 Windgate	\$1,200
Southerly, Michael A.	F7-35-1, 1974 Hillcrest	\$300
Angeles, Marcelino	G8-20-2, 1974 Schult MH	\$300
	CONEWAGO TOWNSHIP	
Brendle, Terry Lee & Rosalind	K13-23	\$2,500
Frederick, Matthew A. & Cynthia	8-167-0	\$2,000
Rohrbaugh, Bradley D.	K14-116A, Redman	\$2,000
Wildasin, Donald Lee & Patricia	8-56	\$2,200
Potter, Chris L.	9-49	\$2,200
Host, Nancy A. & Helen M. Volk	21-4-0	\$2,500
Hollinger, Dianne M.	1-182	\$1,400

OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
	CUMBERLAND TOWNSHIP	
Delaney, James H. Jr.	E13-56	\$8,300
Holt, John A.	E16-33-0	\$5,000
Oak Lawn Memorial Gardens, Inc.	E12-79	\$9,000
Delaney, James H. Jr.	E12-79A	\$1,800
Fissel, Timothy L. & Dalonda E.	E12-82-346, Amhurst	\$1,300
Lorah, Christopher & Robin	E12-82-215	\$1,500
Barnett, Barbara C.	F15-65-9, 1993 Fleetwood	\$1,400
	EAST BERLIN BOROUGH	
Hull, Donald A.	4-129-0	\$3,500
	FRANKLIN TOWNSHIP	
Beamer, William H. & Lynda M.	D08-10-0	\$3,200
Coene, Charles & Karen Hoff	2-99	\$800
Coene, Charles	2-2	\$900
Griffith, Martene E.	C11-19A	\$1,000
Six, David S. & Ida Beth	B9-95	\$3,500
Rodriquez, Monica S.	C10-27A-0	\$1,000
Schindel, Philip B.	C12-7D-0	\$7,000
Strausbaugh, Charles W. & Alverta	B09-38G-0	\$1,000
Swayzer, Fred L. & Estella	C11-47	\$400
Schindel, Philip B.	B11-34-0	\$2,000
Schindel, Philip B.	B11-1A-0	\$2,300
Slee, John A. & Carol S.	A09-47-0	\$19,000
Cassatt, Merle M. Jr. & Linda	C11-34-1, 1967 Patriot	\$300
Grimes, Carroll	B8-13-13, 1980 MH	\$700
Haws, Robert W. Sr.	C10-189-0	\$3,000
Roney, Kenneth W.	B10-9	\$300
Becker, Dale E.	888-1-5	\$1,400
	FREEDOM TOWNSHIP	
Deavers, Gerald D. & Carol J.	E17-35-0	\$5,070
Rosensteel, Ronald A. & Jeri	E16-2	\$1,500
	GERMANY TOWNSHIP	
Taylor, Mark & Minnie D.	J17-112	\$1,000
Wilson, Nancy W.	I18-85-0	\$2,500
Miller, Donald E. & Candis E.	I16-46	\$1,000
Edwards, Gary J. & Nancy A.	I18-75-0	\$7,000
Miller, Donald E. & Candis E.	I16-45	\$1,000
	GETTYSBURG BOROUGH	
Ivey, Katherine E.	10-325	\$600
Tyler, Mary	10-227	\$1,400
Jones, William H. & Cindy R.	10-346-0	\$2,200
Schindel, Philip B.	7-279	\$4,600
Costley, Valerie Lynn	10-228	\$2,900
Alpha Tau Omega	4-113-3	\$40,000
Phi Kappa Psi	4-113-2	\$30,000
Phi Gamma Delta	4-113-4	\$50,000
Alcorn, Roger A.	10-77B	\$2,780
	HAMILTON TOWNSHIP	
Forbes, Jack & Carol Elizabeth	L09-40-0	\$7,900
Forbes, Jack & Carol Elizabeth	L10-1-0	\$10,800
	HAMILTONBAN TOWNSHIP	
Hayes, Kathryn T.	A17-60	\$1,600
Hayes, Kathryn T.	A17-35A	\$1,000
Hayes, Kathryn T.	A17-35	\$1,700
Kauffman, Ronald D.	A12-6	\$2,800

OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
Mort, Charles & Agnes	BB-41	\$2,500
Mort, Charles & Agnes	BB-1A	\$700
Johnson, John H. & Barbara L.	C15-38	\$2,800
Harlacher, Mark A.	A12-14A	\$3,600
Naugle, David M.	B13-35A	\$500
Knepper, Brian Lee	A12-9C	\$2,100
Strausbaugh, Harry A. & Angela	B16-97-1, 1973 MH	\$400
Knepper, Charles H. & Leslie E.	A12-9B, Mobile	\$1,400
HIGHLAND TOWNSHIP		
Trostle, Rondale A. & Karen S.	E12-121	\$5,000
Fritz, Louis Edward Jr	AB-76	\$450
Site Services & Wuethrich's Lawn & Grounds Maintenance LLC	D14-51	\$300
HUNTINGTON TOWNSHIP		
Bailor, Dale R.	H03-25-0	\$1,000
Conner, Randall K. & Susan M. Brown	H4-12-7, 1975 Skyline MH	\$300
Arnolt, Gary L. & Theresa L.	G3-107-1, 1981 Halmark MH	\$500
Strudwick, Stephen A. & Ann M.	J05-35A-0	\$3,000
Decosmo, Raymond & Kristen	J05-23A-998	\$6,000
Fox, Harry Sr.	G3-122-3, 1987 Zimmer	\$1,000
B S B Bank & Trust	G3-122-8, 69 Skyline MH	\$400
LATIMORE TOWNSHIP		
Conley, Robert H. & Anna Mae	I03-49-0	\$22,000
Conley, Robert H. & Anna Mae	I03-38-0	\$3,300
Smith, Barbara L.	K04-29A-0	\$1,000
Krull, Michael & Vanessa	1-13A	\$3,200
LIBERTY TOWNSHIP		
Cole, Mary Ellen	QQ-56	\$450
Fritz, Louis E. Jr.	AA-185	\$310
Myers, Richard W.	AB-22	\$520
Sheldon, William Robert & Cherlann	OO-64	\$370
Sheldon, William Robert & Cherlann	OO-61	\$410
Teal, Zona Lorvenia & Stacey Laverne	OO-1	\$310
Zimmerman, Thomas W. & Deborah	AB-48	\$9,420
Zimmerman, Thomas W. & Deborah	AB-47	\$320
Iqbal, C. Zafar & Lubna F.	AA-94, 18 Strausbaugh Tr.	\$270
Singh, Nirmal & Surjit K.	OO-22	\$240
Harrinton, Neal & Teresa	C18-46B	\$5,640
Hess, John & Patricia	C17-26	\$7,800
LITTLESTOWN BOROUGH		
Jacobson, Stuart & Tony Price	11-135	\$3,100
Foltz, Richard L. & April D.	8-328	\$2,900
Harman, Audrey A.	8-205	\$3,600
Glass, Jennifer, Darlene Martofel, John Goulet	8-84	\$3,000
Tidman, Mary E.	8-39	\$5,000
Via, Robert J.	8-302	\$11,700
MENALLEN TOWNSHIP		
Austin, Arthur S. & Laura L.	C05-62	\$5,300
Angel, Nevin L. & Penny L.	F5-86	\$3,200
Musgrave, Robert S. & Susan G.	B05-3	\$1,300
Kuhn, Freeman Jr. & Sharon	F5-3B	\$1,300
Rice, Wallace C.	C06-360	\$4,800
Hartman, James M. Sr.	E4-13B	\$700
Wileman, William E. & Patricia	E6-25	\$3,700
Crum, Martin c/o Julia A. Eyler	E07-15	\$1,900

OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
Pritchard, Harry L. & Sharon A.	E5-57	\$3,200
Tanner, Margaret E. & Raymond J. Jr.	E5-1000	\$2,600
Thomas, William D. & Barbara S.	C6-45	\$3,600
Buchheister, Joseph S. & Juanita	E5-37	\$40,000
Buchheister, Joseph S. & Juanita	E5-70A	\$500
Hamilton, Raymond E. & Carolyn	E6-1C	\$3,900
MT. JOY TOWNSHIP		
Delaney, James H. Jr.	11-2	\$12,500
Poole, Barry N. & Kelly A.	H15-47	\$5,500
Wilson, Martha A. & Gearhart, Janice	H18-29	\$4,600
Bui, Hien Van	G14-89	\$11,500
Alvarez, Victor M. & Marcelina	8-8	\$2,500
Regler, Joseph M. IV & April L.	F18-65	\$15,000
MT. PLEASANT TOWNSHIP		
Becker, Randal L. & Wendy Sue	5-155	\$6,200
Jacobs, Cynthia K. Bopp & Richard	J12-61-143, 1981 Liberty	\$800
Wolfe, Philip L. Jr. & Jessica A. Klinedinst	J12-61-95, 1999 Fleetwood	\$2,200
Smith, David & Beth Lockard	J11-52-5, 2001 Commodore	\$2,300
Mullin, Richard P. & Michael S.	J11-6A-0	\$4,100
Parsley, Kathleen M. & Carnes, Elven Lee	I12-25-0	\$6,000
Picard, Elaine & Moore, Mary	J11-52-49, 1989 Derose	\$2,400
Miller, Joseph	J12-61-163, 1992 Fleetwood	\$800
Yingling, Wendell & Mary	J12-61-124	\$600
Basehoar, Charles D. & Robin L.	I13-13-0	\$2,400
Degroff, Derrick	J12-61-40, 1996 Fleetwood	\$1,900
Stambaugh, Heather	J11-52-84, 1979 Hillcrest	\$600
Horak, Michael W. & Denise G.	5-151-0	\$2,900
Garrigan, Josh	J12-61-159, 1971 Skyline	\$400
Messer, Mary Bennett	J11-114-0	\$3,700
Deshong, David T. & Susan M. Kiser	J11-52-3	\$600
NEW OXFORD BOROUGH		
Rohrbaugh, Bradley D.	2-34-0	\$17,400
Cox, Jeffrey L. & Kathy L.	7-57-0	\$3,600
OXFORD TOWNSHIP		
Kessel, Gregory E. & Debbie K.	J12-111-0	\$5,800
Ketterman, Barry & Barbara	K11-26C-13, 1997 Liberty	\$2,300
Stapleton, Mark A. & Sharon L.	J12-89A-0	\$4,300
Ward, Sheryl	K11-26C-35, 1998 Fleetwood Heritage Point	\$3,800
Alvarez, Jorge & Barbara	K11-105F-21, Skyline	\$1,800
Taylor, M. Christopher & Robin	13-65-0	\$8,900
Nieves, Vincent III & Nitza	1-52-1	\$4,500
Wigfield, Curtis L. & Melissa	K12-112D-0, Hornelite	\$3,800
Shaw, James	L13-7-0	\$900
Schmidt, Walter, David Wayne, David Ariel, David Eagle	K12-125	\$1,900
READING TOWNSHIP		
Altland, Karelene A.	J8-45-105, 1979 Liberty	\$600
Guevara, Everardo	L7-5-11, 1969 Parkway	\$900
Hartlaub, Carroll E.	L7-3B-0	\$3,100
Jarrett, Edward & Diane	J8-45-117, 1976 Metamora	\$600
Reese, Steven	J8-45-108, 1992 Skyline	\$1,900
Sullivan, Ronald W.	J09-70F-0	\$3,800
Markey, Stanley L. & Roberta E.	J09-23A-0	\$7,300
Spangler, Matthew W. & Alma	L07-5-34, 1990 Commodore	\$1,900
Stambaugh, Jenette G.	J8-120D-0	\$2,900

OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
Brown, Guy I. & Lori A.	K8-2F-0	\$4,500
Shetter, Michael	L07-5-56, 1987 Colony Park	\$1,200
Groendyk, Fred J. & Pamela M.	11-10-0	\$3,000
Kulis, Mark & Tammy	J8-45-5, Commodore Nova	\$1,800
Ruppert, Matthew & Anna	J08-45-129, Claremont by Fleetwood	\$1,500
Gardner, Michael L. & Carol Ann	L7-5-39, Skyline	\$1,500
Putman, Thomas A.	J05-40-0, Hillcrest	\$1,600
Constantino, Mariano C.	J08-45-17	\$433
Mummert, Anna Mae	L7-5-7, Shannon	\$800
Funt, John	L7-5-21, Hillcrest 2950428	\$500
Lentz, Vera & Michael L.	K5-29-0	\$3,400
Sponeseller, Michael E. & Dorothy	L6-16A-0	\$800
Bell, Lester & Brandy	L7-5-35, Heritage Pointe by Fleetwood	\$1,000
Crowl, Dawn	L7-5-10, Hallmark Galaxy	\$600
STRABAN TOWNSHIP		
Chapman, Samuel	G12-124-25, 1977 Homette	\$500
Junkins, Timothy	G12-124-124, 1974 Kirkwood	\$300
Kyle, Timothy H.	G12-124-83, 1995 Colony	\$1,600
Klein, Herbert F. & Naomi C.	I11-23A-0	\$3,200
Klein, Herbert F. & Naomi C.	I11-23C-0	\$2,100
Shealer, Frederick M.	G12-10-0	\$13,800
Shealer, Frederick M.	G12-39G-0	\$12,600
Sipling, Sterling D.	I11-17A-0	\$2,500
Starmer, Rodney J. & Cheryl K.	I10-13-0	\$4,400
T-Wings Farms	G10-18-0	\$11,000
Group, Nancy	H10-17-130, 1986 Skyline	\$1,100
Herbs, Dave & Carrie	H10-17-152, 1995 Skyline	\$3,000
Slothour, Stacey	G12-124-38, Redman Plaza Series	\$1,000
Smith, Gary	G12-124-40, 1973 Kenilworth	\$600
Weaver, Terry & Brenda	H10-17-146, 1987 Skyline	\$1,400
Gulas, Richard A. & Denise	I9-35-0	\$2,800
Garman, Patricia S.	H10-17-148, 1997 Redman	\$1,400
Simpson, Edward W. & Patricia A.	G10-28C-0	\$8,000
Harris, Richard A. & Ronda L.	21-79-0	\$1,800
Moreno, Armando & Esperonza	H10-17-125, Fleetwood	\$2,200
Smith, Daniel L. & Sandra K.	J09-16-0	\$13,500
Lebaron, Matthew C.	G12-124-123, Fairmont Kingsley	\$900
Ash, Ronald K. & Michelle S.	G10-16B-29, Clayton White Pine	\$2,500
Shultz, Beverly	G10-16B-42	\$1,000
TYRONE TOWNSHIP		
Bly, Barry W. & Mary M.	I08-12-0	\$1,800
Bly, Barry W. & Mary M.	I08-12A-0	\$900
Green Point Credit	H07-75-999, Southern Energy	\$4,000
Rex, Dwight A.	1-35-0	\$3,500
Laughman, Daniel L. & Kathy S.	H07-75-11, 1996 Liberty	\$2,600
McDannell, Brian & Kamela	H07-75-62, 1996 Fleetwood	\$800
Lener, Mark	H07-75-80, So Energy	\$2,500
Rudolph, Patrick J. & Sara A.	I09-16A-13, 1970 MH	\$400
Green Point Credit	H07-75-14, 1996 Liberty	\$800
Anderson, Alfred & Frederick	H07-75-117, T-Nova by Commodore	\$3,300
Johnson, James C. & Sandra L.	H06-24C-0	\$6,827
Woodson, William & Wanda	H07-75-93, 1996 imperial	\$3,600
Chesney, Brian R. & Sherry E.	H07-75-155, Walnut Grove/Kernington	\$2,600
Stambaugh, Denise Aka Urbany	H07-75-148, Suncrest by Fleetwood	\$3,300
Green Point Credit	H07-75-132, 1998 Commodore	\$1,700

OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
Chase Manhattan Mortgage	H07-75-137, Nova By Commodore	\$1,700
Lowe, Kevin E. & Heather M.	H7-75-109, Southern Energy	\$2,900
UNION TOWNSHIP		
Berchock, John J. & Pamela D.	K18-55-0	\$1,800
Berwager, Darin L.	K16-25-0	\$2,000
McMaster, Catherine M.	K16-25-0	\$2,000
Sterner, Eric J.	K17-81	\$1,200
Foltz, Richard L. Jr. & April D.	K18-13-i	\$1,003
Miller, Donald E. & Candis E.	K17-49-0	\$700
Moriarty, Delores Giles & Victor Giles	K17-38-0	\$800
CARROLL VALLEY BOROUGH		
Boothe, Louise M. & Beavers, Nancy K.	22-119-0, WA-0271	\$600
Mort, Charles & Agnes	21-2-0	\$3,300
Mort, Charles & Agnes	21-3-0	\$4,100
Mort, Charles & Agnes	45-67-0	\$5,100
Mort, Charles & Agnes	41-139-0	\$2,700
Mort, Charles & Agnes	3-57-0	\$4,400
Mort, Charles & Agnes	30-51-0	\$1,100
Mort, Charles & Agnes	40-89-0	\$2,700
Mort, Charles & Agnes	43-42-0	\$3,400
McClellan, John B.	19-63-0, D-0032	\$320
Reida, John R. & Helen E.	43-5-0	\$4,100
Sedr, William W. & Dolores C.	18-49-0, C-0023	\$300
Unger, Michael J. & Carole A.	43-4-0	\$7,000
Virostek, Geraldine A.	18-17-0, A-0081CR	\$610
Gillespie, Alan V. & Sherry	34-172-0, P-0150	\$7,800
Pahl, Margaret E.	34-85-0	\$300
Divittorio, Joseph J.	34-174-0	\$600
Fritz, Louis E. Jr.	23-152-0	\$600
Jester, Robert S. & Mary Ellen	3-55-0, K-0307	\$8,100
Rowe, Joseph O. & Oreda K.	29-18-0	\$200
Hart, Gary	47-49-0, R-0091	\$320
Gillespie, Alan V. & Sherry K.	34-171-0, P-0149	\$570
Lucas, Andrew & Fritz, Louis E. Jr.	35-84-0	\$500
Davies, Howard M. & Florence K.	6-72-0	\$6,500
Lizor, Mary Ann	43-32-0	\$1,000
Matthews, Maureen A., Bernard Morrison, Loretta E. & James Brasche	22-147-0, W-0096	\$300
Sabalino, Louis C. & Rose & Angela R. Strovel	30-50-0, B-0144	\$600
Mort, Charles & Agnes	27-2-0	\$300
Whipp, Gary L. & Mary C. Smith	2-128-0, J-0042	\$4,300
Liu, Dai Kee & Brenda J.	33-34-0, E-0078	\$7,800
Vance, David H. & Kazuko V.	34-132-0, E-0060	\$600



## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-448 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of August, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

Legal Description

## PREMISES "A"

ALL THAT TRACT of land situate, lying and being in Menallen Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an Existing Rebar at the common corner of land now or formerly of Brian Showers and land now or formerly of Leroy Routsong, et al. and land now or formerly of Harry L. Pritchard; thence by said land now or formerly of Brian Showers, South 37 degrees 56 minutes 09 seconds East, 317.60 feet to an Existing Axle at corner of said land now or formerly of Brian Showers; thence by said land now or formerly of Brian Showers, South 85 degrees 07 minutes 39 seconds West, 199.82 feet to an Existing Axle at corner of said land now or formerly of Brian Showers, and on line of land now or formerly of Ruth E. Bretzman; thence by said land now or formerly of Ruth E. Bretzman, North 37 degrees 56 minutes 09 seconds West, 423.73 feet to a Rebar Set at Existing Planted Stone at the common corner of said land now or formerly of Ruth E. Bretzman and other land now or formerly of William O. Routsong and land now or formerly of Leroy Routsong, et al.; thence by said land now or formerly of Leroy Routsong, et al., North 84 degrees 27 minutes 24 seconds East, 198.32 feet to a point at corner of said land now or formerly of Leroy Routsong, et al.; thence by said land now or formerly of Leroy Routsong, et al., South 37 degrees 56 minutes 09 seconds East, 108.90 feet to an Existing Rebar at the common corner of said land now or formerly of Leroy Routsong, et al. and land now or formerly of Brian Showers and land now or formerly of Harry L. Pritchard, the point and place of BEGINNING.

CONTAINING 1.634 acres.

THE above description was taken from a draft of survey, by Mark A. Kuntz, Surveyor, dated November 12, 1993 as later revised, which draft of survey is lodged and part of the record in No. 97-S-231 in the Adams County Prothonotary's Office.

## PREMISES "B"

ALL THOSE TWO (2) tracts of land situate, lying and being in Menallen Township, Adams County, Pennsylvania,

more particularly bounded and described as follows:

TRACT NO. 1:

BEGINNING at a Pipe Set in the centerline of the right-of-way of Maryland Avenue, 18' back from the centerline of existing 18' gravel cartway, at the common corner of land now or formerly of Rob Conner and land now or formerly of Hugh Gauch; thence crossing and leaving said Maryland Avenue, and by land now or formerly of Hugh Gauch, North 57 degrees 34 minutes 08 seconds East, 199.24 feet to a Rebar Set at corner of said land now or formerly of Hugh Gauch; thence by said land now or formerly of Hugh Gauch, South 48 degrees 38 minutes 54 seconds East, 1,098.16 feet to a Rebar Set at Existing Planted Stone at corner of said land now or formerly of Hugh Gauch; thence by said land now or formerly of Hugh Gauch, North 33 degrees 05 minutes 16 seconds East, 178.65 feet to an Existing Rebar and Stones at the common corner of said land now or formerly of Hugh Gauch, land now or formerly of Paul Kuhn, and land now or formerly of Robert Ayers, Jr.; thence by said land now or formerly of Robert Ayers, Jr., South 46 degrees 57 minutes 39 seconds East, 328.32 feet to an Existing Pipe and Stones at corner of said land now or formerly of Robert Ayers, Jr.; thence by said land now or formerly of Robert Ayers, Jr., North 52 degrees 40 minutes 28 seconds East, 297.66 feet to an Existing Pipe at intersection of Stone Rows on line of said land now or formerly of Robert Ayers, Jr., and at corner of land now or formerly of John W. Morrow; thence by said land now or formerly of John W. Morrow, South 37 degrees 14 minutes 19 seconds East, 548.01 feet to an Existing Pipe at corner of said land now or formerly of John W. Morrow; thence by said land now or formerly of John W. Morrow, North 49 degrees 29 minutes 30 seconds East, 819.62 feet to an Existing Pipe at 8" Spruce Tree at corner of said land now or formerly of John W. Morrow, and said on line of land now or formerly of E.C. Anderson, Jr.; thence by said land now or formerly of E.C. Anderson, Jr. and by land now or formerly of Kevin B. King, South 40 degrees 36 minutes 47 seconds East, 265.20 feet to an Existing Pipe at corner of said land now or formerly of Kevin B. King and on line of land now or formerly of Harry L. Pritchard; thence by said land now or formerly of Harry L. Pritchard, South 52 degrees 37 minutes 44 seconds West, 635.58 feet to a Rebar and Stones Set at corner of said land now or formerly of Harry L. Pritchard; thence by said land now or formerly of Harry L. Pritchard, and across an Unimproved Road (right-of-way to S.R. #4008) near the end of this course, South 33 degrees 26

minutes 12 seconds West, 623.70 feet to an Existing Rebar at common corner of said land now or formerly of Harry L. Pritchard and Brian Showers, and on line now or formerly of William O. Routsong; thence by said land now or formerly of William O. Routsong, North 37 degrees 56 minutes 09 seconds West, 108.90 feet to a point at corner of said land now or formerly of William O. Routsong; thence by said land now or formerly of William O. Routsong, South 84 degrees 27 minutes 24 seconds West, 198.32 feet to a Rebar Set at Existing Planted Stone at the common corner of said land now or formerly of William O. Routsong and other land now or formerly of the said William O. Routsong.

(TRACT 2 more particularly described hereinbelow); thence by said other lands now or formerly of William O. Routsong, North 37 degrees 56 minutes 09 seconds West, 273.87 feet to a point at corner of said other land now or formerly of William O. Routsong; thence by said other land now or formerly of William O. Routsong, South 54 degrees 22 minutes 15 seconds West, 209.78 feet to a Rebar Set in Existing Stones at corner of said other land now or formerly of William O. Routsong and at corner of land now or formerly of Ruth E. Bretzman; thence by said land now or formerly of Ruth E. Bretzman, and by land now or formerly of John C. Bretzman, South 54 degrees 22 minutes 15 seconds West, 544.63 feet to an Existing Pipe and Planted Stone on line of said land now or formerly of John C. Bretzman, and at corner of land now or formerly of Robert Luckenbaugh; thence by said land now or formerly of Robert Luckenbaugh, and across a private road or drive near the end of this course, North 61 degrees 56 minutes 42 seconds West, 610.43 feet to an Existing Pipe at corner of said land now or formerly of Robert Luckenbaugh; thence by said land now or formerly of Robert Luckenbaugh, South 60 degrees 49 minutes 41 seconds West, 97.23 feet to an Existing Pipe and Stones at corner of said land now or formerly of Robert Luckenbaugh, and on line of land now or formerly of Ralph Sheaffer; thence by said land now or formerly of Ralph Sheaffer, and by land now or formerly of Albert Hudimae, and by land now or formerly of Henry Krahn, Jr., and by land now or formerly of Jerome Hanson, and by land now or formerly of Susan Coles, North 07 degrees 38 minutes 11 seconds East, 1,200.66 feet to an Existing Pipe and Stones at the common corner of said land now or formerly of Susan Coles and land now or formerly of Rob Conner; thence by said land now or formerly of Rob Conner, North 53 degrees 10 minutes 42 seconds West, 419.04 feet to a Pipe Set in the centerline of the right-of-way of Maryland Avenue at the common

(continued on page 11)

corner of said land now or formerly of Rob Conner and land now or formerly of Hugh Gauch, the point and place of BEGINNING.

CONTAINING 43.921 Acres.

LESS, HOWEVER ALL those two parcels of land, situate in Menallen Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

**PARCEL NO. 1:**

BEGINNING at an existing pipe on line of land now or formerly of the Grantees, E.C. Anderson, Jr. and Dolores M. Anderson, and at corner of land now or formerly of John W. Morrow, thence by said land now or formerly of the Grantees, E.C. Anderson, Jr. and Dolores M. Anderson, and by land now or formerly of Kevin G. King, a/k/a Kevin B. King, South 40 degrees 36 minutes 47 seconds East, 105.00 feet to a rebar set on line of said land now or formerly of Kevin G. King, a/k/a Kevin B. King, and at corner of Lot 3 depicted in and upon the below-mentioned draft of survey and final subdivision plan; thence by said Lot 3, South 32 degrees 35 minutes 56 seconds West, 175.48 feet to a rebar set at corner of said Lot 3, and on line of land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife, and William O. Routsong, Jr.; thence by said land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife and William O. Routsong, Jr., North 40 degrees 36 minutes 47 seconds West, 155.99 feet to a rebar set at corner of said land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife and William O. Routsong, Jr., and on line of land now or formerly of John W. Morrow; thence by said land now or formerly of John W. Morrow, North 49 degrees 29 minutes 30 seconds East, 168.00 feet to an existing pipe at corner of said land now or formerly of John W. Morrow, and on line of land now or formerly of the Grantees, E.C. Anderson, Jr. and Dolores M. Anderson, the point and place of BEGINNING.

CONTAINING 0.503 acre.

THE above description was taken from a draft of survey and final subdivision plan, dated March 30, 1998, by Mark A. Kuntz, Surveyor, which draft of survey and final subdivision plan is recorded in the Office of Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 74 at Page 5; the above described tract of land is labeled as Lot 2 in and upon said draft of survey and final subdivision plan.

**PARCEL NO. 2:**

BEGINNING at a rebar set on line of land now or formerly of Grantees, Kevin G. King, a/k/a Kevin B. King and Wanda S. King, and at corner of Lot 2 depicted in and upon the below-mentioned draft of

survey and final subdivision plan; thence by said land now or formerly of the Grantees, Kevin G. King, a/k/a Kevin B. King and Wanda S. King, South 40 degrees 36 minutes 47 seconds East, 180.20 feet to an existing pipe at corner of said land now or formerly of the Grantees, Kevin G. King, a/k/a Kevin B. King and Wanda S. King, and on line of land now or formerly of Harry Pritchard; thence by said land now or formerly of Harry Pritchard, South 52 degrees 37 minutes 44 seconds West, 168.27 feet to a rebar set on line of said land now or formerly of Harry Pritchard, and at corner of land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife and William O. Routsong, Jr.; thence by said land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife, and William O. Routsong, Jr., North 40 degrees 36 minutes 47 seconds West, 100.00 feet to a rebar set on line of said land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife, and William O. Routsong, Jr., and at corner of said Lot 2; thence by said Lot 2, North 32 degrees 35 minutes 56 seconds East, 175.48 feet to a rebar set at corner of said Lot 2, and on line of said land now or formerly of the Grantees, Kevin G. King, a/k/a Kevin B. King and Wanda S. King, the point and place of BEGINNING.

CONTAINING 0.502 acre.

THE above description was taken from a draft of survey and final subdivision plan, dated March 30, 1998, by Mark A. Kuntz, Surveyor, which draft of survey and final subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 74 at Page 5; the above described tract of land is labeled as Lot 3 in and upon said draft of survey and final subdivision plan.

**TRACT NO. 2:**

BEGINNING at a point at corner of land now or formerly of Leroy Routsong, et al. (TRACT 1 more particularly described hereinabove); thence by said land now or formerly of Leroy Routsong, et al., South 37 degrees 56 minutes 09 seconds East, 273.87 feet to a Rebar Set at Existing Planted Stone at the common corner of said land now or formerly of Leroy Routsong, et al. and other land now or formerly of William O. Routsong and land now or formerly of Ruth E. Bretzman; thence by said land now or formerly of Ruth E. Bretzman, North 74 degrees 31 minutes 43 seconds West, 351.63 feet to a Rebar Set in Existing Stones at corner of said land now or formerly of Ruth E. Bretzman, and on line of said land now or formerly of Leroy Routsong, et al.; thence by said land now or formerly of Leroy Routsong, et al., North 54 degrees 22 minutes 15

seconds East, 209.78 feet to a point at corner of said land now or formerly of Leroy Routsong, et al., the point and place of BEGINNING.

CONTAINING 0.659 acre.

THE above descriptions for Tracts Nos. 1 and 2 were taken from a draft of survey, by Mark A. Kuntz, Surveyor, dated November 12, 1993, as later revised, which draft of survey is lodged as part of the record in No. 97-S-231 in the Adams County Prothonotary's Office.

TITLE TO SAID PREMISES IS VESTED IN Joseph S. Buchheister and Juanita M. Buchheister, his wife by reason of the following:

PREMISES "A"

BEING THE SAME PREMISES which William Oscar Routsong, Jr., single man (widower) by Deed dated 9/10/1999 and recorded 9/13/1999 in the County of Adams in Record Book 1913, Page 293 conveyed unto Joseph S. Buchheister and Juanita M. Buchheister, his wife.

PREMISES "B"

BEING THE SAME PREMISES which Leroy Routsong and Alice Y. Routsong, his wife by Deed dated 9/10/1999 and recorded on 9/13/1999 in the County of Adams in Record Book 1913, Page 297 conveyed unto Joseph S. Buchheister and Juanita M. Buchheister, his wife.

Premises being: 360-362 Bendersville-Wenksville Road, Aspers, PA 17304

Tax Parcel No. E05-0070 (PREMISES A)

Tax Parcel No. EC5-0037-000 (PREMISES B)

SEIZED and taken into execution as the property of **Joseph S. Buchheister & Juanita Buchheister** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 22, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/18, 25 & 8/1

## LEGAL NOTICE

NOTICE IN THE COURT OF  
COMMON PLEAS OF ADAMS  
COUNTY IN AND FOR THE  
COMMONWEALTH OF  
PENNSYLVANIA

## CIVIL

IN RE: Dismissal of Action for failure to proceed Under Pa.R.J.A. 1901(c) and Local Rule of Court No. 10(e)

Pursuant to the provisions of Pa.R.J.A. 1901(c) and Local Rule of Court No. 10(e) notice is given hereby that the following cases will be listed by the Adams County Prothonotary for general call before the Adams County Court on Wednesday, September 10, 2003 at 9:00 a.m. to request the Court to dismiss for failure to proceed unless good cause for continuing the proceedings shall be given on or before that date.

H & S Supply Inc. v. James D. Welschonce and Stephanie D. Welschonce—89-S-945

Kathleen L. Tipton v. Robert H. Tipton—92-S-62

Michael P. Rokansandich v. Jeffrey S. Hemler—93-S-1003

Adam L. Stotsky, Jr. v. David D. Williams and Kathy A. Williams—95-S-1156

Thomas Michael Wood v. Karen Lynn Pennington—96-S-349

Charles Scamack v. James Coburn and Christine Smith—96-S-903

Lewis Fowler III v. Linda Elder—97-S-1058

Mary B. Koontz and John A. Showers v. Gettysburg Hospital—97-S-1087

Tim Justice, Andrew J. Davis, Arlene Justice and Neil Justice v. Mount Joy Township Zoning Hearing Board—97-S-1177

Terry Lee Marion v. Melody Kay Allison—98-S-131

Michael Investments Inc. v. Janice Baumgardner, Lincoln Eubanks and Tinese Lewis—98-S-185

Adams County Tax Claim Bureau v. Jimmy Melton and Pam Kuykendall—98-S-457

Adams County Tax Claim Bureau v. William Keeney—98-S-464

Adams County Tax Claim Bureau v. Green Tree Financial—98-S-465

Jerold Wikoff v. Facilities Resources Management Co.—98-S-601

Laura D. Cantwell v. Paul A. Cantwell—98-S-606

Bengie Biggus and Angela Biggus v. Victor Triolo—98-S-1028

Susan P. Downey v. Robert G. Downey—98-S-1210

Todd A. Petenbrink v. Rachel A. Petenbrink—99-S-78

Shirley M. Marsh v. Nationwide Mutual Insurance Co.—99-S-168

Phillip Paul Peake v. Levonna Louise Peake—99-S-240

Thomas N. Flannery v. Robert K. Goetz and Goetz Demolition—99-S-486

First Select Corporation v. Evelyn I. Rudisill—99-S-651

Eleanor M. Moore v. John L. Moore—99-S-733

Richard Grosso v. Barbara Grosso—99-S-764

Linda Krietz and Donald Krietz v. Adams County National Bank—99-S-765

Kathy Pritt Oberlin v. Ronald Hammond and Bonnie M. Still-Hammond—99-S-770

John H. Ravenscroft v. Debra L. Kolasa—99-S-917

Contimortgage Corporation v. James D. Baysinger, Nancy E. Baysinger a/k/a Nancy E. Lawless—99-S-943

Keystone Financial Bank v. Harry Pappas—99-S-1005

Corbin D. Lehman v. Lenore Renz—99-S-1077

Kennie's Market Inc. v. Laura Barrett and Clifford Rose—99-S-1116

Shirley M. Keyser and C. Richard Keyser II v. Lincolnway Sales & Service Inc.—99-S-1146

Daniel Thomas Wiles Sr. v. Mary Virginia Wiles—99-S-1159

Possum Valley Municipal Authority v. John R. Smith Jr. and Keystone Country Furniture Co.—99-S-1170

Linda G. Moose and Gene P. Moose v. Constance Louise Carson—00-S-60

Liberty Savings Bank v. Showcase Custom Builders Inc.—00-S-71

John T. Rash v. Kelly F. Rash—00-S-83  
Sandy Montgomery v. Dennis Cooper—00-S-108

Agchose Farm Credit and York Farm Credit v. Richard A. Hutchinson—00-S-114

Theresa Marie Livingston v. Gary D. Livingston—00-S-135

Ruth B. Stevenson v. Ronald F. Downing—00-S-150

Banc One Consumer Discount Company v. Glenda Jacoby and Martin W. Jacoby—00-S-151

Shannon Renee Crouse v. Brian E. Crouse Jr.—00-S-158

Christopher Allen Spears v. Kelly Johnson—00-S-161

Janet M. Hoover v. George W. Hoover—00-S-168

Chase Manhattan Mortgage Corp. and Chemical Residential Mortgage Corp. v. William Cullison Jr.—00-S-194

Countrywide Homes Loans Inc. v. Joseph M. McCoy—00-S-269

Bentzel Construction Inc. v. BLH Industries Inc.—00-S-284

David C. Conaway and Jackie Conaway v. Bon Ton Builders Inc.—00-S-302

Shirley Ellen Brune v. Michael Lawrence Brune Sr.—00-S-311

York Federal Savings and Loan v. Ricky B. Nell—00-S-336

Peoples State Bank v. Richard W. Schott and Luziminda B. Schott—00-S-358

Keystone Financial Bank and First National Bank and Trust Company v. Edward Ray Wachter Est—00-S-362

Chase Manhattan Bank and IMC Home Equity v. Scott A. Gilmore and Lisa L. Gilmore—00-S-388

Lift Incorporated v. Zefer Operations Inc.—00-S-396

Southwestern/Great American Opportunities v. Cindie Straub and Gettysburg Performing Arts—00-S-413

Sherri Lynn Virtue v. James J. Virtue—00-S-418

James Douglas Welschonce v. J.W. Auto Sales Inc. and AFC Harrisburg—00-S-424

Pinnacle Health & Rehabilitation, Ethron Inc. and Health Care Today v. Milton Wright Memorial Home Inc. and Piney Mountain Home—00-S-447

Mt. Valley Farms and Lumber Products v. Pallet Banking—00-S-461

Linda L. Greer v. Roger D. Greer—00-S-519

Conseco Finance Consumer Discount Co. v. Laura Racine—00-S-525

Tracey Cooper v. Larry Cooper—00-S-565

George B. Krichten v. Randy R. Reigle—00-S-574

Mark Snell and Diana Snell v. Stephen E. Smith and Mark Shoemaker Construction Inc.—00-S-610

GreenPoint Credit LLC v. Donald S. Creager Jr. and Diana L. Mong—00-S-645

Gettysburg Shopping Center Associates v. CVS Pharmacy Inc.—00-S-652

CRL New Corp. and Carlos R. Leffler Inc. v. Golden Ridge Farms, G. Lynn Golden and Emory C. Golden—00-S-669

Motorists Insurance Companies v. Michael Edward Magara Jr.—00-S-680

Gettysburg Shopping Center Associates v. American Eyewear Inc.—00-S-722

Secretary of Veterans Affairs v. David Herb—00-S-746

Adams County National Bank v. Keller C. Wolfe—00-S-757

John Tosten and Kathy Tosten v. Michael D. Knight—00-S-859

(continued on page 14)

## 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 EUGENE N. APPELBY, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Co-Administrators: Neely E. Appleby & Susan M. Appleby, c/o Thomas E. Flower, Esq., Saidis, Shuff, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

Attorney: Thomas E. Flower, Esq., Saidis, Shuff, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

ESTATE OF JOSEPH HABER a/k/a JOSEPH E. HABER, DEC'D

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

Executrix: Judy L. Guasch, 73 Fruitwood Trail, Fairfield, PA 17320

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

ESTATE OF VIOLET I. MEHRING, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Richard H. Cromer, 140 Blacksmith Rd., Camp Hill, PA 17011

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

ESTATE OF HELEN T. WOLF, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania

Co-Executors: Keith B. Wolf, 1106 Treefern Place, Virginia Beach, VA 23451; Pamela W. Wagner, P.O. Box 663, Biglerville, PA 17307; Susanne W. Kuhn, 580 University Drive, Biglerville, PA 17307

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

## SECOND PUBLICATION

ESTATE OF REGINA C. BORTNER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Personal Representatives: Cynthia A. Bushy, 660 Mehring Rd., Littlestown, PA 17340; Jeanne Baugher, 227 Irishtown Rd., Hanover, PA 17331; Barbara Shriver, 550 Mt. Misery Rd., New Oxford, PA 17350; Robert E. Asper, 362 Rupp Rd., Gettysburg, PA 17325

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

ESTATE OF ZITA S. HOBBS a/k/a MARTHA ZITA HOBBS, DEC'D

Late of Liberty Township, Adams County, Pennsylvania

Executors: Joseph Hobbs, P.O. Box 1172, Emmitsburg, MD 21727; Karl Hobbs, 65 Pecher Rd., Fairfield, PA 17320; Lillian Harner, 275 Pecher Rd., Fairfield, PA 17320; Rose Z. Bream, 20 Locust Drive, Littlestown, PA 17340; Linda Steinle, P.O. Box 240, Emmitsburg, MD 21727

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

ESTATE OF ARVILLA M. LABAR, DEC'D

Late of Freedom Township, Adams County, Pennsylvania

Executor: Arvilla McKinley, 895 Middle Creek Road, Fairfield, PA 17320

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

ESTATE OF EDMUND H. LONGSTAFF, DEC'D

Late of Straban Township, Adams County, Pennsylvania

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

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

ESTATE OF EDNA M. ROHRBAUGH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Mae Louise Wentz, 5364 US 6 W, Ulysses, PA 16948; George W. Rohrbaugh, Jr., R.D. #1, Box 454, Alexandria, PA 16611; Mary Katie Strausbaugh, 535 Locust St., Hanover, PA 17331

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

ESTATE OF JOHN E. SLAYBAUGH a/k/a JOHN ELLSWORTH SLAYBAUGH, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executrix: Gertrude C. Scholl, 578 Oxford Avenue, Hanover, PA 17331

Attorney: David C. Smith, Esq., 754 Edgegrove Rd., Hanover, PA 17331

## THIRD PUBLICATION

ESTATE OF FRANCES M. CRUMBLING, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Personal Representative: Tamara J. Eisenhart, 345 High Rock Rd. - West, Hanover, PA 17331

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

ESTATE OF ELIZABETH V. HARNER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executors: Nancy Elizabeth Six, 4810 Baltimore Pike, Littlestown, PA 17340; Linda A. O'Brien, 365 Bair Road, Abbottstown, PA 17301; Janice L. Seymore, 1305 Hunterstown-Hampton Rd., New Oxford, PA 17350

Attorney: Larry W. Wolf, Esq., 215 Broadway, Hanover, PA 17331

ESTATE OF SOPHIA HOLTZ, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Co-Executrices: Jean L. Holtz, 944 W. Market Street, York, PA 17404; Carol E. Holtz, P.O. Box 3223, Gettysburg, PA 17325

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

ESTATE OF DAVID L. HOWARD a/k/a DAVID LAMAR HOWARD, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Scott L. Kelley, Esq., 209 Broadway, Hanover, PA 17331

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

ESTATE OF JODY A. LAUGHMAN, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executors: Francis N. and Mary Ann Kuhn, 226 Princess Street, Hanover, PA 17331

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

(continued on page 14)

**THIRD PUBLICATION (continued)**

**ESTATE OF EVELYN MILDRED LEONARD, DEC'D**

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Richard B. Leonard, 319 Fairview Avenue, McSherrystown, PA 17344; Patricia Ann Hawn, 173 Sherry Drive, McSherrystown, PA 17344

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

**ESTATE OF WILLIAM J. NEELY, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: George & Genevieve Phillips, c/o Michael Gilfedder, Esq., 144 Morton Road, Springfield, PA 19064

Attorney: Michael Gilfedder, Esq., 144 Morton Road, Springfield, PA 19064

**ESTATE OF JOHN I. STRASBAUGH, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

Executor: Stephen A. Kane, 2385 Old Route 30, Orrtanna, PA 17353

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

**ESTATE OF JAMES A. THOMAS, DEC'D**

Late of Reading Township, Adams County, Pennsylvania

Executors: Marlette E. & Kathryn A. Thomas, 15021 Bonnair Road, Glen Rock, PA 17327

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

**FICTITIOUS NAME NOTICE**

NOTICE IS HEREBY GIVEN, pursuant to the Provisions of the act of The General Assembly approved December 16, 1982, P.L. 1309, there has been filed in the Office of the Secretary of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania on the 21st day of July, 2003, a certificate for the conduct of business in Adams County, Pennsylvania, under the fictitious name, style, or designation of NINE RINGS COLLECTIVE, with its principal place of business at 770 Taneytown Road, Gettysburg, PA 17325. The name and address of the person owning or interested in said business is Michael Stimmler of 760 Taneytown Road, Gettysburg, PA 17325.

8/1

**LEGAL NOTICE**

*(continued from pg. 12)*

Drover and Mechanics Bank v. Delores M. Conner—00-S-882

Bonnie K. Olcus v. William M. Olcus—00-S-885

Tammac Corporation v. Bobbi Shultz a/k/a Bobbi Shultz-Hahn—00-S-890

First Select Inc. v. Joseph G. Minsinger—00-S-895

John Cavey and Janet Hagerman-Cavey v. David Allen Lynch a/k/a David A. Lynch—00-S-917

Curt Grim v. Melissa L. Travers—00-S-922

Jeffrey M. Southerly and Kimberly A. Southerly v. Mellon Mortgage Company—00-S-960

James Reaver v. Tanya Davis—00-S-992

Dean A. Simonsen v. Michelle E. Simonsen—00-S-1010

Harris Savings Bank v. Joanne P. Runk—00-S-1018

Cadbury Beverages Inc. and Motts Inc. v. C.H. Reed Inc. and Leroi International Inc.—00-S-1041

Oxford Township v. David J. Smith and Marian M. Smith—00-S-1049

Hanover Concrete Company v. Daniel P. Mescall—00-S-1056

OSI Funding Corp. v. Scott David Gilbert—00-S-1108

Brenda M. Hartlaub v. David E. Hartlaub Sr.—00-S-1132

Lori A. Boyers v. Andrew M. Boyers—00-S-1186

Lori L. Plank Collazo v. David M. Collazo—00-S-1198

8/1

**INCORPORATION NOTICE**

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

The name of the corporation is TOTALLY PLASTERED, INC.

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

Totally Plastered, Inc.  
31 South Hickory Lane  
New Oxford, PA 17350

8/1

**DISSOLUTION NOTICE**

NOTICE IS HEREBY PROVIDED that the Pennsylvania corporation known as HERITAGE SERVICES, INC., a business corporation which is a wholly owned subsidiary of Lake Heritage Property Owners Association, Inc., with its main and sole office at 1000 Heritage Drive, Gettysburg, Adams County, Pennsylvania 17325, is winding down its business affairs and is intending to dissolve as an organized corporation. Regular business ceased as of May 15, 2003, and the period of winding down is now under way. All commercial services previously provided by Heritage Services, Inc., were transferred to Lake Heritage Property Owners Association, Inc., as of May 24, 2003.

Any persons, companies or other entities owing money to Heritage Services, Inc., are hereby directed to promptly pay same at the address listed above. Likewise, any creditors of Heritage Services, Inc. must present their claims for payment to the aforesaid corporation at the address listed above. Dissolution will be filed on or about August 15, 2003.

John W. Phillips, Esq.  
Corporate Counsel  
101 W. Middle St.  
Gettysburg, PA 17325

8/1 & 8

# *Adams County* Legal Journal

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Vol. 45

August 8, 2003

No. 11, pp. 68-75

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## IN THIS ISSUE

HENNING VS. BOROWIEC ET AL

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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. 03-S-454 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of September, 2003, 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 lot of ground situate, lying and being in Germany Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a corner at a point in the center line of U.S. Route 140 at Lot No. 1 on the hereinafter referred to Subdivision Plan; thence along said Lot No. 1 South twenty-six (26) degrees twenty-two (22) minutes twelve (12) seconds West two hundred (200) feet to an iron pin set on the Northern boundary line of Lot No. 4 on the hereinafter referred to Subdivision Plan; thence along the Northern boundary line of said Lot No. 4 North seventy-seven (77) degrees twenty-six (26) minutes fifty-seven (57) seconds West fifty-six and eighty-five hundredths (56.85) feet to a point at the Northwest corner of said Lot No. 4; thence along other lands now or formerly of Laverne P. Louey and Jean S. Louey, husband and wife, North seventy-seven (77) degrees twenty-six (26) minutes fifty-seven (57) seconds West seventy-one and sixty-nine hundredths (71.69) feet to a point at the Southeast corner of Lot No. 3 on the hereinafter referred to Subdivision Plan; thence along the Eastern boundary line of said Lot No. 3 North twenty-six (26) degrees twenty-two (22) minutes twelve (12) seconds East, through an iron pin set forty (40) feet from the terminus of this call, two hundred (200) feet to a point in the center line of the aforesaid U.S. Route 140; thence along the centerline of said U.S. Route 140 South seventy-seven (77) degrees twenty-six (26) minutes fifty-seven (57) seconds East one hundred twenty-eight and fifty-four hundredths (128.54) feet to a point in the center of said U.S. Route 140, being the point and place of BEGINNING.

CONTAINING 24,963.867 Square Feet or 0.574 Acres.

The above description was taken from a Subdivision Plan prepared by Thomas Michael Englerth, Registered Surveyor, bearing date June 1, 1977, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 15, Page 43, and designated thereon as Lot No. 2.

TITLE TO SAID PREMISES IS VESTED IN Richard M. Myers and Christina Myers, His Wife by Deed from Larry E. Worley and Judy C. Worley, His Wife dated 6/20/1986 and recorded 6/30/1986 in Record Book 429, Page 683.

Premises being: 5085 Baltimore Pike, Littlestown, PA 17340

Tax Parcel No. 12B Map #1-17

SEIZED and taken into execution as the property of **Richard M. Myers & Christina Myers** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 6, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/25, 8/1 & 8

## 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, August 12, 2003, at 9:00 o'clock a.m.

**BRADY**—Orphans' Court Action Number OC-70-03 The First and Final Account of Adams County National Bank, Executor of the Estate of Richard A. Brady, deceased, late of the Borough of McSherrystown, Adams County, Pennsylvania.

**KANE**—Orphans' Court Action Number OC-71-03. The First and Final Account of Michael D. Kane and Patricia Kane, Executors of the Last Will and Testament of Grace E. Kane, deceased, late of Franklin Township, Adams County, Pennsylvania.

**KLINE**—Orphans' Court Action Number OC-74-03. The First and Final Account of Cynthia A. Kline, Executrix of the Estate of Madeline C. Kline, deceased, late of the Borough of Carroll Valley, Adams County, Pennsylvania.

**EICHELBERGER**—Orphans' Court Action Number OC-56-99. The First and Partial Account of PeoplesBank, A Codorus Valley Company, Executor of the Estate of Marjorie R. Eichelberger, deceased, late of Reading Township, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

8/1 & 8

## HENNING VS. BOROWIEC ET AL

1. Local government agencies are generally immune from liability in tort unless immunity has been specifically waived. The General Assembly has waived immunity where two distinct conditions are satisfied:

- 1) The damages would be recoverable under statutory or common law against the person unprotected by government immunity; and
- 2) The negligent act of the political subdivision which caused the injury falls within one of eight enumerated categories listed in §8542(b) of the Tort Claims Act, 42 Pa. C.S. §8542(b).

2. It is the plaintiff's burden to plead and prove the elements of a governmental duty connected with the implementation of traffic controls.

3. In order to establish a duty of care on the part of a municipality related to the installation of a traffic control device, "a plaintiff must demonstrate that: 1) the municipality had actual or constructive notice of the dangerous condition that caused the plaintiff's injury; 2) the pertinent device would have constituted an appropriate remedial measure and 3) the municipality's authority was such that it can fairly be charged with failure to install the device."

4. The determination of whether the Township's failure to warn motorists of a dangerous condition at an intersection in effect constitutes a dangerous condition is a question which must be answered by a jury.

5. A municipality has a duty to require that the condition of its property is safe for the activities for which it is regularly used, intended to be used or reasonably foreseeable to be used.

6. A municipality has a duty to remedy dangerous conditions on roadways which the Township owns or has contracted to maintain even though that roadway may intersect with a state-maintained road.

7. It is necessary to consider the nature of the case order to determine whether a pleading is sufficiently clear to enable the defendant to prepare a defense.

8. The availability of discovery does not excuse a party from pleading the essential material facts to support a cause of action. A preliminary objection may be overruled in favor of discovery where the responding party is adequately informed as to what they will be required to meet at trial.

In the Court of Common Pleas of Adams County, Pennsylvania,  
Civil, No. 01-S-646, JAMES P. HENNING AND GLORIA J. HENNING VS. PATRICIA F. BOROWIEC, COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION, AND CUMBERLAND TOWNSHIP

Leah B. Graff, Esq., for Plaintiffs

John N. Keller, Esq., for Defendant Borowiec

Jay W. Stark, Esq., for Defendant PennDOT

Frank J. Lavery, Jr., Esq., for Defendant Cumberland Township

George, J., July 23, 2002



## OPINION

In this matter, the Court is asked to consider whether Cumberland Township may be held liable for injuries resulting from a motor vehicle accident occurring at the intersection between a state-maintained road and a road maintained by the Township. For reasons set forth below, the Preliminary Objections of Cumberland Township are sustained, however, the additional defendant will be given an opportunity to amend the complaint.

On December 18, 2000, James Henning was operating his vehicle southbound on Table Rock Road, which is a state-maintained roadway. As he approached the intersection with Boyd School Road, a roadway maintained by Cumberland Township, a vehicle operated by Patricia Borowiec pulled out from a stopped position on Boyd School Road directly into Mr. Henning's path of travel. A collision occurred which resulted in injuries to Mr. Henning.<sup>1</sup>

On June 12, 2001, James and Gloria Henning<sup>2</sup> (hereinafter collectively referred to as "plaintiffs") filed suit against Patricia Borowiec (hereinafter referred to as "original defendant") seeking an award of damages for Mr. Henning's injuries. In addition to filing an Answer with New Matter to Plaintiffs' Complaint, Patricia Borowiec filed a complaint joining the Pennsylvania Department of Transportation (hereinafter referred to as "PennDOT") and Cumberland Township (hereinafter referred to as "Township") as additional defendants. In response, PennDOT filed an Answer with New Matter, alleging that Cumberland Township is alone liable to the Plaintiffs or, in the alternative, liable over to PennDOT. *See, Pennsylvania Rule of Civil Procedure 2252(b)*. Cumberland Township filed a preliminary objection in the nature of a demurrer, alleging that the joinder complaint, and concurrently the new matter of the PennDOT, fails to present a viable cause of action against the Township.

The joinder complaint in this matter alleges that the Township "had responsibility for the ownership, control and/or maintenance"

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<sup>1</sup>This background is derived from Plaintiff's Complaint. In determining preliminary objections, the Court is required to accept all properly pled allegations as being true. *See, Peerless Productions, Inc. v. County of Montgomery*, 656 A.2d 547 (Pa. Cmwlth. 1995).

<sup>2</sup>The Complaint includes a loss of consortium action brought by James Henning's wife, Gloria.

of the intersection of Table Rock Road and Boyd School Road as well as “the approaches to” the intersection or, in the alternative, that the Township “shared such responsibility with” PennDOT. *Plaintiff’s Complaint, Paragraph 15*. Thereafter, the joinder complaint alleges five separate bases of negligence by the Township. Those bases are as follows:

- a) [Cumberland Township] failed to assure that drivers of westbound vehicles on Boyd School Road about to enter the said intersection would have adequate sight distance within which to observe southbound vehicles on Table Rock Road.
- b) [Cumberland Township] failed to require southbound vehicles on Table Rock Road to stop at said intersection.
- c) [Cumberland Township] failed to warn motorists of the dangerous condition at said intersection.
- d) [Cumberland Township] permitted obstructions to exist at the said intersection which interfered with the ability of persons operating westbound vehicles on Boyd School Road to observe southbound vehicles on Table Rock Road approaching the intersection.
- e) [Cumberland Township] failed to properly and adequately design and maintain the said intersection and road approach so as to assure that they were safe for motorists travelling thereon.

*Complaint Joining Additional Defendants*, paragraph 12.

Under §§8541-8542 of the Political Subdivision Tort Claims Act, 42 Pa. C.S. §8541-8542, local government agencies such as Cumberland Township are generally immune from liability in tort unless immunity has been specifically waived. Our Supreme Court has explained that the General Assembly has waived immunity where two distinct conditions are satisfied:

- 1) The damages would be recoverable under statutory or common law against the person unprotected by government immunity; and

- 2) The negligent act of the political subdivision which caused the injury falls within one of eight enumerated categories listed in §8542(b) of the Tort Claims Act, 42 Pa. C.S. §8542(b).

*Starr v. Veneziano*, 747 A.2d 867 (Pa. 2000). Of the eight enumerated categories, one is germane to the present suit. Specifically, 42 Pa. C.S.A. 8542(b)(6) waives immunity concerning the dangerous conditions of streets owned by the local agency where the claimant is able to establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred and that the local agency had actual notice or could reasonably be charged with notice of the dangerous condition.<sup>3</sup>

The Township argues that the joinder complaint is insufficient as a matter of law to establish a cause of action against the Township.<sup>4</sup>

Initially, the additional defendant alleges that the Township was negligent in failing to erect a stop sign on Table Rock Road. However, neither the original complaint nor the joinder complaint properly pleads a duty on behalf of the Township. In *Starr v. Veneziano*, supra, the Supreme Court recognized that it is the plaintiff's burden to plead and prove the elements of a governmental duty connected with the implementation of traffic controls. In doing so, they held that in order to establish a duty of care on the part of a municipality related to the installation of a traffic control device, "a plaintiff must demonstrate that: 1) the municipality had actual or constructive notice of the dangerous condition that caused the

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<sup>3</sup>This exception is also applicable where the Township does not own the road but has contracted with PennDOT to maintain the road. See, 42 Pa. C.S.A. §8542(b)(6)(ii).

<sup>4</sup>In their briefs, both the Township and PennDOT address this issue under the theory of governmental immunity. Governmental immunity, however, is an affirmative defense which is generally not properly raised by a preliminary objection, *Jacobs v. Merymead Farm, Inc.*, 2008 C.D. 2001 (Commonwealth Court, June 7, 2002), although there is a limited exception to this rule where the affirmative defense is clearly applicable on the face of the complaint and there is no objection. *Piedeman v. Philadelphia*, 732 A.2d 696 (Pa. Cmwlth. 1997). Since neither the original complaint nor the additional defendant's joinder complaint clearly sets forth the nature of the Township's obligation in regard to the subject roadways, I do not have enough information to determine that the defense of governmental immunity is clearly applicable. I will, therefore, only address this issue on the basis of the sufficiency of the pleadings contained in the joinder complaint.

plaintiff's injury; 2) the pertinent device would have constituted an appropriate remedial measure and 3) the municipality's authority was such that it can fairly be charged with failure to install the device". *Starr v. Veneziano*, supra, A.2d at 873. The original defendant's joinder complaint is lacking in regard to both the second and third prongs necessary in order to properly plead a cause of action against the Township.

Although the additional defendant alleges in conclusory fashion that the Township had responsibility for this intersection, there are insufficient facts or allegations in the complaint to support this conclusion. Black's Law Dictionary (6th Addition, 1991) recognized that a legal conclusion is a statement of a legal duty without stating the facts from which the duty arises. This definition has been accepted by at least one appellate court in *Kaiser v. Western States Adm'rs.*, 702 A.2d 609 (Pa. Cmwlth. 1997). In doing so, the Commonwealth Court indicated that "conclusions of law have no place in a pleading". *Kaiser v. Western States Adm'rs.*, supra, A.2d at 614. Instantly, the additional defendant's complaint sets forth a conclusion as to one of the ultimate issues in this proceeding without pleading a proper factual background.<sup>5</sup>

The second theory of liability in the original defendant's complaint alleges that the Township "failed to warn motorists of the dangerous condition at" the intersection. Although the joinder complaint is somewhat vague as to how motorists should have been warned by the Township, a fair reading of the joinder complaint allows the Court to infer that the Township was negligent in failing to erect traffic control devices on Boyd School Road warning motorists as to a dangerous condition at the intersection. The determination of whether the Township's failure to warn motorists of a dangerous condition at an intersection in effect constitutes a

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<sup>5</sup> Although the plaintiff will be given the opportunity to amend, it is doubtful that such a duty on the part of the Township can be established. PennDOT, in their answer, admitted that Table Rock Road is a state-designated highway. If it is factually correct that Table Rock Road is a state highway, and if there is no written contract between the Township and PennDOT for the maintenance and repair of Table Rock Road, it would appear that there is no basis to trigger an exception to the governmental immunity which shields the Township as that immunity relates to this particular allegation.

dangerous condition is a question which must be answered by a jury. *See, McCalla v. Mura*, 649 A.2d 646 (Pa. 1994). However, for the reasons set forth above, the original defendant's joinder complaint lacks the required specificity adequately setting forth the elements necessary to proceed further in this matter. In addition to failing to properly plead a factual basis for a duty on the part of the Township, the original defendant has not pled a relevant traffic control device nor whether such a device would have constituted a "proper and effective" measure to mitigate the hazard at the intersection. *See, Starr v. Veneziano*, supra, A.2d at 873.<sup>6</sup> Accordingly, the Township's preliminary objection as to this allegation will be granted subject, however, to the original defendant having an opportunity to file an amended complaint.

The remaining three (3) theories upon which the original defendant proceeds allege that the Township was negligent in providing an "adequate sight distance", in permitting "obstructions to exist" at the intersection and in otherwise properly designing and maintaining the road in question. Once again, for the foregoing reasons, the additional complaint lacks sufficient factual allegations establishing a duty on the part of the Township.

Although I am not currently addressing the governmental immunity issue as it relates to the Township, I note that in a plurality opinion, the Pennsylvania Supreme Court in *McCalla v. Mura*, 649 A.2d 646 (Pa. 1994) recognized that a municipality has a duty to require that the condition of its property is safe for the activities for which it is regularly used, intended to be used or reasonably foreseeable to be used. More importantly, the Court held that the question of what is

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<sup>6</sup> In their brief, PennDOT questions whether original defendant's pleading must satisfy the ultimate burden of proof. *See, PennDOT's Brief in Opposition to Preliminary Objections of Cumberland Township*, page 5. Obviously, such a requirement is not necessary since a Court, when ruling on a preliminary objection in the nature of a demurrer, must consider all well-pled material facts, as well as all reasonable inferences deductible therefrom, as admitted. *Peerless Publications, Inc. v. County of Montgomery*, 656 A.2d 547 (Pa. Cmwlth. 1995). A claimant, however, has an obligation to properly plead the elements of a governmental entity's duty. While proper pleading to survive preliminary objection may simply be a matter of adding additional language to the joinder complaint, the original defendants will ultimately be required to support the specific allegations in their complaint with proof which may require expert testimony. *See, Starr v. Veneziano*, supra.

or is not a dangerous condition must be answered by a jury. *See, McCalla v. Mura*, 649 A.2d 646 (Pa. 1994). Subsequent decisions by the Supreme Court make it clear that a municipality has a duty to remedy dangerous conditions on roadways which the Township owns or has contracted to maintain even though that roadway may intersect with a state-maintained road. *See, Starr v. Veneziano*, supra. Accordingly, it appears that the original defendant may proceed against the Township on these theories once it has properly alleged a duty on the part of the Township. Accordingly, the additional defendant will be given the opportunity to amend his complaint.

Since the additional defendant will be given the opportunity to file an amended complaint, in the interests of judicial economy I will address the remaining preliminary objections pending before the Court.

The Township has raised a preliminary objection citing lack of specificity in the original defendant's joinder complaint. The Township urges that the additional defendant's references concerning "insufficient sight distance", "obstruction" and "failure to design and maintain" lacks sufficient specificity to allow the Township to adequately respond. I partially agree.

A preliminary objection on the ground that a pleading lacks sufficient specificity requires that the pleading be tested as to whether it fully summarizes material facts or whether it informs the defendant, with accuracy and completeness of the specific basis on which recovery is sought, so that the defendant may know without question upon what grounds to make a defense. *Standard Pennsylvania Practice*, 2d, Section 25:68, citing *Paz v. Com., Dept. of Corrections*, 580 A.2d 452 (Pa. Cmwlth. 1990). It is necessary to consider the nature of the case in order to determine whether a pleading is sufficiently clear to enable the defendant to prepare a defense. *Hock v. L.B. Smith, Inc.*, 69 Pa. D&C 2d 420 (1974).

Under the particular facts of this case, the degree of specificity necessary to enable the Township to adequately prepare a defense is apparent. For instance, the allegation of "failure to design and maintain" the roadway includes a wide variety of possible claims. The importance of having those claims clearly identified is magnified by

the need to define the Township's duty since, in certain instances, the Township has a clear legal duty while, for others, the existence of a legal duty may not be so clear.<sup>7</sup>

On the other hand, it is my opinion that the original defendant's allegations concerning "insufficient sight distance" and "obstructions" are sufficiently specific to inform the Township as to what they will be required to meet at trial. Although the availability of discovery does not excuse a party from pleading the essential material facts to support a cause of action, *Foster v. Peat Marwick Main and Company*, 587 A.2d 382 (Pa. Cmwlth. 1991), aff'd., 676 A.2d 652 (Pa. 1996), a preliminary objection may be overruled in favor of discovery where the responding party is adequately informed as to what they will be required to meet at trial. *Dravo Corp. v. Key Belleilles, Inc.*, 75 Pa. D&C 2d 656 (1976).

For the foregoing reasons, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 23rd day of July, 2002, Cumberland Township's preliminary objections (demurrer) are sustained; however, the additional defendant will be given an opportunity to amend their complaint. The Township's preliminary objections for lack of specificity as to paragraph 12(e) of the additional defendant's joinder complaint is granted. The remaining preliminary objections based upon lack of specificity are denied.

It is further Ordered that the additional defendant, Patricia F. Borowiec, is granted twenty (20) days from the date of this Order to file an amended complaint consistent with the attached Opinion. Failure to file an amended complaint within the time set forth will result in dismissal of the additional defendant's causes of action against the Township.

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<sup>7</sup>In *McCalla v. Mura*, supra, a plurality of the Supreme Court held that a Township can be held liable for the negligent failure to erect traffic control devices. However, former Chief Justice Flaherty in a concurring and dissenting opinion joined by one other justice, expressed concern that holding a township responsible on general claims of improper design and construction of the roadway may result in "egregious consequences". *McCalla v. Mura*, A.2d at 649. Chief Justice Flaherty opined that the negligent failure to erect traffic control devices should represent the outer limits of the scope of a political subdivision's potential liability. See, *Starr v. Veneziano*, supra, A.2d at 872.

**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 ALMA M. BRODBECK, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executor: Deo H. Brodbeck, 1100 Church Road, Orrtanna, PA 17353

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

**ESTATE OF EVA W. COOLEY, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

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

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

**ESTATE OF PAULINE J. GROTE, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executors: Nora Lee Sandruck & Norman W Sandruck

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

**ESTATE OF DWIGHT S. RINEHART, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executor: Delroy K. Rinehart, 3600 Castlebury Drive, Chester, VA 23831

**ESTATE OF LAVELLE M. VANHOUTEN, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

Executor: Stacey L. VanHouten, 444 Ohio Street, Lawrence, KS 66044

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

**SECOND PUBLICATION****ESTATE OF EUGENE N. APPLEBY, DEC'D**

Late of Reading Township, Adams County, Pennsylvania

Co-Administrators: Neely E. Appleby & Susan M. Appleby, c/o Thomas E. Flower, Esq., Saidis, Shuff, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

Attorney: Thomas E. Flower, Esq., Saidis, Shuff, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

**ESTATE OF JOSEPH HABER a/k/a JOSEPH E. HABER, DEC'D**

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

Executrix: Judy L. Guasch, 73 Fruitwood Trail, Fairfield, PA 17320

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

**ESTATE OF VIOLET I. MEHRING, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Richard H. Cromer, 140 Blacksmith Rd., Camp Hill, PA 17011

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

**ESTATE OF HELEN T. WOLF, DEC'D**

Late of the Borough of Arendtsville, Adams County, Pennsylvania

Co-Executors: Keith B. Wolf, 1106 Treefern Place, Virginia Beach, VA 23451; Pamela W. Wagner, P.O. Box 663, Biglerville, PA 17307; Susanne W. Kuhn, 580 University Drive, Biglerville, PA 17307

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

**THIRD PUBLICATION****ESTATE OF REGINA C. BORTNER, DEC'D**

Late of Conewago Township, Adams County, Pennsylvania

Personal Representatives: Cynthia A. Bushey, 660 Mehring Rd., Littlestown, PA 17340; Jeanne Baugher, 227 Irishtown Rd., Hanover, PA 17331; Barbara Shriver, 550 Mt. Misery Rd., New Oxford, PA 17350; Robert E. Asper, 362 Rupp Rd., Gettysburg, PA 17325

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

**ESTATE OF ZITA S. HOBBS a/k/a MARTHA ZITA HOBBS, DEC'D**

Late of Liberty Township, Adams County, Pennsylvania

Executors: Joseph Hobbs, P.O. Box 1172, Emmitsburg, MD 21727; Karl Hobbs, 65 Pecher Rd., Fairfield, PA 17320; Lillian Harner, 275 Pecher Rd., Fairfield, PA 17320; Rose Z. Bream, 20 Locust Drive, Littlestown, PA 17340; Linda Steinle, P.O. Box 240, Emmitsburg, MD 21727

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

**ESTATE OF ARVILLA M. LABAR, DEC'D**

Late of Freedom Township, Adams County, Pennsylvania

Executor: Arvilla McKinley, 895 Middle Creek Road, Fairfield, PA 17320

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

**ESTATE OF EDMUND H. LONGSTAFF, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

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

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

**ESTATE OF EDNA M. ROHRBAUGH, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executors: Mae Louise Wentz, 5364 US 6 W, Ulysses, PA 16948; George W. Rohrbach, Jr., R.D. #1, Box 454, Alexandria, PA 16611; Mary Katie Strausbaugh, 535 Locust St., Hanover, PA 17331

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

**ESTATE OF JOHN E. SLAYBAUGH a/k/a JOHN ELLSWORTH SLAYBAUGH, DEC'D**

Late of Hamilton Township, Adams County, Pennsylvania

Executrix: Gertrude C. Scholl, 578 Oxford Avenue, Hanover, PA 17331

Attorney: David C. Smith, Esq., 754 Edgegrove Rd., Hanover, PA 17331



IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA  
CIVIL ACTION—DIVORCE  
NO. 03-S-681

REGINA M. LEE, Plaintiff  
vs.  
ANTHONY D. LEE, Defendant  
TO: Anthony D. Lee

Regina M. Lee, Plaintiff, has filed suit against Anthony D. Lee seeking a divorce under Section 3301(d) of the Pennsylvania Divorce Code.

**NOTICE**

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

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

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

By: /s/John A. Wolfe, Esq.  
Wolfe & Rice, LLC  
Attorneys for Plaintiff  
47 West High Street  
Gettysburg, PA 17325  
(717) 337-3754  
(717) 337-9211 (fax)

8/8

**FICTITIOUS NAME NOTICE**

NOTICE IS HEREBY GIVEN of the filing in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, PA of an application for registration under the Fictitious Names Act. The name of the business is BUILT TO LAST CONTRACTING with its principal place of business at 1150 Cranberry Road, Gardners, PA 17324. The owner of the business is Stephen R. Ordemann, of 1150 Cranberry Road, Gardners, PA 17324.

Teeter, Teeter & Teeter

8/8

**DISSOLUTION NOTICE**

NOTICE IS HEREBY PROVIDED that the Pennsylvania corporation known as HERITAGE SERVICES, INC., a business corporation which is a wholly owned subsidiary of Lake Heritage Property Owners Association, Inc., with its main and sole office at 1000 Heritage Drive, Gettysburg, Adams County, Pennsylvania 17325, is winding down its business affairs and is intending to dissolve as an organized corporation. Regular business ceased as of May 15, 2003, and the period of winding down is now under way. All commercial services previously provided by Heritage Services, Inc., were transferred to Lake Heritage Property Owners Association, Inc., as of May 24, 2003.

Any persons, companies or other entities owing money to Heritage Services, Inc., are hereby directed to promptly pay same at the address listed above. Likewise, any creditors of Heritage Services, Inc. must present their claims for payment to the aforesaid corporation at the address listed above. Dissolution will be filed on or about August 15, 2003.

John W. Phillips, Esq.  
Corporate Counsel  
101 W. Middle St.  
Gettysburg, PA 17325

8/1 & 8

**INCORPORATION NOTICE**

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

1. The name of the Corporation is: JW PAVING INC.
2. The Corporation has been incorporated under the provisions of the Business Corporation Law of 1988.

John M. Crabbs  
Solicitor

8/8

**NOTICE TO THE PROFESSION  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF  
PENNSYLVANIA**

In accordance with the Standing Order Re: Electronic Case Filing Policies and Procedures, all attorneys should file documents through the court's ECF (Electronic Case Files) system after September 3, 2003. An attorney who does not file documents electronically after that date may be required to show good cause to the presiding judge.

For more information about ECF including registration and training, please visit the court's website at [www.pamdc.uscourts.gov](http://www.pamdc.uscourts.gov) or pick up a copy of the registration form at the Clerk's Office. For questions, please call 1-866-263-8479 (Scranton), 1-866-333-3261 (Harrisburg) or 1-866-736-3914 (Williamsport).

8/8, 15, 22 & 29

**INCORPORATION NOTICE**

NOTICE IS HEREBY GIVEN that on June 5, 2003, Articles of Incorporation were filed with the Department of State for CARRIAGE TRADE CATERING, LTD. a corporation organized under the provisions of the Pennsylvania Business Corporation Law of 1988.

R. Eric Pierce, Esq.  
114 West Chocolate Avenue  
Hershey, PA 17033  
Phone: (717) 533-8652

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August 15, 2003

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## **IN THIS ISSUE**

SESSA VS. PLANK

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Helping families achieve  
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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. 02-S-949 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of October, 2003, 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 real estate lying and being situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the West side of Pecher Road (Township Road T-312) at line of land now or formerly of Michael Sullivan; thence running by Sullivan Land and through an existing reference steel rod set back along the line, South 76° 52' 40" West 179 feet to an existing steel rod; thence continuing by Sullivan Land and by a curve to the left, the radius of which is 242 feet, for an arc distance of 37.99 feet and with a chord bearing of South 72° 20' 40" West for a chord length of 37.95 feet to an existing steel rod; thence continuing by Sullivan, South 21° 56' 00" East 128.13 feet to a steel rod; thence continuing by land of the same, South 11° 14' 40" East 388 feet to an existing bolt; thence continuing by the same, South 31° 59' 40" East 136 feet to an existing bolt; thence continuing by Sullivan, South 62° 54' 40" West 438.78 feet to an existing steel rod; thence continuing by the same, North 79° 37' 10" West 60 feet to a steel rod on line of land of William H. Scott, Jr., et al., of which this was formerly a part, thence running by land of William H. Scott, Jr., et al., North 07° 35' 40" West 1,149 feet to a steel rod on line of land of Fred Crum, Jr.; thence by the latter, South 74° 20' 33" East 625 feet to an existing spike 5 feet West of the centerline of Pecher Road (T-312); thence running in Pecher Road (T-312) South 07° 17' 25" East 115.29 feet to a point on the West side of Pecher Road, the point and place of BEGINNING. CONTAINING 10.168 acres.

The description was taken from a draft of survey of J. Riley Redding, R.S., dated February 24, 1992, and recorded in Adams County Plat Book 61, Page 29. The tract described is Tract 2 on said plan of lots.

## Parcel No. 25-C17-0026

Being Premises: 1005 Pecher Road, Fairfield, PA 17320

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 27, 2003, 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.

8/15, 22 & 29

NOTICE TO THE PROFESSION  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF  
PENNSYLVANIA

In accordance with the Standing Order Re: Electronic Case Filing Policies and Procedures, all attorneys should file documents through the court's ECF (Electronic Case Files) system after September 3, 2003. An attorney who does not file documents electronically after that date may be required to show good cause to the presiding judge.

For more information about ECF including registration and training, please visit the court's website at [www.pamd.uscourts.gov](http://www.pamd.uscourts.gov) or pick up a copy of the registration form at the Clerk's Office. For questions, please call 1-866-263-8479 (Scranton), 1-866-333-3261 (Harrisburg) or 1-866-736-3914 (Williamsport).

8/8, 15, 22 & 29

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for a Professional Corporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on June 18, 2003.

The name of the corporation is **CAMPBELL & WHITE, P.C.**

The corporation has been incorporated under the Pennsylvania Professional Corporation Law of 1988, as amended.

Robert E. Campbell  
Campbell & White, P.C.  
112 Baltimore Street  
Gettysburg, PA 17325  
Attorneys

8/15

## CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN, in compliance with the requirements of 15 Pa. C.S. 412, that an application for a Certificate of Authority has been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, by **LD DESIGN SERVICES, INC.**, a Maryland corporation, for the purpose of drafting and design services at 61 Flat Bush Road, Littlestown, PA 17340.

Lisa Conklin, President

8/15

## SESSA VS. PLANK

1. The Protection from Abuse Act clearly classifies contempt proceedings as criminal.

2. A contempt proceeding is a summary offense.

3. In determining whether or not a continuance is proper for purposes of obtaining a witness, the following factors are to be considered by the Trial Court: whether the absent witness is necessary to the defense; the facts to which the witness would testify; whether the defendant acted diligently in procuring the witness; and the likelihood that the witness would be produced at trial.

4. Denial of a request for continuance is not an abuse of discretion where the request was made within forty-eight (48) hours of the time for trial, and the defendant failed to offer any reason for his tardiness.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 01-S-1274, JENNIFER MARIE SESSA VS. DAVID M. PLANK

Matthew D. Fogal, Esq., for Plaintiff

Steve Rice, Esq., for Defendant

George, J., August 2, 2002

### OPINION PURSUANT TO PA. R. APP. P. 1925

On June 12, 2002, the Defendant filed a Notice of Appeal to the Pennsylvania Superior Court from the Order entered in the Adams County Court of Common Pleas on May 28, 2002. By Order dated June 21, 2002, Defendant was directed to file a concise statement of matters complained of on appeal within fourteen (14) days thereof in compliance with Pennsylvania Rule of Appellate Procedure 1925(b). On June 26, 2002, the Defendant filed a concise statement raising the sole issue of whether this Court erred in denying the Defendant's request for continuance.

The Protection from Abuse Act clearly classifies contempt proceedings as criminal. *See, Pa. C.S.A. §6114(b)*. Appellate courts have consistently defined contempt proceedings as criminal in nature. *Wagner v. Wagner*, 564 A.2d 162 (Pa. Super. 1989), appeal denied 578 A.2d 415 (Pa.); *Vito v. Vito*, 551 A.2d 573 (Pa. Super. 1988), re-argument denied. In the memorandum opinion in *Commonwealth v. Wigfield*, No. 1383 M.D.A. 2001 (July 9, 2002), a panel of the Pennsylvania Superior Court affirmed an Adams County Trial Court decision which identified a contempt proceeding as a summary offense. As such, the Pennsylvania Rules of Criminal Procedure provide guidance in determining whether a continuance is

appropriate in the contempt proceeding. *See, Pa. R. Crim. P. Rule 1006* (continuances and summary in-court cases). In such instances, the rules provide that a continuance on behalf of the Defendant shall be made not later than forty-eight (48) hours before the time set for trial. The rules further provide that a later motion shall be entertained only in three instances: 1) the opportunity to request a continuance did not previously exist; 2) the defendant was unaware of the grounds for a motion for continuance; 3) whether interests of justice require a continuance. *See, Pa. R. Crim. P. Rule 1006(c)*.

The Defendant's request for a continuance was purported to be for the purpose of obtaining "potential" testimony. Defense counsel did not identify the witness but rather only indicated that the testimony would be reputation evidence aimed at the victim's character for truthfulness. The sum of counsel's comments indicated that this proposed testimony was speculative since counsel had not yet spoken with the witness.

In determining whether or not a continuance is proper for purposes of obtaining a witness, the following factors are to be considered by the Trial Court: whether the absent witness is necessary to the defense; the facts to which the witness would testify; whether the defendant acted diligently in procuring the witness; and the likelihood that the witness would be produced at trial. *Commonwealth v. Wilson*, 606 A.2d 1211 (Pa. Super. 1992), appeal denied, 634 A.2d 221, 535 Pa. 658. The appellate courts have affirmed the denial of continuances in situations where there is no assurance that a witness can be procured, *Commonwealth v. Foreman*, 375 A.2d 142 (1977); where there is considerable uncertainty concerning the content of the witness' testimony, *Commonwealth v. Scott*, 365 A.2d 140 (Pa. 1976); where the potential witness' testimony is merely cumulative or available from another source, *Commonwealth v. Howard*, 353 A.2d 438 (Pa. 1976) or where there is a lack of diligence by the defendant in seeking the appearance of the witness, *Commonwealth v. Plath*, 405 A.2d 1273 (Pa. Super. 1979). Moreover, denial of a request for continuance is not an abuse of discretion where the request was made within forty-eight (48) hours of the time for trial, *Commonwealth v. Fisher*, 372 A.2d 1 (Pa. Super. 1977), and the defendant failed to offer any reason for his tardiness, *Commonwealth v. Clark*, 361 A.2d 779 (Pa. Super. 1976).

Instantly, the Defendant appeared with counsel moments before trial and requested a continuance. Counsel's proffer was speculative as evidenced by counsel's following statement:

Besides the prior acts, we'd like to put on witnesses that might be able to testify as to her reputation for aggressive conduct. There might be biased witnesses or what have you.

*Transcript of Contempt Hearing, May 28, 2002, page four.* Moreover, counsel failed to proffer any justification for the tardiness of his request. Had the request been made prior to the moment at which the trial was scheduled to commence, a different result may have occurred. However, the Commonwealth was prepared for hearing and had inconvenienced witnesses to be present. Finally, it is noted that the Defendant had sufficient time pre-trial to prepare a defense since, in fact, he did call witnesses on his behalf. Interestingly, in his testimony, the Defendant did not offer any information concerning the proffer by counsel. Weighing the speculativeness of the proffer versus the inconvenience to the Complainant, in light of the tardiness of the request led your undersigned, in the exercise of my discretion, to deny the continuance request.

**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 JOSEPH THOMAS CARLSON, JR. a/k/a JOSEPH T. CARLSON, JR., DEC'D**

Late of Union Township, Adams County, Pennsylvania

Executor: Louis Edward Carlson a/k/a Louis E. Carlson, c/o Robert P. Kline, Esq., Kline Law Office, 714 Bridge Street, P.O. Box 461, New Cumberland, PA 17070-0461

Attorney: Robert P. Kline, Esq., Kline Law Office, 714 Bridge Street, P.O. Box 461, New Cumberland, PA 17070-0461

**ESTATE OF CAROLYN I. PITZER, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executor: William C. Congleton, 2494 Old Harrisburg Road, Gettysburg, PA 17325

Attorney: Roy A. Keefer, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

**ESTATE OF INEZ MARIE RIGGEEAL, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Mary G. Naugle, 130 Pine Tree Road, Orrtanna, PA 17353

Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

**ESTATE OF BETTY M. SPANGLER, DEC'D**

Late of Mt. Joy Township, Adams County, Pennsylvania

Executor: Bernard P. LeMaster, 301, Lake Meade Drive, East Berlin, PA 17316

**ESTATE OF EDWIN B. TAYLOR, DEC'D**

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Jean Swope, 95 S. Main Street, P.O. Box 12, Biglerville, PA 17307-0012

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

**ESTATE OF JANET M. WALTERS, DEC'D**

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

Executor: Michael F. Walters, c/o James D. Bogar, Esq., One West Main Street, Shiremanstown, PA 17011

Attorney: James D. Bogar, Esq., One West Main Street, Shiremanstown, PA 17011

**SECOND PUBLICATION**

**ESTATE OF ALMA M. BRODBECK, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executor: Deo H. Brodbeck, 1100 Church Road, Orrtanna, PA 17353

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

**ESTATE OF EVA W. COOLEY, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

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

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

**ESTATE OF PAULINE J. GROTE, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executors: Nora Lee Sandruck & Norman W. Sandruck

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

**ESTATE OF DWIGHT S. RINEHART, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executor: Delroy K. Rinehart, 3600 Castlebury Drive, Chester, VA 23831

**ESTATE OF LAVELLE M. VANHOUTEN, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

Executor: Stacey L. VanHouten, 444 Ohio Street, Lawrence, KS 66044

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

**THIRD PUBLICATION**

**ESTATE OF EUGENE N. APPLEBY, DEC'D**

Late of Reading Township, Adams County, Pennsylvania

Co-Administrators: Neely E. Appleby & Susan M. Appleby, c/o Thomas E. Flower, Esq., Saidis, Shuff, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

Attorney: Thomas E. Flower, Esq., Saidis, Shuff, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

**ESTATE OF JOSEPH HABER a/k/a JOSEPH E. HABER, DEC'D**

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

Executrix: Judy L. Guasch, 73 Fruitwood Trail, Fairfield, PA 17320

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

**ESTATE OF VIOLET I. MEHRING, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Richard H. Cromer, 140 Blacksmith Rd., Camp Hill, PA 17011

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

**ESTATE OF HELEN T. WOLF, DEC'D**

Late of the Borough of Arendtsville, Adams County, Pennsylvania

Co-Executors: Keith B. Wolf, 1106 Treefern Place, Virginia Beach, VA 23451; Pamela W. Wagner, P.O. Box 663, Biglerville, PA 17307; Susanne W. Kuhn, 580 University Drive, Biglerville, PA 17307

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

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-380 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of September, 2003, 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 described 4 tracts of land described lot of ground, with improvements thereon erected, situate in Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1

BEGINNING at a stone for a corner on the South side of a public road running from Route 234 to Cashtown near a pine tree; thence running on the South side of the said public road South 70 degrees West, 83 feet to a point on land now or formerly of Ernest Saum, North 15-1/2 degrees West, 278.3 feet to a stone corner; thence running by land now or formerly of George McDannell North 82-1/2 degrees East, 140.5 feet to a stone corner; thence running by land now or formerly of Gilbert Bucher's heirs South 2-1/2 degrees East, 256.50 feet to a stone, the place of BEGINNING. CONTAINING 108 perches.

TRACT NO. 2

BEGINNING at a point in Township Road T-364 at other lands now or formerly of Ernest Saum; thence by lands now or formerly of Saum and passing through a reference iron pin set back 37 feet from the place of beginning North 07 degrees 18 minutes West, 271.50 feet to a steel pin at lands now or formerly of Paul McDannell; thence by lands now or formerly of Paul McDannell North 87 degrees 54 minutes East, 90.87 feet to a steel pin at lands now or formerly of Donald Coldsmith; thence by lands now or formerly of Coldsmith and passing through a reference steel pin 26 feet from the terminus of their call South 07 degrees 30 minutes East, 265.65 feet to a point in Township Road T-364; thence in said Township Road South 84 degrees 12 minutes West, 91.45 feet to a point at the place of BEGINNING. CONTAINING 24,426 square feet, neat measure.

TRACT NO. 3

BEGINNING at a nail in the center of Township Road T-364 at corner of lands now or formerly of Robert W. Prater; thence running in the center of said Township Road T-364, North 69 degrees 16 minutes 30 seconds West, 82.21 feet to a point in the center of said road; thence continuing in the center of said road, North 39 degrees 34 minutes 45

seconds West, 78.81 feet to a point in the center of said road; thence continuing in the center of said road, North 17 degrees 24 minutes 10 seconds West, 160.05 feet to a point in the center of said road at corner of lands now or formerly of Hazel C. McDannell; thence along said McDannell lands, North 80 degrees 57 minutes 25 seconds East, 108.67 feet to an iron pin at corner of lands now or formerly of Robert W. Prater; thence along said Prater lands, South 14 degrees 36 minutes 20 seconds East, through an iron pin set back 40.96 feet from the end of this course, 268.31 feet to a nail in the center of Township Road T-364, the point and place of BEGINNING. CONTAINING 0.543 acres.

The above description was taken from a draft of survey prepared by Richard W. Boyer, R.S. of Boyer Surveys, Biglerville, Adams County, Pennsylvania, dated 12/19/1978 the said draft of survey is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 27, Page 4, the above described tract being designated as Lot No. 1.

TRACT NO. 4

BEGINNING at a railroad spike in the center line of New Road T-364 at corner of Lot No. 1 on the draft of survey hereinafter referred to; thence along Lot No. 1, North 71 degrees 05 minutes 10 seconds East, passing through a reference pipe 25.00 feet from the beginning of this course, 642.47 feet to a pipe at land now or formerly of Thomas Reeve; thence by same South 32 degrees 30 minutes 50 seconds East, 136.21 feet to an existing pipe and stones at lands now or formerly of Elizabeth R. McCleafe; thence by same South 60 degrees 32 minutes 24 seconds West, 355.00 feet to an existing iron pin at land now or formerly of Robert W. Prater; thence by same South 76 degrees 16 minutes 43 seconds West, 235.17 feet to an existing pin at land now or formerly of David Stewart; thence by same South 76 degrees 15 minutes 55 seconds West, 108.71 feet to an existing nail in the center line of New Road T-364 aforesaid; thence in the center line of such road North 13 degrees 05 minutes 00 seconds West, 167.14 feet to a railroad spike, the place of BEGINNING. CONTAINING 2.670 acres.

The above description was taken from a draft of survey prepared by Richard W. Boyer, Adams County Surveyor, dated March 5, 1980 recorded in Plat Book 34, at page 61. The above described tract being designated as Lot No. 2.

Being known as 788 New Road, Orttanna, PA 17353

Property ID No.: C9-32

TITLE TO SAID PREMISES IS VESTED IN Raymond B. Williams, Sr. and Candy S. Williams, husband and wife, by deed from Gerald H. Deighton, single person, by Attorney in Fact, Edward G. Puhl, and Harry J. Blaisdell, single person, by his Attorney in Fact Edward G. Puhl, dated 03/31/00, recorded 04/17/00, in Deed Book 2032, page 136.

SEIZED and taken into execution as the property of **Raymond B. Williams, Sr. & Candy S. Williams** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 6, 2003, 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.

8/15, 22 & 29



# Adams County Legal Journal

Vol. 45

August 22, 2003

No. 13, pp. 79-84

## IN THIS ISSUE

### LITTLE VS. KOONTZ

#### SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-178 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of October, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land with the improvements thereon erected, situate, lying and being in Hamilton Township, Adams County, Pennsylvania, bounded and described as follows.

BEGINNING at a point at corner of a twenty (20) foot driveway and lot now or formerly of Earl F. Small, which said point is 20 feet East of the East side of Lot No. 16 on the plan hereinafter referred to; thence along said private driveway, North 71 degrees 21 minutes East, 60 feet to a point in Lot No. 17 and land now or formerly of Wilmer N. Rohrbaugh; thence along said lands, North 21-1/4 degrees West, 135 feet to a point at or near the Conewago Creek, thence along said Conewago Creek, South 70-1/2 degrees West, 60 feet to a point at land now or formerly of Earl F. Small, aforesaid; thence along said land, South

21-1/4 degrees East, 135 feet to a point at private driveway and the place of BEGINNING.

BEING part of a larger portion of Lot No. 17 on a plat or plan of lots prepared by A.E. Kohr on July 16, 1921.

SUBJECT, nevertheless, to the conditions and restrictions set forth in prior recorded deeds.

Property address: 160 Cottage Drive, New Oxford, PA 17350

Tax Parcel No. 17-J9-49

SEIZED and taken into execution as the property of **Nevah W. Eckard III & Renate J. Eckard** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 27, 2003, 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.

8/22, 29 & 9/5

#### NOTICE TO THE PROFESSION UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF PENNSYLVANIA

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8/8, 15, 22 & 29

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-949 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of October, 2003, 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 real estate lying and being situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the West side of Pecher Road (Township Road T-312) at line of land now or formerly of Michael Sullivan; thence running by Sullivan Land and through an existing reference steel rod set back along the line, South 76° 52' 40" West 179 feet to an existing steel rod; thence continuing by Sullivan Land and by a curve to the left, the radius of which is 242 feet, for an arc distance of 37.99 feet and with a chord bearing of South 72° 20' 40" West for a chord length of 37.95 feet to an existing steel rod; thence continuing by Sullivan, South 21° 56' 00" East 128.13 feet to a steel rod; thence continuing by land of the same, South 11° 14' 40" East 388 feet to an existing bolt; thence continuing by the same, South 31° 59' 40" East 136 feet to an existing bolt; thence continuing by Sullivan, South 62° 54' 40" West 438.78 feet to an existing steel rod; thence continuing by the same, North 79° 37' 10" West 60 feet to a steel rod on line of land of William H. Scott, Jr., et al., of which this was formerly a part; thence running by land of William H. Scott, Jr., et al., North 07° 35' 40" West 1,149 feet to a steel rod on line of land of Fred Crum, Jr.; thence by the latter, South 74° 20' 33" East 625 feet to an existing spike 5 feet West of the centerline of Pecher Road (T-312); thence running in Pecher Road (T-312) South 07° 17' 25" East 115.29 feet to a point on the West side of Pecher Road, the point and place of BEGINNING. CONTAINING 10.168 acres.

The description was taken from a draft of survey of J. Riley Redding, R.S., dated February 24, 1992, and recorded in Adams County Plat Book 61, Page 29. The tract described is Tract 2 on said plan of lots.

Parcel No. 25-C17-0026

Being Premises: 1005 Pecher Road, Fairfield, PA 17320

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 27, 2003, 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.

8/15, 22 & 29

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-156 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of October, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office, located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the right-of-way line of Kevin Drive at Lot No. 115 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 115, North eight (08) degrees, twenty-six (26) minutes, forty-nine (49) seconds West, one hundred forty-five and thirteen hundredths (145.13) feet to a point at Lot No. 137 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 137 and Lot No. 136 as shown on the hereinafter referenced subdivision plan, North eighty-one (81) degrees, twenty-seven (27)

minutes, twenty (20) seconds East, one hundred (100.00) feet to a point at Lot No. 117 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 117, South eight (08) degrees, twenty-six (26) minutes, forty-nine (49) seconds East, one hundred forty-five and thirty hundredths (145.30) feet to a point on the right-of-way line of Kevin Drive; thence along the right-of-way line of Kevin Drive, South eighty-one (81) degrees, thirty-three (33) minutes, eleven (11) seconds West, one hundred (100.00) feet to a point, the point and place of BEGINNING. CONTAINING 14,521 square feet.

THE above description being Lot No. 116 on the Final Subdivision Plan for Delbert Piper "Colonial Acres", prepared by Mort, Brown and Associates, dated April 1, 1993, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plat Book 64, Page 93.

TITLE TO SAID PREMISES IS VESTED IN M. Christopher Taylor and Robin A. Taylor, his wife by Deed from Jonathan A. Weaver, et al dated 2/24/1999 and recorded 3/2/1999, in Record Book 1775, Page 270.

Premises being: 120 Kevin Drive, New Oxford, PA 17350

Tax Parcel No. Map 13, Parcel 65

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 27, 2003, 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.

8/22, 29 & 9/5

## LITTLE VS. KOONTZ

1. Evidence is relevant if it attempts to make a fact at issue more or less probable.
2. Prejudice, for purposes of Rule 403 does not mean evidence that is detrimental to a party's case, but rather, evidence that has an undue tendency to suggest a decision on an improper basis.
3. Evidence of the custom or practice prevailing in a particular business in the use of methods, machinery and appliances is admissible when offered either by a plaintiff to prove negligence or by a defendant in an attempt to disprove negligence.
4. It is well settled that a statutory standard cannot be nullified or made inapplicable in a case by proof of a custom which conflicts with it.
5. Although Pennsylvania law allows witnesses to express estimates of vehicle speed in numerical terms, "terms such as 'fast,' 'slow' or 'excessive' and the like have been found to be conclusive in nature as well as lacking in evidentiary value." On the other hand, witnesses should be entitled to express themselves naturally subject to the right of counsel to cross-examine a witness for clarification or to test the accuracy of their testimony.
6. The (witness) may not make any reference to the speed of the Defendant's vehicle however, he may describe the suddenness in which the Defendant's vehicle appeared in front of his vehicle.
7. Whenever a general provision in a statute conflicts with a special provision in another or the same statute, the two should be construed, if possible, so that both may have effect. However, if the conflict between the respective statutes is irreconcilable, the special provisions shall prevail over the general provision.

In the Court of Common Pleas of Adams County, Pennsylvania,  
Civil, No. 99-S-721, DONALD J. LITTLE AND ELLEN J. LITTLE  
VS. LINDSAY ANN KOONTZ

Wayne C. Parsil, Esq., for Plaintiffs  
Robert A. Lerman, Esq., for Defendant  
George, J., August 28, 2002

### OPINION

On April 28, 1998 at approximately 7:30 A.M. the Plaintiff, Donald Little, was riding his motorcycle west on State Route 194, Adams County, Pennsylvania.<sup>1</sup> A pickup truck, which had also been proceeding west on State Route 194 in front of the Plaintiff, stopped at the intersection of State Route 194 and Mount Pleasant Road for purposes of making a left-hand turn. As the Plaintiff attempted to pass the stopped truck on the right-hand side, a collision occurred

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<sup>1</sup>Ellen J. Little, wife of Donald J. Little, is also a Plaintiff pursuing a loss of consortium action. However, for purposes of this Opinion, both Donald and Ellen Little will be referred to collectively as "Plaintiff".

with a vehicle operated by the Defendant, Lindsay Ann Koontz. Ms. Koontz had been traveling east on Hanover Pike and, at the time of the accident, was attempting to make a left-hand turn onto Mount Pleasant Road directly in front of the path of the Plaintiff. The collision resulted in serious injuries to both of the Plaintiff's legs.

Trial of this matter has been bifurcated to initially address only the issue of liability.

The Defendant has raised a number of issues in the form of Motions in Limine. Initially, the Plaintiff has moved to preclude the admission of photographs of Plaintiff's motorcycle claiming that they are irrelevant and prejudicial. At argument, Plaintiff's counsel indicated that they did not intend to introduce the photographs. Accordingly, Defendant's Motion to Preclude the Photographs is granted.

Plaintiff further moves to preclude the following at trial:

1. Witness testimony that they had either personally passed a vehicle on the right at the intersection in question or observed such an occurrence;
2. The Plaintiff's description of the speed of the Defendant's vehicle in conclusive terms such as "rapidly"; "suddenly"; "fast"; and/or "excessive"; and
3. Reference by either party or any witness to the provisions of 75 PA. CONS. STAT. ANN. § 3304 (West 1996).

The Court will address each of these issues separately.

The Defendant argues that the Plaintiff's attempt to introduce testimony that he had personally passed the vehicles on the right or observed others doing so is irrelevant and prejudicial. Pennsylvania Rule of Evidence 403 provides that all relevant evidence is admissible unless a specific rule of evidence bars its admission. PA. R. EVID. 403. Evidence is relevant if it attempts to make a fact at issue more or less probable. *Martin v. Soblotney*, 466 A.2d 1022 (Pa. 1983). Pennsylvania Rule of Evidence 403 further requires the preclusion of relevant evidence if the probative value of the evidence is outweighed by the danger of unfair prejudice, confusion of the issues or misleading the jury. PA. R. EVID. 403. Prejudice, for purposes of this Rule, does not mean evidence that is detrimental to a

party's case, but rather, evidence that has an undue tendency to suggest a decision on an improper basis. *Leahy v. McClain*, 732 A.2d 619 (Pa. Super. Ct. 1999).

The Plaintiff argues that his proffered evidence is relevant to establish "that it was customary practice for motorists on this roadway to pass on the right along the shoulder lane when vehicles were stopped waiting to make a left-hand turn at this intersection." *Pl.'s Br.* at 1.<sup>2</sup>

Evidence of customary practice is admissible to help a jury decide whether a party violated a duty of care. *Kubit v. Russ*, 429 A.2d 703 (Pa. Super. Ct. 1981). Evidence of the custom or practice prevailing in a particular business in the use of methods, machinery and appliances is admissible when offered either by a plaintiff to prove negligence or by a defendant in an attempt to disprove negligence. *Jemison v. Pfeifer*, 152 A.2d 697 (Pa. 1959). I see no reason why that general rule is not equally applicable to situations, as are present in this case, where the Defendant is raising the Plaintiff's own contributory negligence as a primary cause of the accident. This determination, however, is not dispositive of the question concerning the admissibility of the proffered testimony.

Section 3304 of the Pennsylvania Motor Vehicle Code provides that the "driver of a vehicle may overtake and pass upon the right of another vehicle...[w]hen the vehicle overtaken is making or about to make a left turn, except that such movements shall not be made by driving off the berm or shoulder of the highway." 75 PA. CONS. STAT. ANN. § 3304 (West 1996). That section further provides that no such movement shall be made "unless the movement can be made in safety." *Id.* The Motor Vehicle Code, therefore, sets forth a statutory standard of care applicable to the current circumstances. It is well settled that a statutory standard cannot be nullified or made

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<sup>2</sup>The Defendant analyzes this issue from the perspective of whether similar acts in the past have a connection or relationship to the current action of the Plaintiff. I agree, under that analysis, that the Plaintiff is unable to establish the necessary connection to make the proffered evidence relevant. It appears, however, that the Plaintiff is arguing that the proffered evidence is indicative of customary practice and therefore admissible to help the jury to decide whether or not the Plaintiff violated a duty of care.

inapplicable in a case by proof of a custom which conflicts with it. *Junk v. East End Fire Dep't.*, 396 A.2d 1269 (Pa. Super. Ct. 1978); *Allen v. Mack*, 28 A.2d 783 (Pa. 1942).

Although Plaintiff's proffered evidence does not directly conflict with the Motor Vehicle Code, it has the potential to unfairly highlight the propriety of passing a vehicle on the right while ignoring the statutory requirement that the movement be made in safety. At worst, the proffered evidence is misleading and will have a tendency to suggest the decision by the jury on an improper basis. *See Lehigh*, supra. At best, the probative value of the evidence is *de minimis* and cumulative in light of the statutory standard of care. In either case the evidence will be precluded pursuant to Pennsylvania Rule of Evidence 403.

Defendant also seeks to exclude descriptive testimony referencing the speed of the Defendant's vehicle immediately preceding the accident. Although Pennsylvania law allows witnesses to express estimates of vehicle speed in numerical terms, "terms such as 'fast', 'slow' or 'excessive' and the like have been found to be conclusive in nature as well as lacking in evidentiary value." *Starner v. Worth*, 269 A.2d 674, 676 (Pa. 1970); *Kearns v. DeHaas*, 546 A.2d 1226 (Pa. Super. Ct. 1988). On the other hand, witnesses should be entitled to express themselves naturally subject to the right of counsel to cross-examine a witness for clarification or to test the accuracy of their testimony. *See Lewis v. Mellor*, 393 A.2d 941 (Pa. Super. Ct. 1978).

Instantly, it appears that the Plaintiff is unable to provide any specific numerical opinion as to speed. Thus, *Starner* and its progeny require exclusion of any reference to the speed of the Defendant's vehicle. On the other hand, the Plaintiff is entitled to describe, in natural language, the occurrences as he observed them on the date of the accident. Balancing these respective interests, I conclude that the Plaintiff may not make any reference to the speed of the Defendant's vehicle, however, he may describe the suddenness in which the Defendant's vehicle appeared in front of his vehicle. Although to some extent this ruling may be vague, it is impossible for the Court to anticipate the exact testimony which will be elicited at trial. Moreover, this Court is reluctant to script a witness's testimony on

such an important factual issue. In the event that the spirit of this ruling is violated, defense counsel will have the opportunity to cross-examine the Plaintiff and clarify that any descriptive terms used by the Plaintiff relate to the suddenness of the occurrence and not the speed of the Defendant's vehicle. Additionally, any attempt to semantically dodge the intent of this ruling may be remedied by a curative instruction to the jury.

Defendant's final Motion in Limine seeks to preclude reference by any party or witness to the provisions of 75 PA. CONS. STAT. ANN. § 3304 (West 1996). This motion is denied.

75 PA. CONS. STAT. ANN. § 3523(b) (West 1996) provides that the operator of a motorcycle "shall not overtake and pass in the same lane occupied by the vehicle being overtaken." 75 PA. CONS. STAT. ANN. § 3523(b) (West 1996). The Defendant argues that this statutory provision supersedes the general motor vehicle law that a vehicle making a left-hand turn may be passed on the right. *See* 75 PA. CONS. STAT. ANN. § 3304 (West 1996).

The Statutory Construction Act, 1 PA. CONS. STAT. ANN. § 1933 (West 1995), provides that whenever a general provision in a statute conflicts with a special provision in another or the same statute, the two should be construed, if possible, so that both may have effect. 1 PA. CONS. STAT. ANN. § 1933 (West 1995). However, if the conflict between the respective statutes is irreconcilable, the special provisions shall prevail over the general provision. *See* 1 PA. CONS. STAT. ANN. § 1953 (West 1995); *Hamilton v. Unionville-Chadds Ford Sch. Dist.*, 714 A.2d 1012 (Pa. 1998). A plain reading of the two statutes, under the factual background of this case as proffered by the Plaintiff, indicates that the statutes are not irreconcilable. Specifically, the Plaintiff has proffered that he did not "overtake the vehicle in the same lane of travel as he passed it on the right" but rather "passed the stopped vehicle on the shoulder portion of the roadway." *Pl.'s Br.* at 4. Since 75 PA. CONS. STAT. ANN. § 3523 (West 1996) prohibits only a motorcycle overtaking another vehicle in the same lane of travel, it is not applicable to the

overtaking of a vehicle on the berm, or shoulder, of the roadway. Defendant's motion is, therefore, denied.<sup>3</sup>

For the foregoing reasons, the attached Order is entered.

### ORDER OF COURT

AND NOW, this 28th day of August, 2002, the Court rules as follows:

- 1) All photographs of the Plaintiff's motorcycle are inadmissible;
- 2) All witnesses are precluded from testifying that they personally passed a vehicle on the right at the intersection in question or observed such an act committed by another;
- 3) The Plaintiff is precluded from describing the speed of the Defendant's vehicle in conclusive terms such as rapidly, suddenly, fast and/or excessive; however, the Plaintiff is entitled to testify as to the suddenness of the occurrence which resulted in the accident; and
- 4) The Defendant's motion to preclude reference to 75 PA. CONS. STAT. ANN. § 3304 (West 1996) is denied.

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<sup>3</sup>The Defendant has provided a copy of the Plaintiff's answers to interrogatories of the Defendant as an attachment to their motion. The interrogatory answers indicate the following: "While proceeding past in my lane, the vehicle on the right, suddenly the Defendant's vehicle came across the lane rapidly,..." Thus, it appears that a factual issue exists concerning whether the Plaintiff was in the same lane of travel as the vehicle which he was overtaking or, on the other hand, he was on the berm of the road. The decision in this matter is reached based upon Plaintiff's proffer concerning his testimony as it interplayed with Defendant's motion to completely exclude any reference to 75 PA. CONS. STAT. ANN. § 3304 (West 1996). In the event that the Plaintiff's testimony is consistent with his answers to interrogatories, Defendant's motion at that time will be well received. If, at the conclusion of testimony, there remains a factual dispute as to which lane the Plaintiff's vehicle was traveling, the jury may very well be instructed regarding the provisions of 75 PA. CONS. STAT. ANN. § 3523(b) (West 1996). Whether such an instruction would be proper, however, is not currently before the Court.



## 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 KARELENE ANN ALT-LAND, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executrix: Robin Ann Huff, P.O. Box 1254, Hanover, PA 17331

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

## ESTATE OF MILDRED C. CODDINGTON, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: E. Joy Flinn, 1660 Fairfield Road, Gettysburg, PA 17325; Robert C. Coddington, 417 Union Street, Hollidaysburg, PA 16648

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

## ESTATE OF VESTA R. DAY, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executrix: Sandra K. M. Hockley, now Sandra K. Martin, 436 Goodyear Rd., Gardners, PA 17324

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

## ESTATE OF ROBERT W. REDDING a/k/a ROBERT W. REDDING, SR., DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Coretta E. Redding, c/o Craig A. Diehl, Esq., 3464 Trindle Rd., Camp Hill, PA 17011-4436

Attorney: Craig A. Diehl, Esq., 3464 Trindle Rd., Camp Hill, PA 17011-4436

## SECOND PUBLICATION

## ESTATE OF JOSEPH THOMAS CARLSON, JR. a/k/a JOSEPH T. CARLSON, JR., DEC'D

Late of Union Township, Adams County, Pennsylvania

Executor: Louis Edward Carlson a/k/a Louis E. Carlson, c/o Robert P. Kline, Esq., Kline Law Office, 714 Bridge Street, P.O. Box 461, New Cumberland, PA 17070-0461

Attorney: Robert P. Kline, Esq., Kline Law Office, 714 Bridge Street, P.O. Box 461, New Cumberland, PA 17070-0461

## ESTATE OF CAROLYN I. PITZER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: William C. Congleton, 2494 Old Harrisburg Road, Gettysburg, PA 17325

Attorney: Roy A. Keefer, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

## ESTATE OF INEZ MARIE RIGGEAL, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Mary G. Naugle, 130 Pine Tree Road, Orrtanna, PA 17353

Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

## ESTATE OF BETTY M. SPANGLER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executor: Bernard P. LeMaster, 301 Lake Meade Drive, East Berlin, PA 17316

## ESTATE OF EDWIN B. TAYLOR, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Jean Swope, 95 S. Main Street, P.O. Box 12, Biglerville, PA 17307-0012

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

## ESTATE OF JANET M. WALTERS, DEC'D

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

Executor: Michael F. Walters, c/o James D. Bogar, Esq., One West Main Street, Shiremanstown, PA 17011

Attorney: James D. Bogar, Esq., One West Main Street, Shiremanstown, PA 17011

## THIRD PUBLICATION

## ESTATE OF ALMA M. BRODBECK, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Deo H. Brodbeck, 1100 Church Road, Orrtanna, PA 17353

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

## ESTATE OF EVA W. COOLEY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

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

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

## ESTATE OF PAULINE J. GROTE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Nora Lee Sandruck & Norman W. Sandruck

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

## ESTATE OF DWIGHT S. RINEHART, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Delroy K. Rinehart, 3600 Castlebury Drive, Chester, VA 23831

## ESTATE OF LAVELLE M. VANHOUTEN, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executor: Stacey L. VanHouten, 444 Ohio Street, Lawrence, KS 66044

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

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-380 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of September, 2003, 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 described 4 tracts of land described lot of ground, with improvements thereon erected, situate in Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1

BEGINNING at a stone for a corner on the South side of a public road running from Route 234 to Cashtown near a pine tree; thence running on the South side of the said public road South 70 degrees West, 83 feet to a point on land now or formerly of Ernest Saum, North 15-1/2 degrees West, 278.3 feet to a stone corner; thence running by land now or formerly of George McDannel North 82-1/2 degrees East, 140.5 feet to a stone corner; thence running by land now or formerly of Gilbert Bucher's heirs South 2-1/2 degrees East, 256.50 feet to a stone, the place of BEGINNING. CONTAINING 108 perches.

TRACT NO. 2

BEGINNING at a point in Township Road T-364 at other lands now or formerly of Ernest Saum; thence by lands now or formerly of Saum and passing through a reference iron pin set back 37 feet from the place of beginning North 07 degrees 18 minutes West, 271.50 feet to a steel pin at lands now or formerly of Paul McDannell; thence by lands now or formerly of Paul McDannell North 87 degrees 54 minutes East, 90.87 feet to a steel pin at lands now or formerly of Donald Coldsmith; thence by lands now or formerly of Coldsmith and passing through a reference steel pin 26 feet from the terminus of their call South 07 degrees 30 minutes East, 265.65 feet to a point in Township Road T-364; thence in said Township Road South 84 degrees 12 minutes West, 91.45 feet to a point at the place of BEGINNING. CONTAINING 24,426 square feet, neat measure.

TRACT NO. 3

BEGINNING at a nail in the center of Township Road T-364 at corner of lands now or formerly of Robert W. Prater; thence running in the center of said Township Road T-364, North 69 degrees 16 minutes 30 seconds West, 82.21 feet to a point in the center of said road; thence continuing in the center of said road, North 39 degrees 34 minutes 45

seconds West, 78.81 feet to a point in the center of said road; thence continuing in the center of said road, North 17 degrees 24 minutes 10 seconds West, 160.05 feet to a point in the center of said road at corner of lands now or formerly of Hazel C. McDannell; thence along said McDannell lands, North 80 degrees 57 minutes 25 seconds East, 108.67 feet to an iron pin at corner of lands now or formerly of Robert W. Prater; thence along said Prater lands, South 14 degrees 36 minutes 20 seconds East, through an iron pin set back 40.96 feet from the end of this course, 268.31 feet to a nail in the center of Township Road T-364, the point and place of BEGINNING. CONTAINING 0.543 acres.

The above description was taken from a draft of survey prepared by Richard W. Boyer, R.S. of Boyer Surveys, Biglerville, Adams County, Pennsylvania, dated 12/19/1978 the said draft of survey is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 27, Page 4, the above described tract being designated as Lot No. 1.

TRACT NO. 4

BEGINNING at a railroad spike in the center line of New Road T-364 at corner of Lot No. 1 on the draft of survey hereinafter referred to; thence along Lot No. 1, North 71 degrees 05 minutes 10 seconds East, passing through a reference pipe 25.00 feet from the beginning of this course, 642.47 feet to a pipe at land now or formerly of Thomas Reeve; thence by same South 32 degrees 30 minutes 50 seconds East, 136.21 feet to an existing pipe and stones at lands now or formerly of Elizabeth R. McClellan; thence by same South 60 degrees 32 minutes 24 seconds West, 355.00 feet to an existing iron pin at land now or formerly of Robert W. Prater; thence by same South 76 degrees 16 minutes 43 seconds West, 235.17 feet to an existing pin at land now or formerly of David Stewart; thence by same South 76 degrees 15 minutes 55 seconds West, 108.71 feet to an existing nail in the center line of New Road T-364 aforesaid; thence in the center line of such road North 13 degrees 05 minutes 00 seconds West, 167.14 feet to a railroad spike, the place of BEGINNING. CONTAINING 2.670 acres.

The above description was taken from a draft of survey prepared by Richard W. Boyer, Adams County Surveyor, dated March 5, 1980 recorded in Plat Book 34, at page 61. The above described tract being designated as Lot No. 2.

Being known as 788 New Road, Orrtanna, PA 17353

Property ID No.: C9-32

TITLE TO SAID PREMISES IS VESTED IN Raymond B. Williams, Sr. and Candy S. Williams, husband and wife, by deed from Gerald H. Deighton, single person, by Attorney in Fact, Edward G. Puhl, and Harry J. Blaisdell, single person, by his Attorney in Fact Edward G. Puhl, dated 03/31/00, recorded 04/17/00, in Deed Book 2032, page 136.

SEIZED and taken into execution as the property of **Raymond B. Williams, Sr. & Candy S. Williams** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 6, 2003, 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.

8/15, 22 & 29

# Adams County Legal Journal

Vol. 45

August 29, 2003

No. 14, pp. 85-89

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-178 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of October, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land with the improvements thereon erected, situate, lying and being in Hamilton Township, Adams County, Pennsylvania, bounded and described as follows.

BEGINNING at a point at corner of a twenty (20) foot driveway and lot now or formerly of Earl F. Small, which said point is 20 feet East of the East side of Lot No. 16 on the plan hereinafter referred to; thence along said private driveway, North 71 degrees 21 minutes East, 60 feet to a point in Lot No. 17 and land now or formerly of Wilmer N. Rohrbaugh; thence along said lands, North 21-1/4 degrees West, 135 feet to a point at or near the Conewago Creek, thence along said Conewago Creek, South 70-1/2 degrees West, 60 feet to a point at land now or formerly of Earl F. Small, aforesaid; thence along said land, South 21-1/4 degrees East, 135 feet to a point at private driveway and the place of BEGINNING.

BEING part of a larger portion of Lot No. 17 on a plat or plan of lots prepared by A. E. Kohr on July 16, 1921.

SUBJECT, nevertheless, to the conditions and restrictions set forth in prior recorded deeds.

Property address: 160 Cottage Drive, New Oxford, PA 17350

Tax Parcel No. 17-J9-49

SEIZED and taken into execution as the property of **Nevah W. Eckard III & Renate J. Eckard** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 27, 2003, 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.

8/22, 29 & 9/5

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW  
NO. 2003-S-684

ADAMS COUNTY NATIONAL BANK,  
Plaintiff

vs.

JONATHAN W. DOWNES, MICHELE P.  
DOWNES, and BETTER BUILT CUSTOM  
HOMES, LLC, Defendants

TO: Jonathan W. Downes, Michele P.  
Downes, and Better Built Custom  
Homes, LLC, Defendants in Civil Action  
No. 2003-S-684

## NOTICE

On July 3, 2003, Plaintiff filed a Complaint against you demanding judgment, jointly and severally against all Defendants, in the amount of eighteen thousand five hundred forty-one dollars and thirty-four cents (\$18,541.34), plus costs of suit. The Complaint was reinstated August 15, 2003.

On August 19, 2003, the Court of Common Pleas of Adams County, entered an Order permitting service of the Complaint upon you by publication, which will be effected by publishing this Notice one time in the Gettysburg Times and one time in the Adams County Legal Journal.

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

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

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

Court Administrator  
Adams County Courthouse  
111-117 Baltimore Street  
Gettysburg, PA 17325  
Telephone No. (717) 334-6781

8/29

NOTICE TO THE PROFESSION  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF  
PENNSYLVANIA

In accordance with the Standing Order Re: Electronic Case Filing Policies and Procedures, all attorneys should file documents through the court's ECF (Electronic Case Files) system after September 3, 2003. An attorney who does not file documents electronically after that date may be required to show good cause to the presiding judge.

For more information about ECF including registration and training, please visit the court's website at [www.pamd.uscourts.gov](http://www.pamd.uscourts.gov) or pick up a copy of the registration form at the Clerk's Office. For questions, please call 1-866-263-8479 (Scranton), 1-866-333-3261 (Harrisburg) or 1-866-736-3914 (Williamsport).

8/8, 15, 22 & 29

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-949 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of October, 2003, 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 real estate lying and being situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the West side of Pecher Road (Township Road T-312) at line of land now or formerly of Michael Sullivan; thence running by Sullivan Land and through an existing reference steel rod set back along the line, South 76° 52' 40" West 179 feet to an existing steel rod; thence continuing by Sullivan Land and by a curve to the left, the radius of which is 242 feet, for an arc distance of 37.99 feet and with a chord bearing of South 72° 20' 40" West for a chord length of 37.95 feet to an existing steel rod; thence continuing by Sullivan, South 21° 56' 00" East 128.13 feet to a steel rod; thence continuing by land of the same, South 11° 14' 40" East 388 feet to an existing bolt; thence continuing by the same, South 31° 59' 40" East 136 feet to an existing bolt; thence continuing by Sullivan, South 62° 54' 40" West 438.78 feet to an existing steel rod; thence continuing by the same, North 79° 37' 10" West 60 feet to a steel rod on line of land of William H. Scott, Jr., et al., of which this was formerly a part; thence running by land of William H. Scott, Jr., et al., North 07° 35' 40" West 1,149 feet to a steel rod on line of land of Fred Crum, Jr.; thence by the latter, South 74° 20' 33" East 625 feet to an existing spike 5 feet West of the centerline of Pecher Road (T-312); thence running in Pecher Road (T-312) South 07° 17' 25" East 115.29 feet to a point on the West side of Pecher Road, the point and place of BEGINNING. CONTAINING 10.166 acres.

The description was taken from a draft of survey of J. Riley Redding, R.S., dated February 24, 1992, and recorded in Adams County Plat Book 61, Page 29. The tract described is Tract 2 on said plan of lots.

Parcel No. 25-C17-0026

Being Premises: 1005 Pecher Road, Fairfield, PA 17320

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 27, 2003, 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.

8/15, 22 & 29

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-156 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of October, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office, located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the right-of-way line of Kevin Drive at Lot No. 115 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 115, North eight (08) degrees, twenty-six (26) minutes, forty-nine (49) seconds West, one hundred forty-five and thirteen hundredths (145.13) feet to a point at Lot No. 137 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 137 and Lot No. 136 as shown on the hereinafter referenced subdivision plan, North eighty-one (81) degrees, twenty-seven (27)

minutes, twenty (20) seconds East, one hundred (100.00) feet to a point at Lot No. 117 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 117, South eight (08) degrees, twenty-six (26) minutes, forty-nine (49) seconds East, one hundred forty-five and thirty hundredths (145.30) feet to a point on the right-of-way line of Kevin Drive; thence along the right-of-way line of Kevin Drive, South eighty-one (81) degrees, thirty-three (33) minutes, eleven (11) seconds West, one hundred (100.00) feet to a point, the point and place of BEGINNING. CONTAINING 14,521 square feet.

THE above description being Lot No. 116 on the Final Subdivision Plan for Delbert Piper "Colonial Acres", prepared by Mort, Brown and Associates, dated April 1, 1993, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plat Book 64, Page 93.

TITLE TO SAID PREMISES IS VESTED IN M. Christopher Taylor and Robin A. Taylor, his wife by Deed from Jonathan A. Weaver, et al dated 2/24/1999 and recorded 3/2/1999, in Record Book 1775, Page 270.

Premises being: 120 Kevin Drive, New Oxford, PA 17350

Tax Parcel No. Map 13, Parcel 65

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 27, 2003, 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.

8/22, 29 & 9/5

## TREVDAN VS. BOCK ET AL

1. In ruling on a motion for summary judgment, the trial court must “view the record in the light most favorable to the non-moving party, and all doubts as to the existence of a genuine issue of material fact must be resolved against the moving party.”

2. Summary judgment may not be granted where the moving party relies exclusively upon oral testimony; “no matter how clear and indisputable such proof may appear, it is the province of the jury to decide the credibility of the witnesses.”

3. A breach of a condition precedent in a payment bond given by a surety for profit should not relieve the surety of liability for any loss unless the surety is prejudiced by the breach.

4. If the surety does not make notice to it a condition precedent to recovery, it has, in essence, admitted that lack of notice is not prejudicial.

5. A suretyship is evidenced by a contract and represents a three-party association where a creditor is entitled to performance of a contractual duty by the principal debtor or alternatively, if the debtor defaults, by the debtor’s surety... A surety may usually assert any defense of which his principal could take advantage.

6. The proper test to be applied is whether or not in a particular case and bonded project there is a reasonable and good faith expectation by the supplier at the time of delivery that the materials under all the circumstances would be substantially used up in the project under way. If so, the surety is liable.

7. The supplier may be required to prove that its materials were actually delivered and received at the project; however, the supplier does not have to prove that its materials were thereafter incorporated into the project, provided that the supplier can demonstrate its good faith belief that the materials would be incorporated into the project.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 98-S-1237, TREVDAN BUILDING SUPPLY VS. ERNEST BOCK & SONS, INC. AND ST. JOSEPH’S VILLAGE CORPORATION AND GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA, VS. D.E. MICA, INC.

Larry L. Miller, Esq., for Plaintiff

Karen F. Angelucci, Esq., for Defendants

Kuhn, P.J., August 30, 2002

### OPINION PURSUANT TO PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT AGAINST GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA

Before the Court is Plaintiff’s Motion for Summary Judgment Against General Accident Insurance Company of America (hereinafter, “General Accident”). For the reasons set forth herein, said motion is denied.

The case involves a dispute with regard to payments allegedly owed to Plaintiff by Defendants in connection with a construction project for which General Accident served as surety. The factual background has been gathered from the pleadings and exhibits.

### FACTUAL BACKGROUND

Plaintiff, Trevdan Building Supply, is a building material supplier that furnished materials for a bonded project known as St. Joseph's Village Home (hereinafter, "the project"). Defendant, St. Joseph Village Corporation (hereinafter, "St. Joseph's"), entered into a contract with Defendant, Ernest Bock & Sons, Inc. (hereinafter, "Bock"), on July 28, 1997 for the construction of 40 one-bedroom dwelling units for the elderly. The project was bonded by Defendant, General Accident, which guaranteed timely payment to all suppliers of materials to the project.<sup>1</sup> Plaintiff alleges that it delivered goods and materials to Bock for the project in reasonable reliance on the project being bonded. Furthermore, Plaintiff states that it has complied with all conditions for perfecting its claim and right of action under the bond.

Plaintiff alleges the following regarding its dealings with Defendant, Bock. Bock requested Plaintiff to furnish materials for use on the project. Specifically, Bock asked Plaintiff to furnish "ceiling tile and grid" directly to Bock. Furthermore, Bock requested Plaintiff to furnish "drywall and related products" to Bock and its subcontractor, D.E. Mica, Inc. (hereinafter, "Mica"), jointly.

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<sup>1</sup>The Bond states:

... if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term thereof, and any authorized extension or modification thereof, with or without notice to the Surety, and if he shall satisfy all claims and demands incurred under such contract, and fully indemnify and save harmless the Obligees from [sic] all costs and damages which they may suffer by reason of failure to do so, and shall reimburse and repay the Obligees all outlay and expenses which they may incur in making good any default, and shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials ...and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

Plaintiff sold and delivered to Bock and Mica the goods and materials requested. Bock and Mica received and accepted the goods and materials and used them in the project; however, Plaintiff has not been paid. The remaining unpaid balance is \$33,546.82. Plaintiff charged market prices for the goods and materials. Such prices were fair and reasonable. Furthermore, Bock and Mica agreed to the prices and promised to pay Plaintiff.

Plaintiff alleges that the promise to pay derives from a “Joint Check Agreement” which states:

In consideration that Trevdan Building Supply (Supplier) will supply material to D.E. Mica, Inc. (Subcontractor) for installation at the St. Joseph’s Village Home in accordance with the Subcontractor’s Contract Agreement, Ernest Bock & Sons, Inc., (General Contractor) hereby agrees that the said materials will be paid for by check(s) made payable jointly to the Supplier and Subcontractor... All invoices for material delivered by Trevdan to the above mentioned jobsite must be paid within 60 days of the invoice date. *See Exhibit C of Plaintiff’s Amended Complaint.*

Plaintiff alleges that Bock and Mica entered into the Joint Check Agreement as a condition of Plaintiff supplying materials to the project. Plaintiff also alleges that, through the Joint Check Agreement, Bock promised to pay Plaintiff for all invoices within 60 days of the invoice date. Plaintiff states that Bock is responsible for the unpaid balance, and that General Accident is liable as surety for the project.<sup>2</sup>

There is some dispute with regard to notification of Plaintiff’s claim. We will therefore briefly detail the related allegations. Plaintiff states that it provided Notice of the claim to Bock, General

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<sup>2</sup>In Count VI of its Amended Complaint, Plaintiff alleges that General Accident willfully and in bad faith, failed and refused to investigate and respond to Plaintiff’s claim as required by Pennsylvania law. Consequently, Plaintiff argues that General Accident is liable to Plaintiff for all damages caused by its bad faith conduct. However, in an Order of November 9, 2000, this Court ruled that a subcontractor cannot maintain a cause of action against a prime contractor’s surety for bad faith. Therefore, Plaintiff can not maintain a cause of action against General Accident for bad faith.

Accident, and St. Joseph's by certified mail on November 17, 1998.<sup>3</sup> Plaintiff alleges that all three parties ignored this first notice, and further notice was therefore provided by Plaintiff's counsel on December 7, 1998. Plaintiff further alleges that Bock and St. Joseph's refused to disclose the name of the surety or produce a copy of the bond. Plaintiff states that it made repeated requests for this information on November 17, 1998, December 7, 1998, December 11, 1998, December 23, 1998, and January 11, 1999; however, Plaintiff was forced to file a Writ and serve discovery on Bock and St. Joseph's to obtain the surety information.

In its Memorandum of Law in Opposition to Plaintiff's Motion for Summary Judgment, General Accident alleges the following. Bock did not request Plaintiff to make sales and deliveries for the project, nor did Bock promise to pay Plaintiff. In fact, Bock did not have a contract with Plaintiff, rather, Plaintiff's contract was with Mica. Furthermore, Plaintiff did not provide notice of the claim to General Accident. General Accident was never served with Notice from Plaintiff until service of the Complaint. Finally, Plaintiff has been paid for all labor and material it supplied to the project.

Bock and General Accident further allege in their Joinder Complaint against Mica, that Mica failed to pay Plaintiff in full for the materials it supplied to Mica. Although they specifically deny the averments of Plaintiff's Complaint, Bock and General Accident maintain that, if those averments are true, the amounts claimed by Plaintiff are a result of Mica's failure to make prompt and complete payments to Plaintiff pursuant to its contract. Bock also denies that the Joint Check Agreement executed by Bock, Plaintiff and Mica was in effect. Bock alleges that it offered a Joint Check Agreement to Plaintiff; however, Plaintiff did not accept the offer. Rather, Plaintiff made a counter-offer by changing the terms of the Joint Check Agreement. Bock states that it did not agree to or accept in writing by signing or initialing the change made by Plaintiff.

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<sup>3</sup> Plaintiff was apparently unaware of the surety's identity in November, 1998; therefore, we presume that Plaintiff is alleging it gave Notice to General Accident on this date because Notice was given to Bock who was in privity with General Accident.



## PROCEDURAL BACKGROUND

Plaintiff filed a Complaint against Bock and General Accident on February 5, 1999. On March 10, 1999, Plaintiff filed an Amended Complaint. Bock and General Accident then filed Preliminary Objections to Plaintiff's Amended Complaint. On July 16, 1999, this Court issued a ruling on those preliminary objections striking Plaintiff's claim for finance charges from Count I of the Amended Complaint, and striking Plaintiff's claim for attorneys fees from Count V of the Amended Complaint. Bock and General Accident filed an Answer with New Matter on August 13, 1999, and on September 7, 1999, they filed a Joinder Complaint against Mica. Plaintiff filed a Motion for Summary Judgment against General Accident, and both parties submitted briefs on the matter.

*Continued to next issue (9/5/2003)*

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-380 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of September, 2003, 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 described 4 tracts of land described lot of ground, with improvements thereon erected, situate in Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1

BEGINNING at a stone for a corner on the South side of a public road running from Route 234 to Cashtown near a pine tree; thence running on the South side of the said public road South 70 degrees West, 83 feet to a point on land now or formerly of Ernest Saum, North 15-1/2 degrees West, 278.3 feet to a stone corner; thence running by land now or formerly of George McDannell North 82-1/2 degrees East, 140.5 feet to a stone corner; thence running by land now or formerly of Gilbert Bucher's heirs South 2-1/2 degrees East, 256.50 feet to a stone, the place of BEGINNING. CONTAINING 108 perches.

TRACT NO. 2

BEGINNING at a point in Township Road T-364 at other lands now or formerly of Ernest Saum; thence by lands now or formerly of Saum and passing through a reference iron pin set back 37 feet from the place of beginning North 07 degrees 18 minutes West, 271.50 feet to a steel pin at lands now or formerly of Paul McDannell; thence by lands now or formerly of Paul McDannell North 87 degrees 54 minutes East, 90.87 feet to a steel pin at lands now or formerly of Donald Coldsmith; thence by lands now or formerly of Coldsmith and passing through a reference steel pin 26 feet from the terminus of their call South 07 degrees 30 minutes East, 265.65 feet to a point in Township Road T-364; thence in said Township Road South 84 degrees 12 minutes West, 91.45 feet to a point at the place of BEGINNING. CONTAINING 24,426 square feet, neat measure.

TRACT NO. 3

BEGINNING at a nail in the center of Township Road T-364 at corner of lands now or formerly of Robert W. Prater; thence running in the center of said Township Road T-364, North 69 degrees 16 minutes 30 seconds West, 82.21 feet to a point in the center of said road; thence continuing in the center of said road, North 39 degrees 34 minutes 45 seconds West, 78.81 feet to a point in

the center of said road; thence continuing in the center of said road, North 17 degrees 24 minutes 10 seconds West, 160.05 feet to a point in the center of said road at corner of lands now or formerly of Hazel C. McDannell; thence along said McDannell lands, North 80 degrees 57 minutes 25 seconds East, 108.67 feet to an iron pin at corner of lands now or formerly of Robert W. Prater; thence along said Prater lands, South 14 degrees 36 minutes 20 seconds East, through an iron pin set back 40.96 feet from the end of this course, 268.31 feet to a nail in the center of Township Road T-364, the point and place of BEGINNING. CONTAINING 0.543 acres.

The above description was taken from a draft of survey prepared by Richard W. Boyer, R.S. of Boyer Surveys, Biglerville, Adams County, Pennsylvania, dated 12/19/1978 the said draft of survey is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 27, Page 4, the above described tract being designated as Lot No. 1.

TRACT NO. 4

BEGINNING at a railroad spike in the center line of New Road T-364 at corner of Lot No. 1 on the draft of survey hereinafter referred to; thence along Lot No. 1, North 71 degrees 05 minutes 10 seconds East, passing through a reference pipe 25.00 feet from the beginning of this course, 642.47 feet to a pipe at land now or formerly of Thomas Reeve; thence by same South 32 degrees 30 minutes 50 seconds East, 136.21 feet to an existing pipe and stones at lands now or formerly of Elizabeth R. McClellan; thence by same South 60 degrees 32 minutes 24 seconds West, 355.00 feet to an existing iron pin at land now or formerly of Robert W. Prater; thence by same South 76 degrees 16 minutes 43 seconds West, 235.17 feet to an existing pin at land now or formerly of David Stewart; thence by same South 76 degrees 15 minutes 55 seconds West, 108.71 feet to an existing nail in the center line of New Road T-364 aforesaid; thence in the center line of such road North 13 degrees 05 minutes 00 seconds West, 167.14 feet to a railroad spike, the place of BEGINNING. CONTAINING 2.670 acres.

The above description was taken from a draft of survey prepared by Richard W. Boyer, Adams County Surveyor, dated March 5, 1980 recorded in Plat Book 34, at page 61. The above described tract being designated as Lot No. 2.

Being known as 788 New Road, Orrtanna, PA 17353

Property ID No.: C9-32

TITLE TO SAID PREMISES IS VESTED IN Raymond B. Williams, Sr. and

Candy S. Williams, husband and wife, by deed from Gerald H. Deighton, single person, by Attorney in Fact, Edward G. Puhl, and Harry J. Blaisdell, single person, by his Attorney in Fact Edward G. Puhl, dated 03/31/00, recorded 04/17/00, in Deed Book 2032, page 136.

SEIZED and taken into execution as the property of **Raymond B. Williams, Sr. & Candy S. Williams** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 6, 2003, 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.

8/15, 22 & 29

## 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, on or about August 18, 2003 for the purposes of obtaining a Certificate of Incorporation of a proposed corporation 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 BIG BAD WOLFE CONSTRUCTION, INC.

8/29

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN of the filing in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, PA of an application for registration under the Fictitious Names Act. The name of the business is CLOSER TO HOME ANTIQUES with its principal place of business at 4130 Baltimore Pike, Littlestown, PA 17340. The owners of the business are G. Steven Zeigler and Dawn V. Zeigler, of 4002 Baltimore Pike, Littlestown, PA 17340.

8/29

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-638 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of October, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an iron pin on the Northwestern edge of Winter Drive at Lot No. 80; thence by said lot North 81 degrees 45 minutes 26 seconds West, 111.75 feet to an iron pin at Lot No. 83; thence by said lot North 62 degrees 15 minutes 8 seconds West, 60 feet to an iron pin at Lot 82; thence by said lot 27 degrees 44 minutes 52 seconds East, 170 feet to an iron pin on the Northwestern edge of said Winter Drive; thence along the Northwestern edge of said Winter Drive South 62 degrees 15 minutes 8 seconds East, 30 feet to a concrete monument; thence continuing along the Northwestern edge of said Winter Drive by a curve to the right, the radius of which is 125 feet, for an arc distance of 153.80 feet, and having a chord bearing and distance of South 27 degrees 00 minutes 17 seconds East, 144.28 feet to a concrete monument; thence continuing along the Northwestern edge of said Winter Drive South 8 degrees 14 minutes 34 seconds West, 52.43 feet to the place of BEGINNING.

CONTAINING 21,594 square feet.

The above description was taken from a plan of lots labeled "Springfield Estates", dated June 22, 1977, prepared by Gettysburg Engineering Co., Inc., recorded in Adams County, in Plat Book 20 at Page 29, designating the above as Lot No. 81.

BEING the same property known as 2 Winter Drive, Springfield Estates, Borough of Bonneauville, Adams County, Pennsylvania.

TITLE TO SAID PREMISES IS VESTED IN Charles M. Riemer and Candee Riemer, husband and wife by Deed from Steven P. Spalding, married man, joined herein by his wife Kellie M. Spalding dated 9/8/2000 and recorded 9/29/2000, in Record Book 2136 Page 19.

Premises being: 2 Winter Drive, Gettysburg, PA 17325

Tax Parcel No. 8-58

SEIZED and taken into execution as the property of **Charles M. Riemer a/k/a Mike C. Riemer a/k/a Charles Riemer & Candee Riemer a/k/a Candee Tomak** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 27, 2003, 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.

8/29, 9/5 & 12

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1316 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of October, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at an iron pin at the corner of lot now or formerly of Charles F. McCaffery at North Queen Street, which pin is five and eighty-five hundredths (5.85) feet from the curb line of said street and eighty (80) feet Northwestwardly from a public alley; thence by said lot now or formerly of Charles F. McCaffery, South sixty-four and one-half (64-1/2) degrees West, two hundred eighty (280) feet to an iron pin in an alley, which said iron pin is twelve and six-tenths (12.6) feet from an iron pin in a stream; thence in and along said alley, South thirty-three (33) degrees East, forty-one and five-tenths (41.5) feet to a stake in said alley at corner of lands now or formerly of Mrs. Annie Eline; thence by said lands now or formerly of Mrs. Annie Eline, North sixty-four (64) degrees East, one hundred twelve and five-tenths (112.5) feet to a stake at corner of shed on the lands hereby conveyed; thence by same, North fifty-four (54) degrees East,

six (6) feet to a stake; thence by same, North sixty-four and one-half (64-1/2) degrees East, one hundred sixty-one and five-tenths (161.5) feet to a mark on the sidewalk on North Queen Street; thence North thirty-three (33) degrees West, forty (40) feet to an iron pin, the place of BEGINNING.

BEING No. 32 North Queen Street.

TITLE TO SAID PREMISES IS VESTED IN Jennifer Glass and Darlene Martofel and John A. Goulet, as joint tenants with right of survivorship by Deed from Dorothy E. Miller, single woman dated 6/21/1999 and recorded 6/24/1999 in Record Book 1860 Page 38.

Premises being: 32 North Queen Street, Littlestown, PA 17340

Tax Parcel No. 84 Map 8

SEIZED and taken into execution as the property of **Jennifer Glass, Darlene Martofel & John A. Goulet** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 27, 2003, 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.

8/29, 9/5 & 12

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania on July 1, 2003, for the purpose of obtaining a Certificate of Incorporation. The name of the corporation organized under the provisions of the Commonwealth of Pennsylvania Business Corporation Law of 1988 is G & S HISTORIC MONUMENT REPLICAS, INC.

J. Dennis Guyer, Esq.  
Wertime & Guyer, LLP  
50 Eastern Avenue  
Greencastle, PA 17225  
(717) 597-2323

8/29

## 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 EMMA SCOTT FINK a/k/a EMMA R. FINK, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: Adams County National Bank, Attn: Trust Department, P.O. Box 3129, Gettysburg, PA 17325

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

## ESTATE OF MARGUERITE A. HOFFMAN, DEC'D

Late of the Borough of McSherrystown, York County, Pennsylvania

Executors: Hugh F. Hoffman and William J. Hoffman

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

## ESTATE OF ROBERT E. MCKENRICK, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Co-Executors: Joann M. Karchner, 2990D York Road, Gettysburg, PA 17325; Michael L. McKenrick, 794 Gabler Road, Gardners, PA 17324

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

## ESTATE OF VICTOR ANTHONY OLSWFSKI, SR., DEC'D

Late of Freedom Township, Adams County, Pennsylvania

Executor: Henrietta C. O'Shea, 1940 Bull Frog Road, Fairfield, PA 17320

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

## ESTATE OF MELVIN ANDREW TROSTLE a/k/a MELVIN A. TROSTLE, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Co-Executors: Wayne Trostle, 3100 Lake Meade Road, East Berlin, PA 17316; Ruthanna T. Miller, 3290 Lake Meade Road, East Berlin, PA 17316

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

## ESTATE OF RUTH E. ZINN, DEC'D

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

Administrator: Sharon L. Swaby, c/o 29 North Duke St., York, PA 17401

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

## SECOND PUBLICATION

## ESTATE OF KARELENE ANN ALL- LAND, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executrix: Robin Ann Huff, P.O. Box 1254, Hanover, PA 17331

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

## ESTATE OF MILDRED C. CODDINGTON, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: E. Joy Flinn, 1660 Fairfield Road, Gettysburg, PA 17325; Robert C. Coddington, 417 Union Street, Hollidaysburg, PA 16648

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

## ESTATE OF VESTA R. DAY, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executrix: Sandra K. M. Hockley, now Sandra K. Martin, 436 Goodyear Rd., Gardners, PA 17324

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

## ESTATE OF ROBERT W. REDDING a/k/a ROBERT W. REDDING, SR., DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Coretta E. Redding, c/o Craig A. Diehl, Esq., 3464 Trindle Rd., Camp Hill, PA 17011-4436

Attorney: Craig A. Diehl, Esq., 3464 Trindle Rd., Camp Hill, PA 17011-4436

## THIRD PUBLICATION

## ESTATE OF JOSEPH THOMAS CARLSON, JR. a/k/a JOSEPH T. CARLSON, JR., DEC'D

Late of Union Township, Adams County, Pennsylvania

Executor: Louis Edward Carlson a/k/a Louis E. Carlson, c/o Robert P. Kline, Esq., Kline Law Office, 714 Bridge Street, P.O. Box 461, New Cumberland, PA 17070-0461

Attorney: Robert P. Kline, Esq., Kline Law Office, 714 Bridge Street, P.O. Box 461, New Cumberland, PA 17070-0461

## ESTATE OF CAROLYN I. PITZER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: William C. Congleton, 2494 Old Harrisburg Road, Gettysburg, PA 17325

Attorney: Roy A. Keefer, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

## ESTATE OF INEZ MARIE RIGGEEAL, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Mary G. Naugle, 130 Pine Tree Road, Orrtanna, PA 17353

Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

## ESTATE OF BETTY M. SPANGLER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executor: Bernard P. LeMaster, 301 Lake Meade Drive, East Berlin, PA 17316

## ESTATE OF EDWIN B. TAYLOR, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Jean Swope, 95 S. Main Street, P.O. Box 12, Biglerville, PA 17307-0012

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

## ESTATE OF JANET M. WALTERS, DEC'D

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

Executor: Michael F. Walters, c/o James D. Bogar, Esq., One West Main Street, Shiremanstown, PA 17011

Attorney: James D. Bogar, Esq., One West Main Street, Shiremanstown, PA 17011

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-651 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of October, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

BEGINNING at a rebar and cap set in Pecher Road (T-312) on line of land now or formerly of Richard B. Nevius; thence along said Nevius land, South 85 degrees 31 minutes 27 seconds East, 1,194.27 feet to a stone found on line of land now or formerly of William R. Ruppert; thence along said Ruppert land, South 04 degrees 32 minutes 48 seconds West, 588.63 feet to a rebar and cap set; thence along land of Fred Harry Crum, North 80 degrees 39 minutes 50 seconds West, 337.90 feet to a rebar and cap set; thence along the same, North 39 degrees 35 minutes 16 seconds West, 435.54 feet to a cap and rebar set; thence continuing along the same, North 85 degrees 31 minutes 27 seconds West, 561.94 feet to a rebar and cap set in Pecher Road; thence in Pecher Road, North 06 degrees 19 minutes 30 seconds East, 247.16 feet to the above-described place of BEGINNING, CONTAINING 10.4139 Acres.

Vested by: Deed dated 3/26/98, given by Fred Harry Crum and Judith Marie Crum, husband and wife, to Michael E. Crum and Stacey L. Crum, husband and wife, as tenants of an estate by the entireties, recorded 3/26/98 in Book 1546 Page 195

Premises being: 720 Pecher Road, Fairfield, PA 17320

Tax Parcel No. 25-C17-30

SEIZED and taken into execution as the property of **Michael E. Crum & Stacy L. Crum a/k/a Stacey L. Crum** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 3, 2003, 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.

8/29, 9/5 & 12

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-528 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of October, 2003, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of ground, situate on the Westerly right of way line of Abbots Drive, lying and being in the Borough of Abbottstown, Adams County, Pennsylvania, known and numbered as Lot No. 49 on a Plan of Lots for Abbots Manor, Phase III, recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Subdivision Plan Book 76, Page 99, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the Westerly right of way line of Abbots Drive, at a corner of Lot No. 50 on said Plan; thence extending along the said right of way line of Abbots Drive South forty-seven (47) degrees sixteen (16) minutes thirty-four (34) seconds East eighty-five (85) feet to a point, at a corner of Lot No. 48 on said Plan; thence extending along the said Lot No. 48 South forty-two (42) degrees forty-three (43) minutes twenty-six (26) seconds West three hundred three and nineteen one-hundredths (303.19) feet to a point; thence North thirty (30) degrees fourteen (14) minutes zero (00) seconds West eighty-five and seven one-hundredths (85.07) feet to a point, at a corner of Lot No. 50 on said Plan; thence extending along the said Lot No. 50 North forty-one (41) degrees fifty-eight (58) minutes ten (10) seconds East two hundred seventy-eight and twenty-eight one-hundredths (278.28) feet to a point and place of BEGINNING.

CONTAINING 24,156 square feet.

UNDER AND SUBJECT to a portion of a storm water management pond and wetland area easement as shown on said plan.

Tax Parcel #5-41

SEIZED and taken into execution as the property of **Joseph I. Andruscavage & Lucinda S. Cooper** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 3, 2003, 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.

8/29, 9/5 & 12

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 Wednesday, September 10, 2003, at 9:00 a.m.

**LIVELSBERGER**—Orphans' Court Action Number OC-54-02. The First and Final Account of Michael R. Livelsberger, Jr. and Debra Ann Eline, Co-Executors of the Estate of Michael M. Livelsberger, deceased, late of Mt. Pleasant Township, Adams County, Pennsylvania.

**TISHLER**—Orphans' Court Action Number OC-151-01. The First and Final Account of Allan C. Stam III and Cynthia L. Stam, Executors of the Last Will and Testament of Patricia B. Tishler, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

**HANER**—Orphans' Court Action Number OC-86-03. The First and Final Account of James B. Newman, Executor of the Estate of Mary D. Haner, deceased, late of Franklin Township, Adams County, Pennsylvania.

**SHILDT**—Orphans' Court Action Number OC-87-03. The First and Final Account of PNC Bank, National Association and Ronald J. Hagarman, Co-Executors of the Estate of Jane R. Shildt, deceased, late of the Borough of Littlestown, Adams County, Pennsylvania.

Clerk of Courts

8/29 & 9/5