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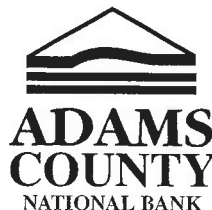
No. 45, pp. 286-296

IN THIS ISSUE

COMMONWEALTH VS. LEHMAN
COMMONWEALTH VS. MYERS

*This opinion continued from last issue (3/26/2004)
and continues to next issue (4/9/2004)*

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-565 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land, with any improvements thereon erected, situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a mark in the concrete on the inside edge of the sidewalk at the Southeastern corner of West Middle Street and South Washington Street; thence along the South edge of the sidewalk along West Middle Street, South 84 degrees 40 minutes East, 60.4 feet to a point on the Southern edge of the sidewalk at corner of buildings at lands now or formerly of George Lower; thence by said lands, South 5 degrees West, 105 feet to a point; thence through the original tract and by lands now or formerly of A.E. Hutchinson, et al, North 84 degrees 40 minutes West, 60.4 feet to a mark in the concrete on the Eastern edge of the sidewalk along South Washington Street; thence along the Eastern edge of the sidewalk on South Washington Street, North 5 degrees East, 105 feet to the place of BEGINNING.

The above description was taken from a draft of survey dated February 5, 1974 prepared by Leroy H. Winebrenner, R.S.

TITLE TO SAID PREMISES IS VESTED IN James G. Edge by deed from Paula D. Olinger, Executrix of the Estate of Mae E. Olinger dated 10/5/95 recorded 10/5/95 in the County of Adams in Deed Book 1092 page 182.

SEIZED and taken into execution as the property of **James G. Edge** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 14, 2004, and distribution will be made in accordance with said schedule, unless exceptions are

filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-317 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated, lying and being in the Borough of Carroll Valley, formerly Liberty Township, Adams County, Pennsylvania, being Lot #128 in Section A, bounded and described as follows:

BEGINNING at a point in the center of High Trail, formerly known as High Ridge Trail, at Lot #127; thence by said lot, North 62 degrees, 13 minutes West, 200 feet to a point; thence North 27 degrees, 47 minutes East, 90 feet to other lands, now or formerly of Charnita, Inc.; thence by said lands, South 62 degrees, 13 minutes East, 200 feet to a point in the center of said High Trail, formerly known as High Ridge Trail; thence in said High Trail, formerly known as High Ridge Trail, South 27 degrees, 47 minutes West, 90 feet to the place of BEGINNING. The above description was taken from a plan of lots labeled "Section A, Charnita" and dated March 1, 1965, prepared by Gordon L. Brown, R.S., recorded in Adams County Miscellaneous Docket 3, page 733.

Map 133 Parcel 16

SEIZED and taken into execution as the property of **Michael K. Burke & The United States of America** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 21, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on or about February 26, 2004, with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the purpose of obtaining a Certificate of Incorporation for a business corporation organized under the Business Corporation Law of 1988, Act of December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is: CONEWAGO, INC. The registered office of the corporation is 660 Edgemoor Road, Hanover, PA 17331.

This notice is given pursuant to Section 1307 of the Business Corporation Law of 1988.

Lloyd R. Persun, Esq.
Mette, Evans & Woodside
3401 North Front Street
P.O. Box 5950
Harrisburg, PA 17110-0950

4/2

COMMONWEALTH VS. LEHMAN

COMMONWEALTH VS. MYERS

Continued from last issue (3/26/2004)

B. Fourth Amendment Analysis

1. Reasonableness of the Search through a Special Needs Analysis

The United States Supreme Court has held that state-compelled collection and testing of urine constitutes a “search” subject to the demands of the Fourth Amendment. See *Skinner v. Railway Labor Executives’ Ass’n*, 489 U.S. 602, 617 (1985), *Treasury Employees v. Von Raab*, 489 U.S. 656, 665 (1989), and *Vernonia Sch. Dist. v. Acton*, 515 U.S. 646, 652 (1995). As the Fourth Amendment indicates, the ultimate measure of the constitutionality of a government search is “reasonableness”, *Acton*, 515 U.S. at 652, and only those searches that are unreasonable violate constitutional provisions. *Id.* at 654. Defendants argue that this reasonableness requirement necessitates that drug testing of a probationer must be based on at least reasonable suspicion that the probationer has violated the law or the conditions of his probation.⁷ We do not agree.

In analyzing this issue, we recognize that the Court must determine the reasonableness of a search by balancing the nature of the intrusion on the individual’s privacy against the promotion of legitimate government interests. *Bd. of Educ. of Pottawatomie County v. Earls*, 122 S.Ct. 2559, 2564 (2002), citing *Delaware v. Prouse*, 440 U.S. 648, 654 (1979). But the United States Supreme Court has also instructed that “the Fourth Amendment imposes no irreducible requirement of [individualized] suspicion.” *Earls*, 122 S.Ct. at 2564, quoting *United States v. Martinez-Fuerte*, 428 U.S. 543, 561 (1976). “[I]n certain limited circumstances, the Government’s need to discover latent or hidden conditions, or to prevent their development, is sufficiently compelling to justify the intrusion on privacy entailed by conducting such searches without any measure of individualized suspicion.” *Earls*, 122 S.Ct. at 2564, quoting *Von Raab*, 489 U.S. at 668. Therefore, in the context of safety and administrative regulations, a search unsupported by probable cause may be reasonable when special needs, beyond the normal need for law enforcement, make the warrant and probable cause requirement impracticable. *Earls*, 122 S.Ct. at 2564, citing *Griffin*, 483 U.S. at

⁷For a complete analysis of what constitutes reasonable suspicion, see *Illinois v. Wardlow*, 528 U.S. 119, 123-24 (2000).

873. The United States Supreme Court recognized in *Griffin, supra*, that the supervision of a probationer is one area where a “special needs” analysis is appropriate.

In *Griffin*, the United States Supreme Court considered the propriety of the search of a probationer’s home on less than probable cause. In finding that the search did not violate Fourth Amendment protections, the Supreme Court wrote:

Probation, like incarceration, is “a form of criminal sanction imposed by a court upon an offender after verdict, finding, or plea of guilty.”... Probation is simply one point (or, more accurately, one set of points) on a continuum of possible punishments ranging from solitary confinement in a maximum-security facility to a few hours of mandatory community service... To a greater or lesser degree, it is always true of probationers (as we have said it to be true of parolees) that they do not enjoy “the absolute liberty to which every citizen is entitled, but only... conditional liberty properly dependent on observance of special [probation] restrictions.”

Id. at 874 (citations omitted).

The Court acknowledged that, in order to enforce probation restrictions, the state must supervise probationers. *Id.* at 875. Therefore, it recognized that supervision is a “special need” of the state that permits “a degree of impingement upon privacy that would not be constitutional if applied to the public at large.” *Id.* at 875. In light of the teaching of the United States Supreme Court in *Griffin*, we determine that a “special needs” analysis is appropriate in considering application of the Fourth Amendment to the current issue.

Subsequent Supreme Court opinions have instructed that there are three factors to consider in assessing the reasonableness of a search where “special needs” exist: 1) the nature of the privacy interest on which the search intrudes, 2) the character of the intrusion complained of, and 3) the nature and immediacy of the governmental concern at issue, and the efficacy of the means for meeting it. *Acton*, 515 U.S. 646. We will analyze each separately below.

a. Nature of the Privacy Interest

We shall first examine the privacy interest involved in the instant matter. As was stated in *Griffin, supra*, probation is a form of

criminal sanction, and as noted in *United States v. Knights*, 122 S.Ct. 587, 592 (2001):

Inherent in the very nature of probation is that probationers “do not enjoy ‘the absolute liberty to which every citizen is entitled.’... Just as other punishments for criminal convictions curtail an offender’s freedoms, a court granting probation may impose reasonable conditions that deprive the offender of some freedoms enjoyed by law-abiding citizens.

Consistent with that understanding, Pennsylvania law provides that the court’s power to impose conditions as part of an order of probation is intended to:

individualize the sentencing process so that an effort can be made to rehabilitate a criminal defendant while, at the same time, preserving the right of law abiding citizens to be secure in their persons and property. An order calculated to achieve this purpose will necessarily impinge to some extent upon the liberties of the person who has been convicted of crime and placed on probation. Such a person “does not enjoy the full panoply of constitutional rights otherwise enjoyed by those who [have] not run afoul of the law.”

Commonwealth v. McBride, 433 A.2d 509, 510 (Pa.Super. 1981) (citations omitted).⁸

Here, Defendants acknowledged their awareness of blood, breath or urine testing as a probation condition when they signed the Standard Rules of the Intermediate Punishment Program. The

⁸A number of other parole or probation conditions have survived constitutional-oriented challenges. See *Commonwealth v. Hermanson*, 674 A.2d 281 (Pa.Super. 1996) (probation condition prohibiting offender from operating motor vehicle for period of his maximum sentence, given his prior DUI violations, was upheld); *Commonwealth v. Homoki*, 621 A.2d 136 (Pa.Super. 1993) (parole condition prohibiting offender from taking additional medication for a preexisting condition where he had had a twenty-year history of heroin abuse was constitutional); *McBride*, 433 A.2d 509 (no contact probation condition did not unduly restrict offender’s liberty or violate his First Amendment freedom of speech or association rights); but see *Commonwealth v. Crosby*, 568 A.2d 233 (Pa.Super. 1990) (forfeiture of truck was not a permissible probation condition for DUI violations as it did not serve a rehabilitative interest).

Supreme Court held that such a search condition significantly diminishes a probationer's reasonable expectation of privacy. See *Knights*, 122 S.Ct. at 592.⁹

Random urine testing has been upheld under the Fourth Amendment when utilized with regard to a number of other groups having similarly decreased privacy interests. For example, in *Earls*, *supra*, the United States Supreme Court held that students competing in extracurricular activities have decreased privacy expectations and may be subjected to drug testing before participating in an activity, while participating in an activity, and, if reasonable suspicion exists, the student may be tested after the activity has ended. Furthermore, in *Acton*, *supra*, the Court held that student athletes have decreased privacy expectations and may be subjected to random drug testing. The Pennsylvania Superior Court also recently addressed random drug testing with regard to a mother in a child custody context. See *Luminella v. Marcocci*, 814 A.2d 711 (Pa.Super. 2002). The Court held that a mother, as a child custody litigant, has a low reasonable expectation of privacy. *Id.* at 723. With regard to the method of testing, the Court stated:

Assuming conventional testing methods, we conceive of no drug test that would be so intrusive as to trump mother's low expectation of privacy... and the compelling nature of the government concern...

Id. at 724.

The privacy expectations of a person convicted of a crime and sentenced to probation should certainly fall below those of a student athlete who has never been suspected of any wrongdoing. See *Kopkey v. State of Indiana*, 743 N.E.2d 331, 337-338 (Ind. Ct. App. 2001). A probationer's privacy interests would also presumably fall below those of a mother who is attempting to retain custody of her child and who has not been accused of prior drug use.

⁹In *Knights*, the probation order included the following condition: that Knights would "submit his... person, property, place of residence, vehicle, personal effects, to search at anytime, with or without a search warrant, warrant of arrest or reasonable cause by any probation officer or law enforcement officer." Knights signed the probation order, which stated immediately above his signature that "I HAVE RECEIVED A COPY, READ AND UNDERSTAND THE ABOVE TERMS AND CONDITIONS OF PROBATION AND AGREE TO ABIDE BY SAME." *Knights*, 122 S.Ct. at 589.

b. Character of the Intrusion

We next consider the character of the intrusion in further determining the privacy interest at stake. Our local rules allow for testing of blood, breath or urine samples.¹⁰ In the case at bar, Myers was subjected to a breath test and Lehman was subjected to a urine test. The Supreme Court recognizes that the administration of a breath test does not implicate significant privacy concerns. See *Skinner*, 489 U.S. at 626. The Court stated:

breath tests do not require piercing the skin and may be conducted safely outside a hospital environment and with a minimum of inconvenience or embarrassment. Further, breath tests reveal the level of alcohol in the employee's bloodstream and nothing more...breath tests reveal no other facts in which the employee has a substantial privacy interest.

Id.

That Court noted, however, that urine tests present a more difficult question because the collection of samples for urinalysis intrudes upon "an excretory function traditionally shielded by great privacy." *Id.* Nevertheless, the Court has also held that the degree of the intrusion depends upon the manner in which production of the urine sample is monitored. *Acton*, 515 U.S. at 658, citing *Skinner*, 489 U.S. at 626. See also *Earls*, 122 S.Ct. at 2566.

Instantly, the parties have stipulated that a probation officer of the same gender as the offender directly watches the offender urinate into a cup-like container in order to ensure the integrity of the urine sample. Stips., filed May 16, 2002 pp. 1-2. The parties have further stipulated that the probation officers generally try to observe the urine passing directly from the genitalia into the cup. For males, the officer typically stands within five feet of the offender, and at a forty-five

¹⁰We recall no incident in which a blood sample was secured by an Adams County Probation Officer for testing purposes; however, the United States Supreme Court held that the intrusion occasioned by a blood test is not significant. See *Skinner*, 489 U.S. at 625. The Court cited *Schmerber v. California*, 384 U.S. 757 (1966) stating that it "confirmed 'society's judgment that blood tests do not constitute an unduly extensive imposition on an individual's privacy and bodily integrity.'" *Id.* The primary substance tested in Adams County is an offender's urine. Nevertheless, the three substances are included in the rules to cover unusual circumstances.

degree angle off the shoulder of the offender. For females, the officer typically stands directly in front of the offender.

The record is somewhat deficient with regard to the manner in which Lehman was observed when he provided his sample on the date in question. We know only that Lehman provided the sample at his home in the presence of a probation officer.

The Third Circuit Court of Appeals held that a drug testing monitor's presence in the same room with an individual during the collection of that individual's urine does not, by itself, constitute an unreasonable search under the Fourth Amendment. *Wilcher v. City of Wilmington*, 139 F.3d 366, 370-371 (3d Cir. 1998). At least one Pennsylvania court has further suggested that direct observation is not only reasonable, but also necessary for chain of custody purposes. Essentially, if a monitor does not observe the collection of a urine sample, the monitor cannot be assured that the sample provided is in fact the offender's unadulterated urine. See *Commonwealth v. Seiders*, 4 Pa.D.&C.4th 24, 30 (1989).

The decreased privacy interests of probationers and parolees must be considered in conjunction with the manner in which the observation of the testing took place. *Wilcher* involved firefighters. It is axiomatic that firefighters have more of a privacy expectation than do probationers and yet, observation similar to the type of observation in the present case was held constitutional. The probationers' decreased privacy interests necessarily indicate that an increased level of observation of urine samples is constitutionally acceptable under a *Wilcher* analysis.¹¹ Accordingly, since probationers and parolees have one of the lowest expectations of privacy of any group susceptible to drug testing, and because increased observation has been held constitutional in the context of citizens free from the dictates of probation, direct observation of their urine samples to ensure integrity and accuracy is constitutionally valid.

Direct observation is even more justifiable in the case of the probationer than the non-convict because:

¹¹ While two federal cases, *Wilcher*, 139 F.3d at 376 n.6, and *Byrne v. Mass. Bay Transp. Auth.*, 196 F.Supp.2d 77 (D.Mass. 2002), have cautioned that direct observation of urine samples could constitute an unreasonable search under the Fourth Amendment, no federal case has categorically held that direct observation of urine samples does violate the Fourth Amendment.

[T]he very assumption of the institution of probation is that the probationer is more likely than the ordinary citizen to violate the law... And probationers have even more of an incentive to conceal their criminal activities and quickly dispose of incriminating evidence than the ordinary criminal because probationers are aware that they may be subject to supervision and face revocation of probation, and possible incarceration, in proceedings in which the trial rights of a jury and proof beyond a reasonable doubt, among other things, do not apply. *Knights*, 122 S.Ct. at 592.

In this respect then, the heightened motivations of probationers and parolees to tamper with a sample warrants a more restrictive and invasive observation procedure to ensure the integrity of the sample.¹² Although in *Byrne, supra*, the Court upheld a policy that permitted direct observation only in certain circumstances where there was reason

¹² A court would be completely naïve if it did not understand the levels to which persons will go to mask their drug or alcohol problems. We have been advised that hundreds of websites are devoted to methodology available to defeat drug testing of urine samples. For example, <<http://www.pass-drug-test.com>>, <<http://www.1stopdetox.com/beatng-the-drug-test.html>>, <<http://www.tomkays.com/beatng-drug-tests.html>>. A quick perusal of these web sites reveals the following sample of available products: 1) The Zip-N-Flip - a revolutionary product which removes toxins from a urine sample. <<http://www.clear-test.com/products/bakenshake.html>>. The advertisement cautions that the “tester must not be watched while using the Zip-N-Flip because the sample needs to be shaken”, *Id.*; 2) Urine Luck Urine Additive - a chemical solution which destroys unwanted substances in urine. <<http://www.clear-test.com/products/urineluck.html>>. The product comes in a vial about the size of a “pinkie finger” and is added directly to the urine sample, *Id.*; and 3) The Urinator - the Urinator relies on the substitution method of cheating a drug test. <<http://www.clear-test.com/products/urinator.html>>. The Urinator is a small electronic module that maintains fake urine within the correct testing temperature range for at least four hours. *Id.* It is advertised as small enough to hold in your hand. *Id.*

The availability of products designed to foil drug tests was recognized in an article in the February 18, 2003 edition of the *Washington Post*. See Martha McNeil Hamilton, *Firms Offer Ways to Foil Drug Tests*, *Washington Post*, February 18, 2003, at E1. That article recognizes a state of the art item for defeating drug tests known as the “Whizzinator”. *Id.* This \$150 device “straps on and comes with its own prosthetic penis (in five different skin hues), dehydrated drug-free urine and heat pads designed to produce a realistically warm urine sample, **even under observation.**” *Id.* (emphasis added).

to be suspicious about the integrity of an observed sample,¹³ it would be ineffective to require such suspicion before allowing direct observation of probationers, particularly when the probationer has been convicted of a drug or alcohol offense, as was the case here.¹⁴ As noted above, probationers have greater incentive to conceal their criminal activities and dispose of incriminating evidence. Therefore, the Commonwealth already has a sufficient reason to be suspicious about the integrity of Defendants' urine samples in this case. Furthermore, even the Third Circuit Court of Appeals has recognized in less egregious circumstances¹⁵ that the Commonwealth "need not wait for a cheating problem to develop in order to justify its use of direct observation." *Wilcher*, 139 F.3d at 378.

c. Government Interest

Our final consideration with regard to reasonableness is the nature and immediacy of the governmental concern at issue and the efficacy of the means for meeting it in this instance. The government interest motivating the search at issue must be "compelling". *Acton*, 515 U.S. at 661.

It is a mistake, however, to think that the phrase "compelling state interest," in the Fourth Amendment context,

¹³ In *Byrne*, *supra*, the testing policy for law enforcement officials authorized direct observation of urine samples only when: (1) an employee had given a previous sample that appeared to have been tampered with, or (2) an employee has either the opportunity to tamper with a sample or the motive to do so, or (3) an employee returning to work or providing a follow-up test after previously failing a drug test if the monitor has a basis for believing the employee would attempt to alter or substitute the sample if it were collected without observation. *Byrne*, 196 F.Supp.2d at 82. Also, "before there may be direct observation, the collector must have a factual basis for such a suspicion and must obtain a supervisor's approval." *Id.* at 83.

¹⁴ However, we are not advocating or endorsing different testing procedures based upon the crime for which the offender is being supervised, especially because the offense itself may be symbolic of an underlying substance abuse problem. For example, a theft may be committed to secure funds to support a drug habit. Identifying and addressing the underlying problem can be a major step toward reducing recidivism and rehabilitating the offender.

¹⁵ Under the testing program in *Wilcher*, firefighters did not receive notice of the test until the day of the test, and they remained in the company of a superior officer from the moment they were notified of the test until the time they actually provided their urine specimen. *Wilcher*, 139 F.3d at 378. Even though cheating is unlikely under these circumstances, the use of direct observation was considered acceptable, in part, because cheating has taken place during the direct observation of urine samples. *Id.*

describes a fixed, minimum quantum of governmental concern, so that one can dispose of a case by answering in isolation the question: Is there a compelling state interest here? Rather, the phrase describes an interest that appears important enough to justify the particular search at hand, in light of other factors that show the search to be relatively intrusive upon a genuine expectation of privacy.

Id.

As the *Kopkey* Court stated, “[t]he sin qua non of illegal drugs and alcohol is that they alter mental functioning to varying degrees and have great potential to negatively impact a person’s judgment.” *Kopkey*, 743 N.E.2d at 338. Drug and alcohol use therefore has a detrimental effect on a probationer’s rehabilitation and increases the risk to the public. *Id.* The Pennsylvania Superior Court has held that probation or parole conditions designed to prevent a defendant from harming himself or others, given a history of substance abuse, are valid. *Commonwealth v. Hermanson*, 674 A.2d 281, 284 (Pa. Super. 1996).¹⁶

Here, both Defendants pleaded guilty to D.U.I. Furthermore, as noted above, Lehman admitted using marijuana and cocaine subsequent to his sentencing on the D.U.I. charge, and Myers admitted that he consumed vodka subsequent to sentencing on his D.U.I. charge. Therefore, there is a distinct possibility that these Defendants, and others similarly situated, may put themselves or others at risk if allowed to indulge uninterrupted until the happenstance of the outward manifestation of usage is revealed to a probation officer. The State, through the courts, has a compelling need to prevent the harm that could result from the conduct of persons under its supervision.

The prevalence of drug and alcohol violations among probationers nationwide and within the Adams County community evidences the Commonwealth’s compelling interest in deterring drug and alcohol abuse. Furthermore, the United States Supreme Court has held, at least with regard to drug testing of students, that a demonstrated problem of drug abuse “shore[s] up an assertion of special need for a suspicionless general search program.” *Earls*, 122 S.Ct. at 2567-2568.

¹⁶ A parolee’s constitutional rights are indistinguishable from that of a probationer. *Commonwealth v. Williams*, 692 A.2d 1031, 1035 n.7. (Pa. 1997). Note also that conditions of probation are examined under the same standards as conditions of parole. *Hermanson*, 674 A.2d at 284 n.4, citing 42 Pa.C.S.A. §§ 9755(d) and 9754.

The United States Department of Justice Office of Justice Programs reports that approximately two-thirds of probationers may be characterized as alcohol- or drug-involved offenders.¹⁷ The Justice Department recently conducted personal interviews with a nationally representative sample of over 2,000 adult probationers under active supervision. The results of the survey indicated that the largest group of alcohol- or drug-involved probationers were those who were under the influence at the time of their current offense. Moreover, nearly two-thirds (64%) of all probationers admitted to having driven while under the influence of alcohol or drugs, including 57% that had done so while drunk. Nearly 100% of current drug users (defined as those who reported drug use in the month before their offense) reported having some kind of special condition included in their sentence to probation. A majority of the current drug users also reported restrictions against the use of alcohol and drugs. Approximately half of the probationers surveyed said they had been tested for drug use while on probation.

Statistics compiled by the Adams County Department of Adult Probation and Parole resemble those set forth above. For example, between January 1, 2000 and June 30, 2000, 244 charges brought in Adams County resulted in a sentence of probation or parole. Approximately 51% of those charges were alcohol or drug related.¹⁸ During the same time period, 81 charges brought in Adams County resulted in the revocation of an offender from probation or parole. Approximately 47% of those charges were alcohol or drug related.¹⁹

As to the efficacy of the suspicionless drug and alcohol testing at issue, we agree with the *Kopkey* Court, which declared that such testing is “an effective and reasonable means to deter the use of those substances and thereby facilitate the [probationer’s] rehabilitation and ensure public safety.” *Kopkey*, 743 N.E.2d at 338. Nevertheless,

¹⁷ Bureau of Justice Statistics Special Report, “Substance Abuse and Treatment of Adults on Probation, 1995.” March 1998, NCJ 166611.

¹⁸ The following are the percentages of specific drug or alcohol offenses during that period as reported by the Adams County Department of Adult Probation and Parole: DUI – 45%, Possession of Marijuana – 3%, Paraphernalia – 2%, Public Drunkenness – less than 1%, Possession with intent to distribute – less than 1%.

¹⁹ The following are the percentages of specific drug or alcohol offenses during that period as reported by the Adams County Department of Adult Probation and Parole: DUI – 81%, Paraphernalia – 2%, Possession with intent to distribute – 4%, Public drunkenness – 1%.

Defendants argue that a less intrusive means to the same end was available, namely urine and breath testing of probationers only when reasonable suspicion exists and only through the use of a more indirect observation procedure for urine tests. However, the Supreme Court has repeatedly held that “reasonableness under the Fourth Amendment does not require employing the least intrusive means.” *Earls*, 122 S.Ct. at 2569. This concept must be viewed in conjunction with a probationer’s greatly decreased privacy expectations in order to give meaning or substance to the governmental interest at stake.

It would also be impractical to require reasonable suspicion before subjecting probationers to urine and breath tests (particularly where, as here, the probationers have a criminal history of drug or alcohol offenses). The random nature of the tests is necessary for two reasons. First, outward symptoms of drug use dissipate quickly. Therefore, manifestations of drug use are often short-lived or non-existent. Accordingly, requiring a probation or parole officer to have reasonable suspicion that a probationer or parolee was or is using drugs would mandate that those officers conduct ongoing surveillance of offenders. This practice would create a consistently high level of intrusion into the offender’s privacy and would limit the multifaceted roles of probation and parole officers to only conducting surveillance of offenders. Certainly, this result cannot be what the Constitution or our legislature intended. Second, since evidence of drug use leaves the body quickly,²⁰ drug testing scheduled in advance would be ineffective. Offenders could regularly use narcotics while on probation or parole and still pass scheduled drug tests if they curtailed drug use in enough time before a scheduled test to ensure that the drugs had dissipated from their systems before the tests were conducted. Therefore, to ensure the effectiveness of the drug-testing program, the testing must be random in nature. Otherwise, there would be essentially no need for drug testing because offenders could continue to use drugs and nevertheless pass scheduled drug tests. Therefore, we conclude that the urine and breath tests at issue in this case were reasonable and not in contravention of the Defendants’ Fourth Amendment rights.

Continued to next issue (4/9/2004)

²⁰ <<http://www.howtopassyourdrugtest.com/time.htm>> (many drugs, including cocaine and heroin, leave the body within 2-3 days of their use).

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1244 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE TWO CERTAIN tracts of land situate in the Village of Mummasburg, Franklin Township, Adams County, Pennsylvania, as follows:

TRACT NO. 1

BEGINNING at a point in the State Highway leading from Gettysburg to Mummasburg at a corner of land of Guy R. Fidler, which point of beginning is 25.3 feet from a post located along the first course of the within description; thence leaving State Highway and running by land now or formerly of Guy R. Fidler South 58 degrees 57 minutes West, 263 feet to a post along an alley; thence along said alley North 30 degrees 30 minutes West 136 feet to a stake; thence by Tract No. 2 North 58 degrees 57 minutes East, 263 feet to a spike in the aforesaid State Highway; thence in said State Highway South 30 degrees 30 minutes East, 136 feet to a point, the place of BEGINNING. CONTAINING 131 perches.

TRACT NO. 2

BEGINNING at a spike in the State Highway leading from Gettysburg to Mummasburg, which spike is located 24.7 feet from a post long the fourth course within description; thence in the center of said State Highway South 30 degrees 30 minutes East, 115.5 feet to a spike; thence leaving said State Highway and running by Tract No. 1, South 58 degrees 57 minutes West, 263 feet to a stake along an alley; thence along said alley North 30 degrees 30 minutes West 115.5 feet to a stake at a corner of land now or formerly of Daniel E. Martz; thence by land now or formerly of the said Daniel E. Martz, North 58 degrees 57 minutes East, 263 feet to a spike in the aforementioned State Highway, the place of BEGINNING. CONTAINING 111 perches.

THE foregoing descriptions were obtained from a draft of survey made by LeRoy H. Winebrenner, Registered Surveyor, on October 26, 1954.

TRACT NO. 1 is hereby conveyed subject to any rights, which any third person or persons may have to use a strip of land located along the third course of the above-description of Tract No. 1 at an alley.

Being Parcel No. (12)-E10, Parcel 30 SEIZED and taken into execution as the property of **Donald E. Shafer & Michelle A. Shafer** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 14, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1313 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel rod at corner of Lot along the right-of-way of PA 234 and along a 20-foot alley (open), as shown on the hereinafter boundary survey; thence along said alley North 29 degrees 30 minutes 55 seconds East, 260.00 feet to a steel rod at corner of Lot along said alley and along a 20-foot alley (not open); thence along said alley (not open) South 65 degrees 58 minutes 30 seconds East, 220.00 feet to a steel rod at corner of said Lot and along the right-of-way of Old Harrisburg Road (S.R. 3001); thence along said right-of-way of Old Harrisburg Road South 29 degrees 30 minutes 55 seconds West, 195.00 feet to a steel rod; thence North 65 degrees 58 minutes 30 seconds West, 65.00 feet to a steel rod; thence South 29 degrees 30 minutes 55 seconds West, 65.00 feet to a steel rod at corner of said Lot and along the right-of-way of PA 234; thence along the right-of-way of PA 234 North 65 degrees 58 minutes 30 seconds West, 155.00 feet to a steel rod at corner of Lot

along the right-of-way of PA 234 and along a 20-foot alley (open), the point and place of BEGINNING CONTAINING 1.211 acre.

The above description was taken from a boundary survey prepared by Adams County Surveyors dated August 8, 1998. Said Lot is identified as Lots 68, 69, 70 and 71 on said survey.

TITLE TO SAID PREMISES IS VESTED IN Thomas P. Hunt by Deed from Shirley P. Heltridge, widow dated 08/14/1998 and recorded 08/14/1998 in Record Book 1642 Page 31.

Premises being: 2796 Heidersburg Road, Gettysburg, PA 17325

Tax Parcel No. 1-30

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 14, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on February 18, 2004, by BROTHERS ROOFING COMPANY, a foreign corporation formed under the laws of the State of Maryland where its principal office is located at 111 Hanover Pike, Hampstead, MD 21074, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located in Adams County.

4/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1300 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece or parcel of land, situate, lying and being in Oxford Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING for a point on the property line of the cul-de-sac of Cherry Court at corner of Lot No. 106 of the hereinafter referenced plan of lots; thence along Lot No. 106, South 42 degrees 02 minutes 49 seconds West 92.07 feet to a point at other lands now or formerly of Oxford Estates; thence along same, North 34 degrees 52 minutes 51 seconds West 143 feet to a point at Lot No. 104 on said plan; thence along Lot No. 104, South 85 degrees 06 minutes 59 seconds East 129 feet to a point on the property line of the cul-de-sac of Cherry Court; thence along same, by a curve to the left, the radius of which is 50 feet, for an arc length of 42 feet and having a long chord bearing and distance of South 21 degrees 26 minutes 29 seconds East 40.78 feet to a point at Lot No. 106, the point and place of BEGINNING. CONTAINING 8,650 square feet and being Lot No. 105 on a plan of lots of Oxford Estates, Phase IV, dated May 23, 1985, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 42, page 5.

BEING the same premises which, by her Deed dated September 30, 1993 and recorded in the Office of the Recorder of Deeds for Adams County, Pennsylvania, at Deed Book 787, page 33, Anna Marie Cox granted and conveyed unto Betty J. Topper, Grantor herein.

Under and subject to any and all covenants, conditions, reservations, restrictions, limitations, right-of-ways, objections, easements, agreements, etc., as they appear of record.

With the appurtenances: TO HAVE AND TO HOLD the same unto and for the use of Grantees, their heirs and assigns forever

HAVING thereon erected a dwelling house known as: 3 Cherry Court, New Oxford, Pennsylvania 17350

BEING THE SAME PREMISES WHICH Betty J. Topper, by Deed dated 12/3/99 and recorded 12/8/99 in Adams County Deed Book 1966, Page 167, granted and conveyed unto Rodney A. Carey and Teresa M. Carey.

SEIZED IN EXECUTION AS THE PROPERTY OF RODNEY A. CAREY AND TERESA M. CAREY UNDER ADAMS COUNTY JUDGMENT NO. 02-S-1300

Map & Parcel (35) 8-114

SEIZED and taken into execution as the property of **Rodney A. Carey & Teresa M. Carey** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 21, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1163 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece, parcel or tract of land situate, lying and being in the Borough of Bonneauville, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a point along the right-of-way line of Bonnie Field Circle, a fifty (50) feet wide right-of-way, and corner of Lot No. 42-A on subdivision plan hereinafter referred to; thence continuing along Lot No. 42-A, South twenty-six (26) degrees thirty-four (34) minutes forty-five (45) seconds East, one hundred thirty-two and six hundredths (132.06) feet to a point along other lands now or formerly of Ronald L. Carter and Meyer & Meyer Partnership; thence continuing along said last mentioned lands, South sixty-three (63) degrees twenty-eight (28) minutes forty-eight (48) seconds West, twenty-five and seventy-five hundredths (25.75) feet to a point at corner of Lot No. 43-A on subdivision plan hereinafter referred to; thence continuing along Lot No. 43-A, North thirty-seven

(37) degrees forty-seven (47) minutes thirty-seven (37) seconds West, one hundred twenty-seven and seventy-nine hundredths (127.79) feet to a point along the right-of-way line of Bonnie Field Circle, aforesaid, thence continuing along the right-of-way line of Bonnie Field Circle, by a curve to the right, having a radius of two hundred thirty-eight and ninety-seven hundredths (238.97) feet, an arc length of fifty-one and fourteen hundredths (51.14) feet, and a long chord bearing and distance of North, fifty-five (55) degrees fifty-three (53) minutes fifty-eight (58) seconds East, fifty-one and four hundredths (51.04) feet to a point along the right-of-way line of Bonnie Field Circle, the point and place of BEGINNING.

CONTAINING 5,001 square feet and being Lot No. 42-B on Final Plan of Bonnie Field, prepared by Worley Surveying, dated April 3, 1995, File No. C-1488, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 67, page 11.

HAVING erected thereon a dwelling known as 7 B Bonniefield Circle, Gettysburg, PA 17325-7800,

PARCEL NO. 9-56B

BEING the same premises which Thomas F. Spanger, single, by deed dated 06/28/1996 and recorded on 07/12/1996 in Adams County, Pennsylvania, Recorder of Deeds Office in Deed Book Volume 1225, page 23, granted and conveyed unto Mark A. Stapleton, single, and Sharon L. Wiltrout, single.

SEIZED and taken into execution as the property of **Mark A. Stapleton & Sharon L. Stapleton** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 21, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-1232 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land, situate, lying and being in Highland Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to-wit:

TRACT NO. 1

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

TRACT NO. 2

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

back 21.1 feet to a spike in the center of the highway, the place of BEGINNING. CONTAINING 7 perches and 204.11 square feet.

TRACT NO. 3

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

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

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

Tax Parcel: D-14-22

Premises Being: 3115 Fairfield Road, Gettysburg, PA 17325

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 21, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-967 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 260 on a plan of lots of Lake Meade Subdivision duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County at Plan Book 1, Page 1, and subject to all legal highways, easements, rights-of-way, and restrictions of record.

UNDER AND SUBJECT to any and all restrictions, objections, etc., as they appear of record.

BEING KNOWN AS: 85 Schofield Drive, East Berlin, PA 17316

PROPERTY ID NO. 11-100

TITLE TO SAID PREMISES IS VESTED IN Jill A. Fissel by deed from Michael J. Fissel and Jill A. Fissel formerly known as Jill A. Angel, husband and wife dated 12/22/94 recorded 12/28/94 in Deed Book 980 Page 165.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-107 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel rod at corner of Lot along the right-of-way of PA 234 and along a 20-foot alley (open), as shown on the hereinafter boundary survey; thence along said alley North 29 degrees 30 minutes 55 seconds East, 260.00 feet to a steel rod at corner of Lot along said alley and along a 20-foot alley (not open); thence along said alley (not open) South 65 degrees 58 minutes 30 seconds East, 220.00 feet to a steel rod at corner of said Lot and along the right-of-way of Old Harrisburg Road (S.R. 3001); thence along said right-of-way of Old Harrisburg Road South 29 degrees 30 minutes 55 seconds West, 195.00 feet to a steel rod; thence North 65 degrees 58 minutes 30 seconds West, 65.00 feet to a steel rod; thence South 29 degrees 30 minutes 55 seconds West, 65.00 feet to a steel rod at corner of said Lot and along the right-of-way of PA 234; thence along the right-of-way of PA 234 North 65 degrees 58 minutes 30 seconds West, 155.00 feet to a steel rod at corner of Lot along the right-of-way of PA 234 and along a 20-foot alley (open), the point and place of BEGINNING. CONTAINING 1.211 acre.

BEING the same which Shirley P. Heltbride and Robert E. Heltbride, her husband, by deed dated May 21, 1955, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 210 at page 198, sold and conveyed unto Robert E. Heltbride and Shirley P. Heltbride, husband and wife. Said Robert E. Heltbride having died on October 7, 1994, title became vested solely in Shirley P. Heltbride, the Grantor herein.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 14, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing

thereof. Purchaser must settle for property on or before filing date.

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

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

4/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-109 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land, situate lying and being in York Springs Borough, Adams County, Pennsylvania, and as more particularly bounded and described as follows, to wit:

BEGINNING at a stone corner of lot now or late of Peters; thence the Carlisle and Hanover Highway, North 41-1/2 degrees West 60 feet to a stone at lot now or late of Myers; thence by lands of same South 48 degrees West 21.7 perches to corner at lands now or late of Gardner, deceased, thence by lands of same South 42 degrees East 60 feet to a stone; thence by lot now or late of Peters South 48 degrees West 21.7 perches to a stone at the place of BEGINNING.

CONTAINING 21,483 square feet of land neat measure.

Map 5 Parcel 35

TITLE TO SAID PREMISES IS VESTED IN Thomas M. Miller and Carol A. Miller, husband and wife by Deed from Thomas M. Miller (erroneously referred to as Thomas H. Mill) and Carol A. Miller, husband and wife dated 06/16/1997 and recorded 06/30/1997 in Record Book 1398 Page 37.

Premises being: 204 Main Street Box #221, York Springs, PA 17372

Tax Parcel No. 5-35

SEIZED and taken into execution as the property of **Thomas M. Miller & Carol A. Miller** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/2, 9 & 16

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on or about February 26, 2004, with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the purpose of obtaining a Certificate of Incorporation for a business corporation organized under the Business Corporation Law of 1988, Act of December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is: CONEWAGO READY MIX, INC. The registered office of the corporation is 660 Edgemoor Road, Hanover, PA 17331.

This notice is given pursuant to Section 1307 of the Business Corporation Law of 1988.

Lloyd R. Persun, Esq.
Mette, Evans & Woodside
3401 North Front Street
P.O. Box 5950
Harrisburg, PA 17110-0950

4/2

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on or about February 26, 2004, with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the purpose of obtaining a Certificate of Incorporation for a business corporation organized under the Business Corporation Law of 1988, Act of December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is: CONEWAGO PRECAST BUILDING SYSTEMS, INC. The registered office of the corporation is 660 Edgemoor Road, Hanover, PA 17331.

This notice is given pursuant to Section 1307 of the Business Corporation Law of 1988.

Lloyd R. Persun, Esq.
Mette, Evans & Woodside
3401 North Front Street
P.O. Box 5950
Harrisburg, PA 17110-0950

4/2

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF ANITA J. BARRESI, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Joseph D. Barresi, 716 Arncliffe Rd., Baltimore, MD 21221

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

ESTATE OF PATRICIA B. BELLOMY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Rosby M. Carr, Jr., 12 Pecan Trail, Fairfield, PA 17320

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

ESTATE OF FREDERICK D. HEYSER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Margaret Burcham, 656 Church Road, Orrtanna, PA 17353

Attorney: Walton V. Davis, Esq., 63 West High Street, Gettysburg, PA 17325

ESTATE OF HARRY T. HOFF a/k/a HARRY THOMAS HOFF, JR., DEC'D

Late of Reading Township, Adams County, Pennsylvania

Roger Thomas Hoff, Sr., 13801 Russell Zepp Drive, Clarksville, MD 21029

Attorney: Taylor P. Andrews, Esq., Andrews & Johnson, 78 West Pomfret Street, Carlisle, PA 17013

ESTATE OF WILLIAM E. HOOKER a/k/a WILLIAM ERNEST HOOKER, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executor: Eric W. Hooker, 107 Clear Springs Circle, Drums, PA 18222

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

ESTATE OF PAUL M. MILLER, a/k/a REV. PAUL M. MILLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Teresa M. Hertz, 696 Poplar Road, New Oxford, PA 17350; Rev. Philip DeChico, 12 E. Hanover Street, Gettysburg, PA 17325

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

ESTATE OF DELLA R. MYERS a/k/a DELLA RUTH MYERS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator c.t.a.: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

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

ESTATE OF EMMA R. MYERS a/k/a EMMA RUTH MYERS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator c.t.a.: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

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

ESTATE OF PERCY D. RIDER a/k/a PERCY DELANO RIDER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: Clara Sanders and Tim Sanders, 460 Red Bridge Road, Gettysburg, PA 17325

Attorney: John J. Murphy, III, Esq., Patrono & Associates, LLC, 30 West Middle Street, Gettysburg, PA 17325

ESTATE OF RAYMOND R. STAUB, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executors: Charles J. Staub, 31 Locust Street, Gettysburg, PA 17325; Raymond M. Staub, 29 Locust Street, Gettysburg, PA 17325

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

ESTATE OF HELEN M. TROST, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Personal Representative: Sarah R. Linch c/o Patterson & Kiersz, PC, 239-B East Main St., Waynesboro, PA 17268-1681

Attorney: Patterson & Kiersz, PC, 239-B East Main St., Waynesboro, PA 17268-1681

SECOND PUBLICATION

ESTATE OF BURNELL A. DUBS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Dawn M. Sager, 217 West Hanover Street, Hanover, PA 17331

Attorney: Judith Koper Morris, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF LUTHER BENJAMIN HUMBERT, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Alan L. DeGroot, 1009 Bollinger Road, Littlestown, PA 17340

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

ESTATE OF MARY M. SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrices: Barbara J. Smith & Lucinda C. Glassmoyer, c/o Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403

Attorney: Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403

THIRD PUBLICATION

ESTATE OF LINDA L. RHINEHART, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administratrix: Gladys Mary Knouse, c/o 3015 Eastern Boulevard, York, PA 17402

Attorney: Karen L. Saxton, Esq., Donald L. Reihart, Esq., Law Office of Donald L. Reihart, 3015 Eastern Boulevard, York, PA 17402

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1175 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Latimore Township, Adams County, Pennsylvania, being more fully bounded and limited as follows, to-wit:

BEGINNING at a point in the centerline of Township Road T-608 at lands now or formerly of Bruce Wagner, Jr.; thence departing from the centerline of said roadway and extending along lands now or formerly of Bruce Wagner, Jr. North seventy-eight (78) degrees twelve (12) minutes West for a distance of three hundred sixty-five (365) feet to a point at lands now or formerly of Garman; thence extending along last mentioned lands North two (2) degrees thirty-three (33) minutes East for a distance of ninety-three (93) feet to a point at lands now or formerly of William P. Myers, Jr.; thence extending along last mentioned lands North sixty (60) degrees twenty-four (24) minutes East for a distance of eighty and five hundredths (80.05) feet to an iron pipe at Parcel No. 2 on the hereinafter mentioned plan of lots; thence extending along Lot No. 2 the following two courses and distances: South seventy-two (72) degrees fifty-eight (58) minutes forty-one (41) seconds East for a distance of two hundred six and twenty hundredths (206.20) feet to a pipe; thence continuing along said lands South eighty-eight (88) degrees fourteen (14) minutes eight (08) seconds East for a distance of one hundred thirty and forty-eight hundredths (130.48) feet to a point in the centerline of Township Road T-608; thence extending in and along the center of last mentioned roadway South seventeen (17) degrees nine (09) minutes West for a distance of one hundred forty-nine and thirty-five hundredths (149.35) feet to a point in the centerline of said roadway at lands now or formerly of Bruce Wagner, Jr., said point being the place of BEGINNING.

CONTAINING 1.166 acres and being designated as Parcel No. 1 on a plan of lots prepared for Jack L. Black and others by LaRue Surveys, Inc., dated June 7, 1976, and recorded in the Office of the Recorder of Deeds in and for the County of Adams, and Commonwealth of Pennsylvania, in Plat Book 10, at page 42.

HAVING ERECTED THEREON a dwelling known as 1554 Town Hill Road, York Springs, Pennsylvania.

Map and Parcel I.D.; Map 11, Parcel 24 SEIZED and taken into execution as the property of **Scott D. Moats** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 21, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-660 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground situate on the Southwest side of Linden Avenue in Conewago Township, Adams County, Pennsylvania, more particularly as follows:

BEGINNING at an iron pipe on the Southwest side of Linden Avenue at lands of Ethel Small; thence by lands of Ethel Small South 44 degrees 27 minutes 14 seconds West, 100.83 feet to an iron pipe at lands of Laverne K. Lawrence and Helen K. Lawrence; thence by same North 44 degrees 46 minutes 51 seconds West, 15.69 feet to an iron pipe; thence continuing by same South 45 degrees 24 minutes 4 seconds West, 19.85 feet to an iron pipe; thence continuing by same North 43 degrees 54 minutes 39 seconds West, 44 feet to an iron pipe at lands of John F. Klunk; thence by lands of John F. Klunk North 44 degrees 27 minutes 14 seconds East, 119.41 feet to an iron pipe at Linden Avenue aforesaid; thence along Linden Avenue South 45 degrees 22 minutes East, 60 feet to an iron pipe, the point and place of BEGINNING.

CONTAINING 6,893 square feet.

The foregoing description was taken from a draft of survey prepared for Laverne K. Lawrence by LaRue Surveys, Inc., dated June 4, 1974.

SUBJECT however, to the following restriction: That no building of any kind whatsoever shall ever be erected on said lot or piece of ground within 15 feet of the inside line of said Linden Avenue.

Being the same premises conveyed by Laverne K. Lawrence and Helen K. Lawrence, to Donald Lee Wildasin and Patricia Ann Wildasin, husband and wife, by Deed dated June 14, 1974, and recorded in Adams County Deed Book 313, page 1101.

IMPROVEMENTS THEREON CONSIST OF: 1-1/2 story detached bungalow.

SEIZED and taken into execution as the property of **Donald Lee Wildasin a/k/a Donald L. Wildasin & Patricia Ann Wildasin a/k/a Patricia A. Wildasin** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/2, 9 & 16

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, PA. The name of the corporation is CARTER J. STEPHAN, D.C.P.C. The corporation is incorporated under the Pennsylvania Business Corporation Law of 1988.

Mary A. Kenney, Esq.
Attorney for the Corporation

4/2

Adams County Legal Journal

Vol. 45

April 9, 2004

No. 46, pp. 297-306

IN THIS ISSUE

COMMONWEALTH VS. LEHMAN COMMONWEALTH VS. MYERS

This opinion continued from last issue (4/2/2004)

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-109 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land, situate lying and being in York Springs Borough, Adams County, Pennsylvania, and as more particularly bounded and described as follows, to wit:

BEGINNING at a stone corner of lot now or late of Peters; thence the Carlisle and Hanover Highway, North 41-1/2 degrees West 60 feet to a stone at lot now or late of Myers; thence by lands of same South 48 degrees West 21.7 perches to corner at lands now or late of Gardner, deceased, thence by lands of same South 42 degrees East 60 feet to a stone; thence by lot now or late of Peters South 48 degrees West 21.7 perches to a stone at the place of BEGINNING.

CONTAINING 21,483 square feet of land neat measure.

Map 5 Parcel 35

TITLE TO SAID PREMISES IS VESTED IN Thomas M. Miller and Carol A.

Miller, husband and wife by Deed from Thomas M. Miller (erroneously referred to as Thomas H. Mill) and Carol A. Miller, husband and wife dated 06/16/1997 and recorded 06/30/1997 in Record Book 1398 Page 37.

Premises being: 204 Main Street Box #221, York Springs, PA 17372

Tax Parcel No. 5-35

SEIZED and taken into execution as the property of **Thomas M. Miller & Carol A. Miller** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/2, 9 & 16

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on March 8, 2004, for the purpose of obtaining a Certificate of Incorporation organized under the provisions of the Pennsylvania Business Corporation Law, approved December 21, 1988, P.L. 1444, as amended. The name of the corporation is DREAM CT INC. The purpose or purposes for which the corporation is incorporated is that the corporation shall have unlimited power to engage in and do any lawful act concerning any or all lawful business for which corporations may be incorporated under said Business Corporation Law.

Pyle and Entwistle
Attorneys for the Corporation

4/9

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-565 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land, with any improvements thereon erected, situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a mark in the concrete on the inside edge of the sidewalk at the Southeastern corner of West Middle Street and South Washington Street; thence along the South edge of the sidewalk along West Middle Street, South 84 degrees 40 minutes East, 60.4 feet to a point on the Southern edge of the sidewalk at corner of buildings at lands now or formerly of George Lower; thence by said lands, South 5 degrees West, 105 feet to a point; thence through the original tract and by lands now or formerly of A.E. Hutchinson, et al, North 84 degrees 40 minutes West, 60.4 feet to a mark in the concrete on the Eastern edge of the sidewalk along South Washington Street; thence along the Eastern edge of the sidewalk on South Washington Street, North 5 degrees East, 105 feet to the place of BEGINNING.

The above description was taken from a draft of survey dated February 5, 1974 prepared by Leroy H. Winebrenner, R.S.

TITLE TO SAID PREMISES IS VESTED IN James G. Edge by deed from Paula D. Olinger, Executrix of the Estate of Mae E. Olinger dated 10/5/95 recorded 10/5/95 in the County of Adams in Deed Book 1092 page 182.

SEIZED and taken into execution as the property of **James G. Edge** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 14, 2004, and distribution will be made in accordance with said schedule, unless exceptions are

filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-317 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated, lying and being in the Borough of Carroll Valley, formerly Liberty Township, Adams County, Pennsylvania, being Lot #128 in Section A, bounded and described as follows:

BEGINNING at a point in the center of High Trail, formerly known as High Ridge Trail, at Lot #127; thence by said lot, North 62 degrees, 13 minutes West, 200 feet to a point; thence North 27 degrees, 47 minutes East, 90 feet to other lands, now or formerly of Charnita, Inc.; thence by said lands, South 62 degrees, 13 minutes East, 200 feet to a point in the center of said High Trail, formerly known as High Ridge Trail; thence in said High Trail, formerly known as High Ridge Trail, South 27 degrees, 47 minutes West, 90 feet to the place of BEGINNING. The above description was taken from a plan of lots labeled "Section A, Charnita" and dated March 1, 1965, prepared by Gordon L. Brown, R.S., recorded in Adams County Miscellaneous Docket 3, page 733.

Map 13 Parcel 16

SEIZED and taken into execution as the property of **Michael K. Burke & The United States of America** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 21, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for GETTYSBURG FAMILY FUN CENTER, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on March 5, 2004, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

4/9

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania.

The name of the corporation is AMERICAN HISTORICAL ART, INC.

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

Thomas R. Campbell, Esq.
Campbell & White, P.C.
112 Baltimore Street
Gettysburg, PA 17325
Attorneys

4/9

COMMONWEALTH VS. LEHMAN

COMMONWEALTH VS. MYERS

Continued from last issue (4/2/2004)

2. Pickron Distinguished

Defendants maintain that the special needs tests is inappropriate in the present case in light of the Pennsylvania Supreme Court's holding in *Commonwealth v. Pickron*, 634 A.2d 1093, 1098 (Pa. 1993). The *Pickron* Court opined that:

[t]he [F]ourth [A]mendment prohibits the warrantless search of probationers or parolee's residences based on reasonable suspicion without the consent of the owner or without a statutory or regulatory framework governing the search.

*Id.*²¹

The Defendants conclude that the reasoning of *Pickron* is applicable to the current searches and that the Commonwealth must establish a reasonable suspicion to conduct them. We do not agree. Initially, we note that the Pennsylvania Supreme Court specifically limited its holding in *Pickron* to the facts of that case.²² More importantly, *Pickron* is not only factually distinguishable from the instant case, but is also analytically distinguishable.

In *Pickron*, *supra*, Pennsylvania State Parole Officers went to the defendant's residence with an arrest warrant for failure to report to the State Board of Parole. The officers searched the residence looking for the defendant. During the search, the officers saw, in plain view, drug paraphernalia. Believing that there were narcotics on the premises, the officers instituted a more thorough search. They found narcotics and additional drug paraphernalia that was seized and used

²¹ Defendants argue that a statutory or regulatory framework is absent here. Defendants further argue that they did not consent to the testing at issue. These arguments are without merit. As we set forth at length above, 42 Pa.C.S.A. § 9763 provides that courts may require drug or alcohol screening as a condition of an I.P.P. sentence. Additionally, Rule 705.1 of the Adams County Rules of Criminal Procedure expressly states that all persons sentenced to I.P.P. must agree to have their blood, breath, or urine tested as directed by the Probation Office or Prison Officials. Defendants clearly acknowledged random drug and alcohol testing as a condition of their probation when they signed the standard rules of the Adams County Intermediate Punishment Program which are set forth in Rule 705.1.

²² See also *Williams*, 692 A.2d at 1035, where the Pennsylvania Supreme Court reiterated the limitation set forth in *Pickron*.

as a basis for filing new charges against the defendant. No technical parole violations were instituted.²³

Unlike the situation in *Pickron*, in the cases at bar, the searches themselves were a condition of Defendants' sentences. The condition was established by a local rule of criminal procedure and authorized by statutory provision. Furthermore, the Defendants acknowledged the condition when they signed the standard rules of the Adams County Intermediate Punishment Program. Also, unlike *Pickron*, the results of the searches at issue serve as a potential basis for revoking Defendants from probation, not as a basis for bringing about new criminal charges as in *Pickron*.

Analytically, the *Pickron* decision was inextricably linked to the idea that a statutory or regulatory framework governing warrantless searches may have cured the unconstitutionality of the search. Defendants argue that a statutory or regulatory framework is absent here. This argument is without merit. As we discussed at length earlier, 42 Pa.C.S.A. § 9763 provides that courts may require drug or alcohol screening as a condition of an I.P.P. sentence. Additionally, Rule 705.1 of the Adams County Rules of Criminal Procedure expressly states that all persons sentenced to I.P.P. must agree to have their blood, breath, or urine tested as directed by the Probation Office or Prison Officials. A regulatory framework which sets forth the frequency of the testing has been adopted by this Court.²⁴ Defendants clearly acknowledged random drug and alcohol testing as a condition of their probation when they signed the standard rules of the Adams County Intermediate Punishment Program which are set forth in Rule 705.1. These regulations are consistent with the rationale that a regulatory framework satisfies the reasonableness requirement of a search. *Pickron*, 634 A.2d at 1098. See also, "Search and Seizure: A Treatise on the Fourth Amendment", sec. 10.10 (3rd ed.), Searches Directed at Parolees and Probationers, Wayne R. LaFave, 2002

²³ Defendants cite *Commonwealth v. Alexander*, 647 A.2d 935, 938 (Pa.Super. 1994) in arguing that *Pickron* has been held to apply whether the parole officers are searching for evidence of additional crimes or merely for evidence of a parole violation. As we previously noted, however, the Pennsylvania Supreme Court has repeatedly stated that the holding in *Pickron* is limited to the facts of that case. The facts of *Alexander* closely resemble those of *Pickron*, and neither case involves the enforcement of a probation condition such as the one at issue here.

²⁴ See footnotes 6, 21.

Pocket Part [FN]78 (Interpreting *Pickron*). Accordingly, the current searches are distinguishable both factually and analytically from the issue before the Pennsylvania Supreme Court in *Pickron*.²⁵

Finally, we take note of the consistent position of the United States Supreme Court on this issue. As noted above, prior to *Pickron*, the United States Supreme Court in *Griffin* specifically recognized the special needs analysis in reviewing searches conducted by probation officers. Since *Pickron*, the United States Supreme Court has separately addressed constitutional challenges to a probation condition and a mandatory drug-testing program and relied on a special needs test in both instances. See *Earls*, 122 S.Ct. 2559; *Knights*, 122 S.Ct. 587.

In *Knights*, the defendant was sentenced to probation for a drug offense. The probation order included the condition that Knights would:

submit his... person, property, place of residence, vehicle, personal effects, to search at anytime, with or without a search warrant, warrant of arrest or reasonable cause by any probation officer or law enforcement officer.

Knights, 122 S.Ct. at 589.

A probation officer searched Knights' apartment and found evidence that was used to bring criminal charges against Knights. *Id.* In assessing the reasonableness of the search, the Court concluded that a special needs analysis was unnecessary because the warrantless search at issue was supported by reasonable suspicion and authorized by a probation condition. *Id.* at 589-92. In doing so, however, the Court reaffirmed the concept that the special needs analysis is a proper methodology to utilize when considering issues related to probationary searches. *Id.* at 590.

One year after *Knights*, the Court addressed the constitutionality of a drug testing policy in *Earls*, *supra*. The policy required all students who participated in competitive extracurricular activities to submit to drug testing. The Court reviewed the policy for reasonableness using

²⁵ *Pickron* also recognized that a search is reasonable if based upon consent. The Defendants argue that they did not consent to the testing at issue. For similar reasons, we find these arguments without merit.

a special needs analysis. The Court cited its holding in *Acton, supra*, stating that “‘special needs’ inhere in the public school context.” *Earls*, 122 S.Ct. at 2564.

In view of the United States Supreme Court’s determination that a “special needs” analysis applies in the context of probationary searches, and, in view of our application of the “special needs” factors to the current searches, we find that the searches at issue do not violate the Fourth Amendment of the United States Constitution.

C. Article I, Section 8 Analysis

Having concluded that Defendants’ Fourth Amendment rights were not violated in this instance, we must now determine whether Article I, Section 8 of the Pennsylvania Constitution affords Defendants greater privacy protection than they receive under the Fourth Amendment. If we find that Article 1, Section 8 provides greater privacy protection, we must then assess the constitutionality of suspicionless testing under that provision.

The Pennsylvania Supreme Court considers the following four factors when determining whether the Pennsylvania Constitution provides greater protection than its counterpart in the Federal Constitution:

- (1) the text of the Pennsylvania constitutional provision;
- (2) the history of the provision, including Pennsylvania case-law;
- (3) related case-law from other states; and
- (4) policy considerations including unique issues of state and local concern, and applicability within modern Pennsylvania jurisprudence.

Williams, 692 A.2d at 1038, *citing Commonwealth v. Edmunds*, 586 A.2d 887 (Pa. 1991).

1. The Text of Article I, Section 8

As set forth above, the text of the Pennsylvania Constitution is similar to that of the Fourth Amendment; however, as the Pennsylvania Supreme Court has noted, “we are not bound to interpret the two provisions as if they were mirror images, even where the text is similar or identical.” *Edmunds*, 586 A.2d at 895. In fact, the history of Article I, Section 8 indicates that the purpose underlying the exclusionary rule in Pennsylvania is quite different from the purpose

underlying the exclusionary rule under the Fourth Amendment. *Id.* at 897. The United States Supreme Court has held that the “sole purpose for the exclusionary rule under the 4th Amendment was to deter police misconduct.” *Id.*, citing *United States v. Leon*, 468 U.S. 897, 916 (1984). Furthermore, under the Federal Constitution, the exclusionary rule operated as

a judicially created remedy designed to safeguard Fourth Amendment rights **generally** through its deterrent effect, rather than a personal constitutional right of the party aggrieved.

Edmunds, 586 A.2d at 897, citing *Leon*, 468 U.S. at 906.

In contrast, Pennsylvania courts have consistently held that Article I, Section 8 is “unshakably linked to a right of privacy in this Commonwealth.” *Edmunds*, 586 A.2d at 898. History therefore indicates that Article I, Section 8 is grounded in the protection of privacy, while the Fourth Amendment is grounded in deterring police misconduct. *Williams*, 692 A.2d at 1038. Consequently, the Pennsylvania Supreme Court has held that Article I, Section 8 often provides greater privacy protection than that provided by the Fourth Amendment. *Id.*, citing *Edmunds*, 586 A.2d at 897, and *Commonwealth v. Sell*, 470 A.2d 457, 467 (Pa. 1983). Nevertheless, the Court has held in at least one instance that Article I, Section 8 does not provide greater protection to parolees than that afforded by the Fourth Amendment. See *Williams*, 692 A.2d 1031.

2. Case-law From Other States

Pennsylvania’s Supreme Court in *Williams*, *supra*, relied heavily on decisions from several out-of-state courts that confronted the issue of whether or not a parolee or probationer have greater rights given state constitutional privacy protections similar to this Commonwealth’s. The Court ascertained that:

other state constitutions do not bestow greater rights on parolee’s than that provided by the Fourth Amendment of the United States Constitution in regards to a warrantless search of a parolee by parole officers even when the analysis is based upon a right to privacy as opposed to deterrence of police misconduct. *Williams*, 692 A.2d at 1039.

The Williams' Court, pointing to another jurisdiction's determination that a probationer's signature on a consent to search form diminished the reasonable expectation of privacy, held that there is no need to articulate a constitutional standard different from the Fourth Amendment's because a parolee has a diminished expectation of privacy. *Id.* at 1039.²⁶

In addition to *Williams, supra, In re York*, 9 Cal. 4th 1133 (Cal. 1995) provides additional related out-of-state case law. California's Constitution has a privacy section similar to Pennsylvania's. In *York*, the California Supreme Court held that it is constitutional for those accused (not convicted) of drug offenses to be subjected to suspicionless drug testing as a condition of release on their own recognition. The Court refused to extend greater privacy protection than that granted by the Fourth Amendment to the United States Constitution. *Id.* at 1149.

3. Modern Pennsylvania Jurisprudence

Luminella, supra, provides a Pennsylvania state constitutional analysis concerning suspicionless drug testing. *Luminella* held that a Court of Common Pleas Judge could order a suspicionless drug test of a mother engaged in a custody dispute. This testing was upheld despite the fact that no evidence existed to indicate drug use. *Luminella* so held even though the party to be drug tested was recognized as having a reasonable expectation of privacy colored by a previously recognized constitutional bar against compelled disclosure of psychological tests. *Id.* at 723, citing *In re "B"*, 394 A.2d 1276 (Pa. 1978); *In re T.R.*, 557 Pa. 99, 731 A.2d 1276 (1999). The Superior Court distinguished compelled disclosure of psychological tests from compelled drug testing reasoning that, "... drug testing is at issue, not Mother's 'innermost thoughts and feelings' drawn from a probing psychology professional." *Id.* at 723 citing *In re T.R.*, 557 Pa. 99 at 109 n. 1, 731 A.2d 1276, 1282 n.1. The Court reasoned,

²⁶Defendants argue that the search at issue in *Williams, supra*, is not analogous to the search at issue in the present case because that parole officer had reasonable suspicion that Williams was violating the terms of his parole. We must agree that the *Williams* Court seems to limit its decision to the particular search at issue in that case. We also note, however, that the parole condition in *Williams* differs from the probation condition in the present case. Here, the probation condition specifically states that probationers must agree to have their blood, breath or urine tested as directed by the Probation Office or Prison Officials.

“drug testing in various forms constitute a negligible, or not significant, intrusion of privacy.” *Id.* at 723.

Other relevant Article I, Section 8 analysis’ are offered in the context of suspicionless searches of school children. See, *In re F.B.*, 726 A.2d 361 (Pa. 1999) and *Commonwealth v. Cass*, 709 A.2d 356 (Pa. 1998). *In re F.B.*, *supra*, carefully spells out the necessary framework for an Article I, Section 8 analysis of general or “generic” searches within the school environment:

- 1) A consideration of the students’ privacy interest, 2) the nature of the intrusion created by the search, 3) notice, and 4) the overall purpose to be achieved by the search and the immediate reasons prompting the decision to conduct the actual search. *In re F.B.*, 726 A.2d at 365.

Although *In re F.B.*, *supra*, is factually distinct from the instant case, its analytical framework can be utilized to determine the constitutionality of the type of drug screening at issue in this case. Applying the *In re F.B.* analysis we note the following. As mentioned previously in our Fourth Amendment analysis, probationers have a very low expectation of privacy. A probationer’s reasonable expectation of privacy is reduced even further than that of any school student by virtue of the fact that they are convicted criminals participating in a probationary program. Just as a student’s expectation of privacy is limited by the need to protect all students and to ensure school discipline, so is the probationer’s expectation of privacy limited by the need to protect the public at large from convicted criminals and ensure discipline within the probationary program.

The nature of the intrusion is such that there is a greater degree of intrusion into the probationers’ privacy interest during the observation of the production of the urine sample than there would be during a general search of the person as in *In re F.B.* However, the type of search in the instant case, observation from the side of the probationer, is a testing procedure that has been found constitutional even for those with a greater expectation of privacy, namely, firemen and police transit workers. See *Byrne*, 196 F.Supp.2d 77; *Wilcher*, 139 F.3d 366. Similar searches have been found to be negligible by our Superior Court in *Luminella*. See *Luminella*, 814 A.2d at 723. By limiting the possibility of the abuse of discretion through the training and supervision of its probation officers, Adams County further

insures that the intrusiveness of the searches will be limited as much as possible.²⁷

The third factor to be considered is the notice provided concerning the search in question. Probationers in Adams County are put on notice both by virtue of the sentence imposed, and by the consent to search form which warns probationers that urinalysis and breathalyzer tests are to be expected. Probationers are required to sign these forms and they are specifically directed to ask any questions about how and when searches will be conducted.

Finally, *In re F.B.* directs us to consider the overall purpose to be achieved by the search. This factor mirrors our final inquiry directed by *Edmunds*. *Edmunds* requires a review of the policy considerations including unique issues of state and local concern. To begin, Pennsylvania's legislature enacted provisions governing intermediate punishment as a sentencing tool. The legislature's intent was to give judges a sentencing alternative; provide more appropriate forms of treatment for non-violent offenders; make the offender more accountable to the community; and help reduce the county jail overcrowding problem while maintaining public safety. *Commonwealth v. Philipp*, 709 A.2d 920 (Pa.Super. 1998) (citations omitted).

Also, our courts have long recognized the importance of such flexibility in sentencing. See, *Commonwealth v. Cappellini*, 690 A.2d 1220 (Pa.Super. 1997) (order prohibiting probationer from having contact with drug offenders, even work-related contact, held constitutional). See also cases listed and explained in footnote 10, *supra*. Just like the aforementioned impositions on constitutionally protected rights, the imposition of drug screening offers yet another type of sentence engineered to make probation meaningful and efficacious.

As pointed out in *Philipp*, *supra*, it was the legislature's intent to protect public safety during the probationary process. As statistically enumerated above, drunk driving and crime related to drug and

²⁷To avoid any abuse of discretion, Adams County probation officers receive specific instruction to stand to the side of probationers as urine samples are provided. Each probation officer has an immediate supervisor to whom they report. Probationers not only sign a consent to search form; they are also permitted to ask questions concerning the testing procedures during their initial probation interview. Consequently, if any abuse of discretion were to take place, the probationer, aware of what type and manner of testing to expect, could become aware of any deviation or abuse of the normal testing procedure.

alcohol abuse is a problem of great proportion in our Commonwealth. If the probation department is not able to accurately discern when probationers are abusing drugs and alcohol, we increase the risk to society of further crime and injury related to that abuse. If not for the opportunity to test probationers accurately and meaningfully for the use of drugs and alcohol, judges may find themselves second-guessing the option of probation due to concerns for the safety of Pennsylvania's citizens. See *United States v. Kills Enemy*, 3 F.3d 1201, 1203 (8th Cir. 1993) (prohibitions on drug use are not self-executing; unrestricted authority to conduct warrantless searches is related to public safety). It is therefore important to conduct meaningful testing, including unannounced screening. As noted in our Fourth Amendment analysis, drugs and alcohol have a very limited presence in the body;²⁸ consequently, scheduled testing provides a simple means for the probationer to defeat the test by planning ahead. It is of equal importance to monitor the urinary function in a manner that precludes tampering or adulteration. Consequently, the Commonwealth's interest in direct observation and unannounced screening is compelling.

The requirement of reasonable suspicion would significantly alter the ability of the probation department to adequately monitor a probationer's compliance with the terms of probation. The symptoms of drug and alcohol use are not always easily ascertainable, making a showing of reasonable suspicion difficult. Ironically, were a showing of reasonable suspicion required in an attempt to increase the probationer's privacy, the probationer might have to endure a related increase in surveillance and other intrusions on privacy calculated to find reasonable suspicion. See *State v Sigler*, 769 P.2d 703, 705 (Mont. 1989).

For the foregoing reasons, we hold that the probationers at issue have no greater privacy protection under Article I, Section 8 of the Pennsylvania Constitution than under the Fourth Amendment of the United States Constitution.

V. Conclusion

Our analysis leads to the conclusion that random, suspicionless blood, breath, and urine tests of either a parolee or probationer do not violate the Fourth Amendment of the United States Constitution or

²⁸ See footnote 21, *supra*.

Article I, Section 8 of the Pennsylvania Constitution. The goals of rehabilitation of the offender and the protection of the community justify the exercise of supervision to assure compliance with conditions aimed at achieving those goals. We find that the special needs inherent in the supervision of parolees and probationers leads to the conclusion that the searches at issue are reasonable. Therefore, Defendants' Motions to Suppress are denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1244 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE TWO CERTAIN tracts of land situate in the Village of Mummasburg, Franklin Township, Adams County, Pennsylvania, as follows:

TRACT NO. 1

BEGINNING at a point in the State Highway leading from Gettysburg to Mummasburg at a corner of land of Guy R. Fidler, which point of beginning is 25.3 feet from a post located along the first course of the within description; thence leaving State Highway and running by land now or formerly of Guy R. Fidler South 58 degrees 57 minutes West, 263 feet to a post along an alley; thence along said alley North 30 degrees 30 minutes West 136 feet to a stake; thence by Tract No. 2 North 58 degrees 57 minutes East, 263 feet to a spike in the aforesaid State Highway; thence in said State Highway South 30 degrees 30 minutes East, 136 feet to a point, the place of BEGINNING. CONTAINING 131 perches.

TRACT NO. 2

BEGINNING at a spike in the State Highway leading from Gettysburg to Mummasburg, which spike is located 24.7 feet from a post long the fourth course within description; thence in the center of said State Highway South 30 degrees 30 minutes East, 115.5 feet to a spike; thence leaving said State Highway and running by Tract No. 1, South 58 degrees 57 minutes West, 263 feet to a stake along an alley; thence along said alley North 30 degrees 30 minutes West 115.5 feet to a stake at a corner of land now or formerly of Daniel E. Martz; thence by land now or formerly of the said Daniel E. Martz, North 58 degrees 57 minutes East, 263 feet to a spike in the aforementioned State Highway, the place of BEGINNING. CONTAINING 111 perches.

THE foregoing descriptions were obtained from a draft of survey made by LeRoy H. Winebrenner, Registered Surveyor, on October 26, 1954.

TRACT NO. 1 is hereby conveyed subject to any rights, which any third person or persons may have to use a strip of land located along the third course of the above-description of Tract No. 1 at an alley.

Being Parcel No. (12)-E10, Parcel 30 SEIZED and taken into execution as the property of **Donald E. Shafer & Michelle A. Shafer** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 14, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1313 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel rod at corner of Lot along the right-of-way of PA 234 and along a 20-foot alley (open), as shown on the hereinafter boundary survey; thence along said alley North 29 degrees 30 minutes 55 seconds East, 260.00 feet to a steel rod at corner of Lot along said alley and along a 20-foot alley (not open); thence along said alley (not open) South 65 degrees 58 minutes 30 seconds East, 220.00 feet to a steel rod at corner of said Lot and along the right-of-way of Old Harrisburg Road (S.R. 3001); thence along said right-of-way of Old Harrisburg Road South 29 degrees 30 minutes 55 seconds West, 195.00 feet to a steel rod; thence North 65 degrees 58 minutes 30 seconds West, 65.00 feet to a steel rod; thence South 29 degrees 30 minutes 55 seconds West, 65.00 feet to a steel rod at corner of said Lot and along the right-of-way of PA 234; thence along the right-of-way of PA 234 North 65 degrees 58 minutes 30 seconds West, 155.00 feet to a steel rod at corner of Lot

along the right-of-way of PA 234 and along a 20-foot alley (open), the point and place of BEGINNING. CONTAINING 1.211 acre.

The above description was taken from a boundary survey prepared by Adams County Surveyors dated August 8, 1998. Said Lot is identified as Lots 68, 69, 70 and 71 on said survey.

TITLE TO SAID PREMISES IS VESTED IN Thomas P. Hunt by Deed from Shirley P. Helbridle, widow dated 08/14/1998 and recorded 08/14/1998 in Record Book 1642 Page 31.

Premises being: 2796 Heidersburg Road, Gettysburg, PA 17325

Tax Parcel No. 1-30

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 14, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on January 30, 2004.

The name of the corporation is ABILITY PROSTHETICS & ORTHOTICS, INC.

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

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

4/9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1300 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece or parcel of land, situate, lying and being in Oxford Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING for a point on the property line of the cul-de-sac of Cherry Court at corner of Lot No. 106 of the hereinafter referenced plan of lots; thence along Lot No. 106, South 42 degrees 02 minutes 49 seconds West 92.07 feet to a point at other lands now or formerly of Oxford Estates; thence along same, North 34 degrees 52 minutes 51 seconds West 143 feet to a point at Lot No. 104 on said plan; thence along Lot No. 104, South 85 degrees 06 minutes 59 seconds East 129 feet to a point on the property line of the cul-de-sac of Cherry Court; thence along same, by a curve to the left, the radius of which is 50 feet, for an arc length of 42 feet and having a long chord bearing and distance of South 21 degrees 26 minutes 29 seconds East 40.78 feet to a point at Lot No. 106, the point and place of BEGINNING. CONTAINING 8,650 square feet and being Lot No. 105 on a plan of lots of Oxford Estates, Phase IV, dated May 23, 1985, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 42, page 5.

BEING the same premises which, by her Deed dated September 30, 1993 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, at Deed Book 787, page 33, Anna Marie Cox granted and conveyed unto Betty J. Topper, Grantor herein.

Under and subject to any and all covenants, conditions, reservations, restrictions, limitations, right-of-ways, objections, easements, agreements, etc., as they appear of record.

With the appurtenances: TO HAVE AND TO HOLD the same unto and for the use of Grantees, their heirs and assigns forever.

HAVING thereon erected a dwelling house known as: 3 Cherry Court, New Oxford, Pennsylvania 17350

BEING THE SAME PREMISES WHICH Betty J. Topper, by Deed dated 12/3/99 and recorded 12/8/99 in Adams County Deed Book 1966, Page 167, granted and conveyed unto Rodney A. Carey and Teresa M. Carey.

SEIZED IN EXECUTION AS THE PROPERTY OF RODNEY A. CAREY AND TERESA M. CAREY UNDER ADAMS COUNTY JUDGMENT NO. 02-S-1300

Map & Parcel (35) 8-114

SEIZED and taken into execution as the property of **Rodney A. Carey & Teresa M. Carey** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 21, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1163 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece, parcel or tract of land situate, lying and being in the Borough of Bonneville, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a point along the right-of-way line of Bonnie Field Circle, a fifty (50) feet wide right-of-way, and corner of Lot No. 42-A on subdivision plan hereinafter referred to; thence continuing along Lot No. 42-A, South twenty-six (26) degrees thirty-four (34) minutes forty-five (45) seconds East, one hundred thirty-two and six hundredths (132.06) feet to a point along other lands now or formerly of Ronald L. Carter and Meyer & Meyer Partnership; thence continuing along said last mentioned lands, South sixty-three (63) degrees twenty-eight (28) minutes forty-eight (48) seconds West, twenty-five and seventy-five hundredths (25.75) feet to a point at corner of Lot No. 43-A on subdivision plan hereinafter referred to; thence continuing along Lot No. 43-A, North thirty-seven

(37) degrees forty-seven (47) minutes thirty-seven (37) seconds West, one hundred twenty-seven and seventy-nine hundredths (127.79) feet to a point along the right-of-way line of Bonnie Field Circle, aforesaid; thence continuing along the right-of-way line of Bonnie Field Circle, by a curve to the right, having a radius of two hundred thirty-eight and ninety-seven hundredths (238.97) feet, an arc length of fifty-one and four-tenths hundredths (51.14) feet, and a long chord bearing and distance of North, fifty-five (55) degrees fifty-three (53) minutes fifty-eight (58) seconds East, fifty-one and four hundredths (51.04) feet to a point along the right-of-way line of Bonnie Field Circle, the point and place of BEGINNING.

CONTAINING 5,001 square feet and being Lot No. 42-B on Final Plan of Bonnie Field, prepared by Worley Surveying, dated April 3, 1995, File No. C-1488, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 67, page 11.

HAVING erected thereon a dwelling known as 7 B Bonniefield Circle, Gettysburg, PA 17325-7800.

PARCEL NO. 9-56B

BEING the same premises which Thomas F. Spanger, single, by deed dated 06/28/1996 and recorded on 07/12/1996 in Adams County, Pennsylvania, Recorder of Deeds Office in Deed Book Volume 1225, page 23, granted and conveyed unto Mark A. Stapleton, single, and Sharon L. Wiltrout, single.

SEIZED and taken into execution as the property of **Mark A. Stapleton & Sharon L. Stapleton** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 21, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-1232 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land, situate, lying and being in Highland Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to-wit:

TRACT NO. 1

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

TRACT NO. 2

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

back 21.1 feet to a spike in the center of the highway, the place of BEGINNING. CONTAINING 7 perches and 204.11 square feet.

TRACT NO. 3

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

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

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

Tax Parcel: D-14-22

Premises Being: 3115 Fairfield Road, Gettysburg, PA 17325

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 21, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-967 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 260 on a plan of lots of Lake Meade Subdivision duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County at Plan Book 1, Page 1, and subject to all legal highways, easements, rights-of-way, and restrictions of record.

UNDER AND SUBJECT to any and all restrictions, objections, etc., as they appear of record.

BEING KNOWN AS: 85 Schofield Drive, East Berlin, PA 17316

PROPERTY ID NO. 11-100

TITLE TO SAID PREMISES IS VESTED IN Jill A. Fissel by deed from Michael J. Fissel and Jill A. Fissel formerly known as Jill A. Angel, husband and wife dated 12/22/94 recorded 12/28/94 in Deed Book 980 Page 165.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/26, 4/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-107 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel rod at corner of Lot along the right-of-way of PA 234 and along a 20-foot alley (open), as shown on the hereinafter boundary survey; thence along said alley North 29 degrees 30 minutes 55 seconds East, 260.00 feet to a steel rod at corner of Lot along said alley and along a 20-foot alley (not open); thence along said alley (not open) South 65 degrees 58 minutes 30 seconds East, 220.00 feet to a steel rod at corner of said Lot and along the right-of-way of Old Harrisburg Road (S.R. 3001); thence along said right-of-way of Old Harrisburg Road South 29 degrees 30 minutes 55 seconds West, 195.00 feet to a steel rod; thence North 65 degrees 58 minutes 30 seconds West, 65.00 feet to a steel rod; thence South 29 degrees 30 minutes 55 seconds West, 65.00 feet to a steel rod at corner of said Lot and along the right-of-way of PA 234, thence along the right-of-way of PA 234 North 65 degrees 58 minutes 30 seconds West, 155.00 feet to a steel rod at corner of Lot along the right-of-way of PA 234 and along a 20-foot alley (open), the point and place of BEGINNING. CONTAINING 1.211 acre.

BEING the same which Shirley P. Heltibridge and Robert E. Heltibridge, her husband, by deed dated May 21, 1955, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 210 at page 198, sold and conveyed unto Robert E. Heltibridge and Shirley P. Heltibridge, husband and wife. Said Robert E. Heltibridge having died on October 7, 1994, title became vested solely in Shirley P. Heltibridge, the Grantor herein.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 14, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing

thereof. Purchaser must settle for property on or before filing date.

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

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

4/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1175 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Latimore Township, Adams County, Pennsylvania, being more fully bounded and limited as follows, to-wit:

BEGINNING at a point in the centerline of Township Road T-608 at lands now or formerly of Bruce Wagner, Jr.; thence departing from the centerline of said roadway and extending along lands now or formerly of Bruce Wagner, Jr. North seventy-eight (78) degrees twelve (12) minutes West for a distance of three hundred sixty-five (365) feet to a point at lands now or formerly of Garman; thence extending along last mentioned lands North two (2) degrees thirty-three (33) minutes East for a distance of ninety-three (93) feet to a point at lands now or formerly of William P. Myers, Jr.; thence extending along last mentioned lands North sixty (60) degrees twenty-four (24) minutes East for a distance of eighty and five hundredths (80.05) feet to an iron pipe at Parcel No. 2 on the hereinafter mentioned plan of lots; thence extending along Lot No. 2 the following two courses and distances: South seventy-two (72) degrees fifty-eight (58) minutes forty-one (41) seconds East for a distance of two hundred six and twenty hundredths (206.20) feet to a pipe; thence continuing along said lands South eighty-eight (88) degrees fourteen (14) minutes eight (08) seconds East for a distance of one hundred thirty and forty-eight hundredths (130.48) feet to a point in the centerline of Township Road T-608; thence extending in and along the center of last mentioned roadway South seventeen (17) degrees nine (09) minutes West for a distance of one hundred forty-nine and thirty-five hundredths (149.35) feet to a point in the centerline of said roadway at lands now or formerly of Bruce Wagner, Jr., said point being the place of BEGINNING.

CONTAINING 1.166 acres and being designated as Parcel No. 1 on a plan of lots prepared for Jack L. Black and others by LaRue Surveys, Inc., dated June 7, 1976, and recorded in the Office of the Recorder of Deeds in and for the County of Adams, and Commonwealth of Pennsylvania, in Plat Book 10, at page 42.

HAVING ERRECTED THEREON a dwelling known as 1554 Town Hill Road, York Springs, Pennsylvania.

Map and Parcel I.D.: Map 11, Parcel 24

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 21, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/2, 9 & 16

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, of Act 1982 - 295 (54 Pa. C.S. 311), the undersigned entity (ies) announce their intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania, on approximately March 26, 2004, a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of FRONTIER BAR-B-Q, with its principal place of business at 301 Lost Limb Lane, Fairfield, PA 17320. The names and addresses of the persons owning or interested in said business are Chad S. Farace, residing at 301 Lost Limb Lane, Fairfield, PA 17320. The character or nature of the business is Mobil Bar-B-Q Food Stand.

4/9

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 MARGARET L. BOWMAN, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Paul H. Bowman, 98-440 Kilinoe St., N, 608, Aiea, HI 96701

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

ESTATE OF MYRTLE R. DUGAN a/k/a MYRTLE REBECCA DUGAN, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executors: Jean D. Group, P.O. Box 205, Gardner's, PA 17324; Douglas L. Miller, P.O. Box 4, Gardner's, PA 17324

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

ESTATE OF EVELYN MAY FUNT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Eugene R. Funt, Sr., 495 Silo Road, Orrtanna, PA 17353

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

ESTATE OF ROBERT H. MITZ, DEC'D

Late of Union Township, Adams County, Pennsylvania

Deborah I. Walters, 2142 White Hall Road, Littlestown, PA 17340

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

ESTATE OF WILLIAM A. MOOSE, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

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

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

ESTATE OF HENRIETTA A. PALMER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Sterling Financial Trust Co., 6 Lincoln Square, Gettysburg, PA 17325

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

ESTATE OF LILLIE M. QUIMBY a/k/a LILLIAN MAE QUIMBY, DEC'D

Late of Silver Spring, Montgomery County, Maryland

Executor: Brent C. Quimby, 1A Bonnie Field Circle, Gettysburg, PA 17325

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

ESTATE OF DOROTHY A. SHRADER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Lawrence E. Shrader, P.O. Box 92, 114 West King St., Abbottstown, PA 17301; Joyce M. Hull, 980 Centennial Avenue, Hanover, PA 17331

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

ESTATE OF MILLARD A. WOLFE, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executors: Karen D. Brodbeck, 2461 Heather Road, York, PA 17404; Keith L. Wolfe, 4821 Bickel Church Road, Baltimore, OH 43105

Attorney: Jane M. Alexander, Esq., 148 S. Baltimore Street, P.O. Box 421, Dillsburg, PA 17019-0421

SECOND PUBLICATION

ESTATE OF ANITA J. BARRESI, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Joseph D. Barresi, 716 Ancliffe Rd., Baltimore, MD 21221

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

ESTATE OF PATRICIA B. BELLOMY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Rosby M. Carr, Jr., 12 Pecan Trail, Fairfield, PA 17320

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

ESTATE OF FREDERICK D. HEYSER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Margaret Burcham, 656 Church Road, Orrtanna, PA 17353

Attorney: Walton V. Davis, Esq., 63 West High Street, Gettysburg, PA 17325

ESTATE OF HARRY T. HOFF a/k/a HARRY THOMAS HOFF, JR., DEC'D

Late of Reading Township, Adams County, Pennsylvania

Roger Thomas Hoff, Sr., 13801 Russell Zepp Drive, Clarksville, MD 21029

Attorney: Taylor P. Andrews, Esq., Andrews & Johnson, 78 West Pomfret Street, Carlisle, PA 17013

ESTATE OF WILLIAM E. HOOKER a/k/a WILLIAM ERNEST HOOKER, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executor: Eric W. Hooker, 107 Clear Springs Circle, Drums, PA 18222

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

ESTATE OF PAUL M. MILLER, a/k/a REV. PAUL M. MILLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Teresa M. Hertz, 696 Poplar Road, New Oxford, PA 17350; Rev. Philip DeChico, 12 E. Hanover Street, Gettysburg, PA 17325

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

ESTATE OF DELLA R. MYERS a/k/a DELLA RUTH MYERS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator c.t.a.: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

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

ESTATE OF EMMA R. MYERS a/k/a EMMA RUTH MYERS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator c.t.a.: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

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

(continued on page 8)

SECOND PUBLICATION (continued)

ESTATE OF PERCY D. RIDER a/k/a
PERCY DELANO RIDER, DEC'D

Late of Straban Township, Adams
County, Pennsylvania

Co-Executors: Clara Sanders and Tim
Sanders, 460 Red Bridge Road,
Gettysburg, PA 17325

Attorney: John J. Murphy, III, Esq.,
Patrono & Associates, LLC, 30 West
Middle Street, Gettysburg, PA 17325

ESTATE OF RAYMOND R. STAUB,
DEC'D

Late of the Borough of Bonneauville,
Adams County, Pennsylvania

Executors: Charles J. Staub, 31
Locust Street, Gettysburg, PA
17325; Raymond M. Staub, 29
Locust Street, Gettysburg, PA 17325

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

ESTATE OF HELEN M. TROST, DEC'D

Late of Franklin Township, Adams
County, Pennsylvania

Personal Representative: Sarah R.
Linch c/o Patterson & Kiersz, PC,
239-B East Main St., Waynesboro,
PA 17268-1681

Attorney: Patterson & Kiersz, PC,
239-B East Main St., Waynesboro,
PA 17268-1681

THIRD PUBLICATION

ESTATE OF BURNELL A. DUBS, DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Executrix: Dawn M. Sager, 217 West
Hanover Street, Hanover, PA 17331

Attorney: Judith Koper Morris, Esq.,
Mooney & Associates, 230 York
Street, Hanover, PA 17331

ESTATE OF LUTHER BENJAMIN HUM-
BERT, DEC'D

Late of the Borough of Littlestown,
Adams County, Pennsylvania

Alan L. DeGroot, 1009 Bollinger Road,
Littlestown, PA 17340

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

ESTATE OF MARY M. SMITH, DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Executrices: Barbara J. Smith &
Lucinda C. Glassmoyer, c/o Robert
Clofine, Esq., 120 Pine Grove
Commons, York, PA 17403

Attorney: Robert Clofine, Esq., 120
Pine Grove Commons, York, PA
17403

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execu-
tion, Judgment No. 03-S-660 issuing out
of the Court of Common Pleas of Adams
County, and to me directed, will be ex-
posed to Public Sale on Friday, the 11th
day of June, 2004, at 10:00 o'clock in the
forenoon at the Sheriff's Office located in
the Courthouse, Borough of Gettysburg,
Adams County, PA, the following Real
Estate, viz.:

ALL that certain lot of ground situate
on the Southwest side of Linden Avenue
in Conewago Township, Adams County,
Pennsylvania, more particularly as fol-
lows:

BEGINNING at an iron pipe on the
Southwest side of Linden Avenue at
lands of Ethel Small; thence by lands of
Ethel Small South 44 degrees 27 min-
utes 14 seconds West, 100.83 feet to an
iron pipe at lands of Laverne K.
Lawrence and Helen K. Lawrence;
thence by same North 44 degrees 46
minutes 51 seconds West, 15.69 feet to
an iron pipe; thence continuing by same
South 45 degrees 24 minutes 4 seconds
West, 19.85 feet to an iron pipe; thence
continuing by same North 43 degrees 54
minutes 39 seconds West, 44 feet to an
iron pipe at lands of John F. Klunk;
thence by lands of John F. Klunk North
44 degrees 27 minutes 14 seconds East,
119.41 feet to an iron pipe at Linden
Avenue aforesaid; thence along Linden
Avenue South 45 degrees 22 minutes
East, 60 feet to an iron pipe, the point
and place of BEGINNING.

CONTAINING 6,893 square feet.

The foregoing description was taken
from a draft of survey prepared for
Laverne K. Lawrence by LaRue Surveys,
Inc., dated June 4, 1974.

SUBJECT however, to the following
restriction: That no building of any kind
whatsoever shall ever be erected on said
lot or piece of ground within 15 feet of the
inside line of said Linden Avenue.

Being the same premises conveyed by
Laverne K. Lawrence and Helen K.
Lawrence, to Donald Lee Wildasin and
Patricia Ann Wildasin, husband and wife,
by Deed dated June 14, 1974, and
recorded in Adams County Deed Book
313, page 1101.

IMPROVEMENTS THEREON CON-
SIST OF: 1-1/2 story detached bunga-
low.

SEIZED and taken into execution as
the property of Donald Lee Wildasin
a/k/a Donald L. Wildasin & Patricia
Ann Wildasin a/k/a Patricia A.
Wildasin and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on July 2, 2004, and
distribution will be made in accordance
with said schedule, unless exceptions are
filed thereto within 10 days after the filing
thereof. Purchaser must settle for prop-
erty on or before filing date.

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

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

4/2, 9 & 16

Adams County Legal Journal

Vol. 45

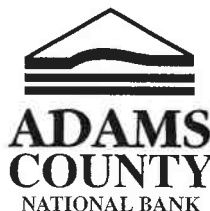
April 16, 2004

No. 47, pp. 307-311

IN THIS ISSUE

COMMONWEALTH VS. JOHNSON

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



Member FDIC

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-660 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground situate on the Southwest side of Linden Avenue in Conewago Township, Adams County, Pennsylvania, more particularly as follows:

BEGINNING at an iron pipe on the Southwest side of Linden Avenue at lands of Ethel Small; thence by lands of Ethel Small South 44 degrees 27 minutes 14 seconds West, 100.83 feet to an iron pipe at lands of Laverne K. Lawrence and Helen K. Lawrence; thence by same North 44 degrees 46 minutes 51 seconds West, 15.69 feet to an iron pipe; thence continuing by same South 45 degrees 24 minutes 4 seconds West, 19.85 feet to an iron pipe; thence continuing by same North 43 degrees 54 minutes 39 seconds West, 44 feet to an iron pipe at lands of John F. Klunk; thence by lands of John F. Klunk North 44 degrees 27 minutes 14 seconds East, 119.41 feet to an iron pipe at Linden Avenue aforesaid; thence along Linden Avenue South 45 degrees 22 minutes East, 60 feet to an iron pipe, the point and place of BEGINNING.

CONTAINING 6,893 square feet.

The foregoing description was taken from a draft of survey prepared for Laverne K. Lawrence by LaRue Surveys, Inc., dated June 4, 1974.

SUBJECT however, to the following restriction: That no building of any kind whatsoever shall ever be erected on said lot or piece of ground within 15 feet of the inside line of said Linden Avenue.

Being the same premises conveyed by Laverne K. Lawrence and Helen K. Lawrence, to Donald Lee Wildasin and Patricia Ann Wildasin, husband and wife, by Deed dated June 14, 1974, and recorded in Adams County Deed Book 313, page 1101.

IMPROVEMENTS THEREON CONSIST OF: 1-1/2 story detached bungalow.

SEIZED and taken into execution as the property of **Donald Lee Wildasin a/k/a Donald L. Wildasin & Patricia Ann Wildasin a/k/a Patricia A. Wildasin** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-109 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land, situate lying and being in York Springs Borough, Adams County, Pennsylvania, and as more particularly bounded and described as follows, to wit:

BEGINNING at a stone corner of lot now or late of Peters; thence the Carlisle and Hanover Highway, North 41-1/2 degrees West 60 feet to a stone at lot now or late of Myers; thence by lands of same South 48 degrees West 21.7 perches to corner at lands now or late of Gardner, deceased, thence by lands of same South 42 degrees East 60 feet to a stone, thence by lot now or late of Peters South 48 degrees West 21.7 perches to a stone at the place of BEGINNING.

CONTAINING 21,483 square feet of land neat measure.

Map 5 Parcel 35

TITLE TO SAID PREMISES IS VESTED IN Thomas M. Miller and Carol A. Miller, husband and wife by Deed from Thomas M. Miller (erroneously referred to as Thomas H. Mill) and Carol A. Miller, husband and wife dated 06/16/1997 and recorded 06/30/1997 in Record Book 1398 Page 37.

Premises being: 204 Main Street Box #221, York Springs, PA 17372

Tax Parcel No. 5-35

SEIZED and taken into execution as the property of **Thomas M. Miller & Carol A. Miller** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/2, 9 & 16

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for JDTF, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on March 16, 2004, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

4/16

COMMONWEALTH VS. JOHNSON

1. Where a PCRA petitioner claims ineffective assistance of counsel, it is presumed that counsel was effective and the burden is placed on the petitioner to prove otherwise. Petitioner's burden is to prove by a preponderance of the evidence that 1) the claim of counsel's ineffectiveness has merit; 2) that counsel had no reasonable strategic basis for his action or inaction; and 3) that the error of counsel prejudiced the petitioner. Prejudice in this context "means demonstrating that there is a reasonable probability that, but for counsel's error, the outcome of the proceeding would have been different.

2. Testimony entered by counsel's stipulation may be so damaging that admission of the stipulation at trial must be surrounded by safeguards.

3. Where a defendant was giving up his right to cross-examine a witness and to attempt to discredit incriminating testimony, an on-the-record colloquy, "demonstrating defendant's understanding of the consequences of the stipulations, and his consent thereto" is necessary. The test for a court to apply in determining whether the rule is applicable is whether the stipulation in question makes the outcome of the trial a foregone conclusion.

4. Generally, where matters of strategy and tactics are concerned, counsel's assistance is deemed constitutionally effective if he chooses a particular course that had some reasonable basis to effectuate his client's interest.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-582-98, COMMONWEALTH VS. JERRY ANDREW JOHNSON.

Paul Dean, Esq., District Attorney, for Commonwealth

Kristin Rice, Esq., for Defendant

Kuhn, P.J., March 25, 2003

OPINION PURSUANT TO DEFENDANT'S MOTION FOR POST-CONVICTION COLLATERAL RELIEF

On February 8, 2002, Defendant filed a Motion For Post Conviction Collateral Relief (hereinafter "PCRA") claiming ineffective assistance of counsel. A preliminary jurisdictional issue was resolved by Order dated November 22, 2002. Defendant claims that trial counsel was ineffective for entering two stipulations without his prior knowledge or permission.

By way of background, Defendant was charged with Driving Under the Influence (DUI) for an incident occurring January 3, 1998. On March 26, 1999, a jury heard the testimony of Trooper Gregg Dietz of the Pennsylvania State Police and Defendant, and found Defendant guilty of violating 75 Pa. C.S.A. §3731(a)(1) and (a)(4).

At trial, Trooper Dietz testified that on January 3, 1998, at approximately 3:14 a.m., a call was relayed through 911 by Mark Leshner, a

truck driver traveling south on U.S. Route 15. By way of the first stipulation, the jury was advised that Mr. Leshar observed a van, also traveling south, weaving upon the highway, go off the right side of the roadway, graze a guardrail, cross over both southbound lanes into the median, then return to the southbound lanes and travel onto the right berm [N.T. 31].

Trooper Dietz and his partner drove north on Route 15 to the Cumberland County line, turned around, and drove southward. After 24 minutes, they located a van on the right berm, fitting the description given by Mr. Leshar. The van was registered to Defendant. The troopers observed that the ignition key was activated and the head and tail-lights were on but the engine was not running. Defendant was discovered lying in the rear of the van. After Defendant acknowledged that he was “fine” he admitted driving south on Route 15, he was alone coming from O’Brien’s Bar, and was heading home. Trooper Dietz detected a moderate odor of alcoholic beverages and slurred speech. After field sobriety tests were conducted, Defendant was arrested for DUI.

The second stipulation entered was that at the time the van was observed by Mr. Leshar, the blood-alcohol level of Defendant was 0.10 percent or greater and that he was incapable of driving safely. [N.T. 32].

Defendant testified that on January 2, 1998, he was working in Hazelton with a helper named Richard Fisher. After work, they got a “six pack” and drove to another bar in the Mechanicsburg area. Defendant stated he fell asleep in the rear of the van and because of drinking alcohol he was in no condition to drive from the second bar [N.T. 36-7]. Defendant’s next reported memory was speaking with his brother at 10:00 a.m. the following morning. He recalled consuming five beers. He weighs 117 pounds. Finally, Defendant claimed that he tried, but was unsuccessful, in getting Mr. Fisher to testify for him at trial.

At the PCRA hearing held February 10, 2003, Defendant testified that he first learned of the stipulations when they were announced in court. He further testified that he would not have authorized the stipulations had he known of them in advance. Defendant admitted, however, that he testified at trial that he was not driving the van at the time and that he was incapable of driving safely at the time in question.

Trial counsel testified that he discussed the facts and the trial strategy with Defendant prior to trial. When asked to agree to the

stipulations, he did so because, based on the defense theory that Defendant was not the driver, he did not believe those facts to be particularly damaging. Although counsel recalled discussing the stipulations with Defendant prior to trial, he was uncertain whether he obtained Defendant's consent to present them.

Where, as here, a PCRA petitioner claims ineffective assistance of counsel, it is presumed that counsel was effective and the burden is placed on the petitioner to prove otherwise. *Commonwealth v. D'ollanfield*, 805 A.2d 1244, 1246 (Pa. Super. 2002). The petitioner's burden is to prove by a preponderance of the evidence that 1) the claim of counsel's ineffectiveness has merit; 2) that counsel had no reasonable strategic basis for his action or inaction; and 3) that the error of counsel prejudiced the petitioner. *Commonwealth v. Howard*, 749 A.2d 941, 949 (Pa. Super. 2000). Prejudice in this context "means demonstrating that there is a reasonable probability that, but for counsel's error, the outcome of the proceeding would have been different." *Commonwealth v. Bond*, 2002 WL1958492 (Pa. 2002).

The ultimate authority to present a particular defense in a criminal case is solely within the province of the defendant (assuming he is competent). Here, Defendant contends that the right to confront witnesses against him is so fundamental that he must be the one who authorizes a stipulation which eliminates the need for a Commonwealth witness to appear at trial. We have not found a case directly on point.

A similar issue was addressed in *Commonwealth v. Williams*, 443 A.2d 338 (Pa. Super. 1982). There, Williams was charged with theft, theft by receiving, and unauthorized use of an automobile. Trial counsel stipulated that if the owner of the car was called to testify, he would have testified that he gave no one permission to use his car, he did not know Williams, and that he reported the car stolen. Williams contended that counsel was ineffective for entering into the stipulation and for failing to have the court conduct an on-the-record colloquy regarding the stipulation. Superior Court relied upon *Commonwealth v. Davis*, 322 A.2d 103 (Pa. 1974) which "recognized that testimony entered by counsel's stipulation may be so damaging that admission of the stipulation at trial must be surrounded by safeguards . . ." 322 A.2d at 105. Essentially, the Supreme Court in *Davis* understood that where the stipulation is the equivalent to a guilty plea, such a stipulation made a not guilty verdict highly

unlikely, even in the face of a not guilty plea. Therefore, where a defendant was giving up his right to cross-examine a witness and to attempt to discredit incriminating testimony, an on-the-record colloquy, “demonstrating defendant’s understanding of the consequences of the stipulations, and his consent thereto” is necessary. *Id.* The test for a court to apply in determining whether the rule is applicable is whether the stipulation in question makes the outcome of the trial a foregone conclusion. In *Williams*, the *Davis* rule should have been followed and trial counsel was deemed ineffective.¹

Here, it cannot be said that the stipulations made the outcome of the trial a foregone conclusion. Knowing that Defendant was found intoxicated in the back of his van, the trial strategy was to argue that Defendant was not the driver. The stipulations did not abandon that defense. We decline the invitation to conclude that counsel is automatically deemed ineffective for entering stipulations which could potentially satisfy some, but not all, of the elements of the offense for which a defendant is charged. Therefore, under the circumstances of this case, counsel cannot be deemed ineffective simply because one might conclude that he did not obtain Defendant’s consent before entering the stipulations. Something more must be present.

In the matter sub judice, Defendant’s claim of ineffective counsel fails because he is unable to meet the second and third elements of his burden of proof. First, Defendant is unable to prove that counsel had no reasonable strategic basis for his actions. “Generally, where matters of strategy and tactics are concerned, counsel’s assistance is deemed constitutionally effective if he chooses a particular course that had some reasonable basis to effectuate his client’s interest.” *Commonwealth v. Reid*, 811 A.2d 530, 552 (Pa. 2002). As noted, the defense strategy was to claim that Defendant was not the driver. Therefore, the erratic driving witnessed by Mr. Leshar was not inconsistent with that defense. Furthermore, it may well have been better to present a brief stipulation as to Mr. Leshar’s observations than to have him testify in person and describe in more detail and over a longer period just how out of control the van was on Route 15.

¹Williams had given police a statement that he and the owner had been drinking together the night before the car was reported stolen and that he used the car while the owner went to a motel with a woman they picked up during the evening.

During the PCRA proceeding, Defendant stated “I don’t believe there is a Mark Leshner.” We give this bold assertion little consideration. If he is suggesting that counsel should not have stipulated to Mr. Leshner’s testimony because no such person existed, then he had the burden of establishing that fact. Defendant’s powers of recollection must be seriously questioned. The Clerk of Court’s file contains the district justice’s transcript from the preliminary hearing which revealed that Mr. Leshner testified on behalf of the Commonwealth.

In addition, the defense strategy was to assert that the reason Defendant was not driving his own van and why he allowed Fisher to do so was because he was too intoxicated to drive. Consistent with that defense, counsel concluded that it would serve no purpose to have the hospital technician testify that Defendant had a .17 BAC.² Counsel also reasonably determined that it would not be a good strategy to argue that Defendant was not driving and then argue, in the alternative, that if he was driving and despite the BAC that he was not intoxicated in light of the BAC.

Second, Defendant fails to show that he was prejudiced by the stipulations. Defendant cannot prove, and it would be pure speculation for this Court to conclude, that had Mr. Leshner testified he would have testified differently than the stipulation or that he would not be believed by the jury. Furthermore, stipulating that Defendant was incapable of driving safely at 3:14 a.m. was not prejudicial because Defendant testified to that very fact.

Accordingly, the Court enters the attached Order.

ORDER OF COURT

AND NOW, this 25th day of March, 2003, Defendant’s Motion for Post Conviction Collateral Relief, filed February 8, 2002, is denied.

Defendant is advised that 1) he has the right to appeal to Superior Court within 30 days of the date of this Order; 2) he is entitled to be represented by counsel; 3) if he is unable to afford counsel, appointed counsel may continue representing him and; 4) if he is indigent, he may file a request with the Court to proceed in forma pauperis on the appeal.

²The van was observed by Mr. Leshner at 3:14 a.m. The troopers found Defendant at 3:38 a.m. The record does not reveal when blood was drawn at the hospital but it was sometime between 5:10 a.m. when Defendant was given his Miranda rights and 7:25 a.m. when he was released to his brother.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-107 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel rod at corner of Lot along the right-of-way of PA 234 and along a 20-foot alley (open), as shown on the hereinafter boundary survey; thence along said alley North 29 degrees 30 minutes 55 seconds East, 260.00 feet to a steel rod at corner of Lot along said alley and along a 20-foot alley (not open); thence along said alley (not open) South 65 degrees 58 minutes 30 seconds East, 220.00 feet to a steel rod at corner of said Lot and along the right-of-way of Old Harrisburg Road (S.R. 3001); thence along said right-of-way of Old Harrisburg Road South 29 degrees 30 minutes 55 seconds West, 195.00 feet to a steel rod; thence North 65 degrees 58 minutes 30 seconds West, 65.00 feet to a steel rod; thence South 29 degrees 30 minutes 55 seconds West, 65.00 feet to a steel rod at corner of said Lot and along the right-of-way of PA 234; thence along the right-of-way of PA 234 North 65 degrees 58 minutes 30 seconds West, 155.00 feet to a steel rod at corner of Lot along the right-of-way of PA 234 and along a 20-foot alley (open), the point and place of BEGINNING. CONTAINING 1.211 acre.

BEING the same which Shirley P. Heltbridle and Robert E. Heltbridle, her husband, by deed dated May 21, 1955, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 210 at page 198, sold and conveyed unto Robert E. Heltbridle and Shirley P. Heltbridle, husband and wife. Said Robert E. Heltbridle having died on October 7, 1994, title became vested solely in Shirley P. Heltbridle, the Grantor herein.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 14, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing

thereof. Purchaser must settle for property on or before filing date.

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

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

4/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1175 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of May, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Latimore Township, Adams County, Pennsylvania, being more fully bounded and limited as follows, to-wit:

BEGINNING at a point in the centerline of Township Road T-608 at lands now or formerly of Bruce Wagner, Jr.; thence departing from the centerline of said roadway and extending along lands now or formerly of Bruce Wagner, Jr. North seventy-eight (78) degrees twelve (12) minutes West for a distance of three hundred sixty-five (365) feet to a point at lands now or formerly of Garman; thence extending along last mentioned lands North two (2) degrees thirty-three (33) minutes East for a distance of ninety-three (93) feet to a point at lands now or formerly of William P. Myers, Jr.; thence extending along last mentioned lands North sixty (60) degrees twenty-four (24) minutes East for a distance of eighty and five hundredths (80.05) feet to an iron pipe at Parcel No. 2 on the hereinafter mentioned plan of lots; thence extending along Lot No. 2 the following two courses and distances: South seventy-two (72) degrees fifty-eight (58) minutes forty-one (41) seconds East for a distance of two hundred six and twenty hundredths (206.20) feet to a pipe; thence continuing along said lands South eighty-eight (88) degrees fourteen (14) minutes eight (08) seconds East for a distance of one hundred thirty and forty-eight hundredths (130.48) feet to a point in the centerline of Township Road T-608; thence extending in and along the center of last mentioned roadway South seventeen (17) degrees nine (09) minutes West for a distance of one hundred forty-nine and thirty-five hundredths (149.35) feet to a point in the centerline of said roadway at lands now or formerly of Bruce Wagner, Jr., said point being the place of BEGINNING.

CONTAINING 1.166 acres and being designated as Parcel No. 1 on a plan of lots prepared for Jack L. Black and others by LaRue Surveys, Inc., dated June 7, 1976, and recorded in the Office of the Recorder of Deeds in and for the County of Adams, and Commonwealth of Pennsylvania, in Plat Book 10, at page 42.

HAVING ERECTED THEREON a dwelling known as 1554 Town Hill Road, York Springs, Pennsylvania.

Map and Parcel I.D.: Map 11, Parcel 24
SEIZED and taken into execution as the property of **Scott D. Moats** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 21, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/2, 9 & 16

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Commonwealth of Pennsylvania, Department of State, at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation.

The name of the proposed corporation which has been organized under the Business Corporation Law of 1988 adopted December 21, 1988, P.L. 1444, No. 177, §103, as amended, is HEALTH TECH CLEANING SYSTEMS, INC.

G. Steven McKonley
Solicitor

4/16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-149 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN unit in the property known, named and identified in the declaration referred to below as South Branch Estates, located in the Township of Oxford, Adams County, Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101, et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, of a land development plan dated October 6, 1995, last revised December 14, 1995 and recorded in Book 69, Page 23 (together with all amendments and supplements thereto recorded on or herefore the date hereof) being all designated in such plan as Unit No. 25 as more fully bounded and described in such plan, together with a proportionate undivided interest in the Common Elements as defined in a Declaration Plan recorded in the Office of Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 1271, Page 34.

TITLE TO SAID PREMISES IS VESTED IN Rebecca S. Kruk by Deed from Philip R. Garland, t/d/b/a Garland Construction, dated 3/3/2000 and recorded 3/13/2000 in Record Book 2013, Page 117.

Premises being: 80 Fiddler Drive, New Oxford, PA 17350

Tax Parcel No. 52-25 Map #1

SEIZED and taken into execution as the property of **Rebecca S. Kruk** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1162 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those three tracts of land situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1: BEGINNING at corner caused by the intersection of lands now or formerly of A.L. Bishop, Jonas Spangler and present lot; thence by land now or formerly of Paul Okul Northwest 280 feet to South line of East King Street; thence by said East King Street, Southwest 50 feet to corner of land now or formerly of Luther Patterson; thence Southeast by land now or formerly of Luther Patterson 288-1/2 feet to land now or formerly of Laura Stauffer; thence by land now or formerly of Laura Stauffer Northeast 50 feet to the place of BEGINNING.

TRACT NO. 2: BEGINNING at a point in land now or formerly of Harry T. Harner; thence in a Northeasterly direction for 39-1/2 feet to a point at land now or formerly of Paul Okul; thence from said point in a Southerly direction to a point fronting Lombard Street; thence West along said Street for 39-1/2 feet to a stake; thence from said stake in a Northerly direction to a point in land now or formerly of Harry T. Harner, the place of BEGINNING.

TRACT NO. 3: BEGINNING at an iron pin, the beginning of the first line described in the deed of Paul E. Okul and wife to Elmer C. Krise and wife, dated the 11th day of October, 1943, and recorded in the Recorder's Office of Adams County in Deed Book Vol. 163, page 289; and running thence with the first two lines of the said deed, (1) North 34-3/4 degrees West, 50.6 feet to an iron pin; thence (2) North 56 degrees East, 12.5 feet to a post; thence in the reverse direction of the third line of said deed and extending the same, (3) South 34-1/4 degrees East, 52 feet, more or less, to an iron pin in the sixth or Lombard Street line of the said deed; thence with the same Lombard Street line, (4) South 62-1/2 degrees West, 12 feet, more or less, to the place of BEGINNING.

PARCEL NO. 27 006-0058

BEING the same premises which Walter G. Mehring, Executor of the estate of Walter S. Mehring, by Deed dated November 10, 2000 and recorded in the Office of the Recorder of Deeds of

Adams County on November 15, 2000, in Deed Book Volume 2163, Page 334, granted and conveyed unto Trevor Dwight Smith and Angela Catherine Smith,

Grenen & Birsic, P.C.
By: /s/Kristine M. Anthon, Esq.
Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

SEIZED and taken into execution as the property of **Trevor Dwight Smith & Angela Catherine Smith** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/16, 23 & 30

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed by Daley, Zucker & Gingrich, LLC, on behalf of Vera Miller, with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on March 9, 2004.

The corporation is incorporated under the name of CARPATHIAN MEADOWS, INC., as required by the Pennsylvania Business Corporation Law of 1988.

4/16

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 BEATRICE J. HARRELL, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Personal Representative: Mary Drew Adams, a/k/a Mary D. Adams, c/o Patterson & Kiersz, P.C., 20 West Baltimore Street, Greencastle, PA 17225

Attorney: Patterson & Kiersz, P.C., 20 West Baltimore Street, Greencastle, PA 17225

ESTATE OF NADINE EMMA KLINE-FELTER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrators: Nancy M. Heller, 80 Knox Road, Gettysburg, PA 17325; Fern B. Klinefelter, 69 East Hanover Street, Gettysburg, PA 17325

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

SECOND PUBLICATION**ESTATE OF MARGARET L. BOWMAN, DEC'D**

Late of Germany Township, Adams County, Pennsylvania

Executor: Paul H. Bowman, 98-440 Kilineo St., N. 608, Aiea, HI 96701

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

ESTATE OF MYRTLE R. DUGAN a/k/a MYRTLE REBECCA DUGAN, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executors: Jean D. Group, P.O. Box 205, Gardners, PA 17324; Douglas L. Miller, P.O. Box 4, Gardners, PA 17324

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

ESTATE OF EVELYN MAY FUNT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Eugene R. Funt, Sr., 495 Silo Road, Orrtanna, PA 17353

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

ESTATE OF ROBERT H. MITZ, DEC'D

Late of Union Township, Adams County, Pennsylvania

Deborah I. Walters, 2142 White Hall Road, Littlestown, PA 17340

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

ESTATE OF WILLIAM A. MOOSE, DEC'D

Late of Mt Joy Township, Adams County, Pennsylvania

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

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

ESTATE OF HENRIETTA A. PALMER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Sterling Financial Trust Co., 6 Lincoln Square, Gettysburg, PA 17325

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

ESTATE OF LILLIE M. QUIMBY a/k/a LILLIAN MAE QUIMBY, DEC'D

Late of Silver Spring, Montgomery County, Maryland

Executor: Brent C. Quimby, 1A Bonnie Field Circle, Gettysburg, PA 17325

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

ESTATE OF DOROTHY A. SHRADER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Lawrence E. Shrader, P.O. Box 92, 114 West King St., Abbotstown, PA 17301; Joyce M. Hull, 980 Centennial Avenue, Hanover, PA 17331

Attorney: Ronald J. Hagarmar, Esq., 110 Baltimore St., Gettysburg, PA 17325

ESTATE OF MILLARD A. WOLFE, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executors: Karen D. Brodbeck, 2461 Heather Road, York, PA 17404; Keith L. Wolfe, 4821 Bickel Church Road, Baltimore, OH 43105

Attorney: Jane M. Alexander, Esq., 148 S. Baltimore Street, P.O. Box 421, Dillsburg, PA 17019-0421

THIRD PUBLICATION**ESTATE OF ANITA J. BARRESI, DEC'D**

Late of Germany Township, Adams County, Pennsylvania

Executor: Joseph D. Barresi, 716 Arncliffe Rd., Baltimore, MD 21221

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

ESTATE OF PATRICIA B. BELLOMY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Rosby M. Carr, Jr., 12 Pecan Trail, Fairfield, PA 17320

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

ESTATE OF FREDERICK D. HEYSER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Margaret Burcham, 656 Church Road, Orrtanna, PA 17353

Attorney: Walton V. Davis, Esq., 63 West High Street, Gettysburg, PA 17325

ESTATE OF HARRY T. HOFF a/k/a HARRY THOMAS HOFF, JR., DEC'D

Late of Reading Township, Adams County, Pennsylvania

Roger Thomas Hoff, Sr., 13801 Russell Zepp Drive, Clarksville, MD 21029

Attorney: Taylor P. Andrews, Esq., Andrews & Johnson, 78 West Pomfret Street, Carlisle, PA 17013

ESTATE OF WILLIAM E. HOOKER a/k/a WILLIAM ERNEST HOOKER, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executor: Eric W. Hooker, 107 Clear Springs Circle, Drums, PA 18222

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

(continued on page 6)

THIRD PUBLICATION (continued)

ESTATE OF PAUL M. MILLER, a/k/a
REV. PAUL M. MILLER, DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Executors: Teresa M. Hertz, 696
Poplar Road, New Oxford, PA
17350; Rev. Philip DeChico, 12 E.
Hanover Street, Gettysburg, PA
17325

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

ESTATE OF DELLA R. MYERS a/k/a
DELLA RUTH MYERS, DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Administrator c.t.a.: Catherine J.
Gault, Esq., 31 S. Washington
Street, Gettysburg, PA 17325-2112

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

ESTATE OF EMMA R. MYERS a/k/a
EMMA RUTH MYERS, DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Administrator c.t.a.: Catherine J.
Gault, Esq., 31 S. Washington
Street, Gettysburg, PA 17325-2112

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

ESTATE OF PERCY D. RIDER a/k/a
PERCY DELANO RIDER, DEC'D

Late of Straban Township, Adams
County, Pennsylvania

Co-Executors: Clara Sanders and Tim
Sanders, 460 Red Bridge Road,
Gettysburg, PA 17325

Attorney: John J. Murphy, III, Esq.,
Patrono & Associates, LLC, 30 West
Middle Street, Gettysburg, PA 17325

ESTATE OF RAYMOND R. STAUB,
DEC'D

Late of the Borough of Bonneauville,
Adams County, Pennsylvania

Executors: Charles J. Staub, 31
Locust Street, Gettysburg, PA
17325; Raymond M. Staub, 29
Locust Street, Gettysburg, PA 17325

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

ESTATE OF HELEN M. TROST, DEC'D

Late of Franklin Township, Adams
County, Pennsylvania

Personal Representative: Sarah R.
Linch c/o Patterson & Kiersz, PC,
239-B East Main St., Waynesboro,
PA 17268-1681

Attorney: Patterson & Kiersz, PC,
239-B East Main St., Waynesboro,
PA 17268-1681

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execu-
tion, Judgment No. 03-S-1169 issu-
ing out of the Court of Common Pleas of
Adams County, and to me directed, will
be exposed to Public Sale on Friday, the
18th day of June, 2004, at 10:00 o'clock
in the forenoon at the Sheriff's Office
located in the Courthouse, Borough of
Gettysburg, Adams County, PA, the fol-
lowing Real Estate, viz.:

ALL THOSE three (3) tracts of land sit-
uated, lying and being in Freedom
Township, Adams County, Pennsylvania,
bounded and described as follows:

TRACT NO. 1:

BEGINNING at a driven iron pin;
thence along land now or formerly of
C.M. Wolf, West 152 feet to a pin; thence
by land now or formerly of R.C.
Witherow, North 2-1/2 degrees East, 50
feet to a pin; thence by land now or for-
merly of H.E. Riddlemoser, East 150 feet
to a pin; thence by land now or formerly
of E.H. Markley, Trustee, South 50 feet to
the place of BEGINNING.

THE above lot being known as Lot No.
10 on a plan of lots surveyed and laid out
by S. Miley Miller, Surveyor, dated
September 12, 1922.

TRACT NO. 2:

BEGINNING at a pin; thence by land
now or formerly of Bertha Gardner, West
157 feet to a pin; thence by land now or
formerly of R.C. Witherow, North 2-1/2
degrees East, 50 feet to a pin; thence by
land now or formerly of S.C. Eshleman,
South 152 feet to a pin; thence by land
now or formerly of E.H. Markley, Trustee,
South 50 feet to a pin, the place of
BEGINNING.

THE above lot being known as Lot No.
9 on a plan of lots surveyed and laid out
by S. Miley Miller, Surveyor, dated
September 12, 1922.

TRACT NO. 3:

BEGINNING at a point on the road
leading from the Gettysburg-Emmitsburg
Road to the Marsh Creek Height
Cottages at land now or formerly of Dr.
Walter S. Mountain, thence along land
now or formerly of said Dr. Walter S.
Mountain, in a Southerly direction 50 feet
to a stake at land now or formerly of
Robert C. Witherow; thence along land
now or formerly of Robert C. Witherow, in
an Easterly direction 100 feet to a stake
at land now or formerly of Robert D.
Witherow; thence along land now or for-
merly of Robert C. Witherow, in a
Northerly direction, 50 feet to the road
leading from the Gettysburg-Emmitsburg
Road to the Marsh Creek Cottages;
thence along said road, in a Westerly
direction 100 feet to lot now or formerly
of Dr. Walter S. Mountain, the place of
BEGINNING.

Tax Parcel #(13) E17-035

Being known as: 180 Marsh Creek
Heights Road, Gettysburg, PA 17325

SEIZED and taken into execution as
the property of **Gerald D. Deavers &
Carol J. Deavers** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on July 12, 2004, and
distribution will be made in accordance
with said schedule, unless exceptions are
filed thereto within 10 days after the filing
thereof. Purchaser must settle for prop-
erty on or before filing date.

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

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

4/16, 23 & 30

Adams County Legal Journal

Vol. 45

April 23, 2004

No. 48, pp. 312-316

IN THIS ISSUE

COMMONWEALTH VS. OBERLANDER

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-123 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land situate on the Westerly right of way line of Abbotts Drive in the Borough of Abbottstown, Adams County, PA known and numbered as Lot No. 47 on a plan of lots for Abbotts Manor, Phase III, recorded in the Office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plan Book 76, page 99, more fully bounded and described as follows, to wit:

BEGINNING at a point on the Westerly right of way line of Abbotts Drive, at a corner of Lot No. 48 on said plan; thence extending along the said right of way line South 47 degrees 16 minutes 34 seconds East 33.85 feet to a point; thence continuing on a line curving to the right having a radius of 175 feet, an arc distance of 52.05 with a chord bearing South 38 degrees 45 minutes 17 seconds East 51.86 feet to a point; thence extending along Lot No. 46 on a plan of lots for Abbotts Manor Phase II, Plan Book 73, page 43 South 59 degrees 46 minutes 00 seconds West 246.01 feet to a point; thence extending

along Lot No. 43 on a plan of lots for Abbotts Manor Phase II, Plan Book 73, page 43 North 30 degrees 14 minutes 00 seconds West 52.06 feet to a point at a corner of Lot No. 48 on said plan; thence extending along the said Lot No. 48 North 51 degrees 56 minutes 06 seconds East 232.54 feet to the point and place of BEGINNING.

CONTAINING 16,579 Sq. Ft.

BEING the same premises which Garland Construction, Incorporated, by Deed dated November 2, 1999 and recorded in the Office of the Recorder of Deeds of Adams County on November 19, 1999, in Deed Book Volume 1956, Page 21, granted and conveyed unto David L. Rohrer and Laurie A. Rohrer.

Grenen & Birsic, P.C.
By: /s/Kristine M. Anthon, Esq.
Attorney for Plaintiff
One Gateway Center, Ninth Floor
Pittsburgh, PA 15222
(412) 281-7650

DBV 1956

Page 21

Parcel No. #5-43

SEIZED and taken into execution as the property of **David L. Rohrer & Laurie A. Rohrer** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the

Sheriff in his office on July 12, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/23, 30 & 5/7

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN of the filing with the Department of State of the Commonwealth of Pennsylvania, on February 23, 2004, under the Fictitious Name Act, of an Application for the registration of the fictitious name ADAMS COUNTY PAINT SUPPLIES with its principal office or place of business at 112 North Fifth Street, Gettysburg, Pennsylvania 17325. The name and address of the person who is party to the registration is: Donald R. Altman, Jr., 112 North Fifth Street, Gettysburg, Pennsylvania 17325.

Pyle and Entwistle
25 South Washington Street
Gettysburg, PA 17325

4/23

Designated for the Publication of Court and other Legal Notices. Published every Friday by Adams County Bar Association, John W. Phillips, Esq., Editor and Business Manager.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199, Postmaster; Send address changes to Adams County Legal Journal, 111 Baltimore Street, Room 305, Gettysburg, PA 17325.

Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 337-9812

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1169 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE three (3) tracts of land situated, lying and being in Freedom Township, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1:

BEGINNING at a driven iron pin; thence along land now or formerly of C.M. Wolf, West 152 feet to a pin; thence by land now or formerly of R.C. Witherow, North 2-1/2 degrees East, 50 feet to a pin; thence by land now or formerly of H.E. Riddlemoser, East 150 feet to a pin; thence by land now or formerly of E.H. Markley, Trustee, South 50 feet to the place of BEGINNING.

THE above lot being known as Lot No. 10 on a plan of lots surveyed and laid out by S. Miley Miller, Surveyor, dated September 12, 1922.

TRACT NO. 2:

BEGINNING at a pin; thence by land now or formerly of Bertha Gardner, West 157 feet to a pin; thence by land now or formerly of R.C. Witherow, North 2-1/2 degrees East, 50 feet to a pin; thence by land now or formerly of S.C. Eshleman, South 152 feet to a pin; thence by land now or formerly of E.H. Markley, Trustee, South 50 feet to a pin, the place of BEGINNING.

THE above lot being known as Lot No. 9 on a plan of lots surveyed and laid out by S. Miley Miller, Surveyor, dated September 12, 1922.

TRACT NO. 3:

BEGINNING at a point on the road leading from the Gettysburg-Emmitsburg Road to the Marsh Creek Height Cottages at land now or formerly of Dr. Walter S. Mountain; thence along land now or formerly of said Dr. Walter S. Mountain, in a Southerly direction 50 feet to a stake at land now or formerly of Robert C. Witherow; thence along land now or formerly of Robert C. Witherow, in an Easterly direction 100 feet to a stake

at land now or formerly of Robert D. Witherow; thence along land now or formerly of Robert C. Witherow, in a Northerly direction, 50 feet to the road leading from the Gettysburg-Emmitsburg Road to the Marsh Creek Cottages; thence along said road, in a Westerly direction 100 feet to lot now or formerly of Dr. Walter S. Mountain, the place of BEGINNING.

Tax Parcel #(13) E17-035

Being known as: 180 Marsh Creek Heights Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Gerald D. Deavers & Carol J. Deavers** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 12, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1290 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that the following tract of land, situate, lying and being in the Borough of New Oxford, Adams County, Pennsylvania, bounded and limited as follows, to-wit:

BEGINNING for a point on the Southern side of Sunset Avenue at Lot No. 9; thence along said Lot No. 9 South fifty-two (52) degrees sixteen (16) minutes East, one hundred thirty-two and

ninety one-hundredths (132.90) feet to a point; thence continuing along the same South thirty-eight (38) degrees one (1) minute West sixty-one (61) feet to a point at Lot No. 11; thence along and with said Lot No. 11 North fifty-two (52) degrees sixteen (16) minutes West one hundred thirty-two and sixty-seven one-hundredths (132.67) feet to the point in the Southern side of Sunset Avenue; thence along and with the Southern side of Sunset Avenue North thirty-seven (37) degrees forty-four (44) minutes East sixty-one (61) feet to the point and place of BEGINNING. Being known as Lot No. 10 on a plot or plan of lots laid out by William H. Mummert and Edna M. Mummert, his wife, as per survey of J. H. Rife, Registered Surveyor, bearing date of November 29, 1955.

TITLE TO SAID PREMISES IS VESTED IN Frederick D. Wentz and Elaine L. Wentz, husband and wife by Deed from Cecil A. Palm and Eleanor J. Palm, husband and wife dated 10/21/1983 and recorded 10/21/1983, in Deed Book 371, Page 344.

Premises being: 13 Sunset Avenue, New Oxford, PA 17350

Tax Parcel No. 48 Map 8

SEIZED and taken into execution as the property of **Frederick L. Wentz & Elaine D. Wentz** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 12, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/23, 30 & 5/7

COMMONWEALTH VS. OBERLANDER

1. Although any party may proceed *pro se* in representing themselves against criminal charges, a third party not licensed to practice law cannot represent a party to a Court proceeding.

2. The Pennsylvania Rules of Criminal Procedure do not provide a procedure for either discovery or the filing of a bill of particulars in a summary appeal proceeding. The Rules provide for discovery provisions and a bill of particulars only in court case, i.e., a case involving a misdemeanor or a felony.

3. The proper remedy for the Commonwealth's failure to disclose exculpatory materials should be less severe than dismissal where there is no evidence of bad faith by the Commonwealth.

In the Court of Common Pleas of Adams County, Pennsylvania,
Criminal, No. CC-16-03, COMMONWEALTH OF PENNSYLVANIA VS. CHRISTOPHER BROOKS OBERLANDER.

Bernard A. Yannetti, Jr., Esq., Assistant District Attorney, for
Commonwealth

Defendant *pro se*

George, J., March 26, 2003

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

The Defendant in this matter has neither filed an Answer to the Court's request for a Statement of Matters Complained of on Appeal nor has produced a transcript after directed by the Court by Order dated February 12, 2003. Accordingly, all issues raised by the Defendant are waived. *Commonwealth v. Johnson*, 771 A.2d 751, 755 (Pa. 2001). To the extent that the issues are deemed not to be waived, the Court incorporates herein the PA. R. APP. P. 1925(b) Opinion in *Commonwealth v. Suzanne Lynn Oberlander* at CC-17-03, a copy of which is attached hereto.

COMMONWEALTH VS. OBERLANDER

1. Although any party may proceed *pro se* in representing themselves against criminal charges, a third party not licensed to practice law cannot represent a party to a Court proceeding.

2. The Pennsylvania Rules of Criminal Procedure do not provide a procedure for either discovery or the filing of a bill of particulars in a summary appeal proceeding.

3. The proper remedy for the Commonwealth's failure to disclose exculpatory materials should be less severe than dismissal where there is no evidence of bad faith by the Commonwealth.

In the Court of Common Pleas of Adams County, Pennsylvania,
Criminal, No. CC-17-03, COMMONWEALTH OF PENNSYLVANIA VS. SUZANNE LYNN OBERLANDER.

Bernard A. Yannetti, Jr., Esq., Assistant District Attorney, for
Commonwealth

Defendant *pro se*

George, J., March 26, 2003

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

Suzanne Lynn Oberlander (hereinafter "Ms. Oberlander") appeals from this Court's finding of guilt for a violation of 53 PA. CONS. STAT. ANN. § 6913 (West 2002). In response to the Court's Order dated February 12, 2003, Ms. Oberlander filed a Statement of the Matters Complained of on Appeal. Before addressing the specific issues, I note that Ms. Oberlander has not obtained a transcript of the proceedings in compliance with the Order of Court dated February 12, 2003. As such, any issue raised by Ms. Oberlander is waived. *Smith v. Smith*, 637 A.2d 622, 623-24 (Pa. Super. Ct. 1993); PA. R. APP. P. 1911.

Ms. Oberlander generally raises four issues. I will address each separately.

Ms. Oberlander argues that this Court denied her "attorney-in-fact counsel of choice". Statement of the Matters Complained of on Appeal at p. 2, ¶ 4. My notes reflect that at the commencement of the hearing, an individual identified himself to the Court as being both Christopher and Suzanne Oberlander. Upon further inquiry, he indicated that his name was "David Clarence". Christopher Oberlander (hereinafter "Mr. Oberlander"), who was on trial in a consolidated hearing, indicated Mr. Clarence represented him. Notably, Ms. Oberlander made no such representation. Following identification of Mr. Clarence, the Court inquired as to whether he

was licensed to practice law in Pennsylvania. Mr. Clarence responded that he was not present “to engage in commercial activity”, however, he stated that he had “power of attorney in fact”. Upon further questioning by the Court, Mr. Clarence was unable to provide any proof that he was licensed to practice law in the Commonwealth of Pennsylvania. In light of his failure to be able to produce such proof or represent that he was licensed to practice law in the Commonwealth of Pennsylvania, Mr. Clarence was asked to return to the spectator area in the Courtroom.

Although any party may proceed *pro se* in representing themselves against criminal charges, see *Commonwealth v. Rogers*, 645 A.2d 223, 224 (Pa. 1994), a third party not licensed to practice law cannot represent a party to a Court proceeding. See *Blair v. Motor Carriers Serv. Bureau*, 40 Pa. D. & C. 413 (C.C.P. of Philadelphia County 1939); 42 PA. CONS. STAT. ANN. § 2524 (West 2002) (providing criminal penalties for the unauthorized practice of law). As such, the Court properly requested Mr. Clarence to return to the spectators’ area of the Courtroom. Incidentally, subsequent inquiry to the Disciplinary Board of the Supreme Court, Lawyer Assessment Office, confirmed that “David Clarence” is not licensed to practice law in Pennsylvania. Moreover, Ms. Oberlander has not properly preserved this issue since she did not request the Court to allow Mr. Clarence to represent her. *Weir v. Weir*, 631 A.2d 650, 654 (Pa. Super. Ct. 1993).

Ms. Oberlander next challenges the Commonwealth’s failure to respond to a bill of particulars and discovery and to otherwise “fully disclose the nature of the [p]rosecution”. Statement of the Matters Complained of on Appeal at p. 2, ¶ 3-4. The Pennsylvania Rules of Criminal Procedure do not provide a procedure for either discovery or the filing of a bill of particulars in a summary appeal proceeding. In fact, the Pennsylvania Rules of Criminal Procedure provide for discovery provisions and a bill of particulars only in court cases, i.e., a case involving a misdemeanor or a felony. See PA. R. CRIM. P. §§ 572 and 573. At the hearing, Ms. Oberlander did not raise any constitutional right to pre-hearing discovery in summary proceedings. Moreover, since conviction of the summary offense did not subject her to incarceration, it is extremely doubtful that any such right exists. See generally *Commonwealth v. Yost*, 29 Pa. D. & C.3d 251

(C.C.P. of Clinton County 1984) (pre-trial inspection is limited to court cases involving felonies and misdemeanors, no discovery authorized in a summary proceeding).

It must be noted that once again, any request for relief based upon the Commonwealth's failure to answer discovery or provide a bill of particulars was made solely by Mr. Oberlander. Ms. Oberlander made no such request and, therefore, her claim is waived. *Weir*, 631 A.2d at 654. Even had she made a request for dismissal, her request would have been denied. See *Commonwealth v. Burke*, 781 A.2d 1136, 1143-45 (Pa. Super. Ct. 2001) (the proper remedy for the Commonwealth's failure to disclose exculpatory materials should be less severe than dismissal where there is no evidence of bad faith by the Commonwealth). Instantly, although the Court denied Mr. Oberlander's request for dismissal, the Court gave him an opportunity to request a continuance. He did not do so. Additionally, the Court specifically questioned Ms. Oberlander in regard to whether or not she was seeking a continuance to which she responded that she was not. Accordingly, Ms. Oberlander's issue is meritless.

Finally, Ms. Oberlander raises what may best be interpreted as a challenge to the sufficiency of the evidence. Since she has not produced a transcript of the proceedings in compliance with this Court's Order of February 12, 2003, this issue is specifically waived. *Smith*, 637 A.2d at 623-24. Moreover, the Court's notes from the hearing reflect testimony from David Trone, an employee at the Adams County Earned Income Tax Collection Agency. Mr. Trone indicated that Ms. Oberlander was a person required to file an Earned Income Tax Return with his office for the tax year of 2001 and that she had not filed such a return. He further indicated that Ms. Oberlander lived in the Conewago Valley School District in Adams County, Pennsylvania. Moreover, he indicated that his office gave Ms. Oberlander notice of her obligation to file a tax return to which she did not respond. Although the Court gave Ms. Oberlander the opportunity to present evidence, she chose not to do so. The testimony at hearing was sufficient to support a conviction in this matter.

In essence, throughout this litigation, Ms. Oberlander has taken the approach that she is not subject to the jurisdiction of the Court nor what she has continuously referred to as a "repealed" statute (referencing 53 PA. CONS. STAT. ANN. § 6913 (West 2002)). Ms.

Oberlander's position is summarized in her Statement of the Matters Complained of on Appeal that states:

The Commonwealth of Pennsylvania, it's [sic] counties and it's [sic] various other legal fictions, as well as, all of it's [sic] sister legal fiction States, do not exist, anywhere, except in the minds of those who believe that they do. They are, in fact, creations of a religious nature. Hence, their statutes, ordinances and other rules, cannot compel anyone to erect, support or obey - them.

Statement of the Matters Complained of on Appeal at p. 3. Based upon this faulty reasoning, Ms. Oberlander concludes that the laws of this Commonwealth and, incidentally, the rules of the Pennsylvania Supreme Court, do not apply to her. As such, she argues that she may choose who she wishes to represent her in Court and, similarly, she may ignore the tax laws of this Commonwealth. Her argument is clearly frivolous and has been waived.

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 LILLIAN L. HANSFORD, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Sandy L. Baker, 911 Five Points Road, New Oxford, PA 17350

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

ESTATE OF DONALD F. HELWIG, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Mary A. Helwig, c/o Jeffrey C. Marshall, Esq., 46 East Philadelphia Street, York, PA 17401

Attorney: Jeffrey C. Marshall, Esq., 46 East Philadelphia Street, York, PA 17401

SECOND PUBLICATION

ESTATE OF BEATRICE J. HARRELL, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Personal Representative: Mary Drew Adams, a/k/a Mary D. Adams, c/o Patterson & Kiersz, PC, 20 West Baltimore Street, Greencastle, PA 17225

Attorney: Patterson & Kiersz, P.C., 20 West Baltimore Street, Greencastle, PA 17225

ESTATE OF NADINE EMMA KLINE-FELTER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrators: Nancy M. Heller, 80 Knox Road, Gettysburg, PA 17325; Fern B. Klinefelter, 69 East Hanover Street, Gettysburg, PA 17325

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

THIRD PUBLICATION

ESTATE OF MARGARET L. BOWMAN, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Paul H. Bowman, 98-440 Kilinoe St., N. 608, Aiea, HI 96701

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

ESTATE OF MYRTLE R. DUGAN a/k/a MYRTLE REBECCA DUGAN, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executors: Jean D. Group, P.O. Box 205, Gardners, PA 17324; Douglas L. Miller, P.O. Box 4, Gardners, PA 17324

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

ESTATE OF EVELYN MAY FUNT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Eugene R. Funt, Sr., 495 Silo Road, Orrtanna, PA 17353

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

ESTATE OF ROBERT H. MITZ, DEC'D

Late of Union Township, Adams County, Pennsylvania

Deborah I. Walters, 2142 White Hall Road, Littlestown, PA 17340

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

ESTATE OF WILLIAM A. MOOSE, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

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

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

ESTATE OF HENRIETTA A. PALMER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executor: Sterling Financial Trust Co., 6 Lincoln Square, Gettysburg, PA 17325

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

ESTATE OF LILLIE M. QUIMBY a/k/a LILLIAN MAE QUIMBY, DEC'D

Late of Silver Spring, Montgomery County, Maryland

Executor: Brent C. Quimby, 1A Bonnie Field Circle, Gettysburg, PA 17325

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

ESTATE OF DOROTHY A. SHRADER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Lawrence E. Shrader, P.O. Box 92, 114 West King St., Abbottstown, PA 17301; Joyce M. Hull, 980 Centennial Avenue, Hanover, PA 17331

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

ESTATE OF MILLARD A. WOLFE, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executors: Karen D. Brodbeck, 2461 Heather Road, York, PA 17404; Keith L. Wolfe, 4821 Bickel Church Road, Baltimore, OH 43105

Attorney: Jane M. Alexander, Esq., 148 S. Baltimore Street, P.O. Box 421, Dillsburg, PA 17019-0421

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-149 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN unit in the property known, named and identified in the declaration referred to below as South Branch Estates, located in the Township of Oxford, Adams County, Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101, et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, of a land development plan dated October 6, 1995, last revised December 14, 1995 and recorded in Book 69, Page 23 (together with all amendments and supplements thereto recorded on or herefore the date hereof) being all designated in such plan as Unit No. 25 as more fully bounded and described in such plan, together with a proportionate undivided interest in the Common Elements as defined in a Declaration Plan recorded in the Office of Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 1271, Page 34.

TITLE TO SAID PREMISES IS VESTED IN Rebecca S. Kruk by Deed from Philip R. Garland, t/d/b/a Garland Construction, dated 3/3/2000 and recorded 3/13/2000 in Record Book 2013, Page 117.

Premises being: 80 Fiddler Drive, New Oxford, PA 17350

Tax Parcel No. 52-25 Map #1

SEIZED and taken into execution as the property of **Rebecca S. Kruk** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1162 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those three tracts of land situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1: BEGINNING at corner caused by the intersection of lands now or formerly of A.L. Bishop, Jonas Spangler and present lot; thence by land now or formerly of Paul Okul Northwest 280 feet to South line of East King Street; thence by said East King Street, Southwest 50 feet to corner of land now or formerly of Luther Patterson; thence Southeast by land now or formerly of Luther Patterson 288-1/2 feet to land now or formerly of Laura Stauffer; thence by land now or formerly of Laura Stauffer Northeast 50 feet to the place of BEGINNING.

TRACT NO. 2: BEGINNING at a point in land now or formerly of Harry T. Harner; thence in a Northeasterly direction for 39-1/2 feet to a point at land now or formerly of Paul Okul; thence from said point in a Southerly direction to a point fronting Lombard Street; thence West along said Street for 39-1/2 feet to a stake; thence from said stake in a Northerly direction to a point in land now or formerly of Harry T. Harner, the place of BEGINNING.

TRACT NO. 3: BEGINNING at an iron pin, the beginning of the first line described in the deed of Paul E. Okul and wife to Elmer C. Krise and wife, dated the 11th day of October, 1943, and recorded in the Recorder's Office of Adams County in Deed Book Vol. 163, page 289; and running thence with the first two lines of the said deed, (1) North 34-3/4 degrees West, 50.6 feet to an iron pin; thence (2) North 56 degrees East, 12.5 feet to a post; thence in the reverse direction of the third line of said deed and extending the same, (3) South 34-1/4 degrees East, 52 feet, more or less, to an iron pin in the sixth or Lombard Street line of the said deed; thence with the same Lombard Street line, (4) South 62-1/2 degrees West, 12 feet, more or less, to the place of BEGINNING.

PARCEL NO. 27 006-0058

BEING the same premises which Walter G. Mehring, Executor of the estate of Walter S. Mehring, by Deed dated November 10, 2000 and recorded in the Office of the Recorder of Deeds of

Adams County on November 15, 2000, in Deed Book Volume 2163, Page 334, granted and conveyed unto Trevor Dwight Smith and Angela Catherine Smith.

Grenen & Birsic, P.C.
By: /s/Kristine M. Anthon, Esq.
Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

SEIZED and taken into execution as the property of **Trevor Dwight Smith & Angela Catherine Smith** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/16, 23 & 30

INCORPORATION NOTICE

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

The name of the Corporation is HISTORIC CHURCH WALKING TOURS, INC.

The Corporation has been incorporated under the provisions of the Domestic Non-Profit Corporations Statute, 15 Pa.C.S. Section 5306.

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

4/23

Adams County Legal Journal

Vol. 45

April 30, 2004

No. 49, pp. 317-324

IN THIS ISSUE

RHOADS VS. DAVIES INSURANCE ET AL

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-123 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land situate on the Westerly right of way line of Abbots Drive in the Borough of Abbottstown, Adams County, PA known and numbered as Lot No. 47 on a plan of lots for Abbots Manor, Phase III, recorded in the Office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plan Book 76, page 99, more fully 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. 48 on said plan; thence extending along the said right of way line South 47 degrees 16 minutes 34 seconds East 33.85 feet to a point; thence continuing on a line curving to the right having a radius of 175 feet, an arc distance of 52.05 with a chord bearing South 38 degrees 45 minutes 17 seconds East 51.86 feet to a point; thence extending along Lot No. 46

on a plan of lots for Abbots Manor Phase II, Plan Book 73, page 43 South 59 degrees 46 minutes 00 seconds West 246.01 feet to a point; thence extending along Lot No. 43 on a plan of lots for Abbots Manor Phase II, Plan Book 73, page 43 North 30 degrees 14 minutes 00 seconds West 52.06 feet to a point at a corner of Lot No. 48 on said plan; thence extending along the said Lot No. 48 North 51 degrees 56 minutes 06 seconds East 232.54 feet to the point and place of BEGINNING.

CONTAINING 16,579 Sq. Ft.

BEING the same premises which Garland Construction, Incorporated, by Deed dated November 2, 1999 and recorded in the Office of the Recorder of Deeds of Adams County on November 19, 1999, in Deed Book Volume 1956, Page 21, granted and conveyed unto David L. Rohrer and Laurie A. Rohrer.

Grenen & Birsic, P.C.

By: /s/Kristine M. Anthou, Esq.

Attorney for Plaintiff

One Gateway Center, Ninth Floor

Pittsburgh, PA 15222

(412) 281-7650

DBV 1956

Page 21

Parcel No. #5-43

SEIZED and taken into execution as the property of **David L. Rohrer & Laurie A. Rohrer** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 12, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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4/23, 30 & 5/7

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1169 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE three (3) tracts of land situated, lying and being in Freedom Township, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1:

BEGINNING at a driven iron pin, thence along land now or formerly of C.M. Wolf, West 152 feet to a pin; thence by land now or formerly of R.C. Witherow, North 2-1/2 degrees East, 50 feet to a pin; thence by land now or formerly of H.E. Riddlemoser, East 150 feet to a pin; thence by land now or formerly of E.H. Markley, Trustee, South 50 feet to the place of BEGINNING.

THE above lot being known as Lot No. 10 on a plan of lots surveyed and laid out by S. Miley Miller, Surveyor, dated September 12, 1922.

TRACT NO. 2:

BEGINNING at a pin; thence by land now or formerly of Bertha Gardner, West 157 feet to a pin; thence by land now or formerly of R.C. Witherow, North 2-1/2 degrees East, 50 feet to a pin; thence by land now or formerly of S.C. Eshleman, South 152 feet to a pin; thence by land now or formerly of E.H. Markley, Trustee, South 50 feet to a pin, the place of BEGINNING.

THE above lot being known as Lot No. 9 on a plan of lots surveyed and laid out by S. Miley Miller, Surveyor, dated September 12, 1922.

TRACT NO. 3:

BEGINNING at a point on the road leading from the Gettysburg-Emmitsburg Road to the Marsh Creek Height Cottages at land now or formerly of Dr. Walter S. Mountain; thence along land now or formerly of said Dr. Walter S. Mountain, in a Southerly direction 50 feet to a stake at land now or formerly of Robert C. Witherow; thence along land now or formerly of Robert C. Witherow, in an Easterly direction 100 feet to a stake

at land now or formerly of Robert D. Witherow; thence along land now or formerly of Robert C. Witherow, in a Northerly direction, 50 feet to the road leading from the Gettysburg-Emmitsburg Road to the Marsh Creek Cottages; thence along said road, in a Westerly direction 100 feet to lot now or formerly of Dr. Walter S. Mountain, the place of BEGINNING.

Tax Parcel #:(13) E17-035

Being known as: 180 Marsh Creek Heights Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Gerald D. Deavers & Carol J. Deavers** and to be sold by me,

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 12, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1290 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 18th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that the following tract of land, situate, lying and being in the Borough of New Oxford, Adams County, Pennsylvania, bounded and limited as follows, to-wit:

BEGINNING for a point on the Southern side of Sunset Avenue at Lot No. 9; thence along said Lot No. 9 South fifty-two (52) degrees sixteen (16) minutes East, one hundred thirty-two and

ninety-one-hundredths (132.90) feet to a point; thence continuing along the same South thirty-eight (38) degrees one (1) minute West sixty-one (61) feet to a point at Lot No. 11; thence along and with said Lot No. 11 North fifty-two (52) degrees sixteen (16) minutes West one hundred thirty-two and sixty-seven one-hundredths (132.67) feet to the point in the Southern side of Sunset Avenue; thence along and with the Southern side of Sunset Avenue North thirty-seven (37) degrees forty-four (44) minutes East sixty-one (61) feet to the point and place of BEGINNING. Being known as Lot No. 10 on a plot or plan of lots laid out by William H. Mummert and Edna M. Mummert, his wife, as per survey of J. H. Rife, Registered Surveyor, bearing date of November 29, 1955.

TITLE TO SAID PREMISES IS VESTED IN Frederick D. Wentz and Elaine L. Wentz, husband and wife by Deed from Cecil A. Palm and Eleanor J. Palm, husband and wife dated 10/21/1983 and recorded 10/21/1983, in Deed Book 371, Page 344.

Premises being: 13 Sunset Avenue, New Oxford, PA 17350

Tax Parcel No. 48 Map 8

SEIZED and taken into execution as the property of **Frederick L. Wentz & Elaine D. Wentz** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 12, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/23, 30 & 5/7

RHOADS VS. DAVIES INSURANCE ET AL

1. Procedural rules are not ends in themselves, but means whereby justice, as expressed in legal principles, is administered. They are not to be exalted to the status of substantive objectives.

2. Where a witness has not been identified pursuant to a local or state discovery rule, the presiding court must balance the facts and circumstances of each case to determine the prejudice to each party.

3. A list of factors to be used in determining whether to allow the testimony of a witness who has not been included in a pre-trial memorandum are these basic considerations: (1) the prejudice or surprise in fact of the party against whom the excluded witnesses would have testified, (2) the ability of that party to cure the prejudice, (3) the extent to which waiver of the rule against calling unlisted witnesses would disrupt the orderly and efficient trial of the case or of other cases in the court, and (4) bad faith or willfulness in failing to comply with the court's order.

4. Although this Court is authorized to impose sanctions for failure to comply with discovery orders, the sanction must be appropriate when compared to the violation of the discovery rules.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 98-S-719, ROBERT S. RHOADS VS. DAVIES INSURANCE AGENCY, INC. AND DAVIES INSURANCE, INC., T/D/B/A DAVIES, KREISHER & McCOY INSURANCE & FINANCIAL SERVICES.

Walter A. Tilley, III, Esq., for Plaintiff

Gary E. Hartman, Esq., for Defendants

Kuhn, P.J., May 12, 2003

OPINION ON PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE THE TESTIMONY OF LEE STURGILL

Before this Court is Plaintiff's Motion in Limine to Preclude the Testimony of Lee Sturgill, filed April 23, 2003. For the reasons set forth herein, Plaintiff's Motion is denied, and Defendant is instructed to furnish Plaintiff with a copy of Mr. Sturgill's testimony in accordance with the attached Order.

BACKGROUND

Plaintiff, Robert S. Rhoads, filed a complaint wherein he alleges breach of contract. The Complaint avers that Plaintiff and Defendants were parties to an "Independent Contractor Producer Agreement" dated January 1, 1990, but signed on February 9, 1990. Pursuant to the contract, Plaintiff was to act as an independent insurance agent in Defendants' office, subject to terms and conditions of the agreement.

Article X and XI of the contract spell out what happens if Plaintiff should terminate the agreement. Plaintiff claims he terminated the contract on October 1, 1997. He contends that pursuant to the contract, Defendants were to pay him, on a monthly basis, 30% of the renewed commissions on the accounts that he sold, for the life of those accounts. He claims being entitled to \$4,000-\$5,000 per month.

Plaintiff alleges that in January 1998, Defendants stopped making payments under the contract and informed him that they did not intend to honor the contract. Defendants filed an answer wherein they averred that Plaintiff breached the contract and is, therefore, not entitled to commissions. Specifically, Defendants alleged that Plaintiff (1) failed to work the proper hours; (2) failed to gather client information in accordance with agency standards; (3) failed to adopt agency systems and procedures; (4) failed to assist in collection of receivables; (5) failed to assist customer service representatives; (6) failed to keep current on coverage changes; (7) submitted erroneous and, in some cases, intentionally falsified statements of earned commissions; and (8) acted unprofessionally. Defendants averred by way of set off and/or counterclaim overpayment of commissions to Plaintiff. Defendants also make a claim for punitive damages under a theory of intentional and malicious conversion.

Plaintiff now seeks an order precluding Defendants from introducing the testimony of Lee Sturgill, a previously identified potential expert witness. Plaintiff argues that Defendants violated this Court's Order of May 7, 2002, which stated:

A litigant may call fact witnesses and introduce exhibits in addition to those divulged at the pre-trial conference if names, addresses, summaries of testimony (in the case of fact witnesses) or copies (in the case of exhibits) are provided to all other parties and the Court at least four (4) weeks before trial.

Plaintiff maintains that he first learned of Defendants' plans to call Lee Sturgill as a fact witness less than four weeks before trial.¹

¹ Pursuant to an Order of April 28, 2003, trial in this matter was continued to September 2003 due to the sudden unavailability of the undersigned during the May trial term.

Plaintiff received from Defendants' counsel, a letter dated March 4, 2003 in which Defendants' counsel states:

In previous correspondence I identified potential expert witnesses. They were going to perform sample inspections and testify on accuracy of the audit based on statistical sampling analysis.

This strategy changed to 100% inspection. Therefore, the accountant/lawyer/fraud examiner will be testifying as to personal observation and will be, therefore, a fact witness.

Plaintiff maintains, however, that Defendants' counsel did not reveal the name of the new fact witness until April 16, 2003 through e-mail correspondence. As a result, Plaintiff argues that he will be prejudiced by Defendants' untimely disclosure.

Plaintiff states that he did not receive Mr. Sturgill's expert report prior to March 4, 2003 when he was made aware that a previously identified expert witness would be called as a fact witness. On March 18, 2003, Plaintiff's counsel sent a letter to Defendants' counsel requesting that Defendants provide updated answers to the Interrogatories and Request for Production of Documents previously served on Defendants with regard to witnesses and documents in this matter. Plaintiff also stated in the letter that he would like to take the deposition of the new fact witness after receiving Defendants' answers. As of April 23, 2003, Plaintiff had not been served with updated answers to his Interrogatories and Request for Production of Documents relating to Lee Sturgill. Plaintiff therefore argues that he will be unduly surprised by Mr. Sturgill's testimony because he has not had an opportunity to evaluate it prior to trial.

Defendants maintain that Plaintiff will not be unduly surprised by Mr. Sturgill's testimony for the following reasons. First, Mr. Sturgill was identified as a potential expert witness in a letter dated October 30, 2002, which included Mr. Sturgill's curriculum vitae. The letter stated in part:

Davies Insurance has hired Shirley Ann Appleby and G. Lee Sturgill as professional and expert witnesses. I enclose their curriculum vitae. They will take samplings and draw conclusions as to the accuracy of the data. They

may also develop an opinion as to the elements of fraud that appear to be present. They will work together, with Mr. Sturgill giving the presentation at trial.

Furthermore, Defendants argue that Plaintiff knew the fact witness would be Mr. Sturgill by reason of a telephone conference between attorneys on or about April 8-10, 2003.

Secondly, Defendants state that the summary of Mr. Sturgill's testimony will not be in existence until April 30 or May 1.² Defendants offer the explanation that the comparison of Plaintiff's claim against his own database, a database maintained by another agent, and applications which were retrieved by the agency required hundreds of hours of human effort which is not yet complete. Nevertheless, Defendants note that incremental results of various comparisons of data have been provided to Plaintiff as they become available. For example, Defendants state that a disk was provided to Plaintiff on October 30, 2002, which is the basis for comparisons that will be a part of Mr. Sturgill's testimony. Defendants further state that the results of post separation claims as compared to Plaintiff's own database were disclosed in an e-mail dated April 16, 2003. This comparison is said to be part of Mr. Sturgill's testimony. Finally, Defendants maintain that the results of part of the audit, and therefore part of Mr. Sturgill's testimony, were contained in a letter to Plaintiff's counsel dated January 22, 2003.

DISCUSSION

Rule 4003.5(a)(1)(a) and (a)(1)(b) of the Pennsylvania Rules of Civil Procedure provides that a party may, through interrogatories, require:

(a) any other party to identify each person whom the other party expects to call as an expert witness at trial and to state the subject matter on which the expert is expected to testify and

(b) the other party to have each expert so identified state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

²As those dates have now passed, we presume that the summary of Mr. Sturgill's testimony is complete at this point.

Rules 4003.5(b) and 4019(i) further state that an expert witness whose identity is not disclosed shall not be permitted to testify on behalf of the defaulting party at trial unless the failure to disclose the identity of the witness is the result of “extenuating circumstances beyond the control of the defaulting party;” in which case, the court may grant a continuance or other appropriate relief.

The Pennsylvania Supreme Court has stated:

It has been our policy to overlook... procedural errors when a party has substantially complied with the requirements of the rule and no prejudice would result. ‘Procedural rules are not ends in themselves, but means whereby justice, as expressed in legal principles, is administered. They are not to be exalted to the status of substantive objectives.’

Feingold v. SEPTA, 517 A.2d 1270, 1272 (Pa. 1986), *citing Pomerantz v. Goldstein*, 387 A.2d 1280, 1281 (Pa. 1978).

To that end, where a witness has not been identified pursuant to a local or state discovery rule, “the presiding court must balance the facts and circumstances of each case to determine the prejudice to each party.” *Curran v. Stradley, Ronon, Stevens & Young*, 521 A.2d 451, 457 (Pa.Super. 1987), *citing Feingold*, 517 A.2d at 1273. In *Feingold*, the Supreme Court utilized several federal and state court cases to compile a list of factors to be used in determining whether to allow the testimony of a witness who has not been included in a pre-trial memorandum:

[B]ad faith on the part of the party seeking to call witnesses not listed in his pretrial memorandum;... ability of the party to have discovered the witnesses earlier; ... validity of the excuse offered by the party;... willfulness of the party’s failure to comply with the court’s order;... the parties’ (sic) intent to mislead or confuse his adversary;... and finally, the importance of the excluded testimony... Underlying the cases to which we have adverted are these basic considerations: (1) the prejudice or surprise in fact of the party against whom the excluded witnesses would have testified, (2) the ability of that party to cure the prejudice, (3) the extent to which waiver of the

rule against calling unlisted witnesses would disrupt the orderly and efficient trial of the case or of other cases in the court, and (4) bad faith of (sic) willfulness in failing to comply with the court's order.

Feingold, 517 A.2d at 1273, citing *Feingold v. SEPTA*, 488 A.2d 284, 288 (Pa.Super. 1985).

Although Defendants identified Mr. Sturgill as the new fact witness less than four weeks before the May trial term³, the record does not support a finding of bad faith or willfulness on behalf of Defendants in failing to comply with this Court's Order. Defendants did in fact provide Mr. Sturgill's curriculum vitae in late October 2002. Furthermore, it is apparent that Defendants have provided parts of Mr. Sturgill's testimony to Plaintiff as they became available. This Court accepts Defendants' explanation that hundreds of hours of work were required in order to compare Plaintiff's disk to his own database, a database maintained by another agent, and applications which were retrieved by the agency. Therefore, it is understandable that Defendants needed to provide Mr. Sturgill's testimony to Plaintiff in stages. Nevertheless, pursuant to Pa.R.C.P. 4003.5(a)(1)(b) and this Court's Order of May 7, 2002, Plaintiff is entitled to a complete summary of Mr. Sturgill's testimony.⁴ Defendants indicated that a complete summary would be available

³As previously noted, Defendants claim that Plaintiff knew the witness would be Lee Sturgill by reason of a telephone conference between attorneys on or about April 8-10. This Court is of course not privy to such conversations, and no record of such a conversation was provided to us. Therefore, we have no basis for determining whether that conversation actually took place. Nevertheless, even if Defendants identified the new fact witness in early April, Defendants have admitted that they did not provide Plaintiff with a complete summary of Mr. Sturgill's testimony at least four weeks in advance of trial. This constitutes a violation of the Order of May 7, 2002. Consequently, Plaintiff is entitled to an evaluation of potential prejudice.

⁴Defendants state that Plaintiff will not be unfairly surprised by Mr. Sturgill's testimony because the information Mr. Sturgill utilized in preparing his testimony either came from Plaintiff himself or existed for Plaintiff's review and analysis for over six years. Defendants further state that Mr. Sturgill is merely taking information known by both sides for years and organizing it in a specific way. Even if the information was in fact available to Plaintiff for many years, he is nevertheless entitled to a complete summary of Mr. Sturgill's testimony. Because trial has been continued in this matter and a summary of Mr. Sturgill's testimony should be complete at this point, we will not evaluate the extent to which Plaintiff's surprise may have been lessened by the availability of Mr. Sturgill's sources or the availability of parts of Mr. Sturgill's proposed testimony.

by April 30 or May 1. Consequently, we expect that Defendants are now in a position to provide Plaintiff with the summary.

In addition to Plaintiff's complaint that he did not receive a complete summary of Mr. Sturgill's testimony, he further argues that he has not been afforded the opportunity to depose Mr. Sturgill, and will therefore be at a disadvantage in attempting to respond to Mr. Sturgill's testimony after hearing it for the first time at trial. In fact, Plaintiff was aware, or could have been aware, of certain portions of Mr. Sturgill's testimony prior to trial. Even if Plaintiff was not informed that Mr. Sturgill was the new fact witness until April 2003, he was notified that Mr. Sturgill was a potential expert witness in late October 2002. Because he had been provided with parts of Mr. Sturgill's testimony as they became available, Plaintiff could have evaluated that information in order to prepare for the possibility that Mr. Sturgill would be called as an expert witness. Defendants merely reclassified Mr. Sturgill as a fact witness. This reclassification did not change the information Mr. Sturgill was using to prepare his testimony. Plaintiff was therefore certainly not at a complete loss with regard to Mr. Sturgill's proposed testimony when he was identified as the new fact witness in April.

More importantly, as mentioned above, trial in this matter has been continued to September as a result of the undersigned's sudden unavailability during the May trial term. Consequently, Plaintiff will now have several months during which he can depose Mr. Sturgill and prepare a response to Mr. Sturgill's testimony. Plaintiff is therefore in a position to cure any prejudice he may have suffered as a result of Defendants' untimely disclosure.

Plaintiff's ability to cure the potential prejudice also obviates any concern with regard to the orderly and efficient trial of the case. There is no reason to believe that trial will be disrupted as a result of Defendants' untimely disclosure in view of the fact that, after receiving a complete summary of Mr. Sturgill's testimony, Plaintiff will have sufficient time to depose Mr. Sturgill and prepare responses to his testimony.

Finally, we must consider the potential prejudice to Defendants if Mr. Sturgill is prevented from testifying on their behalf. Despite Defendants failure to fully comply with this Court's Order of May 7, 2002, we should keep in mind the Pennsylvania Supreme Court's

admonition that procedural rules are not ends in themselves. Although this Court is authorized to impose sanctions for failure to comply with discovery orders, “the sanction must be appropriate when compared to the violation of the discovery rules.” *Steinfurth v. LaManna*, 590 A.2d 1286, 1288 (Pa.Super. 1991). It is evident that Mr. Sturgill is a key witness who will provide essential information with regard to the veracity of Plaintiff’s claims. Defendants state that “hundreds of hours of human effort” were expended in preparing Mr. Sturgill’s testimony. Mr. Sturgill is obviously an integral part of Defendants’ case. Furthermore, the record does not reflect that Defendants acted with bad faith in failing to provide a complete summary of Mr. Sturgill’s testimony, and this Court finds Defendants’ explanation credible. Most importantly, Plaintiff is capable of curing any prejudice which might have resulted from Mr. Sturgill’s testimony.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 12th day of May, 2003, Plaintiff’s Motion In Limine to Preclude the Testimony of Lee Sturgill is denied. Within 30 days of the date of this Order, Defendants shall provide to Plaintiff a complete summary of Mr. Sturgill’s testimony as required by this Court’s order of May 7, 2003. Defendants’ failure to comply with this Order will result in Mr. Sturgill being precluded from testifying at trial.

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF ROSA C. LENTZ, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Debra S. Flickinger, 1270 Hilltown Road, Biglerville, PA 17307

Attorney: Gary J. Heim, Esq., Mette, Evans & Woodside, 3401 North Front Street, Harrisburg, PA 17110

ESTATE OF PEARL S. PLANK, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Harold J. Plank, 1540 Old Harrisburg Road, Gettysburg, PA 17325

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

ESTATE OF LEROY D. RINEHART, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Co-Executors: Florence M. Grove & Gala A. Lutz, c/o 29 North Duke Street, York, PA 17401

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

ESTATE OF TERRY R. SITES, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Administrator: Timothy J. Weaver, 3117 Carlisle Road, Gardners, PA 17324

Attorney: Jeremy D. Frey, Esq., Barley, Snyder, Senft & Cohen, LLC., 14 Center Square, Hanover, PA 17331

ESTATE OF CLYDE H. SPANGLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Clyde H. Spangler, Jr., c/o 29 North Duke Street, York, PA 17401

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

ESTATE OF MARY ANNA C. WAGNER, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executor: Lawrence O. Wagner, 716 Bon-Ox Rd., Gettysburg, PA 17325

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

SECOND PUBLICATION

ESTATE OF LILLIAN L. HANSFORD, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Sandy L. Baker, 911 Five Points Road, New Oxford, PA 17350

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

ESTATE OF DONALD F. HELWIG, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Mary A. Helwig, c/o Jeffrey C. Marshall, Esq., 46 East Philadelphia Street, York, PA 17401

Attorney: Jeffrey C. Marshall, Esq., 46 East Philadelphia Street, York, PA 17401

THIRD PUBLICATION

ESTATE OF BEATRICE J. HARRELL, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Personal Representative: Mary Drew Adams, a/k/a Mary D. Adams, c/o Patterson & Kiersz, PC, 20 West Baltimore Street, Greencastle, PA 17225

Attorney: Patterson & Kiersz, P.C., 20 West Baltimore Street, Greencastle, PA 17225

ESTATE OF NADINE EMMA KLINE-FELTER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrators: Nancy M. Heller, 80 Knox Road, Gettysburg, PA 17325; Fern B. Klinefeller, 69 East Hanover Street, Gettysburg, PA 17325

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-149 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN unit in the property known, named and identified in the declaration referred to below as South Branch Estates, located in the Township of Oxford, Adams County, Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101, et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, of a land development plan dated October 6, 1995, last revised December 14, 1995 and recorded in Book 69, Page 23 (together with all amendments and supplements thereto recorded on or hereof the date hereof) being all designated in such plan as Unit No. 25 as more fully bounded and described in such plan, together with a proportionate undivided interest in the Common Elements as defined in a Declaration Plan recorded in the Office of Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 1271, Page 34.

TITLE TO SAID PREMISES IS VESTED IN Rebecca S. Kruk by Deed from Philip R. Garland, t/d/b/a Garland Construction, dated 3/3/2000 and recorded 3/13/2000 in Record Book 2013, Page 117.

Premises being: 80 Fiddler Drive, New Oxford, PA 17350

Tax Parcel No. 52-25 Map #1

SEIZED and taken into execution as the property of **Rebecca S. Kruk** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1162 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of June, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those three tracts of land situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1: BEGINNING at corner caused by the intersection of lands now or formerly of A.L. Bishop, Jonas Spangler and present lot, thence by land now or formerly of Paul Okul Northwest 280 feet to South line of East King Street; thence by said East King Street, Southwest 50 feet to corner of land now or formerly of Luther Patterson; thence Southeast by land now or formerly of Luther Patterson 288-1/2 feet to land now or formerly of Laura Stauffer; thence by land now or formerly of Laura Stauffer Northeast 50 feet to the place of BEGINNING.

TRACT NO. 2: BEGINNING at a point in land now or formerly of Harry T. Harner; thence in a Northeasterly direction for 39-1/2 feet to a point at land now or formerly of Paul Okul; thence from said point in a Southerly direction to a point fronting Lombard Street; thence West along said Street for 39-1/2 feet to a stake; thence from said stake in a Northerly direction to a point in land now or formerly of Harry T. Harner, the place of BEGINNING.

TRACT NO. 3: BEGINNING at an iron pin, the beginning of the first line described in the deed of Paul E. Okul and wife to Elmer C. Krise and wife, dated the 11th day of October, 1943, and recorded in the Recorder's Office of Adams County in Deed Book Vol. 163, page 289; and running thence with the first two lines of the said deed, (1) North 34-3/4 degrees West, 50.6 feet to an iron pin; thence (2) North 56 degrees East, 12.5 feet to a post; thence in the reverse direction of the third line of said deed and extending the same, (3) South 34-1/4 degrees East, 52 feet, more or less, to an iron pin in the sixth or Lombard Street line of the said deed; thence with the same Lombard Street line. (4) South 62-1/2 degrees West, 12 feet, more or less, to the place of BEGINNING.

PARCEL NO. 27 006-0058

BEING the same premises which Walter G. Mehring, Executor of the estate of Walter S. Mehring, by Deed dated November 10, 2000 and recorded in the Office of the Recorder of Deeds of

Adams County on November 15, 2000, in Deed Book Volume 2163, Page 334, granted and conveyed unto Trevor Dwight Smith and Angela Catherine Smith.

Grenen & Birsic, P.C.
By: /s/Kristine M. Anthon, Esq.
Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

SEIZED and taken into execution as the property of **Trevor Dwight Smith & Angela Catherine Smith** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 2, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/16, 23 & 30

NOTICE

NOTICE IS HEREBY GIVEN that a Certificate of Limited Partnership has been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on March 17, 2004.

The name of the limited partnership is **RAK-BLK LIMITED PARTNERSHIP**.

The partnership has been organized under and pursuant to the requirements of 15 Pa. C.S. §8511.

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

Attorneys for the Limited Partnership

4/30