

# *Adams County* Legal Journal

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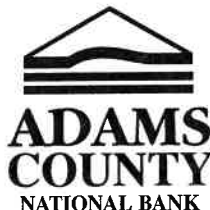
## **IN THIS ISSUE**

**FAIRFIELD AREA SCHOOL DISTRICT ET AL VS.  
THE NATIONAL ORGANIZATION FOR CHILDREN ET AL**

*This opinion continues to next issue (6/14/2002)*

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you and your clients need  
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## ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-249 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain parcel of land lying and situate in Carroll Valley Borough, Adams County, Pennsylvania, being Lot No. 17 in Section W, more particularly bounded and described as follows:

BEGINNING at a point in the center of Diane Trail at Lot No. 16; thence by said lot South 46 degrees 6 minutes East, 225 feet to Lot No. 24; thence by said lot South 43 degrees 54 minutes West, 100 feet to Lot No. 18; thence by said lot North 46 degrees 6 minutes West, 225 feet to a point in the center of said Diane Trail; thence in said Diane Trail North 43 degrees 54 minutes East, 100 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section W of Charmita, Inc." dated January 3, 1970, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at page 66.

BEING THE SAME WHICH Timothy P. Myers and Karolyne A. Myers (erroneously referred to in former deed as Karolyne A. Myers), husband and wife, by deed dated November 13, 1998, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1701 at Page 338 sold and conveyed unto Robert W. Copsoky and Kristin M. Copsoky, husband and wife, Mortgageors herein.

Premises being: 11 Diane Trail, Fairfield, PA 17320

Tax Parcel No. Map 21 Parcel 25

SEIZED and taken into execution as the property of **Robert W. & Kristin M. Copsoky** 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 August 19, 2002, and distribution will be made in accor-

dance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must file 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.

5/31, 6/7 & 14

## 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 or about May 6, 2002 for the incorporation of BUELL RIDERS ADVENTURE GROUP, INC. under the Pennsylvania Business Corporation Law of 1988. The corporation shall engage in the business of the promotion of motorcycling as a sporting, social and athletic event, together with any legal function of a corporation under PA law. The initial registered office of the corporation is 21 Cavalry Field Road, Gettysburg, Pennsylvania 17325.

Bernard A. Yannetti, Jr., Esq.  
Hartman & Yannetti  
Solicitors

6/7

## LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Certificate of Organization - Domestic Limited Liability Company was filed with the Commonwealth of Pennsylvania, Department of State, in Harrisburg, Pennsylvania, on May 13, 2002, under the provisions of the Pennsylvania Limited Liability Company Law of 1994 as amended.

The name of the Limited Liability Company is MRJ PROPERTIES, LLC.

MRJ Properties, LLC has as its purpose the engaging in all lawful business for which limited liability companies may be organized.

Arthur J. Becker, Jr., Esq.  
Attorney for MRJ Properties, LLC

6/7

NOTICE BY THE ADAMS COUNTY  
CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Thursday, June 20, 2002.

**SNEERINGER**—Orphans' Court Action Number OC-53-02. The First and Final Account of Antoinette M. Geiselman, Executrix of the Estate of C. Agnes Sneeringer a/k/a Cecelia Agnes Sneeringer, deceased, late of Conewago Township, Adams County, Pennsylvania.

**SNYDER**—Orphans' Court Action Number OC-60-02. The First and Final Account of Jeffrey Mummert, Executor of the Last Will and Testament of Alice M. Snyder, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

**BEFORD**—Orphans' Court Action Number OC-66-02. The First and Final Account of Albert H. Snyder, Executor of the Last Will and Testament of Ruth L. Beford, deceased, late of the Borough of Littlestown, Adams County, Pennsylvania.

**HUFFMAN**—Orphans' Court Action Number OC-67-02. The First and Final Account of Michelle McCullum a/k/a Michelle McCullom, Executrix of the Estate of Kenneth Bert Huffman, deceased, late of Berwick Township, Adams County, Pennsylvania.

**SMITH**—Orphans' Court Action Number OC-68-02. The First and Final Account of Adams County National Bank, Executor of the Will of Huber Smith, Jr., deceased, late of Franklin Township, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

6/7 & 14

FAIRFIELD AREA SCHOOL DISTRICT ET AL VS.  
THE NATIONAL ORGANIZATION FOR CHILDREN ET AL

1. The Charter School Law is silent regarding whether there can be an appeal from a local school board's decision to grant a charter school application. Concomitantly, the Charter School Law does not detail the prerequisite steps necessary to appeal the grant of a charter school application.

2. Although we are of the opinion that the Charter School Law authorizes only brick and mortar institutions, we refrain from passing judgment on (the school district's) decision to issue a charter.

3. The statutory language ("if available classroom space permits") must be construed according to its common and approved usage. We therefore interpret "classroom space" as meaning space within a physical classroom setting. To construe it to mean cyber space, or computer space within the confines of a student's home, would make "classroom" meaningless.

4. A preliminary injunction may issue upon finding that an organization is acting contrary to statutory requirements or its own regulations.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 01-S-1008, FAIRFIELD AREA SCHOOL DISTRICT, UPPER ADAMS SCHOOL DISTRICT, GETTYSBURG AREA SCHOOL DISTRICT AND LITTLESTOWN AREA SCHOOL DISTRICT VS. THE NATIONAL ORGANIZATION FOR CHILDREN, INC.: A/K/A EINSTEIN ACADEMY, A/K/A T.E.A.C.H. CHARTER SCHOOL, A/K/A TEACH-THE EINSTEIN ACADEMY CHARTER SCHOOL, A/K/A THE E-ACADEMY CHARTER SCHOOL, AND A/K/A T.E.A.C.H. THE E-ACADEMY CHARTER SCHOOL, AND ONE OR MORE JOHN AND/OR JANE DOES

Michael I. Levin, Esq., and Robert L. McQuaide, Esq., for Plaintiffs  
Lawrence T. Hoyle, Jr., Esq.; R. David Walk, Jr., Esq.; Jan Fink Call, Esq.; and Wendi Meltzer, Esq., Michael N. Onufrak, Esq.;  
Peter J. Mooney, Esq., and Joseph M. Kuffler, Esq., for Defendants  
Spicer, P.J., December 11, 2001

RULING ON PRELIMINARY OBJECTIONS  
AND ADJUDICATION OF REQUEST FOR  
PRELIMINARY INJUNCTION

I  
PRELIMINARY OBJECTIONS

This action was instituted on August 30, 2001 when Fairfield Area School District (FASD) filed its complaint against defendants. Thereafter, on October 3, 2001, the court conducted a conference with counsel concerning FASD's request for a preliminary injunction.

Without vigorous objection by defendants, the court issued an injunction that froze the status quo as it existed at that time. Defendants were not enjoined from presenting an educational service or curriculum but were precluded from enrolling additional students.

This court summarily granted petitions by three other school districts requesting leave to intervene in the action. We saw no prejudice to defendants and acted to avoid lengthy preliminary proceedings. For purposes of simplicity, we will refer to the parties collectively as plaintiffs and defendants, without specifying any particular party.

The court quickly learned that Adams County was not the only place where litigation was occurring. After being informed that the action concerned a charter issued by Morrisville Borough (Bucks County) School District, the court expressed some concerns about venue and was informed that defendants intended to file preliminary objections. During a telephone conference on October 5, 2001, we were told that preliminary objections had been filed. Nonetheless, with the agreement of counsel a hearing was scheduled on the preliminary injunction for October 25, 2001. Later, oral argument was scheduled on preliminary objections for November 16, 2001 and the hearing was continued until November 1, 2001.

We conducted a fairly lengthy hearing that spanned two days. The process would have been much longer, but counsel agreed to and did introduce proceedings from Butler County by reference. Numerous exhibits were received into evidence.

At the conclusion of the hearing, a decision was postponed pending filing of requests for findings and oral argument. We heard argument on both preliminary objections and the request for an injunction.<sup>1</sup>

Defendants advance the following reasons for their preliminary objections:

1. The action should be dismissed, or in the alternate, stayed pending resolution of a Commonwealth Court case entered to No. 213 M.D. 2001, Pennsylvania School Boards, Inc. et al v. Charles B. Zogby, Secretary of Education Designate, et al.

It is clear that none of the plaintiff school districts in our case was specifically named as a party in the Commonwealth Court action.

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<sup>1</sup>This judge will retire from the bench at the stroke of midnight, which will be either December 31, 2001 or January 1, 2002, depending upon one's perspective. For guidance of whoever inherits this case, we had the argument transcribed.

Defendants base their plea of abatement<sup>2</sup> on the fact that the complaint pending before Commonwealth Court includes a request for class certification that would include all school districts similarly situated to those involved in the action. However, plaintiffs point out that no certification has occurred. They have not directly participated in that action and are presently not parties to it.

Defendants point out that the same counsel represents school districts in each action and contend that the present action is “an attempt to circumvent the unfavorable May 11, 2001 ruling in the Commonwealth Court Action, which denied the school districts’ petition for an injunction.” Brief, page 6. As we point out in footnote 2, we may not consider the motives of plaintiffs in ruling on the objection. The parties have stipulated that we are not bound by Judge Morgan’s decision in the Commonwealth Court action.

The court concludes that defendants are not entitled to abate this action. We have already expended considerable judicial resources and see no justification for a stay in this action.

2. The action should be dismissed under Pa.R.C.P. 1028(a)(4) because it constitutes an impermissible collateral attack on the grant of a charter by Morrisville School District and because plaintiffs have not exhausted all administrative remedies.

Defendants have provided a copy of Commonwealth Court’s slip memorandum opinion in *Mosaica Academy Charter School, et al. v. Commonwealth of Pennsylvania, Department of Education, et al.*, No. 803 M.D. 1998 in which that court stated:

Additionally, the General Assembly has created and vested the Charter School Appeal Board with the exclusive authority to review an appeal by a charter school

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<sup>2</sup>One of the more interesting discussions that we have read about *lis pendens* appears in *Davis Cookie Co., Inc. v. Wasley*, 389 Pa. Super. 112, 566 A.2d 870 (1989). We read that the plea is based upon an ancient maxim “*nemo debet bis vexari pro una et eadem cause*,” (no man shall be vexed twice for the same cause of action). 566 A.2d at 873. The full name of the plea is *lis alibi pendens*. That decision makes it clear that an action may be dismissed because of an earlier proceeding unless both suits involved the same parties (acting in the same legal capacity), the same cause of action (with due regard to common law distinctions between contract, trespass and equity actions), the same rights asserted and the same relief requested. Unlike federal law, Pennsylvania cannot consider judicial economy and motivations of the parties unless all required common law unities are present.

applicant or by the board of trustees of an existing charter school of a decision made by the local board of directors not to grant a charter. 24 P.S. §17-1717-A(i)(1). The Charter School Law is silent regarding whether there can be an appeal from a local school board's decision to grant a charter school application. Concomitantly, the Charter School Law does not detail the prerequisite steps necessary to appeal the grant of a charter school application.

Id page 8.

The Commonwealth Court went on to suggest that (a) sole discretion as to granting, denying or revocation of a charter rests with the school district defined as the local district acting upon the charter; (b) other school districts may not interfere in that decision; (c) the sole remedy is to attend meetings of the chartering school districts and request relief.<sup>3</sup>

Although a memorandum opinion is not binding precedent, it certainly gives us pause concerning plaintiffs' request that we declare the charter invalid. We may and do disagree with suggestions that the legislature has denied access to the courts by failing to provide for judicial review. Frankly, we cannot believe the legislature intended what we consider an absurd result, that is to empower each and every one of the 501 school districts in this Commonwealth to establish itself as the exclusive board of appeals from its own decision to grant a charter. This would mean that even when the grant of a charter clearly contravenes the law, the other 500 districts would be forced to journey to that local Mecca and present their grievances.

It is also interesting that the act provides for no consequence when an applicant fails to appeal a rejection of a charter application. Although defendants' applications for a charter in Philadelphia and elsewhere were denied, defendants have nonetheless enrolled students from those school districts.

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<sup>3</sup>Interestingly, the Charter School Law, in §17-1720-A provides that "(t)his written charter shall be legally binding on both the local board of school directors of a school district and the charter school's board of directors." The law does not expressly make the charter binding on other school districts that did not participate in the chartering process. Arguably, this statutory enables plaintiffs to challenge the charter as it applies to Adams County students.

Members of the Morrisville Borough School Board are doubtlessly fine people, but can hardly be considered motivated to police defendants' performance. Under terms of the charter, that district's children receive defendants' services without costs and the district stands to receive some \$600,000.00 per year from defendants, presumably for administrative expenses incurred in overseeing defendants. We also mention without comment that defendants have rented a building from the district and that plaintiffs have argued that the terms are very favorable to the district.

Nonetheless, our analysis of this case does not require us to declare the Morrisville charter invalid. Although we believe that the Charter School Law applies only to brick and mortar institutions, we take care to limit our consideration to students residing in the four plaintiff districts.

The Charter School Law does not make defendants an instrumentality of the Commonwealth. The clear import of the law is to free some educational services from requirements that bind school districts. Individuals and other entities outside the government sector form the charter school and a privately selected board of directors administers its business. Thus, venue in Adams County is proper under Pa.R.C.P. 1006.

The court dismisses preliminary objections.

## II ADJUDICATION

Each counsel has filed extensive requests for findings of fact. Although facts can be succinctly stated, courtesy demands that we rule on the requests. We will consider them in the categories presented. Adoption of the requests merely means that the facts have been established by credible evidence. Relevance to the decision in this case does not necessarily follow.

### Plaintiffs' requests:

One through nine are adopted, except that "principle" is changed to "principal" throughout. Seven, which states that the court has not yet rendered a decision on the intervention request of Upper Adams School District is rejected. The order granting intervention was signed September 24, 2001.

Ten through twenty-three are adopted.

Twenty-four and twenty-five are adopted.

Twenty-six is adopted except that b.vii.7 is modified by substituting "testified" for "misrepresented," and the last sentence is changed to read, "She later corrected this statement by admitting that they were applying with other school districts." Thus we reject implications that the witness willfully lied.

Twenty-seven through twenty-nine are adopted.

Thirty through thirty-three are adopted.

Thirty-four through forty are adopted.

Forty-one is rejected. Testimony established that Borough School District considers that either all requirements of the Charter School Agreement have been satisfied or are currently being satisfied.

Forty-two through forty-four are adopted.

Forty-five through fifty-six are adopted except 54 is modified to read as follows:

54. Joseph Bard, who was employed by the Department of Education at the time that the Home Schooling Statute was enacted, was involved in the implementation of the home schooling statute. He testified that defendants' program was essentially a home school program. However, defendants provided resources and materials not normally available to home schooled children.

Fifty-seven through seventy-one are adopted.

Seventy-two and seventy-three are adopted. Seventy-four is rejected. Seventy-five through seventy-eight are adopted.

Seventy-nine through ninety-three are adopted, except footnote 12 is not. That footnote states that Mr. Mandel apparently perjured himself in the Butler County proceedings. We are in no position to make such an assumption.

Ninety-four through one hundred and five, except ninety-eight are adopted. As to 98, our record does not establish whether Judge Morgan heard or did not hear evidence prior to his ruling. Presumably, he did not due to the nature of his ruling, but we do not have the entire record in that case before us.

We decline to either accept or reject plaintiffs' submitted conclusions of law. Although we agree with most if not all, our decision in this case does not require that we find the Morrisville Borough charter invalid or the Charter School Law unconstitutional.



Defendants' requests:

Many of these requests are really matters of statutory interpretation. However, we rule as follows:

One through six are adopted. Seven is rejected. Eight is adopted. Defendants ask us to find, in submission 7, legislative approval for cyber schools. The mere fact that a bill is pending does not imply such approval. Furthermore, the House Bill 1733 recites that "cyber schools do not fit the requirements of the Charter School Law to have a suitable physical facility and to provide a minimum number of days or hours of instruction."

Nine through fifteen are adopted, except 11 and 13 are modified to state that the Department of Education sent an email memorandum, Defendants' Exhibit 50, to various school districts. The memorandum stated that until court held a specific cyber school to be illegal and that decision was affirmed on appeal "the department believes that school districts should refrain from advising parents that they will violate compulsory attendance laws if they enroll their children in a cyber charter school." Requests 11 and 13 are also clarified to indicate that the Department of Education has neither the power nor the responsibility, except in disbursement of funds and involvement in the Charter School Appeal Board, to determine the validity of a particular charter school.

Sixteen through twenty are adopted. Twenty-one, which states that a charter school may enroll students from outside the district that grants the charter is rejected, as not completely stating applicable law. Twenty-two is rejected as submitted for the same reason. Twenty-three is adopted but changed to read that Einstein, in submitting and pursuing its application for a charter, presumably followed the procedure set forth in 24 P.S. §17-1723-A(e). Twenty-four, twenty-five and twenty-six are adopted. Although twenty-seven accurately recites statutory language, that submission is modified to make it clear that no procedure exists in the statute for enforcing accountability, except to the chartering school district. Twenty-eight and twenty-nine are adopted.

Thirty through thirty-four are adopted. Thirty-five is rejected. As to 35, it is true that Mr. Severs testified that 21 of 28 teachers were certified, cross examination brought out that several teachers had stale certificates, and the witness could not say when or if they had been renewed. Although it may be true, as the submission suggests,

that staleness is not an issue, this question was not raised in testimony or settled by evidence. Thirty-six and thirty-seven are adopted. As to thirty-eight, it is true that defendants utilize programs in an attempt to ensure that younger students comprehend lessons and requirements, a great deal of responsibility falls to parents or facilitators. Thirty-nine is adopted. All but the first line in forty is adopted. We reject the finding that it is impossible to know in any learning environment whether a child is paying close attention to what is being taught. Although a teacher may not know all the time whether a student is paying close attention, teachers in classroom settings are usually on top of such problems.

Forty-one through sixty-two are adopted.

Sixty-three through sixty-seven are adopted. Sixty-eight is adopted to the extent that the charter agreement requires Morrisville Borough School District to monitor defendants and Einstein's board of directors are responsible for monitoring school activities. Sixty-nine through eighty are adopted. We see no need to either reject or adopt eighty-one in light of prior findings including plaintiffs' number 54. We find there are similarities between defendant's services and home schooling, but that defendants provide services and materials not normally available to home schooled children.

Eighty-two and eighty-three are adopted. Eighty-four is adopted in part. The court does not find that Dr. Blust's comment concerning possible violation of mandatory attendance laws violated a PDE directive. There was no directive, merely an email communication that contained suggestions and stated PDE's position with respect to cyber schools. There was no violation.

Eighty-five is rejected as submitted. However, the court finds that students are not in danger of irreparable harm. However, plaintiffs are attempting to enjoin illegal activity.

Generally, the court adopts eighty-six through ninety-four. However, we emphasize that we are not passing judgment on the legality of the Morrisville charter, nor on defendants' course, presentation, methods of determining attendance and tracking students' progress. Additionally, the record makes it clear that defendants began enrolling students before they were capable of providing educational services and before they had met all requirements of the Charter School Law.

*Continued to next issue (6/14/2002)*

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1062 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE TWO CERTAIN tracts of land situated, lying and being in the Borough of Carroll Valley, Adams County, Pennsylvania, bounded and described as follows:

## TRACT No. 1

BEGINNING at a point in the center of Deep Hollow Drive at Lot No. 92; thence by said Lot, South 21 degrees 19 minutes West, 200 feet to Lot No. 100; thence by said Lot, North 68 degrees 41 minutes, 100 feet to Lot No. 94; thence by said Lot, North 21 degrees 19 minutes East, 200 feet to a point in the center of said Deep Hollow Drive; thence in said Deep Hollow Drive, South 68 degrees 41 minutes East, 100 feet to the place of BEGINNING.

## TRACT No. 2

BEGINNING at a point in the center of Deep Hollow Drive at Lot No. 93; thence by said Lot, South 21 degrees 19 minutes West, 200 feet to Lot No. 99; thence by said Lot, North 68 degrees 41 minutes West, 100 feet to Lot No. 95; thence by said Lot, North 21 degrees 19 minutes East, 200 feet to a point in the center of said Deep Hollow Drive; thence in said Deep Hollow Drive, South 68 degrees 41 minutes East, 100 feet to the place of BEGINNING.

Tax Parcel # (43) 012-0045

Being known as Deep Hollow Trail, Fairfield, PA 17320

SEIZED and taken into execution as the property of **Robert G. Sprenkle & Pamela M. Sprenkle** 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 August 19, 2002, 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.

5/24, 31 & 6/7

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-315 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

Fronting twenty-six (26) feet on the West side of North Peter Street, and running back to a public alley (now known as Eagle Street) in the rear, bounded on the North by land formerly of J. Kaiser, now or formerly of Lloyd D. Stock, and on the South by land formerly of M. Huffman, now or formerly of Kathleen M. Kaiser.

Being that parcel of land conveyed to John B. Wolf and Judith A. Wolf, his wife from Joseph A. Myers and Genevieve R. Lookenbill by that deed dated 10/10/1985 and recorded 10/11/1985 in deed book 410, at page 779 of the Adams County, PA Public Registry.

Premises being: 111 North Peter Street, New Oxford, PA 17350-121

Tax Parcel No. 2-18

SEIZED and taken into execution as the property of **John B. Wolf (Deceased) & Judy A. Wolf a/k/a Judith A. Wolf** 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 August 19, 2002, 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.

5/31, 6/7 & 14

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

## NOTICE

To: MICHAEL SHANE BREWER, SR.  
No. RT-2-02-(A)

YOU ARE HEREBY NOTIFIED that the Court of Common Pleas of Adams County, Pennsylvania, has entered a Decree terminating your parental rights. You are hereby notified that you have the right to appeal this decision to the Superior Court of Pennsylvania by filing a Notice of Appeal within 30 days from the date of this notice by publication.

You should contact your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Court Administrator  
Adams County Courthouse  
111-117 Baltimore Street  
Gettysburg, PA 17325  
Telephone number 717-337-9846, or  
1-888-337-9846

Chester G. Schultz  
Attorney at Law  
145 Baltimore Street  
Gettysburg, PA 17325

6/7

## 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 May 16, 2002, for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is WATER WORKS PLUMBING, INC.

The purpose for which the corporation has been organized is: The corporation shall have unlimited power to engage in and do any law act concerning any or all lawful business for which corporations may be organized under the Pennsylvania Business Corporation Law.

Water Works Plumbing, Inc.  
375 Lexington Way  
Littlestown, PA 17340

6/7

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1228 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following two (2) tracts in Reading Township, Adams County, Pennsylvania, described more fully as follows, to wit:

**TRACT NO. 1:** ALL that certain piece, parcel or tract of land, situate, lying and being in Reading Township, Adams County, Pennsylvania, more specifically bounded, limited and described as follows:

BEGINNING at a stake for a corner at Lot No. 25 and a 20 feet wide driveway; thence by said driveway North 15 degrees 30 minutes East 50 feet to a stake at Lot No. 27; thence by Lot No. 27 South 74 degrees 30 minutes East 248.4 feet, through a stake set back 20 feet from the bank of lot water, to a point in the Conewago Creek; thence by said Conewago Creek South 9 degrees 30 minutes West 50.3 feet to a point in said Creek at Lot No. 25; thence by Lot No. 25 North 74 degrees 30 minutes West, through a stake set back 20 feet from the bank at low water, 253.6 feet to a stake and place of BEGINNING.

BEING known as Lot No. 26, Block No. 1 on the Plan of Lots as surveyed August 27, 1955, by George M. Wildasin for Harry A. and Gertie R. Lauchman.

**TRACT NO. 2:** ALL that certain tract of land situate in Reading Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin on the East side of a twenty (20) feet wide driveway at Lot No. 24, lands now or formerly of Dennis L. Seeley and Rita J. Seeley; thence along said twenty (20) feet wide drive-way North fifteen (15) degrees thirty (30) minutes East fifty (50) feet to an iron pin at Lot No. 26; thence by said Lot No. 26, South seventy-four (74) degrees thirty (30) minutes East two hundred fifty-three and six-tenths (253.6) feet to a point in the Conewago Creek; thence along said Conewago Creek South thirteen (13) degrees thirty (30) minutes West fifty and one-tenth (50.1) feet to a point at Lot No. 24 aforesaid; thence along said Lot No. 24 North seventy-four (74) degrees thirty (30) minutes West two hundred fifty-five and three-tenths (255.3) feet to an iron pin the place of BEGINNING. This description is taken from a survey made by Donald W. Resh, Registered Surveyor, dated August 27, 1960, being known as No. 25,

Block 1 on a Plan of Lots as surveyed August 27, 1955 by George M. Wildasin for Harry A. and Gertie R. Lauchman.

SUBJECT, NEVERTHELESS to the following restriction: That no building of any character shall be erected or constructed on the front of said lot beyond a distance of fifty-five (55) feet from the East side of the twenty (20) feet wide driveway in the rear.

IT BEING the same premises which Scott Handsheiw a/k/a Scott A. Handsheiw and Donald R. Handsheiw, by their Dead dated September 13, 1993, and recorded in the Office of the Recorder of Deeds, in and for Adams County, Pennsylvania, in Book 782, Page 95 granted and conveyed unto Scott A. Handsheiw and Deborah K. Handsheiw, his wife, the Grantors herein.

Tax Parcel: #L-8, 21

SEIZED and taken into execution as the property of **Harold E. Coburn & Ruth A. Martin (Coburn)** 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 August 19, 2002, 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.

5/31, 6/7 & 14

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1217 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of State Highway Route 15, leading from Gettysburg to Harrisburg, with an iron pin set back along the line; thence running by land now or formerly of W. Earle Buehl, South 57-1/4 degrees East, 215

feet to an iron pin; thence running by land of the same, South 32-3/4 degrees West, 100 feet to an iron pin; thence running by land of the same, North 57-1/4 degrees West, 215 feet to a point in the center of said highway with an iron pin set back along the line; thence running in the center of said highway, North 32-3/4 degrees East, 100 feet to a point in the center of said highway with an iron pin set back along the line, the place of BEGINNING. CONTAINING 75 perches and 81 square feet.

BEING that which Jeffrey T. Newman, single, by deed dated September 3, 1991, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 598 at page 970, sold and conveyed unto Angelo M. DeRita and Barbara J. DeRita, husband and wife, the Grantors herein.

SUBJECT, NEVERTHELESS, to the restrictions as contained in Deed Book 326 at page 350.

AND the said Grantors hereby covenant and agree that they will warrant Specially the property hereby conveyed.

IN WITNESS WHEREOF, said Grantors have hereunto set their hands and seals the day and year first above-written.

Tax Parcel No: 38-G10-0022

Being known as 2275 Old Harrisburg Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Ronald B. Scott Estate** 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 August 19, 2002, 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.

5/24, 31 & 6/7

**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 DONALD E. COOLEY, DEC'D**

Late of Huntingdon Township, Adams County, Pennsylvania

Administrators: Donna M. Cooley, Janie C. Wolfe, Donald E. Cooley, II, Cindy S. Cooley, 3595 Carlisle Rd., Gardners, PA 17324

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

**ESTATE OF MARY C. ROTH, DEC'D**

Late of Hamiltonban Township, Adams County, Pennsylvania

Co-Executors: Philip A. Roth, 223 Fairfield Station Road, Fairfield, PA 17320; Catharine E. Roth, 1176 Mt. Carmel Road, Ortanna, PA 17353

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

**SECOND PUBLICATION**

**ESTATE OF MABEL JOAN GILLESPIE, DEC'D**

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

Executors: Karen Merry Britt, 194 Poplar Trace, Elizabethtown, KY 42701; Billy M. Gillespie, 9 Rebecca Trail, Fairfield, PA 17320

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

**ESTATE OF IDA JANE KOONTZ, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executrixes: Martha L. Clapsaddle, 132 Grant Drive, Hanover, PA 17331; Betty Jane Jones, Box 247, Bendersville, PA 17306

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

**ESTATE OF DOROTHY V. RAF-FENSPERGER, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

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

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

**THIRD PUBLICATION**

**ESTATE OF ROBERT W. TROXELL, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executor: Robert O. Troxell, 449 West Middle Street, Hanover, PA 17331

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

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-275 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described tract of real estate lying and being situate in the Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point at the corner of Lot No. 445 on the subdivision plan; hereinafter referred to; thence along Lot No. 445, South 25 degrees 46 minutes 54 seconds West, 120.38 feet to a point on the property line of Lot No. 53; thence along Lot No. 53, North 69 degrees 59 minutes 58 seconds West, 20.10 feet to a point at the corner of Lot No. 447; thence by Lot No. 447, North 25 degrees 46 minutes 54 seconds East, 122.40 feet to a point along the curblin of a parking area as shown on the subdivision plan hereinafter referred to; thence along said parking area, South 64 degrees 13 minutes 06 seconds East, 20.00 feet to a point, the place of BEGINNING. CONTAINING 2,428 square feet.

SUBJECT to all easements, conditions and restrictions of record, including but not limited to those set forth on the aforementioned plan and prior deeds of record.

Being known as 95 South Gala, Littlestown, PA 17340

Property ID: 4-97

TITLE TO SAID PREMISES IS VESTED IN Wayne F. Strausbaugh and Sharon M. Strausbaugh, husband and wife, by deed from Appler Properties, LLC, a Maryland limited liability company, dated 8/5/1999, recorded 8/18/1999, in Deed Book 1897, Page 110.

SEIZED and taken into execution as the property of **Wayne F. & Sharon M. Strausbaugh** 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 August 19, 2002, 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.

5/24, 31 & 6/7

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1236 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being in the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point on the curb of Railroad Street, at corner of land now or formerly of Melvin Bream; thence along land of the said Melvin Bream North 19-1/2 degrees East, 178 feet to an iron pin at a 15-foot alley; thence along said 15-foot alley and land now or formerly of Bendersville Community Fire Company South 59-1/2 degrees East, 113.50 feet to an iron pin; thence along land now or formerly of Cameron Barbour South 19-1/2 degrees West, 180 feet to a point on the curb of said Railroad Street; thence along said Railroad Street North 59-1/2 degrees West, 113.50 feet to the point, the place of BEGINNING. CONTAINING 70 perches and 159 square feet, more or less.

The above description was obtained from a draft of survey prepared by P. S. Omer, County Surveyor, dated April 29, 1955.

HAVING ERECTED THEREON a dwelling known as 132 Park Street, Bendersville, Pennsylvania.

BEING THE SAME PREMISES WHICH Allen W. Beckett v/d/b/a Allen Beckett Construction by Deed dated May 27, 1994 and recorded May 31, 1994 in Adams County Deed Book 892, Page 134, granted and conveyed unto Joseph S. Buchheister and Juanita M. Buchheister.

SEIZED in execution as the property of Joseph S. Buchheister and Juanita M. Buchheister under Adams County Judgment No. 01-S-1236.

Map & Parcel #4-18

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

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

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

Sheriff in his office on August 19, 2002, 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.

5/24, 31 & 6/7

## FICTITIOUS NAME NOTICE

NOTICE IS GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on May 6, 2002, pursuant to the Fictitious Name Act, setting forth that Ricky H. Ruhiman, of 131 Red Hill Road, New Oxford, Pennsylvania 17350, is the only person owning or interested in a business, the character of which is to own and operate a sawmill and do custom milling and that the name, style and designation under which said business is and will be conducted is RICK'S CUSTOM MILLING and the location where said business is and will be conducted is 131 Red Hill Road, New Oxford, Pennsylvania 17350.

Guthrie, Nonemaker, Guthrie & Yingst  
Solicitor

6/7

# *Adams County* Legal Journal

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Vol. 44

June 14, 2002

No. 3, pp. 16-20

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## IN THIS ISSUE

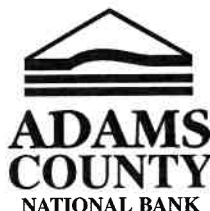
FAIRFIELD AREA SCHOOL DISTRICT ET AL VS.  
THE NATIONAL ORGANIZATION FOR CHILDREN ET AL

*This opinion continued from last issue (6/7/2002)*

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### *Commitment:*

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



Member FDIC

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

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#### NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Thursday, June 20, 2002.

**SNEERINGER**—Orphans' Court Action Number OC-53-02. The First and Final Account of Antoinette M. Geiselman, Executrix of the Estate of C. Agnes Sneeringer a/k/a Caelia Agnes Sneeringer, deceased, late of Conewago Township, Adams County, Pennsylvania.

**SNYDER**—Orphans' Court Action Number OC-60-02. The First and Final Account of Jeffrey Mummt, Executor of the Last Will and Testament of Alice M. Snyder, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

**BEFORD**—Orphans' Court Action Number OC-66-02. The First and Final Account of Albert H. Snyder, Executor of the Last Will and Testament of Ruth L. Beford, deceased, late of the Borough of Littlestown, Adams County, Pennsylvania.

**HUFFMAN**—Orphans' Court Action Number OC-67-02. The First and Final Account of Michelle McCullum a/k/a Michelle McCullom, Executrix of the Estate of Kenneth Bert Huffman, deceased, late of Berwick Township, Adams County, Pennsylvania.

**SMITH**—Orphans' Court Action Number OC-68-02. The First and Final Account of Adams County National Bank, Executor of the Will of Huber Smith, Jr., deceased, late of Franklin Township, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

6/7 & 14

#### SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-249 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain parcel of land lying and situate in Carroll Valley Borough, Adams County, Pennsylvania, being Lot No. 17 in Section W, more particularly bounded and described as follows:

BEGINNING at a point in the center of Diane Trail at Lot No. 16; thence by said lot South 46 degrees 6 minutes East, 225 feet to Lot No. 24; thence by said lot South 43 degrees 54 minutes West, 100 feet to Lot No. 18; thence by said lot North 46 degrees 6 minutes West, 225 feet to a point in the center of said Diane Trail; thence in said Diane Trail North 43 degrees 54 minutes East, 100 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section W of Charnita, Inc." dated January 3, 1970, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at page 66.

BEING THE SAME WHICH Timothy P. Myers and Karolyne A. Myers (erroneously referred to in former deed as Karolyrne A. Myers), husband and wife, by deed dated November 13, 1998, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1701 at Page 338 sold and conveyed unto Robert W. Copsosky and Kristin M. Copsosky, husband and wife, Mortgagors herein.

Premises being: 11 Diane Trail, Fairfield, PA 17320

Tax Parcel No. Map 21 Parcel 25

SEIZED and taken into execution as the property of **Robert W. & Kristin M. Copsosky** 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 August 19, 2002, 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.

5/31, 6/7 & 14

#### FICTITIOUS NAME NOTICE

Clair M. Hoover, 3028 Spooky Nook Road, Manheim, PA 17545, and Red Hill Enterprises, Inc., 3028 Spooky Nook Road, Manheim, PA 17545, did file in the Office of the Secretary of the Commonwealth of Pennsylvania registration of the name: HILLTOP SELF-STORAGE under which they intend to do business at 1395 Red Hill Road, New Oxford, PA 17350 pursuant to the provisions of the Act of Assembly of December 16, 1982, Chapter 3, known as the "Fictitious Name Act."

6/14



FAIRFIELD AREA SCHOOL DISTRICT ET AL VS.  
THE NATIONAL ORGANIZATION FOR CHILDREN ET AL

*Continued from last issue (6/7/2002)*

Defendants' Supplemental Requests:

Much of the supplemental requests is argument. One and two are adopted, except we reject the sentence that "In any event, the funding sought by Einstein is provided by the CSL, endorsed by PDE, and serves to educate children of taxpayers not being educated by plaintiffs." It is true, however, that the sum of \$80,000.00 claimed from Upper Adams School District is based upon students not currently being educated by that school district. Three, involving the definition of unreserved operating fund is irrelevant to this court's decision. Four relates to the number of certified teachers. Certificates may be on file, but are not in evidence. At any rate, this finding is irrelevant for the purposes of this court's order. The same comment applies to five and six.

Seven is adopted. Eight is rejected. Although it is only natural to suspect that Ms. Rothschild hoped to reap a large financial benefit from the endeavor, that fact is immaterial if defendants are otherwise entitled to payment. As to nine, we do not know enough about Ms. Rothschild or her literary contributions to state that she has significant experience in online education. In fact, the industry would appear to be in a formative stage and it is far from clear what "significant experience" means. Ten is rejected as submitted. It is clear that defendants scrambled to organize and prepare a curriculum. We have no idea how closely the Morrisville Borough School District or the Commonwealth will supervise defendants.

Eleven and twelve are adopted. Thirteen and fourteen are rejected. Fifteen is adopted to the extent that Tutorbots and Einstein are separate legal entities. Evidence indicates, however, that each is actually controlled by Ms. Rothschild and her family. For example, a teacher, Andrew Goldman testified that he was hired by Howard Mandel (Trial page 98). Otherwise the submission is rejected. Sixteen through eighteen are rejected.

Nineteen is technically accurate and is adopted. Twenty is adopted. Twenty-one is adopted except for the comment that evidence adduced in this case establishes that defendants rushed to obtain a charter and later enrolled students when they were not adequately staffed or prepared to provide necessary educational services. As of the date of the last hearing, a majority of deficiencies had been remedied. Twenty-two through twenty-six are adopted. Twenty-seven

represents a legal argument and is neither adopted nor rejected. Twenty-eight is adopted.

DISCUSSION AND NARRATION OF ADDITIONAL  
FACTS PERTAINING TO INJUNCTION:

The General Assembly enacted the Charter School Law by adding a new article to the Public School Code on June 19, 1997. 24 P.S. §17-1701-A et seq. At the time of the enactment, technology was not available for cyber schools and the legislation was geared toward traditional brick and mortar facilities. Although the act provides, that nothing in the act precludes the use of computer and satellite linkages delivering instruction for students, we can assume that legislators watched the same television depictions of satellite linkages the rest of us viewed. One with which this court is familiar depicted students assembled in a classroom while receiving instruction from a distant, especially gifted teacher. The act authorized local boards of school directors to issue charters. Although the act specifically prohibited the grant of charters to entities for profit, it is silent concerning management contracts. Charter schools must be nonsectarian and may not provide religious instruction.

Charters are to be issued for initial terms of not less than three years or more than five years and may be renewed for five year periods.

Charter schools are not required to obtain authorization from plaintiff-school districts to enroll students. Although local schools are required to pay tuition and provide transportation for charter school students, charter schools are not obligated to notify school districts in advance of expected expenses. In our case, plaintiffs had no idea that they would be obligated to pay tuition when budgets and taxes were established.

While it is true that tuition requests concern students that plaintiffs are not teaching, there is no indication that costs for providing public education for non-charter students has been reduced.

Defendants were not completely organized and were not in a position to provide educational services when they sought and obtained a charter from Morrisville Borough School District. They intended to fund their program through a Department of Education grant, which was not obtained. Although the Secretary of Education has opined that cyber schools are legal until proven otherwise, he has withheld payments for tuition apparently until litigational dust settles.

Tuition costs payable to a charter school are uniformly set and bear no relationship to the cost of providing education.

It is true that the \$80,000.00 bill submitted to Upper Adams School District can probably be paid without diminishing educational programs or requiring a tax increase. It is also true that defendants stand to earn millions in tuition fees. The court is reminded of a statement made by the late senator from Illinois, Everett Dirksen, which we paraphrase, “a million here and a million there, and the first thing you know, we’re talking about real money.”

We hasten to clarify that we make no finding that defendants have done anything improper or illegal. Sometimes profit incentives can be powerful motivators. Nonetheless, should the legislature consider amending the Charter School Law and specifically address cyber schools, it may want to provide for a method of establishing tuition fees based upon expenses of providing tuition. It also may want to consider vesting the Department of Education with the power to charter and supervise cyber schools. The arrangement that defendants have made with Morrisville unfortunately engenders suspicion and doubts that Morrisville has real incentive to properly regulate defendants.

Although we are of the opinion that the Charter School Law authorizes only brick and mortar institutions, we refrain from passing judgment on Morrisville’s decision to issue a charter. We make no findings of propriety or impropriety in the chartering process. Instead we consider only what has occurred in Adams County in light of relevant statutory provisions.

Defendants are, pursuant to the Charter School Law, authorized to enroll nonresident students on a space available basis “if available classroom space permits.” §17-1723-A.

There is no indication that this wording involves technical words and phrases, or has acquired a peculiar and appropriate meaning as defined by statute. 1 Pa. C.S.A. §1903. Accordingly, the statutory language must be construed according to its common and approved usage. We therefore interpret “classroom space” as meaning space within a physical classroom setting.<sup>4</sup> To construe it to mean cyber space, or computer space within the confines of a student’s home,

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<sup>4</sup>The American Dictionary of the English Language (Houghton Mifflin Company) defines classroom “A room in which classes are conducted in a school or college”.

would make “classroom” meaningless. Although the Charter School Law has broad policy objectives, we cannot disregard clear words that are free from ambiguity under the pretext of pursuing the Charter School Law’s spirit. Id. §1921(b).

The evidence clearly establishes that defendants have no classrooms.

The inescapable conclusion that we draw from all this is that defendants lack authority to enroll students who reside in plaintiffs’ districts. Without authority, such enrollment is illegal.

Although we deal with a request for a preliminary injunction, we also have produced an extensive record. It is difficult to believe that a trial would result in substantially additional evidence. Nonetheless, we consider the necessary elements for the grant of a preliminary injunction: 1) Plaintiffs’ right to relief is clear; 2) the injunction is necessary to prevent immediate and irreparable harm not compensable by damages; 3) greater injury would result by refusing the injunction than by granting it; 4) the injunction restores the parties to the status quo that existed prior to wrongful acts; 5) the activity sought to be restrained is actionable and the injunction is reasonably suited to abate such action. *Singzon et al. v. Commonwealth of Pennsylvania, Department of Public Welfare*, 496 Pa. 8, 436 A.2d 125 (1981).<sup>5</sup> A preliminary injunction may issue upon finding that an organization is acting contrary to statutory requirements or its own regulations. 15 Standard Pennsylvania Practice *Injunctions* §83.20.

We therefore conclude that 1) plaintiffs’ right to relief is clear; 2) an injunction is necessary to prevent a continuing violation of the law and therefore immediate and irreparable harm; 3) as between the parties, allowing defendants to operate in violation of law will result in greater harm than prohibiting them from doing so. We will fashion our decree to accommodate students who have enrolled in good faith; 4) a prohibitory injunction would restore the status quo as it existed before defendants wrongfully enrolled the students; 5) activities sought to be enjoined are actionable and the injunction is reasonably designed to abate such activities.

---

<sup>5</sup>A more simplified version reciting four requirements is described in 15 Standard Pennsylvania Practice *Injunctions* §83:18.

Although it is clear that plaintiffs have the right to enjoin defendants' activities, we must consider the effect the injunction will have on the students who are enrolled. Time will be needed to either return those students to a classroom setting, or to make arrangements for home schooling. Ordinarily, we would give the parties an opportunity to present a schedule, but do not want to deprive defendants of their right to an immediate appeal. Our decree, therefore, will direct that defendants cease their activity at the end of the present marking period. However, the court will consider any reasonable request to extend the period.

Conclusions of law:

1. This court has jurisdiction.
2. The parties are properly before the court.
3. Plaintiffs have proven their right to a temporary prohibitory injunction.

ORDER

And Now, this 11th day of December, 2001, defendants' preliminary objections are overruled. Defendants shall have the right to plead over in accordance with Pa. R.C.P. 1028(d).

Defendants are enjoined from enrolling or presenting educational services to students residing in plaintiff-school districts. This injunction shall take effect at the end of the present marking period.

## 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 DOROTHY M. FOLKEN-ROTH, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Personal Representative: Rae F. Koontz and Betty L. Weikert, c/o Donald L. Kornfield, 17 North Church Street, Waynesboro, PA 17268

Attorney: Donald L. Kornfield, Esq., 17 North Church Street, Waynesboro, PA 17268

## ESTATE OF ARTA M. HOSSLER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Jean Kerns, 1735 Amuskai Road, Baltimore, MD 21234

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

## ESTATE OF WILLIAM E. HUTCHISON, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Glorianne Hutchison, 1390 Hanover Rd., Gettysburg, PA 17325

Attorney: Ralph D. Oylar, Esq., 31 S. Washington Street, Gettysburg, PA 17325

## ESTATE OF LUCILLE S. SHEPHERD, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Donald H. Shepherd, Jr., 10847 Bellerive Lane, Berlin, MD 21811

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

## ESTATE OF JAMES E. WEAVER, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Margaret E. Weaver, Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

Attorney: Douglas H. Gent, Esq., Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

## SECOND PUBLICATION

## ESTATE OF DONALD E. COOLEY, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Administrators: Donna M. Cooley, Janie C. Wolfe, Donald E. Cooley, II, Cindy S. Cooley, 3595 Carlisle Rd., Gardners, PA 17324

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

## ESTATE OF MARY C. ROTH, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Co-Executors: Phillip A. Roth, 223 Fairfield Station Road, Fairfield, PA 17320; Catharine E. Roth, 1176 Mt. Carmel Road, Orttanna, PA 17353

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

## THIRD PUBLICATION

## ESTATE OF MABEL JOAN GILLESPIE, DEC'D

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

Executors: Karen Merry Britt, 194 Poplar Trace, Elizabethtown, KY 42701; Billy M. Gillespie, 9 Rebecca Trail, Fairfield, PA 17320

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

## ESTATE OF IDA JANE KOONTZ, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executrixes: Martha L. Clapsaddle, 132 Grant Drive, Hanover, PA 17331; Betty Jane Jones, Box 247, Bendersville, PA 17306

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

## ESTATE OF DOROTHY V. RAF-FENSPERGER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

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

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

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-315 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

Fronting twenty-six (26) feet on the West side of North Peter Street, and running back to a public alley (now known as Eagle Street) in the rear, bounded on the North by land formerly of J. Kaiser, now or formerly of Lloyd D. Stock, and on the South by land formerly of M. Huffman, now or formerly of Kathleen M. Kaiser.

Being that parcel of land conveyed to John B. Wolf and Judith A. Wolf, his wife from Joseph A. Myers and Genevieve R. Lookenbill by that deed dated 10/10/1985 and recorded 10/11/1985 in deed book 410, at page 779 of the Adams County, PA Public Registry.

Premises being: 111 North Peter Street, New Oxford, PA 17350-121

Tax Parcel No. 2-18

SEIZED and taken into execution as the property of **John B. Wolf (Deceased) & Judy A. Wolf a/k/a Judith A. Wolf** 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 August 19, 2002, 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.

5/31, 6/7 & 14

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1228 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following two (2) tracts in Reading Township, Adams County, Pennsylvania, described more fully as follows, to wit:

**TRACT NO. 1:** ALL that certain piece, parcel or tract of land, situate, lying and being in Reading Township, Adams County, Pennsylvania, more specifically bounded, limited and described as follows:

BEGINNING at a stake for a corner at Lot No. 25 and a 20 feet wide driveway; thence by said driveway North 15 degrees 30 minutes East 50 feet to a stake at Lot No. 27; thence by Lot No. 27 South 74 degrees 30 minutes East 248.4 feet, through a stake set back 20 feet from the bank of lot water, to a point in the Conewago Creek; thence by said Conewago Creek South 9 degrees 30 minutes West 50.3 feet to a point in said Creek at Lot No. 25; thence by Lot No. 25 North 74 degrees 30 minutes West, through a stake set back 20 feet from the bank at low water, 253.6 feet to a stake and place of BEGINNING.

BEING known as Lot No. 26, Block No. 1 on the Plan of Lots as surveyed August 27, 1955, by George M. Wildasin for Harry A. and Gerrie R. Lauchman.

**TRACT NO. 2:** ALL that certain tract of land situate in Reading Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin on the East side of a twenty (20) feet wide driveway at Lot No. 24, lands now or formerly of Dennis L. Seeley and Rita J. Seeley; thence along said twenty (20) feet wide drive-way North fifteen (15) degrees thirty (30) minutes East fifty (50) feet to an iron pin at Lot No. 26; thence by said Lot No. 26, South seventy-four (74) degrees thirty (30) minutes East two hundred fifty-three and six-tenths (253.6) feet to a point in the Conewago Creek; thence along said Conewago Creek South thirteen (13) degrees thirty (30) minutes West fifty and one-tenth (50.1) feet to a point at Lot No. 24 aforesaid; thence along said Lot No. 24 North seventy-four (74) degrees thirty (30) minutes

West two hundred fifty-five and three-tenths (255.3) feet to an iron pin the place of BEGINNING. This description is taken from a survey made by Donald W. Resh, Registered Surveyor, dated August 27, 1960, being known as No. 25, Block 1 on a Plan of Lots as surveyed August 27, 1955 by George M. Wildasin for Harry A. and Gerrie R. Lauchman.

SUBJECT, NEVERTHELESS to the following restriction: That no building of any character shall be erected or constructed on the front of said lot beyond a distance of fifty-five (55) feet from the East side of the twenty (20) feet wide driveway in the rear.

IT BEING the same premises which Scott Handshew a/k/a Scott A. Handshew and Donald R. Handshew, by their Deed dated September 13, 1993, and recorded in the Office of the Recorder of Deeds, in and for Adams County, Pennsylvania, in Book 782, Page 95 granted and conveyed unto Scott A. Handshew and Deborah K. Handshew, his wife, the Grantors herein.

Tax Parcel: #L-8, 21

SEIZED and taken into execution as the property of **Harold E. Coburn & Ruth A. Martin (Coburn)** 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 August 19, 2002, 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.

5/31, 6/7 & 14

# *Adams County* Legal Journal

Vol. 44

June 21, 2002

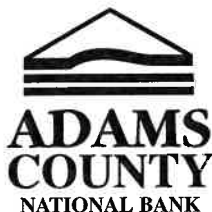
No. 4, pp. 21-23

## **IN THIS ISSUE**

**BANGE ET AL VS. MT. PLEASANT TOWNSHIP**

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



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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.

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-908 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a point on the southern right-of-way line of Sycamore Lane, a sixty (60) feet wide right-of-way, at corner of Lot No. 111 on the subdivision plan hereinafter referred to; thence along Lot No. 111, South thirty (30) degrees twenty-three (23) minutes fifty (50) seconds West, one hundred fifteen (115) feet to a point at lands now or formerly of St. Vincent DePaul Cemetery; thence along said last mentioned lands, North fifty-nine (59) degrees thirty-six (36) minutes ten (10) seconds West, sixty-five and twenty-two hundredths (65.22) feet to a point at Lot No. 113 on the subdivision plan hereinafter referred to; thence along Lot No. 113, North thirty (30) degrees twenty-three (23) minutes fifty (50) seconds East, one hundred fifteen (115) feet to a point on the Southern right-of-way line of Sycamore Lane; thence along the Southern right-of-way line of Sycamore Lane, South fifty-nine (59) degrees thirty-six (36) minutes ten (10) seconds East, sixty-five and twenty-two hundredths (65.22) feet to a point at Lot No. 111, the point and place of BEGINNING.

CONTAINING 7,500 square feet and being Lot No. 112 on final subdivision plan prepared for Dillers Village, Phase II, by Donald E. Worley, Registered Surveyor, dated April 29, 1987, designated as File No. G-93, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 47, page 22 (erroneously described in prior deed as Plan Book 17, page 22).

BEING the same premises which Vernon W. Armacost and Doris C. Armacost, by Deed dated January 24, 2000 and recorded in the Office of the Recorder of Deeds of Adams County on

February 7, 2000, in Deed Book Volume 1998, Page 159, granted and conveyed unto Stephen A. Patterson and Gilda M. Patterson.

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

Parcel No. 08-009-0287-000

SEIZED and taken into execution as the property of **Stephen A. & Gilda M. Patterson** 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 August 30, 2002, 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.

6/21, 28 & 7/5

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN of the filing with the Department of State of the Commonwealth of Pennsylvania, on May 20, 2002, under the Fictitious Name Act, of an Application for the registration of the fictitious name WITH A MAGIC WAND with its principal office or place of business at 455 Leedy Road, Gettysburg, Pennsylvania 17325. The name and address of the person who is party to the registration is: Laurel L. Wilkinson, 455 Leedy Road, Gettysburg, Pennsylvania 17325.

Pyle and Entwistle  
25 South Washington Street  
Gettysburg, PA 17325

6/21

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on May 15, 2002, for the purpose of obtaining a Certificate of Incorporation of a proposed corporation to be organized under the provisions of the Pennsylvania Business Law of 1988, P.L. 1444, No. 177, as amended. The name of the corporation is KESSEL WARRANTY COMPANY, INC., with a registered office of the corporation being 451 West King Street, Abbotstown, PA 17301.

Wilcox & James  
David K. James, III  
234 Baltimore Street  
Gettysburg, PA 17325

6/21

CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN that QUALASTAT ELECTRONICS, INC., a business corporation formed under the laws of the State of New Jersey, has, on May 13, 2002, filed an Application for Certificate of Authority to conduct its business in Pennsylvania, in accordance with the provisions of the Associations Code, 15 PA C.S. §§101 et seq.

The principal office and registered address of the corporation in this Commonwealth is Suite 50, 1270 Fairfield Road, Gettysburg, Pennsylvania, 17325.

The corporation proposes to engage in the manufacture of wiring harnesses and cable assemblies.

Robert L. McQuaide  
Attorney for Qualastat Electronics, Inc.  
Suite 204  
18 Carlisle Street  
Gettysburg, PA 17325

6/21

## BANGE ET AL VS. MT. PLEASANT TOWNSHIP

1. It is a well accepted proposition in our legal system that attorney's fees are not recoverable in the absence of a statute or contract. We therefore hold that any claim for counsel fees by a successful plaintiff in a mandamus action should be awarded only after a consideration of the factors set forth in (42 Pa. C.S.A.) section 2503.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 01-S-1145, JAY S. BANGE, JANE A. ZEISET, AND JASON J. BANGE, AS ATTORNEY IN FACT FOR JAY S. BANGE AND JANE ZEISET VS. MT. PLEASANT TOWNSHIP BOARD OF SUPERVISORS

Matthew R. Battersby, Esq., for Plaintiffs  
Henry O. Heiser III, Esq., for Defendant  
Spicer, P.J., December 11, 2001

### OPINION ON PRELIMINARY OBJECTIONS

Plaintiffs commenced this action in mandamus by filing a complaint on October 25, 2001. They have alleged that they own a subdivided parcel of land in Mt. Pleasant Township and applied for a building permit for lot number 3. According to ¶8, the township refused to grant the permit because "a private road was not being maintained." Claiming that this was not a proper reason for refusing the permit, plaintiffs seek an order directing the issuance of the permit.

The *Wherefore* clause in the complaint has attracted the township's attention and led to preliminary objections. Plaintiffs have demanded "attorney's fees and costs of suit." Citing *Krassnoski v. Rosey*, 454 Pa. Super. 78, 684 A.2d 685 (1996) the township asserts that Pennsylvania ascribes to the American Rule and attorney fees may not be recovered in the absence of an agreement or statutory authorization. Plaintiffs point out that *Krassnoski* involved a protection from abuse where the statute authorized attorney's fees<sup>1</sup> and stated that they were "truly at a loss as to what this case has to do with the case before the court." Brief page 2. Plaintiffs contend that *Township of Marple*, 149 Pa. Cmwlth 286, 613 A.2d 94 (1992) is more to the point.

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<sup>1</sup> An example of adherence to the American Rule can be found by comparing *Krassnoski* with *Egelman ex rel. Egelman v Egelman*, Pa. Super. , 728 A.2d 360 (1999) where the court held that omission of authority to grant fees in the statute in the case of successful defendants meant that defendants could not recover those fees.

The Commonwealth Court, *id.*, discussed the grant of attorneys' fees in mandamus and said:

Certainly, one argument which facially supports the claim that damages include attorney's fees is that damages in a mandamus action are "intended to make whole persons injured as a result of acts or omissions of public officials (citation omitted). This is generally true, however, of all civil actions. Yet it is a well accepted proposition in our legal system that attorney's fees are not recoverable in the absence of a statute or contract. (citation omitted). We therefore hold that any claim for counsel fees by a successful plaintiff in a mandamus action should be awarded only after a consideration of the factors set forth in section 2503.<sup>2</sup>

613 A.2d at 95

The act, supra, authorizes an award of attorneys' fees in ten instances, two of which are as follows:

(7) Any participant who is awarded counsel as a sanction against another participant for dilatory, obdurate or vexatious conduct during the pendency of an action.

(9) Any participant who is awarded counsel fees because the conduct of another party in commencing the action or otherwise was arbitrary, vexatious or in bad faith.

Obviously, (7) involves a sanction and is not a matter of pleading. Subsection (9) has been applied when a Commonwealth agency litigated a *de minimis* action to death. *Pennsylvania State Police v. Benny Enterprises*, Pa. Cmwlth , 669 A.2d 1018 (1995), app. dn. 545 Pa. 672, 681 A.2d 1344.<sup>3</sup> Both subsections were considered and no fees were granted in *Springfield Township v. Gonzales*, 158 Pa. Cmwlth 664, 632 A.2d 1353 (1993), app. dn 538 Pa. 618, 645 A.2d 1321.

We agree with Township's argument that the complaint contains no basis for the award of attorney's fees. We could treat the demand

---

<sup>2</sup>42 Pa.C.S.A. §2503.

<sup>3</sup>Commonwealth Court defined "vexatious as a suit instituted without sufficient grounds which serves only to cause annoyance. "Arbitrary" was said to mean based on a random or convenient selection or choice, rather than one based on reason or nature. "Bad faith" involves fraud, dishonesty or corruption.

as mere surplusage and ignore it, since it is not an allegation. However, that may only postpone the inevitable. Although we cannot imagine plaintiffs' being able to successfully amend to allege a basis for such fees, we will grant them an opportunity to do so.

The attached order shall be entered.

#### ORDER

AND NOW, this 11th day of December, 2001, the demand for attorney's fees is stricken. Plaintiffs shall have the right to file an amendment to their complaint, or an amended complaint in accordance with Pa. R.C.P. 1028(e).

**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 HAZEL M. LEMMON, DEC'D**  
Late of the Borough of Littlestown, Adams County, Pennsylvania  
Executor: Stewart N. Long, 302 West Myrtle Street, Littlestown, PA 17340  
Attorney: John R. White, Esq., Campbell & White, 112 Ballimore Street, Gettysburg, PA 17325

**ESTATE OF MARJORIE SPAMER, DEC'D**  
Late of the Borough of New Oxford, Adams County, Pennsylvania  
Executrix: Mary Virginia Johnson, 44 Crossview Trail, Fairfield, PA 17320  
Attorney: Matthew R. Battersby, Esq., Battersby & Sheffer, P.O. Box 215, Fairfield, PA 17320

**SECOND PUBLICATION**

**ESTATE OF DOROTHY M. FOLKENROTH, DEC'D**  
Late of Straban Township, Adams County, Pennsylvania  
Personal Representative: Rae F. Koontz and Betty L. Weikert, c/o Donald L. Kornfield, 17 North Church Street, Waynesboro, PA 17268  
Attorney: Donald L. Kornfield, Esq., 17 North Church Street, Waynesboro, PA 17268

**ESTATE OF ARTAM. HOSSLER, DEC'D**  
Late of Franklin Township, Adams County, Pennsylvania  
Executrix: Jean Kerns, 1735 Amuskai Road, Baltimore, MD 21234  
Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

**ESTATE OF WILLIAM E. HUTCHISON, DEC'D**  
Late of Straban Township, Adams County, Pennsylvania  
Glorianne Hutchison, 1390 Hanover Rd., Gettysburg, PA 17325  
Attorney: Ralph D. Oyler, Esq., 31 S. Washington Street, Gettysburg, PA 17325

**ESTATE OF LUCILLE S. SHEPHERD, DEC'D**  
Late of Straban Township, Adams County, Pennsylvania  
Executor: Donald H. Shepherd, Jr., 10847 Bellerive Lane, Berlin, MD 21811  
Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

**ESTATE OF JAMES E. WEAVER, DEC'D**  
Late of Mt. Pleasant Township, Adams County, Pennsylvania  
Executrix: Margaret E. Weaver, Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331  
Attorney: Douglas H. Gent, Esq., Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

**THIRD PUBLICATION**

**ESTATE OF DONALD E. COOLEY, DEC'D**  
Late of Huntington Township, Adams County, Pennsylvania  
Administrators: Donna M. Cooley, Janie C. Wolfe, Donald E. Cooley, II, Cindy S. Cooley, 3595 Carlisle Rd., Gardners, PA 17324  
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

**ESTATE OF MARY C. ROTH, DEC'D**  
Late of Hamiltonban Township, Adams County, Pennsylvania  
Co-Executors: Philip A. Roth, 223 Fairfield Station Road, Fairfield, PA 17320; Catharine E. Roth, 1176 Mt. Carmel Road, Orrtanna, PA 17353  
Attorney: Matthew R. Battersby, Esq., P.O. Box 215, Fairfield, PA 17320

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-518 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 29 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, in Misc. Deed Book 1, Page 1, and subject to all legal highways, easements, rights-of-way and restrictions of record.

Together with the right in common with other owners of lots in said subdivision to use for all usual purposes the streets, ways, beaches, recreation area, and other public areas, as shown on the said plot, and the right in common with the other owners of lots in the said subdivision to use the lake and beaches for swimming, fishing and boating in accordance with the rules and regulations of Lake Meade Property Owners Association, its successors or assigns.

UNDER and subject, nevertheless, to certain covenants, conditions, restrictions, easements and other provisions as set forth in the aforesaid deed recorded in Deed Book 267, Page 1071, Adams County Records.

Being known as 4 Hooker Cove, East Berlin, PA 17316.

Property ID: Map 8, Parcel 16

TITLE TO SAID PREMISES IS VESTED IN Barry E. Miller and Donna J. Miller, his wife, by deed from Clyde C. Bachert, Jr., a single person, dated 8/4/2000, recorded 8/28/2000, in Deed Book 2115, Page 29.

SEIZED and taken into execution as the property of **Barry E. Miller & Donna J. 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 September 9, 2002, 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.

6/21, 28 & 7/5

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-750 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the property line of Pine Lane at corner of Lot No. 86 on the hereinafter referred to plan of lots; thence along Lot No. 86, South 43 degrees 56 minutes 51 seconds West, 114.60 feet to a point where the corners of Lots Nos. 86, 69, 70 and 85 intersect; thence along Lot No. 70, North 42 degrees 57 minutes 30 seconds West, 78 feet to a point on the property line of Walnut Lane; thence along said Walnut Lane by a curve to the left, the radius of which is 847.712 feet, an arc length of 95.13 feet, and having a long chord bearing and distance of North 43 degrees 20 minutes 7 seconds East, 95.08 feet to a point; thence by a curve to the right, the radius of which is 15 feet, an arc length of 22.87 feet and having a long chord bearing and distance of North 86 degrees 7 minutes 46 seconds East, 20.72 feet to a point on the property line of Pine Lane, aforesaid; thence along said Pine Lane by a curve to the right, the radius of which is 1,570.255 feet, an arc length of 65 feet and having a long chord bearing and distance of South 46 degrees 0 minutes 57 seconds East, 64.99 feet to a point at Lot No. 86, the point and place of BEGINNING.

CONTAINING 8,712.039 square feet or 0.200 acres.

BEING Lot No. 85 on a plan of lots of Oxford Estates dated January 1983, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 37, at Page 122.

SUBJECT, NEVERTHELESS, to the restrictions contained in prior deed of conveyance.

SEIZED and taken into execution as the property of **William E. Earle & Lisa Rae Earle** and to be sold by me.

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

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

Sheriff in his office on September 9, 2002, 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.

6/21, 28 & 7/5

## 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 April 26, 2002, for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is **JAKE MILLER ENTERPRISES, INC.**

The purpose for which the corporation has been organized is: The corporation shall have unlimited power to engage in and do any law act concerning any or all lawful business for which corporations may be organized under the Pennsylvania Business Corporation Law.

Jake Miller Enterprises, Inc.  
185 West King Street  
Abbottstown, PA 17301

6/21

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed by **DREAMHOUSE LENDING, INC.** with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania. The corporation is incorporated under the Pennsylvania Business Corporation Law of 1988.

Teeter, Teeter & Teeter

6/21

# *Adams County* Legal Journal

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Vol. 44

June 28, 2002

No. 5, pp. 24-25

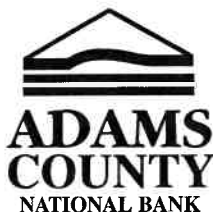
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## **IN THIS ISSUE**

COMMONWEALTH VS. SANCHEZ

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



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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1351 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Reading Township, Adams County, Pennsylvania, known and described as Lot No. 301 on a Plan of Lots known as "Lake Meade Subdivision". Said Plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plat Book 1, Page 1.

TOGETHER WITH AND SUBJECT to all legal highways, easements, rights of way and restrictions of record.

BEING THE SAME premises which The Brethrum Construction Co., Inc., by its Deed dated November 11, 1988, and recorded on November 17, 1988 in the Recorder of Deeds Office in and for Adams County in Adams County Record Book 507, Page 430, granted and conveyed unto Donald L. Wagaman and Charlotte V. Wagaman, husband and wife, the Defendants herein.

SEIZED and taken into execution as the property of **Donald L. Wagaman & Charlotte V. Wagaman** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, 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.

6/28, 7/5 & 12

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-908 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a point on the southern right-of-way line of Sycamore Lane, a sixty (60) feet wide right-of-way, at corner of Lot No. 111 on the subdivision plan hereinafter referred to; thence along Lot No. 111, South thirty (30) degrees twenty-three (23) minutes fifty (50) seconds West, one hundred fifteen (115) feet to a point at lands now or formerly of St. Vincent DePaul Cemetery; thence along said last mentioned lands, North fifty-nine (59) degrees thirty-six (36) minutes ten (10) seconds West, sixty-five and twenty-two hundredths (65.22) feet to a point at Lot No. 113 on the subdivision plan hereinafter referred to; thence along Lot No. 113, North thirty (30) degrees twenty-three (23) minutes fifty (50) seconds East, one hundred fifteen (115) feet to a point on the Southern right-of-way line of Sycamore Lane; thence along the Southern right-of-way line of Sycamore Lane, South fifty-nine (59) degrees thirty-six (36) minutes ten (10) seconds East, sixty-five and twenty-two hundredths (65.22) feet to a point at Lot No. 111, the point and place of BEGINNING.

CONTAINING 7,500 square feet and being Lot No. 112 on final subdivision plan prepared for Dillers Village, Phase II, by Donald E. Worley, Registered Surveyor, dated April 29, 1987, designated as File No. G-93, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 47, page 22 (erroneously described in prior deed as Plan Book 17, page 22).

BEING the same premises which Vernon W. Armacost and Doris C. Armacost, by Deed dated January 24, 2000 and recorded in the Office of the Recorder of Deeds of Adams County on

February 7, 2000, in Deed Book Volume 1998, Page 159, granted and conveyed unto Stephen A. Patterson and Gilda M. Patterson.

Grenen & Birsic, P.C.

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

Attorneys for Plaintiff

One Gateway Center, Nine West

Pittsburgh, PA 15222

(412) 281-7650

Parcel No. 08-009-0287-000

SEIZED and taken into execution as the property of **Stephen A. & Gilda M. Patterson** 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 August 30, 2002, 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.

6/21, 28 & 7/5

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, for a business corporation, which has been incorporated under the provisions of the Business Corporation Law of 1988. The name of the corporation is BOPAX, INC.

Lynn R. Emerson, Esq.

BusinessLegal

105 Seminary Avenue

Suite 102

Oakdale, PA 15071

6/28



## COMMONWEALTH VS. SANCHEZ

1. The use of an alias is relevant as to identification. It is also relevant to show consciousness of guilt.

2. ....consciousness of guilt, standing alone, was not sufficient to prove defendant's guilt, but was only a factor to be considered.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-76-01, COMMONWEALTH OF PENNSYLVANIA VS. STEVEN LUIS SANCHEZ.

Michael A. George, District Attorney, for Commonwealth  
Steven Rice, Esq., for Defendant  
Spicer, P.J., Statement dated December 11, 2001

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

Following trial on July 17, 2001, a jury found defendant guilty of theft by receiving stolen property. Because a motorcycle was involved, the gradation of the offense was a felony of the third degree. Sentencing was postponed until September 24, 2001, pending the preparation of a pre-sentence investigation. After being continued at defendant's request, it occurred October 24, 2001. This appeal followed.

Defendant-appellant has filed a statement of matters complained of on appeal. He claims that the court improperly allowed evidence relating to defendant's use of an alias and then erroneously instructed the court how it should consider the evidence.

At trial, Michael Wolfe testified that his motorcycle was stolen July 7, 1999. Shawn Wassilewski testified he purchased the motorcycle from a person he knew only as Steve, whom he identified as the defendant, after looking at the vehicle at the home of defendant's mother. He said he went there in the company of his brother, Spencer and his girlfriend, Margie Wells. According to Wassilewski, defendant told him that he had traded a four wheeler for the bike, was between jobs and desperate for money. The asking price was \$1200.00 but Wassilewski offered \$1,000.00. Defendant finally accepted the offer and delivered a handwritten bill of sale which he signed "Steve Miller." (Commonwealth's exhibit 2).

The witness also said that defendant called him later and offered to repay the purchase price in installments because the bike may have been stolen.

Craig Snyder, a police officer with West Manheim Township Police Department testified that he effected a traffic stop on April 10, 1999 and that defendant identified himself as Steve Miller.

Although defendant did not take the stand, he produced his mother, Linda McCauley, his stepfather, John Bittinger and mother's boyfriend, Glenn Miller, all of whom said that they never saw Wassilewski and company at Ms. McCauley's house.

Since only Wassilewski's testimony connected defendant with the stolen bike, the signature on the bill of sale became important. The use of an alias is relevant as to identification. *Commonwealth v. Wayne*, 553 Pa. 614, 720 A.2d 456, (1998), reargument denied. Cert. dn 528 U.S. 834, 120 S. Ct 94, 145 L. Ed 80, 68 U.S.L.W. 3224 (1999). It is also relevant to show consciousness of guilt. *Commonwealth v. Toro*, 432 Pa. Super. 383, 638 A.2d 991 (1994).

The court gave cautionary and limiting instructions, telling the jury that it should not consider the evidence as showing that defendant was a bad person and more likely to have committed the charged crime than not. We told the jury that the evidence was introduced to corroborate Mr. Wassilewski's identification. We also told them that the evidence could be considered in determining whether defendant knew that the motorcycle was stolen or believed that it probably had been stolen. The jury was told that consciousness of guilt, standing alone, was not sufficient to prove defendant's guilt, but was only a factor to be considered. The jury was instructed that they could not find defendant guilty solely upon a finding of consciousness of guilt.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-518 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 29 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, in Misc. Deed Book 1, Page 1, and subject to all legal highways, easements, rights-of-way and restrictions of record.

Together with the right in common with other owners of lots in said subdivision to use for all usual purposes the streets, ways, beaches, recreation area, and other public areas, as shown on the said plot, and the right in common with the other owners of lots in the said subdivision to use the lake and beaches for swimming, fishing and boating in accordance with the rules and regulations of Lake Meade Property Owners Association, its successors or assigns.

UNDER and subject, nevertheless, to certain covenants, conditions, restrictions, easements and other provisions as set forth in the aforesaid deed recorded in Deed Book 267, Page 1071, Adams County Records.

Being known as 4 Hooker Cove, East Berlin, PA 17316.

Property ID: Map 8, Parcel 16

TITLE TO SAID PREMISES IS VESTED IN Barry E. Miller and Donna J. Miller, his wife, by deed from Clyde C. Bachert, Jr., a single person, dated 8/4/2000, recorded 8/28/2000, in Deed Book 2115, Page 29.

SEIZED and taken into execution as the property of Barry E. Miller & Donna J. 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 September 9, 2002, 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.

6/21, 28 & 7/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-750 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the property line of Pine Lane at corner of Lot No. 86 on the hereinafter referred to plan of lots; thence along Lot No. 86, South 43 degrees 56 minutes 51 seconds West, 114.60 feet to a point where the corners of Lots Nos. 86, 69, 70 and 85 intersect; thence along Lot No. 70, North 42 degrees 57 minutes 30 seconds West, 78 feet to a point on the property line of Walnut Lane; thence along said Walnut Lane by a curve to the left, the radius of which is 847.712 feet, an arc length of 95.13 feet, and having a long chord bearing and distance of North 43 degrees 20 minutes 7 seconds East, 95.08 feet to a point; thence by a curve to the right, the radius of which is 15 feet, an arc length of 22.87 feet and having a long chord bearing and distance of North 86 degrees 7 minutes 46 seconds East, 20.72 feet to a point on the property line of Pine Lane, aforesaid; thence along said Pine Lane by a curve to the right, the radius of which is 1,570.255 feet, an arc length of 65 feet and having a long chord bearing and distance of South 46 degrees 0 minutes 57 seconds East, 64.99 feet to a point at Lot No. 86, the point and place of BEGINNING.

CONTAINING 8,712.039 square feet or 0.200 acres.

BEING Lot No. 85 on a plan of lots of Oxford Estates dated January 1983, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 37, at Page 122.

SUBJECT, NEVERTHELESS, to the restrictions contained in prior deed of conveyance.

SEIZED and taken into execution as the property of William E. Earle & Lisa Rae Earle and to be sold by me.

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

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

Sheriff in his office on September 9, 2002, 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.

6/21, 28 & 7/5

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW NO. 02-S-591

IN RE: Christina Tiffany Wenger

NOTICE OF HEARING ON PETITION FOR CHANGE OF NAME

NOTICE is hereby given that on June 4, 2002, a Petition for Change of Name was filed by Christina Tiffany Wenger in the above named Court praying for a decree to change her name from Christina Tiffany Wenger to Christina Tiffany Bevilacqua.

The Court has fixed July 22, 2002 at 9:00 a.m. in Courtroom No. 1, 2 or 3, Adams County Courthouse, 111 Baltimore Street, Gettysburg, PA 17325 as the time and place for the hearing of said Petition, when and where all persons interested may appear and show cause, if any they have, why the prayer of said Petition should not be granted.

Puhl, Eastman & Thrasher /s/Richard E. Thrasher, Esq. Attorney for Petitioner 220 Baltimore Street Gettysburg, PA 17325

6/28

NOTICE

NOTICE IS HEREBY GIVEN that Patrick W. Quinn, Esquire, intends to apply in open court for admission to the Bar of Adams County, Pennsylvania on the 22nd day of July, 2002, and that he intends to practice law as an Attorney at Wolfe & Rice, LLC, of 47 West High Street, Gettysburg, Adams County, Pennsylvania.

6/28, 7/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-339 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in Oxford Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING for a point on the western property line of Pine Lane at corner of Lot No. 81 on the hereinafter referred to plan of lots; thence along Lot No. 81, South sixty-five (65) degrees eleven (11) minutes forty (40) seconds West, one hundred seven and five one-hundredths (107.05) feet to a point on the rear property line of Lot No. 77; thence along Lot No. 77, North eighteen (18) degrees thirty-seven (37) minutes twenty-six (26) seconds West, twenty-seven and sixty-two one-hundredths (27.62) feet to a point at Lot No. 78; thence along Lot No. 78, North three (3) degrees twenty-one (21) minutes fifty-six (56) seconds West, fifty and eighty-two one-hundredths (50.82) feet to a point at Lot No. 79; thence along Lot No. 79, North forty-nine (49) degrees fifty-four (54) minutes fifty-seven (57) seconds East, seventy-eight and two one-hundredths (78.02) feet to a point on the western property line of Pine Lane; thence along the western property line of Pine Lane, by a curve to the right, the radius of which is four hundred forty-eight and ninety-six one-hundredths (448.96) feet, for an arc length of ninety-six and five one-hundredths (96.05) feet and having a long chord bearing and distance of South thirty (30) degrees fifty-six (56) minutes four (4) seconds East, ninety-five and eighty-seven one-hundredths (95.87) feet to a point at Lot No. 81, the point and place of BEGINNING. CONTAINING 8,042.908 square feet or 0.185 acres. BEING Lot No. 80 on a plan of lots of Oxford Estates dated September 11, 1984, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 40, at page 119.

BEING known as 22 Pine Lane, New Oxford, PA 17350

PARCEL No. 8-127.

BEING THE SAME PREMISES which Oxford Estates, a General Partnership, by Deed dated July 30, 1985 and recorded August 2, 1985 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 405, Page 1111, granted and conveyed

unto Scott A. Gilmore and Lisa L. Gilmore, husband and wife.

UNDER AND SUBJECT to the restrictions, covenants, conditions and easements as now appear of record.

SEIZED and taken into execution as the property of **Scott A. Gilmore & Lisa L. Gilmore** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, 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.

6/28, 7/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-256 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that improved lot of ground situate in Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING on the Southern property line of Meadow Lane at the Northwest corner of Lot No. 14 on the Plan of Lots herebelow identified, now or formerly of Daniel P. King and wife; thence by said Lot No. 14 and running through the center of a party wall in a five-unit townhouse separating said Lot No. 14 and the lot hereby conveyed, South 27 degrees 24 minutes 18 seconds West, 150 feet to a point on line of land now or formerly of Edna Grace Toddes; thence by said land now or formerly of Edna Grace Toddes, North 62 degrees 35 minutes 42 seconds West, 37 feet to a point at the Southeast corner of Lot No. 16 on the Plan of Lots herebelow identified; thence by said Lot No. 16 North 27 degrees 24 minutes 18 seconds East, 150 feet to a point on the Southern property line of Meadow Lane at the Northeast corner of said Lot No. 16; thence by the Southern property line of Meadow Lane South 62

degrees 35 minutes 42 seconds East, 37 feet to the above-described place of BEGINNING. CONTAINING 5,550 square feet.

The above description was taken from a subdivision plan for The Meadows dated October 5, 1977, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 31, page 15, being Lot No. 15 designated thereon.

BEING THE SAME WHICH Jean R. Shanefelter, a single woman, by deed dated March 1, 1995, and about to be recorded in the aforementioned Recorder's Office in Record Book 1001, at Page 1, sold and conveyed unto Deborah L. Heller, Mortgagor herein.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, 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.

6/28, 7/5 & 12

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that SEAN POTTER ROOFING & SIDING, INC. has been organized under the Business Corporation Law of 1988, as amended, and has filed Articles of Incorporation with the Pennsylvania Department of State on June 13, 2002.

6/28

## 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 ROBERT W. SASSAMAN, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executrix: Alice Jane Wyland Sassaman, 9 Lincoln Cove, East Berlin, PA 17316

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

## ESTATE OF MARGARET L. SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Raymond A. Williams, P.O. Box 374, Hanover, PA 17331

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

## ESTATE OF PAUL H. TOPPER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Personal Representatives: Andrew J. Topper, 100 Pine Grove Rd., Hanover, PA 17331; Paul F. Topper, 3801 48th Ave. South, St. Petersburg, FL 33711

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

## SECOND PUBLICATION

## ESTATE OF HAZEL M. LEMMON, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Stewart N. Long, 302 West Myrtle Street, Littlestown, PA 17340

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

## ESTATE OF MARJORIE SPAMER, DEC'D

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

Executrix: Mary Virginia Johnson, 44 Crossview Trail, Fairfield, PA 17320

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

## THIRD PUBLICATION

## ESTATE OF DOROTHY M. FOLKEN-ROTH, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Personal Representative: Rae F. Koontz and Betty L. Weikert, c/o Donald L. Kornfield, 17 North Church Street, Waynesboro, PA 17268

Attorney: Donald L. Kornfield, Esq., 17 North Church Street, Waynesboro, PA 17268

## ESTATE OF ARTA M. HOSSLER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Jean Kerns, 1735 Amuskai Road, Baltimore, MD 21234

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

## ESTATE OF WILLIAM E. HUTCHISON, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Giorianne Hutchison, 1390 Hanover Rd., Gettysburg, PA 17325

Attorney: Ralph D. Oyler, Esq., 31 S. Washington Street, Gettysburg, PA 17325

## ESTATE OF LUCILLE S. SHEPHERD, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Donald H. Shepherd, Jr., 10847 Bellerive Lane, Berlin, MD 21811

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

## ESTATE OF JAMES E. WEAVER, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Margaret E. Weaver, Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

Attorney: Douglas H. Gent, Esq., Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW  
NO. 02-S-92

Jury Trial Demanded

DEBORAH E. SANDERS, and KIM-  
BERLY A. SANDERS, Plaintiffs

vs.

JENNIFER L. WILDASIN, Defendant  
TO: Jennifer L. Wildasin

This action arises out of injuries and damages sustained by Deborah E. Sanders and Kimberly A. Sanders, when as occupants of a motor vehicle being operated by M. Jane Gantz, that vehicle was struck by a motor vehicle operated by Jennifer L. Wildasin, whose last known address was 16 Center Square, Apartment 1B, New Oxford, PA 17350, and with known previous addresses of P.O. Box 43, Main Street, McSherrystown, PA 17344, and 1644 Old Carlisle Road, Aspers, PA 17304, with said accident occurring at the intersection of Bon Ox Road and Centennial Road in Mt. Pleasant Township, Adams County, Pennsylvania on July 26, 2000 at approximately 4:05 p.m.

NOTICE

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

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

Lawyer Referral Service of the  
Adams County Bar Association  
111-117 Baltimore Street  
Gettysburg, Pennsylvania 17325  
(717) 334-6781 Ext. 213

6/28

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-301 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of August, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following tract of land, together with the improvements thereon erected, situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point in the Hanover-McSherrystown State Highway in the Village of Midway at lands now or formerly of Sterling Sterner; thence along said Highway in a Westerly direction for a distance of twenty (20) feet to a point at lands now or formerly of Lloyd J. Kuhn; thence by said lands and through the center line of the center wall of double dwelling (the eastern portion of which is on the lot hereby conveyed and the western portion of which is on the lot immediately adjacent lying to the West thereof) in a Northerly direction for a distance of one hundred fifty (150) feet to a point at a public alley; thence along said alley in an Easterly direction for a distance of twenty (20) feet to a point at land now or formerly of Sterling Sterner aforesaid; thence by said land in a Southerly direction for a distance of one hundred fifty (150) feet to a point, the place of BEGINNING.

HAVING ERECTED THEREON a dwelling known as 603 Third Street, Hanover, Pennsylvania.

BEING THE SAME PREMISES WHICH Cesar E. Perez and Maria E. Perez, husband and wife, by Deed dated January 30, 1998 and recorded February 5, 1998 in Adams County Deed Book 1517, Page 24, granted and conveyed unto Lisa M. Brendle.

SEIZED IN EXECUTION AS THE PROPERTY OF LISA M. BRENDLE UNDER ADAMS COUNTY JUDGMENT NO. 01-S-301.

MAP & PARCEL #8-182A

SEIZED and taken into execution as the property of Lisa M. Brendle and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 9, 2002, 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.

6/28, 7/5 & 12

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on the 21st day of June, 2002, for the purpose of obtaining a Certificate of Incorporation which was organized under the Pennsylvania Business Corporation Law of the Commonwealth of Pennsylvania, the Act of 1988 as amended, 15 Pa. C.S. § 1306.

The name of the Corporation is SSRP, INC. The address of the registered office of the said Corporation is 390 Crum Road, Fairfield, PA 17320.

6/28