Adams County
Legal Journal

Vol. 43 November 2, 2001 No. 23, pp. 125–127

IN THIS ISSUE

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.

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

Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 334-6781 ext 336

Periodicals postage paid at Gettysburg, PA 17325.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-492 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 November, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that 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.

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. & 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 December 10, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/19, 26 & 11/2

NOTICE

NOTICE IS HEREBY GIVEN that Matthew D. Fogal intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 16th day of November, 2001, and that he intends to practice law as an Assistant District Attorney in the Office of the District Attorney, County of Adams, Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania.

10/19, 26 & 11/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-706 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 962 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, Pennsylvania, in Miscellaneous Deed Book 1, Page 6, and subject to all legal highways, easements, rights-of-way and restrictions of record.

TITLE TO SAID PREMISES IS VESTED IN Jeffrey A. McCurdy and Sandra D. McCurdy, his wife by Deed from Robert C. Shaffer and Linda J. Shaffer, his wife dated 6/24/87, recorded 5/30/91, in Deed Book 589, Page 499.

Premises being: 59 Sedgewick Drive, East Berlin, PA 17316

Tax Parcel No. 12-54

SEIZED and taken into execution as the property of **Jeffrey A. McCurdy & Sandra D. McCurdy** 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 January 7, 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.

11/2, 9 & 16

1. ....the lack of a specific completion date of this particular project is de minimus, because the need for knowing the completion date is directly related to determining a period during which the Statute of Limitations will run. (In this case) there is no longer a need to apply a Statute of Limitations.

2. The statute of limitations for a municipal claim is six months, pursuant to 53 P.S. §7143.

3. (However) a municipality may file a claim at any time pursuant to 53 P.S. §7432.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 289 of 1997 and No. 290 of 1997, CONEWAGO TOWNSHIP MUNICIPAL AUTHORITY, ADAMS COUNTY, PENNSYLVANIA, VS. HAROLD HARTLAUB AND LOUIS T. GUTHRIE.

Robert L. McQuaide, Esq., for Plaintiff
D. J. Hart, Esq., for Defendants.

Bigham, J., March 26, 2001

OPINION ON DEFENDANTS' MOTION TO STRIKE PLAINTIFF'S MUNICIPAL LIENS

BRIEF STATEMENT OF FACTS

Plaintiff is a municipal authority chartered by Conewago Township. The Authority owns and operates a system of sewer mains within the Township. Defendants are co-owners and developers of certain real estate located within the Township. Defendants subdivided land on Ram Drive and designated the use as industrial. Defendants sold Lot no. 8, but did not convey Lots no. 9 or 10. Municipal Liens were filed against Lots 9 and 10 owned by Defendants in the amount of $7,373.35 and $11,838.90 respectively for the installment of a sewer line. The project was allegedly completed on or about June 12, 1995, when the final payment was authorized by the Authority.

On March 24, 1998, Developers filed a Motion to Strike Municipal Lien to No. 289 of 1997. On August 28, 1998, the Developers filed a more comprehensive Motion to Strike/Open Municipal Lien to No. 289 of 1997. The Authority filed its answer on October 1, 1998.

On October 18, 2000, the parties entered into a Stipulation which permitted Developers to file an amended Motion to Strike, which

they did on that date. It is the Amended Motion which is before this Court. The Amended Motion sets forth three bases upon which Developers wish to strike the Municipal Lien. Each relates to an alleged lack of conformity to the Municipal Claims Act of 1923. The bases are as follows: 1.) Lien does not state a completion date; 2.) Lien was filed after 6-month statute of limitation; and 3.) Lien does not adequately cite legal authority for claim.

LEGAL DISCUSSION

The first argument by Defendant is that Plaintiff failed to specify a work completion date. The Municipal Claims Act at 53 P.S. §7144(5) requires the date of completion of the improvement. The claim in question states the sewer line project was "commenced in January 1995, and was completed subsequent thereto." As claimed by Plaintiff ... the lack of a specific completion date of this particular project is de minimus, because the need for knowing the completion date is directly related to determining a period during which the Statute of Limitations will run. As ... set forth in the argument regarding the second issue raised by Defendants, there is no longer a need to apply a Statute of Limitations.

The second argument by Defendant is that the Lien was filed after the 6 month statute of limitation time period. The statute of limitations for a municipal claim is six months, pursuant to 53 P.S. §7143, which provides that all municipal claims must be filed "within six months from the time the work was done in front of the particular property where the charge against the property is assessed or made at the time work is authorized... (or) within six months after the completion of the improvement, where the assessment is made by the municipality upon all properties after the completion of the improvement". *53 P.S. §7143.*

Plaintiff does admit the municipal claims were filed after six months of completion because the work was completed on or about June 12, 1995 and the claims were not filed until February of 1997 and June of 1997 respectively. Plaintiff argues, however, that the late filing does not matter because of 53 P.S. §7432 which provides "Whenever, heretofore or hereafter, any...township...or municipality authority has failed to file...any municipal claim assessed against any property within the time limit required by law for such filing, whereby the lien of such...municipal claim is lost; ...then, in any

such case heretofore or hereafter occurring, any such...township...or municipality authority may, *at any time after the effective date of this act*, file such...municipal claim..." *53 P.S. §7432. Act of September 23, 1959, P.L. 955, Section 1.* However, a Pennsylvania Commonwealth Court Case has confirmed that a municipality may file a claim at any time pursuant to 53 P.S. §7432. *Upper Gwynedd Township Authority vs. Roth*, 113 Pa. Cmwlth. 239 at 243, 536 A.2d 875 at 877.

The third argument by Defendants is the municipal claim shall be stricken for failure to cite a legal authority upon which Plaintiff bases its liens. Defendants argue the Authority did not mention any specific ordinance or resolution granting the authority for the sewer extension. This is not so. The Conewago Township Municipal Authority states in paragraph six of their Municipal Lien "The authority under which this lien is filed is the Municipal Claims Act of 1923, May 16th, P.L. 207, as amended (53 P.S. §7101 et seq.); and the Second Class Township Code, 53 P.S. §67502, et. seq." *Plaintiff's Municipal Lien, Par. 6.* Therefore, Plaintiff did cite legal authority for their Municipal Liens.

CONCLUSION

Defendants' Amended Motion to Strike Plaintiff's Municipal Liens is Denied and Conewago Township Municipal Authority's Liens are upheld.

Accordingly, the Attached Order is entered.

ORDER

AND NOW, this 26th day of March, 2001, Defendants' Motion to Strike Plaintiff's Municipal Liens is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-396 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 November, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

LEGAL DESCRIPTION

ALL that certain piece, parcel or tract of land, together with the improvements thereon erected, situate on the Southeast side of No. 479 in Conewago Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point on the South side of Township Road No. 479 at lands now or formerly of Donald B. Smith, also known as Lot No. 29, said point being North forty-two (42) degrees fifty (50) minutes East, one hundred eighty-seven and thirty-one hundredths (187.31) feet from the intersecting property lines of Township Road No. 479 and Oak Drive; thence along the South property line of Township Road No. 479, North forty-two (42) degrees (50) minutes East, seventy (70) feet to a point at lands now or formerly of George A. Good, also known as Lot No. 31; thence along said Lot No. 31, South forty-seven (47) degrees ten (10) minutes East, one hundred ninety-six and seventy-six hundredths (196.76) feet to a point at other lands now or formerly of Donald B. Smith, also known as Lot No. 42; thence along Lot No. 42 and Lot No. 43, South forty-two (42) degrees fifty (50) minutes West, seventy (70) feet to a point at said lands now or formerly of Donald B. Smith, also known as Lot No. 29, thence along Lot No. 29, North forty-seven (47) degrees ten (10) minutes West, one hundred ninety-six and seventy-six hundredths (196.76) feet to a point and the place of BEGINNING. (CONTAINING 13,773 square feet.) (The above description was taken from a draft of survey dated November 11, 1968, prepared by Charles C. Funke, Jr., Registered Engineer, being known as Lot No. 30.)

SUBJECT, NEVERTHELESS, to the conditions, covenants and restrictions recorded in Record Book 273, page 898.

TITLE TO SAID PREMISES IS VESTED IN Scott A. Sterner and Paige P. Sterner, husband and wife by Deed from Gregory P. Ernst and Regina C. Ernst, husband and wife dated 6/14/93, recorded 6/17/93, in Record Book 739, Page 349.

Premises being: 71 Peanut Drive, Hanover, PA 17331

Tax Parcel No. 21-13

SEIZED and taken into execution as the property of **Scott A. & Paige P. Sterner** 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 December 10, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/19, 26 & 11/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-573 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land situate on the northerly right of way line of Abbotts Drive in the Borough of Abbottstown, County of Adams and State of Pennsylvania known and numbered as Lot No. 39 on a final plan of lots for Abbotts Manor Phase II recorded in the Office of the Recorder of Deeds in and for Adams County, PA in Plan Book 73, page 43, more fully bounded and described as follows, to wit:

BEGINNING at a point on the northerly right of way line of Abbotts Drive, at a corner of Lot No. 40 on said plan; thence extending along the said right of way line South 30 degrees 57 minutes 33 seconds West 86.43 feet to a point, at a corner of Lot No. 38 on said plan; thence extending along the said Lot No. 38 North 35 degrees 47 minutes 14 seconds West 202.48 feet to a point; thence North 64 degrees 04 minutes 00 seconds East 62.30 feet to a point, at a corner of Lot No. 40 on said plan; thence extending along the said Lot No. 40 South 42 degrees 18 minutes 30 seconds East 158.72 feet to the point and place of BEGINNING.

CONTAINING 12,783 Sq. Ft. .293 Ac.

HAVING ERECTED THEREON a dwelling known as 163 Abbotts Drive, Abbottstown, Pennsylvania.

BEING THE SAME PREMISES WHICH Garland Construction, Inc. by Deed dated December 30, 1998 and recorded January 15, 1999 in Adams County Deed Book 1745, Page 266, granted and conveyed unto Armando G. Delpielago, Sr. and Aida D. Delpielago.

SEIZED IN EXECUTION AS THE PROPERTY OF ARMANDO G. DELPIELAGO, SR. AND AIDA G. DELPIELAGO ADAMS COUNTY JUDGMENT NO. 01-S-573

MAP & PARCEL #5-51

SEIZED and taken into execution as the property of **Aida G. Delpielago & Armando G. Delpielago** 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 December 31, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/26, 11/2 & 9

NOTICE

The Adams County Tax Claim Bureau hereby gives notice that it presented a Consolidated Return of Sales to the Court of Common Pleas of Adams County, Pennsylvania on October 22, 2001, of sales of real estate for delinquent taxes made September 28, 2001. The Court confirmed said Return nisi October 22, 2001. Objections or exceptions thereto may be filed by any owner or lien creditor within Thirty (30) days from the date of the Return, otherwise the Return will be confirmed absolutely.

Adams County Tax Claim Bureau
By: Danielle Asper, Director

11/2

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application has been filed under the Fictitious Names Act, 54 Pa. C.S.A. §§ 301 et seq., as amended, with the Secretary of the Commonwealth, in Harrisburg, Pennsylvania, on September 13, 2001, for conducting business under the assumed or fictitious name of GETTYSBURG OPTICAL. The address of the principal office or place of business to be carried on under or through the fictitious name is: 705 Old Harrisburg Road, Gettysburg, Pennsylvania 17325. The name and address of the only person who is a party to the registration is: Victoria L. Crouse, Post Office Box 4623, Gettysburg, PA 17325.

John W. Phillips, Esq.
Attorney

11/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-4 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN unit in the property known, named and identified in the declaration referred to below as South Branch Estates, located in the Township of Oxford, Adams County, Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101, et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, PA, of a land development plan dated October 6, 1995, last revised December 14, 1995 and recorded in Book 69, Page 23 (together with all the amendments and supplements thereto recorded on or before the date hereof) being all designated in such plan as Unit No. 4, as more fully bounded and described in such plan, together with a proportionate undivided interest in the Common Elements as defined in a Declaration Plan recorded in the Office of the Recorder of Deeds, in and for Adams County, Pennsylvania in Record Book 1271, Page 34.

UNDER AND SUBJECT TO any and all covenants, conditions, restrictions, rights of way, easements, and agreements of record, including (but not limited to) those contained in the instruments recorded in the aforesaid Recorder's Office in Record Book 69, Page 23.

TOGETHER with the limited common elements appurtenant as more fully shown of Plan Book 1271, Page 34.

HAVING ERECTED THEREON a dwelling known as 8 Fiddler Drive, New Oxford, Pennsylvania.

BEING THE SAME PREMISES WHICH Philip R. Garland T/D/B/A Garland Construction by Deed dated June 2, 1999 and recorded August 20, 1999 in Adams County Deed Book 1898, Page 260, granted and conveyed unto John A. Kidwell.

SEIZED IN EXECUTION AS THE PROPERTY OF JOHN A. KIDWELL A/K/A JOHN KIDWELL UNDER ADAMS COUNTY JUDGMENT NO. 01-S-4.

MAP & PARCEL #1-52-004

SEIZED and taken into execution as the property of **John A. Kidwell a/k/a John Kidwell** 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 December 31, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/26, 11/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-727 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the 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 along the right-of-way line of North Gala and corner of Lot No. 407 on subdivision plan hereinafter referred to; thence along the right-of-way line of North Gala, North 29 degrees 56 minutes 53 seconds East, 20.00 feet to a point at corner of Lot No. 405 on subdivision plan hereinafter referred to; thence along Lot 405, South 60 degrees 03 minutes 07 seconds East 100.00 feet to a point along line of lands of Weinberg and D & D Partnership, designated as Future Phase II of the Appler Development; thence along last mentioned lands, South 29 degrees 56 minutes 53 seconds West, 20.00 feet to a point at corner of Lot No. 407, aforesaid; thence along Lot No. 407, North 60 degrees 03 minutes 07 seconds West, 100.00 feet to a point along the right-of-way line of North Gala, the point and place of BEGINNING. CONTAINING 2,000 square feet.

BEING designated as Lot No. 406 on subdivision plan of Appler Development prepared by Group Hanover, Inc., dated July 15, 1994, as revised, Project No. 921060, which said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 65, Page 89.

BEING part of the same real estate conveyed by deed of David S. Weinberg, individually, and David S. Weinberg and Delbert S. Null, co-partners, trading as D & D Partnership to Appler Properties, LLC dated March 3, 1998, and recorded in Adams County Deed Book Volume 1531, page 255.

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.

HAVING ERECTED THEREON a dwelling known as 59 North Gala, Littlestown, Pennsylvania.

BEING THE SAME PREMISES WHICH Appler Properties, LLC, by Deed dated November 5, 1998 and recorded November 20, 1998 in Adams County Deed Book 1706, Page 231, granted and conveyed unto James R. Woodie and Jaime S. Woodie.

SEIZED IN EXECUTION AS THE PROPERTY OF JAMES R. WOODIE AND JAIME S. WOODIE UNDER ADAMS COUNTY JUDGMENT NO. 00-S-727.

MAP & PARCEL #4-56

SEIZED and taken into execution as the property of **James R. Woodie & Jaime S. Woodie** 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 December 31, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/26, 11/2 & 9

INCORPORATION AMENDMENT NOTICE

NOTICE IS HEREBY GIVEN that Colonial Chrysler-Plymouth-Dodge, Inc. filed Articles of Amendment with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on or about September 30, 2001 for an amendment to the Articles of Incorporation changing the name of the corporation to COLONIAL CHRYSLER-DODGE-JEEP, INC.

Gary E. Hartman, Esq.
Hartman & Yannetti
Solicitor

11/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-808 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in Pennsylvania Route 34, Carlisle Road, at corner of other lands of the grantor; thence in Pennsylvania Route 34, Carlisle Road, North four (04) degrees thirty (30) minutes zero (00) seconds West, forty-three and forty-nine hundredths (43.49) feet to a point in road; thence North eleven (11) degrees fifty-nine (59) minutes fifty-two (52) seconds East, four hundred twenty-eight and thirty hundredths (428.30) feet to a point in old roadbed on line of lands now or formerly of Cameron R. and Grace S. Garretson and at corner of other lands of grantor; thence by other lands of grantor, and passing through a steel reference pin set thirty and forty-four hundredths (30.44) feet from the beginning of this course, North seventy-four (74) degrees thirty-seven (37) minutes fifty-three (53) seconds East, one hundred seventy-two and forty-four hundredths (172.44) feet to a rifle barrel set; thence by the same, South seventy-five (75) degrees thirty-nine (39) minutes thirty-three (33) seconds East, seventy-three and ninety-two hundredths (73.92) feet to a rifle barrel set; thence by the same, South thirteen (13) degrees forty-one (41) minutes thirty-eight (38) seconds West, sixty and sixty-two hundredths (60.62) feet to a rifle barrel set; thence by the same, South thirty-six (36) degrees forty-five (45) minutes eighteen (18) seconds West, eighty-five and eighteen hundredths (85.18) feet to a 2 inch pipe set; thence by the same, South two (02) degrees twenty-three (23) minutes six (06) seconds East, three hundred eighty-three and seventy-five hundredths (383.75) feet to a rifle barrel set; thence by the same, North eighty-five (85) degrees thirty-eight (38) minutes forty-seven (47) seconds West, two hundred seventy-four and ninety-five hundredths (274.95) feet, and passing through a 1 inch pipe set twenty-two and eighteen hundredths (22.18) feet from the end of this course, to a point in road, Pennsylvania Route 34, Carlisle Road, the place of the BEGINNING. CONTAINING 2.700 Acres, more or less.

The above description is taken from a draft of survey prepared by Boyer Surveys, Richard W. Boyer, Registered Professional Surveyor 17399-E, dated September 21, 1984, as recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 40 at page 147, and designated as Lot No. 2 thereon.

IT BEING the same tract of land which Crestmont Orchards, Inc., a Pennsylvania business corporation, by deed dated November 9, 1984, and recorded November 20, 1984, in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 390, page 840, granted and conveyed unto Cheri A. Freeman, MORTGAGOR HEREIN.

TAX MAP F-6, PARCEL 21

SEIZED IN EXECUTION AS THE PROPERTY OF CHERI A. FREEMAN ON JUDGMENT NO. 808 OF 1999

SEIZED and taken into execution as the property of **Cheri A. Freeman** 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 January 7, 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.

11/2, 9 & 16

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on the 24th day of September 2001, for the purpose of obtaining a Certificate of Incorporation for a business corporation organized under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania of 1988, as amended.

The name of the Corporation is TELECOMMUNICATIONS TECHNICAL CONSULTANTS, INC. The purpose for which said Corporation is organized is to engage in and do any lawful act concerning any or all business for which corporations may be incorporated under the Business Corporation Law of 1988, December 21, P.L. 1444, No. 177 Section 103, effective October 1, 1989 including but not limited to providing services to organizations regarding telecommunications equipment and installation and related items.

Stonesifer and Kelley, P.C.

11/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-840 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land Situate on the Northerly right of way line of Abbotts Drive in the Borough of Abbottstown, County of Adams and State of Pennsylvania, known and numbered as Lot No. 3 on a plan of lots for Abbotts Manor Phase I recorded in the Office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plan Book 69, page 95, more fully bounded and described as follows, to wit:

BEGINNING at a point on the Northerly right of way line of Abbotts Drive at a corner of Lot No. 2 on said plan; thence extending along the said Lot No. 2 North 15 degrees 39 minutes 50 seconds West 122.86 feet to a point; thence extending along lands now or formerly of Homer Forbes North 70 degrees 28 minutes 30 seconds East 140.30 feet to a point; thence South 9 degrees 25 minutes 50 seconds West 157.95 feet to a point on the Northerly right of way line of Abbotts Drive; thence extending along the Northerly right of way line of Abbotts Drive on a line curving to the left having a radius of 225 feet, an arc distance of 85 feet with a chord bearing South 84 degrees 36 minutes 30 seconds West 84.49 feet to the point and place of BEGINNING.

CONTAINING 14,927 sq. feet.

Tax Parcel # 3-105

SEIZED and taken into execution as the property of **John L. Langkam IV** 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 December 31, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/19, 26 & 11/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-791 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the Southeastern edge of Bonnie Field Circle and Lot No. 55 of the hereinafter referenced subdivision plan; thence along said Lot No. 55 South fifty-four (54) degrees thirty-eight (38) minutes twenty-four (24) seconds East, one hundred ten (110.00) feet to lands now or formerly of John E. Biemiller; thence along same South thirty-four (34) degrees five (05) minutes forty-one (41) seconds West, sixty-nine and seventy hundredths (69.70) feet to a point at Lot No. 57 of said plan; thence along same North sixty (60) degrees two (02) minutes forty-one (41) seconds West, one hundred eight and twenty-five hundredths (108.25) feet to a point on the Southeastern edge of said Bonnie Field Circle; thence along same and by a curve to the right whose radius is eight hundred forty-eight and eight hundredths (848.08) feet and whose long chord bearing is North thirty-two (32) degrees thirty-nine (39) minutes twenty-seven (27) seconds East, seventy-nine and ninety-seven hundredths (79.97) feet for an arc distance of eighty (80.00) feet to a point at Lot No. 55 of said plan, the point and place of BEGINNING.

CONTAINING 8,206.6 square feet and identified as Lot No. 56 on a plan of lots known as Bonnie Field, prepared by Edward H. Richardson Associates, Consulting Engineers, on February 26, 1976. Said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 9, Page 24.

TITLE TO SAID PREMISES IS VESTED IN Lee S. Zeiders and Melissa S. Zeiders, his wife by Deed from Rosemary A. Wildasin, unmarried dated 4/30/1996 and recorded 5/1/1996 in Record Book 1186 Page 158.

Premises being: 23 Bonniefield Circle, Gettysburg, PA 17325

Tax Parcel No. 9-70

SEIZED and taken into execution as the property of **Lee S. Zeiders & Melissa S. Zeiders** 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 January 7, 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.

11/2, 9 & 16

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 Friday, November 16, 2001, at 9:00 o'clock a.m.

HEIKES—Orphans' Court Action Number OC-42-01. The First and Final Account of Theresa A. Plastino, Executrix of the Estate of Mary Jane Heikes, deceased, late of Cumberland Township, Adams County, Pennsylvania.

KAUFFMAN—Orphans' Court Action Number OC-105-01. The First and Final Account of William W. Hafer, Executor of the Estate of K. Marie Kauffman, deceased, late of Oxford Township, Adams County, Pennsylvania.

SMITH—Orphans' Court Action Number OC-118-01. The First and Final Account of William B. Flaherty, Eugene F. Jones and PNC Bank, N.A., Executors of the Last Will and Testament of Blanche Flaherty Smith, deceased, late of Oxford Township, Adams County, Pennsylvania.

SWOPE—Orphans' Court Action Number OC-52-01. The First and Final Account of Charles B. Ashbaugh, Executor of the Estate of Frances G. Swope a/k/a Frances G. Ashbaugh, deceased, late of Cumberland Township, Adams County, Pennsylvania.

GOEHRING—Orphans' Court Action Number OC-119-01. The First and Final Account of PNC Bank, N.A., Executor of the Last Will and Testament of Helen F. Goehring, deceased, late of Straban Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

11/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-754 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

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

Tax Parcel: #G-6-77

Being known as: 373 Bull Valley Road, Aspers, PA 17304

SEIZED and taken into execution as the property of **Steven G. Livesay, Sr. & Carol R. Livesay** and to be sold by me

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 7, 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.

11/2, 9 & 16

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF BEATRICE S. BECKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Personal Representative: Maynard G. Becker, 639 Cricket Lane, McSherrystown, PA 17344

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

ESTATE OF MARY Y. CALLAHAN, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Michael Callahan, 218 Ewell Avenue, Gettysburg, PA 17325

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

ESTATE OF BOYD C. DARR, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executrix: Penny E. Strausbaugh, 251 Berwick Road, Abbottstown, PA 17301

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

ESTATE OF WILBERT L. FLEMING, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executors: Shirley Kreitz, 26 Centennial St., Fairfield, PA 17320; Ed Calhun a/k/a Ed Calhoun, 2045 Barlow-Two Taverns Road, Gettysburg, PA 17325

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

ESTATE OF JOHN T. HOCKENSMITH, JR., DEC'D

Late of Reading Township, Adams County, Pennsylvania

Administratrix: G. Elaine Luther, Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

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

ESTATE OF TERESA N. HUBBARD a/k/a THERESA M. HUBBARD, DEC'D

Late of the Borough of Carlisle, Cumberland County, Pennsylvania

Executor: Donald G. Hubbard, Jr., c/o Griffie & Associates, 200 North Hanover Street, Carlisle, PA 17013

Attorney: Bradley L. Griffie, Esq., Griffie & Associates, 200 North Hanover Street, Carlisle, PA 17013

ESTATE OF NAOMI A. KELLER a/k/a NAOMI ALICE KELLER, DEC'D

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

Executor: Fred H. Keller, c/o Young & Young, 44 South Main St., P.O. Box 126, Manheim, PA 17545

Attorney: Young & Young, 44 South Main St., P.O. Box 126, Manheim, PA 17545

ESTATE OF ROBERT J. PIECUCH, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Sharon S. Opfer, 4352 The Woods Road #7, Kitty Hawk, NC 27949

Attorney: Keith A. Hassler, Esq., Attorney at Law, 9 North Beaver Street, York, PA 17401

ESTATE OF D. CALVIN RILEY, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executor: Gary E. Hartman, 126 Baltimore Street, Gettysburg, PA 17325

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

SECOND PUBLICATION

ESTATE OF ROBERT L. BAKER, DEC'D

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

Co-Executors: Ricky L. Baker, 17 Summer Dr., Gettysburg, PA 17325; Jacqui L. Hart, 45 Brown's Dam Rd., Lot #124, New Oxford, PA 17350

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

ESTATE OF FRANCES HERPEL MANN, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executor: Frederick R. Mann, 426 Rt. 194 N. Abbottstown, PA 17301

ESTATE OF ROGER KENT REED, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executors: Robert J. Reed, 8600 McDonogh Road, Owings Mills, MD 21117; Tamara S. Reed, 3612 Briars Road, Brookville, MD 20833

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

ESTATE OF ANNA MAE RHODES, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Glenn C. Heller, 80 Knox Road, Gettysburg, PA 17325; Janet M. Hartman, P.O. Box 24, Cashtown, PA 17310

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

THIRD PUBLICATION

ESTATE OF CARL E. BOLLINGER, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executrix: Cynthia Sue Staub, 3292 Carlisle Pike, New Oxford, PA 17350

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

ESTATE OF EMMA S. STORIE, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Elind Murphy, 9807 Connecticut Ave., Kensington, MD 20895; John Nichols, 301 B South Queen St., Littlestown, PA 17340

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

ESTATE OF CHARLES E. TRONE, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Co-Executors: Virginia Forsythe, Rear 120 Broadway, Hanover, PA 17331; Bradley Wolf, 501 South Street, McSherrystown, PA 17344

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

Adams County
Legal Journal

Vol. 43 November 9, 2001 No. 24, pp. 128–135

IN THIS ISSUE

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.

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

Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 334-6781 ext 336

Periodicals postage paid at Gettysburg, PA 17325.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-573 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land situate on the northerly right of way line of Abbotts Drive in the Borough of Abbottstown, County of Adams and State of Pennsylvania known and numbered as Lot No. 39 on a final plan of lots for Abbotts Manor Phase II recorded in the Office of the Recorder of Deeds in and for Adams County, PA in Plan Book 73, page 43, more fully bounded and described as follows, to wit:

BEGINNING at a point on the northerly right of way line of Abbotts Drive, at a corner of Lot No. 40 on said plan; thence extending along the said right of way line South 30 degrees 57 minutes 33 seconds West 86.43 feet to a point, at a corner of Lot No. 38 on said plan; thence extending along the said Lot No. 38 North 35 degrees 47 minutes 14 seconds West 202.48 feet to a point; thence North 64 degrees 04 minutes 00 seconds East 62.30 feet to a point, at a corner of Lot No. 40 on said plan; thence extending along the said Lot No. 40 South 42 degrees 18 minutes 30 seconds East 158.72 feet to the point and place of BEGINNING.

CONTAINING 12,783 Sq. Ft. .293 Ac.

HAVING ERECTED THEREON a dwelling known as 163 Abbotts Drive, Abbottstown, Pennsylvania.

BEING THE SAME PREMISES WHICH Garland Construction, Inc. by Deed dated December 30, 1998 and recorded January 15, 1999 in Adams County Deed Book 1745, Page 266, granted and conveyed unto Armando G. Delpielago, Sr. and Aida D. Delpielago.

SEIZED IN EXECUTION AS THE PROPERTY OF ARMANDO G. DELPIELAGO, SR. AND AIDA G. DELPIELAGO ADAMS COUNTY JUDGMENT NO. 01-S-573

MAP & PARCEL #5-51

SEIZED and taken into execution as the property of **Aida G. Delpielago & Armando G. Delpielago** 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 December 31, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/26, 11/2 & 9

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN in compliance with the requirements of the "Fictitious Name Act", Section 311, Act of 1982-295 (54 Pa. C.S.A. 311), of the filing of an application in the Office of the Secretary of the Commonwealth of Pennsylvania, on August 31, 2001, for a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of C & B TRANSPORTATION with its principal place of business at 70 Benders Church Road, Biglerville, Pennsylvania 17307. The purpose of the business is the hauling of goods. The name and address of the person owning or interested in said business is Charles E. Phillips, Sr., 70 Benders Church Road, Biglerville, PA 17307.

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

11/9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-706 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 962 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, Pennsylvania, in Miscellaneous Deed Book 1, Page 6, and subject to all legal highways, easements, rights-of-way and restrictions of record.

TITLE TO SAID PREMISES IS VESTED IN Jeffrey A. McCurdy and Sandra D. McCurdy, his wife by Deed from Robert C. Shaffer and Linda J. Shaffer, his wife dated 6/24/87, recorded 5/30/91, in Deed Book 589, Page 499.

Premises being: 59 Sedgewick Drive, East Berlin, PA 17316

Tax Parcel No. 12-54

SEIZED and taken into execution as the property of **Jeffrey A. McCurdy & Sandra D. McCurdy** 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 January 7, 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.

11/2, 9 & 16

COMMONWEALTH VS. WEGLEY

1. ...when interpreting a statute, a court's primary object is to ascertain the legislative intent...

2. ...words, such as "detention" are to be construed according to their common and approved usage where they have not otherwise been specifically defined in the statute. Here, the Legislature has not defined "detention" so the Court adopts its common and approved usage.

3. We recognize that although penal provisions are to be strictly construed, that does not necessarily "require that words of a criminal statute be given their narrowest meaning..."

4. ...house arrest with electronic monitoring does not constitute custody, imprisonment or partial confinement for sentencing purposes.

5. ...this Court concludes that one who is sentenced to house arrest under an intermediate sentence is not in "detention for other law enforcement purposes" as contemplated by §5121 of the Crimes Code.

6. However, recognizing that §5121 was enacted prior to the creation of house arrest as a sentencing alternative and that historically escape required unlawful removal from a more traditional custodial or prison setting, we do not believe that the Legislature contemplated or intended to equate house arrest with detention.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. C-1013-00, COMMONWEALTH VS. JONATHON N. WEGLEY.

Christine Simpson, Esq., Assistant District Attorney, for Commonwealth

Jeffery Cook, Esq., for Defendant

Kuhn, J., March 26, 2001

MEMORANDUM OPINION

The issue before the Court is whether Defendant can be convicted of the crime of Escape, 18 Pa. C.S.A. §5121(a), when, without permission, he removes himself from house arrest pursuant to an intermediate punishment sentence. This appears to be an issue of first impression in Pennsylvania. Based upon the analysis which follows, we conclude that such removal does not constitute escape.

On June 10, 1999, Defendant entered pleas of guilty to Forgery in CC-257-99 and CC-457-99. In each case, he was sentenced to 24 months of intermediate punishment (IPP) with at least 9 months in Phase II (house arrest — electronic monitoring).

Intermediate punishment is a sentencing alternative authorized by 42 Pa. C.S.A. §9721(a)(6) and §9763 if the county has first established an intermediate program approved by the Pennsylvania

Commission on Crime and Delinquency. The Adams County Intermediate Punishment Program has been in effect since 1993.

On February 4, 2000, Defendant was revoked from IPP for the second time and on March 13, 2000, re-sentenced to 48 months IPP with 14 months in Phase I (partial confinement) followed by 6 months in Phase II in each case. The sentences were both effective July 1, 1999.

On September 1, 2000, Defendant entered Phase II and was residing at 1950 Biglerville Road, Adams County, Pennsylvania. It is alleged that the following day, September 2, at 11:15 p.m., Defendant cut the electronic monitoring device off his leg, which triggered an alarm. Approximately two hours later, probation officers and a police officer arrived at Defendant's residence but could not get him to answer the door. On September 5, probation officers returned to Defendant's residence but were still unable to locate him. On September 11, Officer Biggins of the Cumberland Township Police Department filed a criminal complaint charging Defendant with Escape for unlawfully removing himself from house arrest.

The crime of Escape is defined, in pertinent part, as

§5121. Escape

> (a) Escape. — A person commits an offense if he unlawfully removes himself from official detention or fails to return to official detention following temporary leave granted for a specific purpose or limited period.
>
> . . .
>
> (e) Definition. — As used in this section the phrase "official detention" means arrest, detention in any facility for custody of persons under charge or conviction of crime or alleged or found to be delinquent, detention for extradition or deportation, or any other detention for law enforcement purposes; but the phrase does not include supervision of probation or parole, or constraint incidental to release on bail.

The above quoted portion of §5121 was derived verbatim from Section 242.6 of the Model Penal Code (see 10 Uniform Laws Annotated, Master Edition). Section 5121 has not been amended since it became effective on June 6, 1973. As can be readily

ascertained "house arrest" is not specifically included within the phrase "official detention". We must therefore decide whether house arrest can be considered "official detention" under the phrase "any other detention for law enforcement purposes." To our knowledge no Pennsylvania appellate court has addressed this issue.

We begin this analysis by examining several principles derived from the Statutory Construction Act of 1972. First, " . . . when interpreting a statute, a court's primary object is to ascertain the legislative intent, 1 Pa. C.S.A. §1921(a), and "the primary method of determining the meaning of a statute is simply to look at the plain and unambiguous meaning of that statute as written." *Commonwealth v. Snyder*, 560 A.2d 165, 169 (Pa. Super. 1989). However, in this case, whether the Legislature intended "detention" to include "house arrest" is unclear, especially when one considers that house arrest, as a sentencing alternative, was not authorized until July 1, 1991, just over 18 years after §5121 became effective. See 42 Pa. C.S.A. §9721(a)(6) and §9763(b)(16) and (17).

Second, " . . . words, such as 'detention' are to be construed according to their common and approved usage where they have not otherwise been specifically defined in the statute." 1 Pa. C.S.A. §1903(a). *Commonwealth v. Lopez*, 663 A.2d 746, 748 (Pa. Super. 1995). Here, the Legislature has not defined "detention" so the Court adopts its common and approved usage. Black's Law Dictionary, 7th Ed. (1999), defines "detention" as "the act or fact of holding a person in custody, confinement or compulsory delay." In turn, "confinement" is defined as "the act of imprisoning or restraining someone." Similarly, Webster's New Collegiate Dictionary defines "detention" as "the act or fact of detaining or holding back." "Detain" is defined as "to hold or keep in as if in custody." Additionally, "custody" involves "immediate charge and control exercised by a person or an authority." These definitions are not entirely helpful because restraint and custody are relative terms. One could argue that any restriction upon one's movements could constitute "restraining someone." Likewise, house arrest could be interpreted as "control exercised by an authority."

Historically, however, criminal escape has been traditionally limited to situations more closely resembling incarceration. In fact, §5121 recognizes that probationary or parole supervision, while

having elements of restraint and custody, is not to be considered detention for purposes of the crime of escape.

Third, we recognize that although penal provisions are to be strictly construed, 1 Pa. C.S.A. §1928(b)(1), that does not necessarily "require that words of a criminal statute be given their narrowest meaning . . ." *Commonwealth v. Dukatos*, 708 A.2d 510, 512 (Pa. Super. 1998). Thus, although the Court must strictly construe the term detention, we are not necessarily bound by a definition limited to incarceration.

With these rules of statutory construction in mind, we next look to in-state and out-of-state cases for guidance.

In *Commonwealth v. Kriston*, 568 A.2d 1306 (Pa. Super. 1990) the defendant was sentenced for his second driving under the influence offense in violation of 75 Pa. C.S.A. §3731, the penalty for which required a minimum term of "imprisonment" of 30 days. The issue was whether participation in the county's electronic monitoring program constituted "imprisonment." The majority of the Superior Court concluded that the ordinary meaning of imprisonment involves confinement in a penal institution and participation in an electronic home monitoring program did not meet that definition. The dissent would have ruled otherwise, by noting that the definition of imprisonment in Black's Law Dictionary is much broader than confinement to a penal institution and includes confinement in a private home. The dissent believed that being under house arrest where one's whereabouts are constantly monitored, where prison officials can make unannounced visits, and where one could be charged with escape if he ventured a prescribed distance beyond his home constituted imprisonment. However, that view was rejected by the majority.

Subsequently, in *Commonwealth v. DiMauro*, 642 A.2d 507 (Pa. Super. 1994) a panel ruled that home monitoring is not a form of partial confinement. There the defendant was convicted of aggravated assault and a minimum sentence of 6 months with most of that minimum to be under electronic home monitoring. However, aggravated assault is not expressly eligible for intermediate punishment treatment. Consequently, the defendant argued that he was not sentenced to house arrest under intermediate punishment but rather that his house arrest constituted partial confinement under 42 Pa. C.S.A. §9755(a). Under that section, partial confinement is required to be

"in a correctional or other appropriate institution." The court concluded that one's home is not an "institution" for purposes of partial confinement.

Finally, in *Commonwealth v. Shartle*, 652 A.2d 874 (Pa. Super. 1995) one issue focused on whether a defendant was entitled to sentencing credit for time spent in a pre-trial house arrest bail program where she was subject to electronic monitoring. Under 42 Pa. C.S.A. §9760, a defendant is to receive credit against her minimum and maximum sentence for time spent in custody prior to and during trial. The Superior Court panel recognized that in *Commonwealth v. Jones*, 236 A.2d 834 (Pa. Super. 1967) time served pre-trial in a state hospital upon commitment for a mental health examination and in *Commonwealth v. Conahan*, 589 A.2d 1107 (Pa. 1991) time spent in an inpatient alcohol rehabilitation program by a defendant charged with driving under the influence of alcohol constituted "custody" for purposes of §9760. The *Jones* decision indicated that "custody, in criminal law, is the same thing as detention, in civil law, and is synonymous with imprisonment. Imprisonment is the detention of a person contrary to his will." 236 A.2d at 836. The *Conahan* court distinguished time served in an institutional setting, such as an inpatient alcohol treatment facility, from time spent on house arrest when it stated,

> While it is true that one subject to home monitoring has his liability restrained and risks being sent to prison if he violates the terms of the program, we could not hold that such a sentence was sufficient to satisfy the goals of the Legislature given the abundant amenities and nonrehabilitative temptations present in the home.
>
> 589 A.2d at 1109.

The *Shartle* court likewise concluded that pretrial confinement in one's home is not the equivalent of serving time in an institutional setting, therefore, the home monitoring bail program was not the equivalent of "custody" for purposes of §9760.

These cases, therefore, advise us that "...house arrest with electronic monitoring does not constitute custody, imprisonment or partial confinement for sentencing purposes."

Next, we shall examine several out-of-state decisions for guidance. First, our research reveals that the New Jersey courts addressed

a very similar issue in *State v. Clay*, 535 A.2d 1356 (New Jersey Super. Ct. 1989), affirmed 571 A.2d 295 (New Jersey Sup. Ct. 1990). In relevant part, the legislation defining the crime of escape in New Jersey is identical to the Model Penal Code and §5121 of the Pennsylvania Crimes Code, specifically in that it prohibits unlawful removal from "any other detention for law enforcement purposes." N.J.S.A. 2C:25-9, eff. September 1, 1979. There, Clay had been placed in the Intensive Supervision Program (ISP) but left the state without permission.

The ISP is a judicially created post-sentence, post-incarceration program of judicial intervention and diversion back to the community and is a form of intermediate punishment between incarceration and probation. An inmate can apply for the program only after having served a minimum of 30 days incarceration. Persons on home detention get day for day credit for time spent in ISP just as if they had remained in custody. Failure to comply with ISP can result in re-incarceration for the balance of the sentence.

The New Jersey appellate courts concluded that participation in ISP did not constitute "any other detention for law enforcement purposes." This conclusion was reached on the basis of several factors: (1) the text of the statute defining escape does not mention that participation in ISP is detention; (2) the defendant was not detained in a facility or institution but, rather, under strict supervision and was free within the community; (3) ISP was not in existence or even conceptualized in 1979 when New Jersey's escape statute was enacted, and at that time, the legislature "stuck with the traditional physical detention versus supervised release in the community dichotomy in adopting the escape statute and it did not make provision for future novel or experimental hybrids like ISP", 553 A.2d at 1364, thereby making the statute ambiguous on how to deal with ISP; (4) criminal statutes must be strictly construed; and (5) whether sentence credit is given for participation in ISP does not convert a community based program into the equivalent of a prison, custody or detention within the meaning of the criminal escape statute. The courts then urged corrective action by the Legislature.

The Commonwealth has also urged us to consider *State v. Esmond*, 866 P.2d 495 (Or. App. 1994) and *State v. Parker*, 888 P.2d 167 (Wash. App. Div. 3-1995) where the Court of Appeals of Oregon

and Washington both held that removing one's self from a home detention program does constitute the crime of escape. However, the statutes in those jurisdictions are distinguishable from the Model Penal Code language. In Oregon, escape is defined as the "unlawful departure of a person from custody or a correctional facility . . ." Esmond was booked into the county correctional facility, given an alternate cell assignment and was told that removal from his residence without approval constituted escape. The Oregon Court ruled that Esmond was in the "constructive custody" of the correctional facility regardless of where he was physically housed and therefore could be convicted of escape for unlawfully removing himself from "custody." The Washington statute makes it a crime to "escape from custody or a detention facility." Furthermore, the statute defines a "detention facility" as "a place used for the confinement of a person . . . convicted of an offense . . ." "Confinement" encompasses both total and partial confinement in Washington and confinement to a private residence subject to electronic surveillance is statutorily included within the concept of partial confinement.

With the aforesaid authorities in mind, "...this Court concludes that one who is sentenced to house arrest under an intermediate sentence is not in 'detention for other law enforcement purposes' as contemplated by §5121 of the Crimes Code. We are persuaded by the reasoning in the *Clay* decision even though ISP is a judiciary created program in New Jersey and intermediate punishment is a statutorily authorized sentencing alternative in Pennsylvania.

We reach this conclusion for several reasons:

First, because §5121 is a penal statute, it must be strictly construed. Ambiguity exists in the use of the term "detention", which the Legislature has determined not to define. Even common and approved usage of the term does not clarify its meaning. However, recognizing that §5121 was enacted prior to the creation of house arrest as a sentencing alternative and that historically escape required unlawful removal from a more traditional custodial or prison setting, we do not believe that the Legislature contemplated or intended to equate house arrest with detention.

Second, unlike New Jersey's ISP, an individual subject to house arrest under IPP does not receive credit against a term of imprisonment for the time he spends under house arrest. This is consistent

with caselaw cited above which does not recognize house arrest as equivalent to custody, imprisonment or partial confinement for sentencing purposes. In that sense, house arrest in Adams County is treated more like supervised probation than incarceration, and poses a stronger argument for our conclusion than in *Clay*.

Third, both ISP and IPP are intermediate forms of punishment, less onerous than incarceration but more restrictive than standard probation supervision. However, IPP, unlike ISP, does not require the defendant to spend any time in jail before being eligible for house arrest. Here, although Defendant Wegley was sentenced to incarceration followed by house arrest, our courts have authority, under the Adams County program, to sentence a defendant directly to house arrest.

We, therefore, believe that clearer direction must come from the Legislature if removal from house arrest constitutes escape subject to separate criminal sanctions.

Our decision does not leave the Commonwealth without a remedy. Defendant is subject to revocation in CC-257-99 and CC-457-99 and, if revoked, can be re-sentenced to the maximum allowable by law. 42 Pa. C.S.A. §9773. Those cases each involved third degree felonies for which Defendant could receive consecutive sentences. Furthermore, his conduct in removing himself from house arrest, if and when proven, would be noted when Defendant becomes eligible for release from incarceration and could justify delay in his return to society.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 26th day of March, 2001, the Court having determined that unlawful removal from house arrest does not constitute escape under 18 Pa. C.S.A. §5121. Therefore, the charge against Defendant is dismissed with costs to be paid by the County of Adams.

STATEMENT PURSUANT TO Pa. R.App.P. 1925(a)

All issues raised on appeal have been previously addressed in the Opinion and Order entered March 26, 2001.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-4 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN unit in the property known, named and identified in the declaration referred to below as South Branch Estates, located in the Township of Oxford, Adams County, Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101, et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, PA, of a land development plan dated October 6, 1995, last revised December 14, 1995 and recorded in Book 69, Page 23 (together with all the amendments and supplements thereto recorded on or before the date hereof) being all designated in such plan as Unit No. 4, as more fully bounded and described in such plan, together with a proportionate undivided interest in the Common Elements as defined in a Declaration Plan recorded in the Office of the Recorder of Deeds, in and for Adams County, Pennsylvania in Record Book 1271, Page 34.

UNDER AND SUBJECT TO any and all covenants, conditions, restrictions, rights of way, easements, and agreements of record, including (but not limited to) those contained in the instruments recorded in the aforesaid Recorder's Office in Record Book 69, Page 23.

TOGETHER with the limited common elements appurtenant as more fully shown of Plan Book 1271, Page 34.

HAVING ERECTED THEREON a dwelling known as 8 Fiddler Drive, New Oxford, Pennsylvania.

BEING THE SAME PREMISES WHICH Philip R. Garland T/D/B/A Garland Construction by Deed dated June 2, 1999 and recorded August 20, 1999 in Adams County Deed Book 1898, Page 260, granted and conveyed unto John A. Kidwell.

SEIZED IN EXECUTION AS THE PROPERTY OF JOHN A. KIDWELL A/K/A JOHN KIDWELL UNDER ADAMS COUNTY JUDGMENT NO. 01-S-4.

MAP & PARCEL #1-52-004

SEIZED and taken into execution as the property of **John A. Kidwell a/k/a John Kidwell** 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 December 31, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/26, 11/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-727 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the 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 along the right-of-way line of North Gala and corner of Lot No. 407 on subdivision plan hereinafter referred to; thence along the right-of-way line of North Gala, North 29 degrees 56 minutes 53 seconds East, 20.00 feet to a point at corner of Lot No. 405 on subdivision plan hereinafter referred to; thence along Lot 405, South 60 degrees 03 minutes 07 seconds East 100.00 feet to a point along line of lands of Weinberg and D & D Partnership, designated as Future Phase II of the Appler Development; thence along last mentioned lands, South 29 degrees 56 minutes 53 seconds West, 20.00 feet to a point at corner of Lot No. 407, aforesaid; thence along Lot No. 407, North 60 degrees 03 minutes 07 seconds West, 100.00 feet to a point along the right-of-way line of North Gala, the point and place of BEGINNING. CONTAINING 2,000 square feet.

BEING designated as Lot No. 406 on subdivision plan of Appler Development prepared by Group Hanover, Inc., dated July 15, 1994, as revised, Project No. 921060, which said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 65, Page 89.

BEING part of the same real estate conveyed by deed of David S. Weinberg, individually, and David S. Weinberg and Delbert S. Null, co-partners, trading as D & D Partnership to Appler Properties, LLC dated March 3, 1998, and recorded in Adams County Deed Book Volume 1531, page 255.

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.

HAVING ERECTED THEREON a dwelling known as 59 North Gala, Littlestown, Pennsylvania.

BEING THE SAME PREMISES WHICH Appler Properties, LLC, by Deed dated November 5, 1998 and recorded November 20, 1998 in Adams County Deed Book 1706, Page 231, granted and conveyed unto James R. Woodie and Jaime S. Woodie.

SEIZED IN EXECUTION AS THE PROPERTY OF JAMES R. WOODIE AND JAIME S. WOODIE UNDER ADAMS COUNTY JUDGMENT NO. 00-S-727.

MAP & PARCEL #4-56

SEIZED and taken into execution as the property of **James R. Woodie & Jaime S. Woodie** 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 December 31, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/26, 11/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-808 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in Pennsylvania Route 34, Carlisle Road, at corner of other lands of the grantor; thence in Pennsylvania Route 34, Carlisle Road, North four (04) degrees thirty (30) minutes zero (00) seconds West, forty-three and forty-nine hundredths (43.49) feet to a point in road; thence North eleven (11) degrees fifty-nine (59) minutes fifty-two (52) seconds East, four hundred twenty-eight and thirty hundredths (428.30) feet to a point in old roadbed on line of lands now or formerly of Cameron R. and Grace S. Garretson and at corner of other lands of grantor; thence by other lands of grantor, and passing through a steel reference pin set thirty and forty-four hundredths (30.44) feet from the beginning of this course, North seventy-four (74) degrees thirty-seven (37) minutes fifty-three (53) seconds East, one hundred seventy-two and forty-four hundredths (172.44) feet to a rifle barrel set; thence by the same, South seventy-five (75) degrees thirty-nine (39) minutes thirty-three (33) seconds East, seventy-three and ninety-two hundredths (73.92) feet to a rifle barrel set; thence by the same, South thirteen (13) degrees forty-one (41) minutes thirty-eight (38) seconds West, sixty and sixty-two hundredths (60.62) feet to a rifle barrel set; thence by the same, South thirty-six (36) degrees forty-five (45) minutes eighteen (18) seconds West, eighty-five and eighteen hundredths (85.18) feet to a 2 inch pipe set; thence by the same, South two (02) degrees twenty-three (23) minutes six (06) seconds East, three hundred eighty-three and seventy-five hundredths (383.75) feet to a rifle barrel set; thence by the same, North eighty-five (85) degrees thirty-eight (38) minutes forty-seven (47) seconds West, two hundred seventy-four and ninety-five hundredths (274.95) feet, and passing through a 1 inch pipe set twenty-two and eighteen hundredths (22.18) feet from the end of this course, to a point in road, Pennsylvania Route 34, Carlisle Road, the place of the BEGINNING. CONTAINING 2.700 Acres, more or less.

The above description is taken from a draft of survey prepared by Boyer Surveys, Richard W. Boyer, Registered Professional Surveyor 17399-E, dated September 21, 1984, as recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 40 at page 147, and designated as Lot No. 2 thereon.

IT BEING the same tract of land which Crestmont Orchards, Inc., a Pennsylvania business corporation, by deed dated November 9, 1984, and recorded November 20, 1984, in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 390, page 840, granted and conveyed unto Cheri A. Freeman, MORTGAGOR HEREIN.

TAX MAP F-6, PARCEL 21

SEIZED IN EXECUTION AS THE PROPERTY OF CHERI A. FREEMAN ON JUDGMENT NO. 808 OF 1999

SEIZED and taken into execution as the property of **Cheri A. Freeman** 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 January 7, 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.

11/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-460 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate on the Northwest side of Bonneauville-Two Taverns State Highway in Mt. Pleasant Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of said highway at corner of land now or formerly of Loy Klinefelter, which point is South 55 3/4 degrees East from a post at the edge of said road; thence along the center of said highway, South 75 degrees West, 71 feet to a point in the center of said highway with an iron pin set back along the edge of the road along other lands now or formerly of Raymond E. Gebhart and Mildred Regina Gebhart; thence by the same and through said iron pin, North 57 1/4 degrees West, 200 feet to an iron pin; thence by the same, North 38 1/4 degrees East, 64 feet to an iron pin at land now or formerly of Loy Klinefelter; thence by said land of said Loy Klinefelter, South 55 3/4 degrees East, 240 feet through the aforementioned post to the center of said highway, the place of BEGINNING. CONTAINING 48 Perches and 22 Square Feet.

HAVING ERECTED THEREON a dwelling known as 1050 Two Taverns Road, Gettysburg, Pennsylvania.

BEING THE SAME PREMISES WHICH Neil T. Collins and Christine R. DeGroft, by Deed dated July 30, 1990 and recorded October 12, 1990 in Adams County Deed Book 569, Page 911 granted and conveyed unto Wayne G. Hughes and Dixie A. Hughes. Said Wayne G. Hughes is deceased, thereby title vests solely into Dixie A. Hughes by operation of law.

SEIZED IN EXECUTION AS THE PROPERTY OF DIXIE A. HUGHES ADAMS COUNTY JUDGMENT NO. 01-S-460

MAP & PARCEL # H14-14

SEIZED and taken into execution as the property of **Dixie A. Hughes** 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 January 21, 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.

11/9, 16 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-791 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the Southeastern edge of Bonnie Field Circle and Lot No. 55 of the hereinafter referenced subdivision plan; thence along said Lot No. 55 South fifty-four (54) degrees thirty-eight (38) minutes twenty-four (24) seconds East, one hundred ten (110.00) feet to lands now or formerly of John E. Biemiller; thence along same South thirty-four (34) degrees five (05) minutes forty-one (41) seconds West, sixty-nine and seventy hundredths (69.70) feet to a point at Lot No. 57 of said plan; thence along same North sixty (60) degrees two (02) minutes forty-one (41) seconds West, one hundred eight and twenty-five hundredths (108.25) feet to a point on the Southeastern edge of said Bonnie Field Circle; thence along same and by a curve to the right whose radius is eight hundred forty-eight and eight hundredths (848.08) feet and whose long chord bearing is North thirty-two (32) degrees thirty-nine (39) minutes twenty-seven (27) seconds East, seventy-nine and ninety-seven hundredths (79.97) feet for an arc distance of eighty (80.00) feet to a point at Lot No. 55 of said plan, the point and place of BEGINNING.

CONTAINING 8,206.6 square feet and identified as Lot No. 56 on a plan of lots known as Bonnie Field, prepared by Edward H. Richardson Associates, Consulting Engineers, on February 26, 1976. Said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 9, Page 24.

TITLE TO SAID PREMISES IS VESTED IN Lee S. Zeiders and Melissa S. Zeiders, his wife by Deed from Rosemary A. Wildasin, unmarried dated 4/30/1996 and recorded 5/1/1996 in Record Book 1186 Page 158.

Premises being: 23 Bonniefield Circle, Gettysburg, PA 17325

Tax Parcel No. 9-70

SEIZED and taken into execution as the property of **Lee S. Zeiders & Melissa S. Zeiders** 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 January 7, 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.

11/2, 9 & 16

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 Friday, November 16, 2001, at 9:00 o'clock a.m.

HEIKES—Orphans' Court Action Number OC-42-01. The First and Final Account of Theresa A. Plastino, Executrix of the Estate of Mary Jane Heikes, deceased, late of Cumberland Township, Adams County, Pennsylvania.

KAUFFMAN—Orphans' Court Action Number OC-105-01. The First and Final Account of William W. Hafer, Executor of the Estate of K. Marie Kauffman, deceased, late of Oxford Township, Adams County, Pennsylvania.

SMITH—Orphans' Court Action Number OC-118-01. The First and Final Account of William B. Flaherty, Eugene F. Jones and PNC Bank, N.A., Executors of the Last Will and Testament of Blanche Flaherty Smith, deceased, late of Oxford Township, Adams County, Pennsylvania.

SWOPE—Orphans' Court Action Number OC-52-01. The First and Final Account of Charles B. Ashbaugh, Executor of the Estate of Frances G. Swope a/k/a Frances G. Ashbaugh, deceased, late of Cumberland Township, Adams County, Pennsylvania.

GOEHRING—Orphans' Court Action Number OC-119-01. The First and Final Account of PNC Bank, N.A., Executor of the Last Will and Testament of Helen F. Goehring, deceased, late of Straban Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

11/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-754 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

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

Tax Parcel: #G-6-77

Being known as: 373 Bull Valley Road, Aspers, PA 17304

SEIZED and taken into execution as the property of **Steven G. Livesay, Sr. & Carol R. Livesay** and to be sold by me

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 7, 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.

11/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-407 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate on the East side of Fifth Street in the Borough of McSherrystown, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin at lands now or formerly of Clarence Smith formerly Norbert Small and lands now or formerly of C.J. Delone Estate; thence by last mentioned lands, South fifty-two (52) degrees twenty-one (21) minutes West, one hundred twelve and two tenths (112.2) feet to an iron pin in line with the East side of Fifth Street Extended; thence by said line, North thirty-two (32) degrees twenty (20) minutes West, fifty-seven and four tenths (57.4) feet to an iron pin in line with the East side of Fifth Street Extended at other land now or formerly of Richard N. Smith; thence by the same, North fifty-seven (57) degrees forty (40) minutes East, one hundred eighteen and two tenths (118.2) feet to an iron pin at lands now or formerly of Clarence Smith aforesaid; thence by the same, South twenty-four (24) degrees thirty-five (35) minutes East, forty-seven and four tenths (47.4) feet to an iron pin, the place of BEGINNING.

Being known as 231 South 5th Street, McSherrystown, PA 17344.

Property ID# MAP: 6 PARCEL: 100A

TITLE TO SAID PREMISES IS VESTED IN Kimberly A. Sanders by deed from Scott A. Sanders and Kimberly A. Sanders, his wife dated 12/6/99 and recorded 12/6/99 in Deed Book 1974 Page 329.

SEIZED and taken into execution as the property of **Kimberly A. Sanders** 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 January 14, 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.

11/9, 16 & 21

SHERIFF'S SALE

October 26, 2001 Sale Continued to:

IN PURSUANCE of a Writ of Execution, Judgment No. 01-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 21st day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece, parcel of land situate in the Borough of New Oxford, County of Adams, and State of Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point along Pitt Street now known as Lincoln Way West at lands now or formerly of Abram Stambaugh; thence along said lands, South two and one-half (2-1/2) degrees East, eleven and sixty-four hundredths (11.64) perches to a public alley, South eighty-seven and one-fourth (87-1/4) degrees East, thirty-five (35) feet more or less to a point; thence north two (02) degrees West, eleven and two-tenths (11.2) perches to Pitt Street aforementioned; thence along said street, North eighty-seven and three-fourths (87-3/4) degrees West, thirty-five (35) feet, more or less, to the place of BEGINNING.

Being known as 329 Lincolnway West, New Oxford, PA 17350.

Property ID# MAP: 4 PARCEL: 51

TITLE TO SAID PREMISES IS VESTED IN Donald A. Briska and Jamie A. Markle, as joint tenants with the right of survivorship by deed from David L. Hatfield and Cindy L. Hatfield, husband and wife dated 4/30/99 and recorded 5/7/99 in Deed Book 1826 Page 242.

SEIZED and taken into execution as the property of **Donald Briska & Jamie A. Markle** 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 January 14, 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.

11/9, 16 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-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 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground situate in the Borough of Carroll Valley (formerly Hamiltonban Township), Adams County, Pennsylvania, being Lot No. 67 in Section K of the Charnita Development, bounded and described as follows:

BEGINNING at a point in the center of Black Bass Trail at Lot No. 68; thence by said lot, South 68 degrees 23 minutes 24 seconds West, 225 feet to Lot No. 43; thence by said lot and by Lot No. 44, North 21 degrees 36 minutes 36 seconds West, 100 feet to Lot No. 66; thence by said lot, North 68 degrees 23 minutes 24 seconds East, 225 feet to a point in the center of said Black Bass Trail; thence in said Black Bass Trail, South 21 degrees 36 minutes 36 seconds East, 100 feet to the place of BEGINNING.

THE above description was taken from a plan of lots labeled "Section K, Chamita" dated March 3, 1969, prepared by Evans, Hagan & Holdefer, and recorded in Adams County Plan Book No. 1 at page 42.

HAVING erected thereon a dwelling known as 17 Black Bass Trail, Fairfield, PA 17320.

PARCEL NO. 6-35.52

BEING the same premises which Andrew J. Dorcus and Janice C. Dorcus, his wife, by deed dated 09/29/1997 in the Adams County, Pennsylvania, Recorder of Deeds Office in Deed Book Volume 1453, page 98, granted and conveyed unto Judith M. Grana.

SEIZED and taken into execution as the property of **Judith M. Grana** 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 January 7, 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.

11/9, 16 & 21

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 BRUCE A. GALLAGHER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Paul R. Brasee, 85 Orrtanna Road, Box 22, Cashtown, PA 17310; Irene Starner, 1675 Old Rt. 30, Orrtanna, PA 17353

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

ESTATE OF HELEN H. KESBY, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executrix: Pamela K. Glockengeiser, 780 Harney Road, Littlestown, PA 17340

Attorney: Lynn G. Peterson, Esq., Peterson & Peterson, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF HAROLD R. MILLER, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Donald R. Miller, 8045 Carlisle Pike, P.O. Box 212, York Springs, PA 17372; Kenneth C. Miller, 2 Creekbottom Circle, Dillsburg, PA 17019

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

ESTATE OF PEGGY L. OTTOMEIER, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Co-Administrators: Irvin L. Smith, Sr. and Frances H. Smith, 5185 Old Harrisburg Road, York Springs, PA 17372

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

SECOND PUBLICATION

ESTATE OF BEATRICE S. BECKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Personal Representative: Maynard G. Becker, 639 Cricket Lane, McSherrystown, PA 17344

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

ESTATE OF MARY Y. CALLAHAN, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Michael Callahan, 218 Ewell Avenue, Gettysburg, PA 17325

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

ESTATE OF BOYD C. DARR, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executrix: Penny E. Strausbaugh, 251 Berwick Road, Abbottstown, PA 17301

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

ESTATE OF WILBERT L. FLEMING, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executors: Shirley Kreitz, 26 Centennial St., Fairfield, PA 17320; Ed Calhun a/k/a Ed Calhoun, 2045 Barlow-Two Taverns Road, Gettysburg, PA 17325

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

ESTATE OF JOHN T. HOCKENSMITH, JR., DEC'D

Late of Reading Township, Adams County, Pennsylvania

Administratrix: G. Elaine Luther, Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

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

ESTATE OF TERESA N. HUBBARD a/k/a THERESA M. HUBBARD, DEC'D

Late of the Borough of Carlisle, Cumberland County, Pennsylvania

Executor: Donald G. Hubbard, Jr., c/o Griffie & Associates, 200 North Hanover Street, Carlisle, PA 17013

Attorney: Bradley L. Griffie, Esq., Griffie & Associates, 200 North Hanover Street, Carlisle, PA 17013

ESTATE OF NAOMI A. KELLER a/k/a NAOMI ALICE KELLER, DEC'D

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

Executor: Fred H. Keller, c/o Young & Young, 44 South Main St., P.O. Box 126, Manheim, PA 17545

Attorney: Young & Young, 44 South Main St., P.O. Box 126, Manheim, PA 17545

ESTATE OF ROBERT J. PIECUCH, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Sharon S. Opfer, 4352 The Woods Road #7, Kitty Hawk, NC 27949

Attorney: Keith A. Hassler, Esq., Attorney at Law, 9 North Beaver Street, York, PA 17401

ESTATE OF D. CALVIN RILEY, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executor: Gary E. Hartman, 126 Baltimore Street, Gettysburg, PA 17325

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

THIRD PUBLICATION

ESTATE OF ROBERT L. BAKER, DEC'D

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

Co-Executors: Ricky L. Baker, 17 Summer Dr., Gettysburg, PA 17325; Jacqui L. Hart, 45 Brown's Dam Rd., Lot #124, New Oxford, PA 17350

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

ESTATE OF FRANCES HERPEL MANN, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executor: Frederick R. Mann, 426 Rt. 194 N., Abbottstown, PA 17301

ESTATE OF ROGER KENT REED, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executors: Robert J. Reed, 8600 McDonogh Road, Owings Mills, MD 21117; Tamara S. Reed, 3612 Briars Road, Brookville, MD 20833

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

ESTATE OF ANNA MAE RHODES, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Glenn C. Heller, 80 Knox Road, Gettysburg, PA 17325; Janet M. Hartman, P.O. Box 24, Cashtown, PA 17310

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

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

NO. 01-S-256

WASHINGTON MUTUAL BANK FA
SUCCESSORS IN INTEREST TO BANK
UNITED,
3200 SW Freeway, Suite 14,
Houston, TX 77027,

Plaintiff

v.

DONALD A. BRISKA and
JAMIE A. MARKLE,
329 Lincolnway West,
New Oxford, PA 17350,

Defendant(s)

NOTICE OF SHERIFF'S SALE OF
REAL PROPERTY

TO: Donald A. Briska
329 Lincolnway West
New Oxford, PA 17350

Your house (real estate) at 329 Lincolnway West, New Oxford, PA 17350 is scheduled to be sold at the Sheriff's Sale on October 26, 2001, at 10:00 a.m. in the ADAMS COUNTY COURTHOUSE, 117 BALTIMORE STREET, GETTYSBURG, PA 17325, to enforce the court judgment of $98,817.18 obtained by Plaintiff above (the mortgagee) against you. If the sale is postponed, the property will be relisted for the Next Available Sale. Postponed to December 21, 2001.

NOTICE OF OWNER'S RIGHTS
YOU MAY BE ABLE TO PREVENT
THIS SHERIFF'S SALE

To prevent this Sheriff's Sale, you must take immediate action:

1. The sale will be cancelled if you pay to the mortgagee the back payment, late charges, costs, and reasonable attorney's fees. To find out how much you must pay, you may call: (856) 482-6900.
2. You may be able to stop the sale by filing a petition asking the Court to strike or open the judgment, if the judgment was improperly entered. You may also ask the Court to postpone the sale for good cause.
3. You may also be able to stop the sale through other legal proceedings. You may need an attorney to assert your rights. The sooner you contact one, the more chance you will have of stopping the sale. (See notice below on how to obtain an attorney.)

YOU MAY STILL BE ABLE TO SAVE
YOUR PROPERTY AND YOU HAVE
OTHER RIGHTS EVEN IF
THE SHERIFF'S SALE
DOES TAKE PLACE

1. If the Sheriff's Sale is not stopped, your property will be sold to the highest bidder. You may find out the price bid by calling 856-482-6900.
2. You may be able to petition the Court to set aside the sale if the bid price was grossly inadequate compared to the value of your property.
3. The sale will go through only if the buyer pays the Sheriff the full amount due in the sale. To find out if this has happened, you may call 856-482-6900.
4. If the amount due from the Buyer is not paid to the Sheriff, you will remain the owner of the property as if the sale never happened.
5. You have the right to remain in the property until the full amount due is paid to the Sheriff and the Sheriff gives a deed to the buyer. At that time, the buyer may bring legal proceedings to evict you.
6. You may be entitled to a share of the money which was paid for your house. A schedule of distribution of the money bid for your house will be filed by the Sheriff within 30 days after the sale. This schedule will state who will be receiving that money. The money will be paid out in accordance with this schedule unless exceptions (reasons why the proposed distribution is wrong) are filed with the Sheriff within ten (10) days after Schedule of Distribution is filed.
7. You may also have other rights and defenses, or ways of getting your home back, if you act immediately after the sale.

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 THE OFFICE LISTED BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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

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

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

11/9

Adams County Legal Journal

Vol. 43 November 16, 2001 No. 25, pp. 136–143

CONTINUING LEGAL EDUCATION PROGRAM

The Real Estate Development Transaction: Undeveloped Property
November 27, 2001 – 9:00 a.m. - 1:30 p.m.
Room 307, Adams County Courthouse
Credits: Substantive Law – 4, Ethics – 0

Representing the Incapacitated Person
December 13, 2001 – 9:00 a.m. - 12:30 p.m.
Room 307, Adams County Courthouse
Credits: Substantive Law – 2, Ethics – 1

Preparing LLC Documents in Pennsylvania
December 19, 2001 – 9:00 a.m. - 12:00 p.m.
Credits: Substantive Law – 3, Ethics – 0
Satellite Presentation at Gettysburg College Library Media Theater

REGISTRATION THROUGH P.B.I. 800-247-4724

NOTICE: None of these programs will be canceled by the PBI for low registration.

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.

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

Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 334-6781 ext 336

Periodicals postage paid at Gettysburg, PA 17325.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-808 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in Pennsylvania Route 34, Carlisle Road, at corner of other lands of the grantor; thence in Pennsylvania Route 34, Carlisle Road, North four (04) degrees thirty (30) minutes zero (00) seconds West, forty-three and forty-nine hundredths (43.49) feet to a point in road; thence North eleven (11) degrees fifty-nine (59) minutes fifty-two (52) seconds East, four hundred twenty-eight and thirty hundredths (428.30) feet to a point in old roadbed on line of lands now or formerly of Cameron R. and Grace S. Garretson and at corner of other lands of grantor; thence by other lands of grantor, and passing through a steel reference pin set thirty and forty-four hundredths (30.44) feet from the beginning of this course, North seventy-four (74) degrees thirty-seven (37) minutes fifty-three (53) seconds East, one hundred seventy-two and forty-four hundredths (172.44) feet to a rifle barrel set; thence by the same, South seventy-five (75) degrees thirty-nine (39) minutes thirty-three (33) seconds East, seventy-three and ninety-two hundredths (73.92) feet to a rifle barrel set; thence by the same, South thirteen (13) degrees forty-one (41) minutes thirty-eight (38) seconds West, sixty and sixty-two hundredths (60.62) feet to a rifle barrel set; thence by the same, South thirty-six (36) degrees forty-five (45) minutes eighteen (18) seconds West, eighty-five and eighteen hundredths (85.18) feet to a 2 inch pipe set; thence by the same, South two (02) degrees twenty-three (23) minutes six (06) seconds East, three hundred eighty-three and seventy-five hundredths (383.75) feet to a rifle barrel set; thence by the same, North eighty-five (85) degrees thirty-eight (38) minutes forty-seven (47) seconds West, two hundred seventy-four and ninety-five hundredths (274.95) feet, and passing through a 1 inch pipe set twenty-two and eighteen hundredths (22.18) feet from the end of this course, to a point in road, Pennsylvania Route 34, Carlisle Road, the place of the BEGINNING. CONTAINING 2.700 Acres, more or less.

The above description is taken from a draft of survey prepared by Boyer Surveys, Richard W. Boyer, Registered Professional Surveyor 17399-E, dated September 21, 1984, as recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 40 at page 147, and designated as Lot No. 2 thereon.

IT BEING the same tract of land which Crestmont Orchards, Inc., a Pennsylvania business corporation, by deed dated November 9, 1984, and recorded November 20, 1984, in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 390, page 840, granted and conveyed unto Cheri A. Freeman, MORTGAGOR HEREIN.

TAX MAP F-6, PARCEL 21

SEIZED IN EXECUTION AS THE PROPERTY OF CHERI A. FREEMAN ON JUDGMENT NO. 808 OF 1999

SEIZED and taken into execution as the property of **Cheri A. Freeman** 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 January 7, 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.

11/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-706 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 962 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, Pennsylvania, in Miscellaneous Deed Book 1, Page 6, and subject to all legal highways, easements, rights-of-way and restrictions of record.

TITLE TO SAID PREMISES IS VESTED IN Jeffrey A. McCurdy and Sandra D. McCurdy, his wife by Deed from Robert C. Shaffer and Linda J. Shaffer, his wife dated 6/24/87, recorded 5/30/91, in Deed Book 589, Page 499.

Premises being: 59 Sedgewick Drive, East Berlin, PA 17316

Tax Parcel No. 12-54

SEIZED and taken into execution as the property of **Jeffrey A. McCurdy & Sandra D. McCurdy** 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 January 7, 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.

11/2, 9 & 16

COMMONWEALTH VS. GLACKEN

1. ...we are not concerned with the actual words uttered by Defendant, no matter how vile, disgusting and inappropriate they may have been, nor whether those utterances constituted "fighting words," but rather, we must focus our attention on whether the noise he did create was unreasonable and whether it was intended to or recklessly created a risk of causing public inconvenience, annoyance or alarm.

2. ...disorderly conduct is not intended as a catchall for every act which annoys or disturbs people; it is not to be used as a dragnet for all the irritations which breed in the ferment of a community. It has a specific purpose; it has a definite objective, it is intended to preserve public peace, it has a limited periphery beyond which the prosecuting authorities have no right to transgress any more than the alleged criminal has the right to operate within its clearly outlined circumference.

3. ...unreasonable noise...was described as that which is "not fitting or proper in respect to the conventional standards of organized society or a legally constituted community."

4. A person acts intentionally when "it is his conscious object to engage in conduct of that nature or to cause such a result." It is well settled that intent can be inferred from the circumstances.

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

6. The intent requirement of the crime may be met by showing of either intent to cause or reckless disregard of the risk of "public inconvenience, annoyance or alarm" a person may be guilty of disorderly conduct within the definition of §5503 if, in the presence of members of the general public he shouts obscenities "although the principal intent of the defendant may have been to insult the police rather than to cause public inconvenience, annoyance or alarm."

7. ...it is well settled in our Commonwealth that one may be convicted of disorderly conduct for engaging in the activity of shouting profane names and insults at police officers on a public street while the officers attempt to carry out their lawful duties.

8. Whether a defendant's words or acts rise to the level of disorderly conduct hinges upon whether they cause or unjustifiably risk a public disturbance. "The cardinal feature of the crime of disorderly conduct is public unruliness which can or does lead to tumult and disorder."

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-269-01, COMMONWEALTH VS. DONALD GLACKEN.

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

James W. Harris, Esq., for Defendant

Kuhn, J., March 30, 2001

MEMORANDUM OPINION

The issue in this case is whether Defendant's conduct in shouting obscenities at a police officer from his porch constituted Disorderly Conduct in violation of 18 Pa. C.S.A. §5503(a)(2).[1] We hold that Defendant's conduct in this instance was sufficient to support a conviction for Disorderly Conduct.

Although we infrequently write in support of verdicts entered in summary cases, we do so here because Defendant has raised the interesting question whether the words uttered from the porch of his home could be considered legally sufficient to cause a public inconvenience, annoyance or alarm in this case.

Based upon our finding of credibility, the following sets forth the relevant background. At approximately 10:10 p.m. on October 21, 2000, Kevin Wilson of the Gettysburg Borough Police Department was dispatched to 149 East Middle Street for a reported "fight and injury." That address is an apartment building in a residential section of the borough. Defendant, Donald Glacken, resides in Apartment #2. Prior to the officer's arrival, and unknown to him, Defendant's son, Gary Glacken, kicked in the door to Defendant's apartment and struck his guest, Ricky Green. Another family member intervened and removed Gary Glacken from the apartment to an area outside where others had gathered. Defendant testified that he called 911 which, in turn, triggered Officer Wilson's response.

When Officer Wilson arrived in the alley to the rear of the apartment building, he noticed a group of 6-7 persons in an area behind the building. One person in the group, Gary Glacken, had his shirt off and gave the appearance of being in a fight. As Officer Wilson moved toward the group, he passed Defendant's apartment. Defendant was standing on his porch with the light on. In a loud voice, Defendant shouted at the officer, "Hey you mother f---er, get back here you mother f---ing a--h---. You'll talk to me first you mother f---er." The officer told Defendant he would return and proceeded to the group where he encountered and arrested Gary Glacken.

At that point, Officer William Orth, also of the Gettysburg Police

[1] Originally, Defendant was cited for violation of §5503(a)(2) and (3) but the transcript indicates that the district justice only found him guilty of subsection (a)(2). It was from that finding that Defendant has appealed to this court.

Department, arrived and assumed custody of Gary Glacken. Officer Wilson returned to Defendant who was still yelling obscenities at him. Officer Wilson requested Defendant to accompany him to his vehicle. Defendant asked if he was being arrested and Officer Wilson responded that he was being arrested for Disorderly Conduct. By this time, Officer Steven Higgs of the Cumberland Township Police Department also arrived on the scene. Defendant then loudly shouted, "F--- you, a--h---" and "Up yours Wilson — you ain't going to arrest me." Defendant tried to walk away but was caught by Officers Wilson and Higgs. Defendant was found to be intoxicated.

Officer Orth noticed that other persons were observing the incident. Both Officers Orth and Wilson testified to being annoyed and alarmed by Defendant's conduct and words.

In pertinent part, our Legislature has defined Disorderly Conduct as

(a) Offense defined. — A person is guilty of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

. . .

(2) makes unreasonable noise;

(c) Definition — As used in this section the word "public" means affecting or likely to affect persons in a place to which the public or a substantial group has access; among places included are . . . apartment houses . . ."

What both the undersigned and the reader must keep in mind is that, in this case, we are not concerned with the actual words uttered by Defendant, no matter how vile, disgusting and inappropriate they may have been, nor whether those utterances constituted "fighting words"[2], but rather, we must focus our attention on whether the noise

[2] This is not to say that words substantially similar to those used by Defendant have not been analyzed by our appellate courts to determine whether such conduct violates §5503(a)(1) or (3) of the Crimes Code which addresses fighting, threatening, violent or tumultuous behavior or use of obscene language. In fact, that has occurred on numerous occasions. See *Commonwealth v. DeLuca*, 497 A.2d 1121 (Pa. 1991); *Commonwealth v. Bryner*, 652 A.2d 909 (Pa. Super. 1995); *Commonwealth v. Pringle*, 450 A.2d 103 (Pa. Super. 1982). Instead, we are constrained by the charge filed to determine whether Defendant is guilty under §5503(a)(2) only. That section of the Crimes Code was derived from Section 250.2 of the Model Penal Code, the commentaries to which indicate that the prohibition against unreasonable noise is aimed at the volume and not the content of the speech. *Commonwealth v. Gilbert*, 674 A.2d 284, 287 (Pa. Super. 1996).

he did create was unreasonable and whether it was intended to or recklessly created a risk of causing public inconvenience, annoyance or alarm.

We begin our analysis with a cautionary reminder written 28 years ago by Justice Musmanno in *Commonwealth v. Greene*, 189 A.2d 141 (Pa. 1963) and repeated recently by our Supreme Court in *Commonwealth v. Hock*, 728 A.2d 943, 947 (Pa. 1999) where it was noted that disorderly conduct

> Is not intended as a catchall for every act which annoys or disturbs people; it is not to be used as a dragnet for all the irritations which breed in the ferment of a community. It has a specific purpose; it has a definite objective, it is intended to preserve public peace, it has a limited periphery beyond which the prosecuting authorities have no right to transgress any more than the alleged criminal has the right to operate within its clearly outlined circumference.

First, we shall determine whether Defendant was making unreasonable noise when he shouted at the officer. What constitutes unreasonable noise for purposes of §5503(a)(2) is related to the factual circumstances of each case. *Commonwealth v. Gowan*, 582 A.2d 879, 881 (Pa. Super. 1990). The most recent definition of unreasonable noise was set forth in *Commonwealth v. Gilbert, supra.*, 674 A.2d at 287, wherein it was described as that which is "not fitting or proper in respect to the conventional standards of organized society or a legally constituted community." This hardly constitutes a bright line upon which conduct can be measured. Therefore, we look to caselaw for assistance.

Commonwealth v. Mastrangelo, 414 A.2d 54 (Pa. 1980) and *Commonwealth v. Gilbert, supra.*, are the two appellate cases most closely analogous to the factual scenario before the Court. In *Mastrangelo*, the defendant exited his store and repeatedly shouted at a meter maid that she was a "f---ing pig" when she was ticketing his car. The following day, Mastrangelo exited his store while the meter maid was patrolling the area and continued to yell at her with comments such as "nigger lover" and "c---sucker." In *Gilbert*, the defendant openly disagreed with the police who were about to tow his

neighbor's car. Gilbert continued yelling across the street to his neighbor that the police were wrong for towing his vehicle despite three requests to quiet down.

In *Mastrangelo*, our Supreme Court found the defendant guilty of making unreasonable noise without any discussion except to state that "the evidence presented at trial was sufficient to sustain appellant's conviction for that crime." 414 A.2d at 59. By contrast, in finding the defendant in *Gilbert* not guilty of making unreasonable noise, the Superior Court determined that

> The record does not support an inference that the noise was such that it violated "the conventional standards of organized society or a legally constituted community." It was not unreasonable, loud, boisterous, or unseemly. At most, the record reflects that appellant spoke to the officer and yelled across the street to his neighbor. The arresting officer testified that half the neighborhood eventually came out to the street to view the "ruckus." However, no evidence was produced that the level of noise was inconsistent with neighborhood tolerance or standards.
>
> 647 A.2d at 287.

Instantly, we find the volume of Defendant's comments to be unreasonable under the circumstances. Late on a Saturday evening, while in an intoxicated condition, Defendant shouted vulgarity at the officer as he was legally responding to a dispatch regarding violent behavior. Defendant continued with these loud obscenities over a period of time. Defendant's conduct attracted the attention of others in this residential area. Defendant was loud, boisterous, and unseemly. This situation is more analogous to *Mastrangelo* than it is to *Gilbert* and does violate conventional standards of the Gettysburg community.

Second, we must determine whether Defendant intended to or recklessly created a risk of causing public inconvenience, annoyance or alarm by his conduct. A person acts intentionally when "it is his conscious object to engage in conduct of that nature or to cause such a result." 18 Pa. C.S.A. §302(b)(1)(i). It is well settled that intent can be inferred from the circumstances. In addition, one acts recklessly

> when he consciously disregards a substantial and unjustifiable risk that the material dement exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and intent of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.
>
> 18 Pa. C.S.A. §302(b)(3).

On this issue we refer to five appellate cases for guidance; *Commonwealth v. Hughes*, 410 A.2d 1272 (Pa. Super. 1979); *Commonwealth v. Pringle, supra.; Commonwealth v. Weiss*, 490 A.2d 853 (Pa. Super. 1985), *Commonwealth v. DeLuca, supra.*, and *Commonwealth v. Hock, supra.*

In *Hughes*, the defendant was upset when in the early morning hours, she was denied admittance to a party. Hughes crossed the street and was yelling obscenities at the host's home. Police arrived and Hughes was convicted of disorderly conduct under §5503(a)(3). The Superior Court, in sustaining her conviction, discussed the mens rea element.

> The intent requirement of the crime may be met by a showing of either intent to cause or reckless disregard of the risk of "public inconvenience, annoyance or alarm." Id. A person may be guilty of disorderly conduct within the definition of §5503 if, in the presence of members of the general public he shouts obscenities "although the principal intent of the defendant may have been to insult the police rather than to cause public inconvenience, annoyance or alarm."
>
> 410 A.2d at 1274.

In *Pringle*, police were attempting to arrest an unruly person in front of a tavern where a crowd of approximately 50 people gathered to watch. Pringle repeatedly shouted "g---damn f---ing pigs" and "f---ing pig, let him go" at the police. In upholding Pringle's conviction under §5503(a)(3), Superior Court stated,

> Suffice it to state that it is well settled in our Commonwealth that one may be convicted of disorderly

> conduct for engaging in the activity of shouting profane names and insults at police officers on a public street while the officers attempt to carry out their lawful duties.
>
> 450 A.2d at 106.

In *Weiss*, a police officer was attempting to arrest a suspect in a hit and run incident when the suspect broke free and entered a trailer occupied by the suspect and Weiss. When the officer followed, he found the door to be locked so he broke it in and entered the residence. Weiss began yelling obscenities at the officer and demanded he leave the premises. When Weiss refused to quiet down, she was charged with disorderly conduct under §5503(a)(3). Weiss contended that her conduct inside her own residence was insufficient to establish that she intended to cause or recklessly created a risk of causing public annoyance or alarm. The Superior Court agreed. The court noted that Weiss was not on a public street, sidewalk, or in a public building, that she reacted to the conduct of the officer in breaking down her door and thus, if her neighbor heard her shouts, it was because the police, not the defendant, opened the door to public awareness.

In *DeLuca*, police responded to a reported stabbing of another officer in front of a tavern at 1:00 a.m. A crowd of between 30-50 persons had gathered. DeLuca was seen hurrying away from a smaller group which appeared to be the focus of the incident. When police stopped him, DeLuca shouted, "Get out of my f---ing way." The officer put his hand on DeLuca's shoulder and told him to wait until they could ascertain what was happening. The defendant pushed the officer's hand aside and yelled, "Yes, I'm leaving. Get the f--- out of my way." The Superior Court reversed DeLuca's conviction under §5503(a)(3) on the basis that his conduct did not cause public inconvenience, annoyance, or alarm. However, the Supreme Court concluded that DeLuca recklessly created a risk of public alarm and stated,

> Such a situation is, by its nature, fraught with danger; danger not only to participants in whatever incident may have been the genesis of such a scene, but danger to bystanders, passersby and arriving police. Here, the officer made no illegal or unreasonable request of [defendant]. The [defendant's] response was the very type of

> spark the statute so plainly seeks to extinguish before it becomes a flame.
>
> 597 A.2d at 1123.

Finally, in *Hock*, our Supreme Court ruled that there was insufficient evidence to support an arrest for disorderly conduct. There the officer observed Hock drive into the parking lot for her apartment building and was aware that her license was suspended. The officer asked Hock for her license. Instead, she denied driving, exited her vehicle, alleged police harassment, and began walking away. In a normal tone, she uttered, "F--- you, a--hole." She was arrested for disorderly conduct and resisting arrest. The court noted that,

> Whether a defendant's words or acts rise to the level of disorderly conduct hinges upon whether they cause or unjustifiably risk a public disturbance. "The cardinal feature of the crime of disorderly conduct is public unruliness which can or does lead to tumult and disorder."

728 A.2d at 946. Importantly, Hock uttered but a single epithet, in a normal tone, while walking away. There were no bystanders and the officer was not alarmed or frightened.

With these authorities in mind, we conclude that, at the very least, Defendant acted recklessly. Although he may have been standing on the porch or near the doorway to his private residential apartment, he was clearly directing his commentary to the officer outside the building who was attempting to perform a lawful duty. The officer was in an area which could be considered public and, if fact, a crowd was present. Defendant was not speaking in a normal tone nor was he simply trying to get the officer's attention. Instead, Defendant was loud and his obscenities continued even after the officer stated he would return. Even though Defendant's comments may have been directed solely at the officer with an intent to treat him with disrespect or contempt, he, nevertheless, created a risk of public annoyance or alarm by the noise he was generating.

Accordingly, for the reasons stated above, we found the Defendant guilty of disorderly conduct.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-460 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate on the Northwest side of Bonneauville-Two Taverns State Highway in Mt. Pleasant Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of said highway at corner of land now or formerly of Loy Klinefelter, which point is South 55 3/4 degrees East from a post at the edge of said road; thence along the center of said highway, South 75 degrees West, 71 feet to a point in the center of said highway with an iron pin set back along the edge of the road along other lands now or formerly of Raymond E. Gebhart and Mildred Regina Gebhart; thence by the same and through said iron pin, North 57 1/4 degrees West, 200 feet to an iron pin; thence by the same, North 38 1/4 degrees East, 64 feet to an iron pin at land now or formerly of Loy Klinefelter; thence by said land of said Loy Klinefelter, South 55 3/4 degrees East, 240 feet through the aforementioned post to the center of said highway, the place of BEGINNING. CONTAINING 48 Perches and 22 Square Feet.

HAVING ERECTED THEREON a dwelling known as 1050 Two Taverns Road, Gettysburg, Pennsylvania.

BEING THE SAME PREMISES WHICH Neil T. Collins and Christine R. DeGroft, by Deed dated July 30, 1990 and recorded October 12, 1990 in Adams County Deed Book 569, Page 911 granted and conveyed unto Wayne G. Hughes and Dixie A. Hughes. Said Wayne G. Hughes is deceased, thereby title vests solely into Dixie A. Hughes by operation of law.

SEIZED IN EXECUTION AS THE PROPERTY OF DIXIE A. HUGHES ADAMS COUNTY JUDGMENT NO. 01-S-460

MAP & PARCEL # H14-14

SEIZED and taken into execution as the property of **Dixie A. Hughes** 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 January 21, 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.

11/9, 16 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-791 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the Southeastern edge of Bonnie Field Circle and Lot No. 55 of the hereinafter referenced subdivision plan; thence along said Lot No. 55 South fifty-four (54) degrees thirty-eight (38) minutes twenty-four (24) seconds East, one hundred ten (110.00) feet to lands now or formerly of John E. Biemiller; thence along same South thirty-four (34) degrees five (05) minutes forty-one (41) seconds West, sixty-nine and seventy hundredths (69.70) feet to a point at Lot No. 57 of said plan; thence along same North sixty (60) degrees two (02) minutes forty-one (41) seconds West, one hundred eight and twenty-five hundredths (108.25) feet to a point on the Southeastern edge of said Bonnie Field Circle; thence along same and by a curve to the right whose radius is eight hundred forty-eight and eight hundredths (848.08) feet and whose long chord bearing is North thirty-two (32) degrees thirty-nine (39) minutes twenty-seven (27) seconds East, seventy-nine and ninety-seven hundredths (79.97) feet for an arc distance of eighty (80.00) feet to a point at Lot No. 55 of said plan, the point and place of BEGINNING.

CONTAINING 8,206.6 square feet and identified as Lot No. 56 on a plan of lots known as Bonnie Field, prepared by Edward H. Richardson Associates, Consulting Engineers, on February 26, 1976. Said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 9, Page 24.

TITLE TO SAID PREMISES IS VESTED IN Lee S. Zeiders and Melissa S. Zeiders, his wife by Deed from Rosemary A. Wildasin, unmarried dated 4/30/1996 and recorded 5/1/1996 in Record Book 1186 Page 158.

Premises being: 23 Bonniefield Circle, Gettysburg, PA 17325

Tax Parcel No. 9-70

SEIZED and taken into execution as the property of **Lee S. Zeiders & Melissa S. Zeiders** 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 January 7, 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.

11/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-754 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

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

Tax Parcel: #G-6-77

Being known as: 373 Bull Valley Road, Aspers, PA 17304

SEIZED and taken into execution as the property of **Steven G. Livesay, Sr. & Carol R. Livesay** and to be sold by me

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 7, 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.

11/2, 9 & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-397 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract, parcel, piece of ground situate in Franklin Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a railroad spike set in Township Road T-361, Church Road, at corner of Lot No. 1 on the hereinafter referred to draft of survey; thence in Township Road T-361, Church Road, North Sixty-eight (68) degrees Fifty-three (53) minutes Twenty-four (24) seconds East, Twenty-five and Fifty-nine hundredths (25.59) feet to a point in said Township Road; thence continuing in said Township Road, North Sixty-eight (68) degrees Fifty-three (53) minutes Twenty-four (24) seconds East, Twenty-five and Sixty hundredths (25.60) feet to a railroad spike at corner of land now or late of Douglas B. Scott; thence by said land now or late of Scott, South Thirty-three (33) degrees Thirty (30) minutes Zero (0) seconds East, Five hundred seventy-three and Sixteen hundredths (573.16) feet to an iron pin and stones at corner of land now or late of Ralph M. Sangrey and along lands now or late of Frank S. Heidick; thence by said land now or late of Heidick, south Fifty-seven (57) degrees One (1) minute Sixteen (16) seconds West, Fourteen and seventy-eight hundredths (14.78) feet to an iron pin in concrete at corner of land now or late of Heidick and land now or late of John Sando; thence by said land now or late of Sando, South Eighty-one (81) degrees Zero (0) minutes Zero (0) seconds West, One Hundred Seventy (170) feet to a 5/8 inch rebar set at corner of Lot No. 3 on the hereinafter referred to draft of survey thence by Lot No. 3, North Forty-six (46) degrees Forty-six (46) minutes Six (6) seconds West, Two Hundred Seventy-six and Sixty-seven hundredths (276.67) feet to an iron pin at corner of Lot No. 1; thence by Lot No. 1, North Sixty-eight (68) degrees Fifty-three (53) minutes Twenty-four (24) seconds East, One Hundred Eighty-seven and Thirty-four hundredths (187.34) feet to an iron pin; thence continuing by Lot No. 1, North Thirty-three (33) degrees Thirty (30) minutes Zero (0) seconds West, Two Hundred Eighty-four and Forty-two hundredths (284.42) feet to a railroad spike set in Township Road T-361, Church Road, the place of BEGINNING.

CONTAINING 1.582 acres.

THE ABOVE description was taken from a Plan of Lots prepared by Robert A. Sharrah, and dated May 23, 1985, which said Plan of Lots is recorded in the Office of the Recorder of Deeds for Adams County in Plan Book 43, Page 42, designating the above as Lot No. 2 thereon.

SUBJECT, NEVERTHELESS, to the restrictions and/or conditions relating to private drives serving residential lots as recited on the Subdivision Plan recorded in the Office of the Recorder of Deeds for Adams County in Plan Book 43, Page 42.

BEING the same premises which Margaret E. Williams, by Deed dated October 9, 1997 and recorded on October 16, 1997, in the Office of the Recorder of Deeds for Adams County in Deed Book Volume 1457, Page 163, granted and conveyed unto James Mellott.

PARCEL 123F

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 21, 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.

11/16, 21 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-407 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate on the East side of Fifth Street in the Borough of McSherrystown, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin at lands now or formerly of Clarence Smith formerly Norbert Small and lands now or formerly of C.J. Delone Estate; thence by last mentioned lands, South fifty-two (52) degrees twenty-one (21) minutes West, one hundred twelve and two tenths (112.2) feet to an iron pin in line with the East side of Fifth Street Extended; thence by said line, North thirty-two (32) degrees twenty (20) minutes West, fifty-seven and four tenths (57.4) feet to an iron pin in line with the East side of Fifth Street Extended at other land now or formerly of Richard N. Smith; thence by the same, North fifty-seven (57) degrees forty (40) minutes East, one hundred eighteen and two tenths (118.2) feet to an iron pin at lands now or formerly of Clarence Smith aforesaid; thence by the same, South twenty-four (24) degrees thirty-five (35) minutes East, forty-seven and four tenths (47.4) feet to an iron pin, the place of BEGINNING.

Being known as 231 South 5th Street, McSherrystown, PA 17344.

Property ID# MAP: 6 PARCEL: 100A

TITLE TO SAID PREMISES IS VESTED IN Kimberly A. Sanders by deed from Scott A. Sanders and Kimberly A. Sanders, his wife dated 12/6/99 and recorded 12/6/99 in Deed Book 1974 Page 329.

SEIZED and taken into execution as the property of **Kimberly A. Sanders** 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 January 14, 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.

11/9, 16 & 21

SHERIFF'S SALE

October 26, 2001 Sale Continued to:

IN PURSUANCE of a Writ of Execution, Judgment No. 01-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 21st day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece, parcel of land situate in the Borough of New Oxford, County of Adams, and State of Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point along Pitt Street now known as Lincoln Way West at lands now or formerly of Abram Stambaugh; thence along said lands, South two and one-half (2-1/2) degrees East, eleven and sixty-four hundredths (11.64) perches to a public alley, South eighty-seven and one-fourth (87-1/4) degrees East, thirty-five (35) feet more or less to a point; thence North two (02) degrees West, eleven and two-tenths (11.2) perches to Pitt Street aforementioned; thence along said street, North eighty-seven and three-fourths (87-3/4) degrees West, thirty-five (35) feet, more or less, to the place of BEGINNING.

Being known as 329 Lincolnway West, New Oxford, PA 17350.

Property ID# MAP: 4 PARCEL: 51

TITLE TO SAID PREMISES IS VESTED IN Donald A. Briska and Jamie A. Markle, as joint tenants with the right of survivorship by deed from David L. Hatfield and Cindy L. Hatfield, husband and wife dated 4/30/99 and recorded 5/7/99 in Deed Book 1826 Page 242.

SEIZED and taken into execution as the property of **Donald Briska & Jamie A. Markle** 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 January 14, 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.

11/9, 16 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-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 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground situate in the Borough of Carroll Valley (formerly Hamiltonban Township), Adams County, Pennsylvania, being Lot No. 67 in Section K of the Charnita Development, bounded and described as follows:

BEGINNING at a point in the center of Black Bass Trail at Lot No. 68; thence by said lot, South 68 degrees 23 minutes 24 seconds West, 225 feet to Lot No. 43; thence by said lot and by Lot No. 44, North 21 degrees 36 minutes 36 seconds West, 100 feet to Lot No. 66; thence by said lot, North 68 degrees 23 minutes 24 seconds East, 225 feet to a point in the center of said Black Bass Trail; thence in said Black Bass Trail, South 21 degrees 36 minutes 36 seconds East, 100 feet to the place of BEGINNING.

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

HAVING erected thereon a dwelling known as 17 Black Bass Trail, Fairfield, PA 17320.

PARCEL NO. 6-35.52

BEING the same premises which Andrew J. Dorcus and Janice C. Dorcus, his wife, by deed dated 09/29/1997 in the Adams County, Pennsylvania, Recorder of Deeds Office in Deed Book Volume 1453, page 98, granted and conveyed unto Judith M. Grana.

SEIZED and taken into execution as the property of **Judith M. Grana** 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 January 7, 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.

11/9, 16 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 530-TL-2000 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE TWO CERTAIN lots, parcels, pieces of ground, situate in Reading Township, Adams County, Pennsylvania, designated as Lot Nos. 57 and 58 on Subdivision Plat of Hampton Plains, Inc., which is recorded in Plat Book 19, page 30.

UNDER AND SUBJECT, HOWEVER, to Declaration of Restrictions recorded in Miscellaneous Book 31, page 605, as amended November 14, 1983, by instrument recorded in Miscellaneous Book 44, page 854, and again amended on June 24, 1985 in Miscellaneous Book 403, page 184.

IT BEING the same premises which Gary L. Bankert and Laurel A. Bankert, his wife, by their Deed dated June 21, 1999, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 1863, Page 212, granted and conveyed unto John L. and Donna L. Becker.

67 Susan Lane
New Oxford, PA 17350

Tax Map J8, Parcel 85

SEIZED and taken into execution as the property of **John L. Becker & Donna L. Becker** 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 January 21, 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.

11/16, 21 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-648 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the Southern edge of Bugler Drive at Lot No. 70 of the hereinafter referenced subdivision plan; thence along said Bugler Drive North eighty-seven (87) degrees six (06) minutes thirty-four (34) seconds East, ninety and zero hundredths (90.00) feet to a point at Lot No. 72 of said plan; thence along same South two (02) degrees fifty-three (53) minutes twenty-six (26) seconds East, one hundred thirty-four and thirty-six hundredths (134.36) feet to a point at Lot No. 55 of said plan; thence along same South eighty-seven (87) degrees six (06) minutes thirty-four (34) seconds West, ninety and zero hundredths (90.00) feet to a point at Lot No. 70 of said plan; thence along same North two (02) degrees fifty-three (53) minutes twenty-six (26) seconds West, one hundred thirty-four and thirty-six hundredths (134.36) feet to a point on the Southern edge of Bugler Drive, the point and place of BEGINNING. CONTAINING 12,092 square feet.

The above described lot being designated as Lot No. 71 on the Subdivision Plan of "South Branch Estates", dated February 3, 1993, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 63, page 93.

HAVING ERECTED THEREON a dwelling known as 18 Bugler Drive, New Oxford, Pennsylvania.

BEING THE SAME PREMISES WHICH J.A. Myers Building and Development, Inc., William Bast and William Prin, Co-Partners in a Joint Venture known as MPR Associates by Deed dated October 11, 1995 and recorded October 30, 1995 in Adams County Deed Book 1101, Page 94, granted and conveyed unto Keith R. Strausbaugh and Lisa A. Strausbaugh.

SEIZED IN EXECUTION AS THE PROPERTY OF KEITH R. STRAUSBAUGH AND LISA A. STRAUSBAUGH ADAMS COUNTY JUDGMENT NO. 01-S-648

MAP & PARCEL #1-90

SEIZED and taken into execution as the property of **Keith R. Strausbaugh & Lisa A. 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 January 21, 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.

11/16, 21 & 30

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF MADELINE KOLOJESKI, DEC'D

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

Executrix: Joan Campiglia, 18 Persimmon Trail, Carroll Valley, PA 17320

SECOND PUBLICATION

ESTATE OF BRUCE A. GALLAGHER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Paul R. Brasee, 85 Orrtanna Road, Box 22, Cashtown, PA 17310; Irene Starner, 1675 Old Rt. 30, Orrtanna, PA 17353

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

ESTATE OF HELEN H. KESBY, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executrix: Pamela K. Glockengeiser, 780 Harney Road, Littlestown, PA 17340

Attorney: Lynn G. Peterson, Esq., Peterson & Peterson, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF HAROLD R. MILLER, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Donald R. Miller, 8045 Carlisle Pike, P.O. Box 212, York Springs, PA 17372; Kenneth C. Miller, 2 Creekbottom Circle, Dillsburg, PA 17019

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

ESTATE OF PEGGY L. OTTOMEIER, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Co-Administrators: Irvin L. Smith, Sr. and Frances H. Smith, 5185 Old Harrisburg Road, York Springs, PA 17372

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

THIRD PUBLICATION

ESTATE OF BEATRICE S. BECKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Personal Representative: Maynard G. Becker, 639 Cricket Lane, McSherrystown, PA 17344

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

ESTATE OF MARY Y. CALLAHAN, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Michael Callahan, 218 Ewell Avenue, Gettysburg, PA 17325

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

ESTATE OF BOYD C. DARR, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executrix: Penny E. Strausbaugh, 251 Berwick Road, Abbottstown, PA 17301

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

ESTATE OF WILBERT L. FLEMING, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executors: Shirley Kreitz, 26 Centennial St., Fairfield, PA 17320; Ed Calhun a/k/a Ed Calhoun, 2045 Barlow-Two Taverns Road, Gettysburg, PA 17325

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

ESTATE OF JOHN T. HOCKENSMITH, JR., DEC'D

Late of Reading Township, Adams County, Pennsylvania

Administratrix: G. Elaine Luther, Menges, Gent & McLaughlin, 1157 Eichelberger Street, Hanover, PA 17331

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

ESTATE OF TERESA N. HUBBARD a/k/a THERESA M. HUBBARD, DEC'D

Late of the Borough of Carlisle, Cumberland County, Pennsylvania

Executor: Donald G. Hubbard, Jr., c/o Griffie & Associates, 200 North Hanover Street, Carlisle, PA 17013

Attorney: Bradley L. Griffie, Esq., Griffie & Associates, 200 North Hanover Street, Carlisle, PA 17013

ESTATE OF NAOMI A. KELLER a/k/a NAOMI ALICE KELLER, DEC'D

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

Executor: Fred H. Keller, c/o Young & Young, 44 South Main St., P.O. Box 126, Manheim, PA 17545

Attorney: Young & Young, 44 South Main St., P.O. Box 126, Manheim, PA 17545

ESTATE OF ROBERT J. PIECUCH, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Sharon S. Opfer, 4352 The Woods Road #7, Kitty Hawk, NC 27949

Attorney: Keith A. Hassler, Esq., Attorney at Law, 9 North Beaver Street, York, PA 17401

ESTATE OF D. CALVIN RILEY, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executor: Gary E. Hartman, 126 Baltimore Street, Gettysburg, PA 17325

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

NOTICE OF ACTION IN
MORTGAGE FORECLOSURE

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 01-S-979

BANK OF AMERICA, N.A. S/B/M TO
BANK OF AMERICA, FSB, Plaintiff
vs.
HOLLY N. FRITTS and
ROBERT E. FRITTS, Defendants

NOTICE

TO: Robert E. Fritts:

You are hereby notified that on September 10, 2001, Plaintiff, Bank of America, N.A., S/B/M to Bank of America, FSB, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Adams County, Pennsylvania, docketed to No. 01-S-979.

Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 1391 Mount Carmel Road, Orrtanna, PA 17353, whereupon your property would be sold by the Sheriff of Adams County.

You are hereby notified to plead to the above referenced Complaint on or before 20 days from the date of this publication or a Judgment will be entered against you.

NOTICE

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

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

ADAMS COUNTY
COURT ADMINISTRATOR
ADAMS COUNTY COURTHOUSE
GETTYSBURG, PA 17325
(717) 334-6781, EXT. 213

Frank Federman
Attorney for Plaintiff
Federman & Phelan, L.L.P.
One Penn Center, Suite 1400
Philadelphia, PA 19103
(215) 563-7000

11/16

Adams County
Legal Journal

Vol. 43 November 21, 2001 No. 26, pp. 144–148

IN THIS ISSUE

CONTINUING LEGAL EDUCATION PROGRAM

The Real Estate Development Transaction: Undeveloped Property
November 27, 2001 – 9:00 a.m. - 1:30 p.m.
Room 307, Adams County Courthouse
Credits: Substantive Law – 4, Ethics – 0

Representing the Incapacitated Person
December 13, 2001 – 9:00 a.m. - 12:30 p.m.
Room 307, Adams County Courthouse
Credits: Substantive Law – 2, Ethics – 1

Preparing LLC Documents in Pennsylvania
December 19, 2001 – 9:00 a.m. - 12:00 p.m.
Credits: Substantive Law – 3, Ethics – 0
Satellite Presentation at Gettysburg College Library Media Theater

REGISTRATION THROUGH P.B.I. 800-247-4724

NOTICE: None of these programs will be canceled by the PBI for low registration.

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.

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

Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 334-6781 ext 336

Periodicals postage paid at Gettysburg, PA 17325.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-856 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of January, 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 lot of ground situate in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin on the Northern property line of West Middle Street at corner of lands formerly of John H. Kadel; thence along the Northern property line of West Middle Street, North 85 degrees West, 20.5 feet to an iron pin; thence by lot now or formerly of Hristos D. Koutsokostas and Aglaria Y. Koutsokostas, husband and wife, and running through the center of a double brick house, North 5 degrees East, 85 feet to an iron pin on line of lands now or formerly of Gerald D. Shealer and Suzanne E. Shealer, husband and wife; thence by said lands of Gerald D. Shealer and Suzanne E. Shealer, husband and wife, South 85 degrees East, 20.5 feet to an iron pin on line of lands now or formerly of John H. Kadel; thence by said lands of formerly of John H. Kadel, South 5 degrees West, 85 feet to the iron pin on the Northern property line of West Middle Street, the place of BEGINNING.

BEING THE SAME PREMISES which Lois R. Rose by deed dated July 17, 1998 and recorded July 17, 1998 in the Recorder's Office in and for Adams County, Pennsylvania in Deed Book Volume 1623, Page 135, granted and conveyed unto Nancy A. Starner, the mortgagor herein.

PARCEL NO.: (16) 009-0010A

SEIZED and taken into execution as the property of **Nancy A. Starner** 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 January 28, 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.

11/21, 30 & 12/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-130 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of January, 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 lot of ground situate in the Borough of Biglerville, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin on the North side of a 28-foot wide street (proposed) known as Maple Avenue at the Southwest corner of land now or formerly of Izora L. Black; thence along the North side of proposed Maple Avenue North 89 degrees West, 95.8 feet to an iron pin on line of land now or formerly of Pennsylvania State College; thence along the line of land of Pennsylvania State College North 4 degrees West, 182.6 feet to an iron pin at the Southern edge of a 14-foot proposed alley; thence along the Southern edge of said 14-foot proposed alley, South 88 degrees 52 minutes East, 104.9 feet to an iron pin at the Northwest corner of land now or formerly of Izora L. Black; thence along said land of Izora L. Black South 1 degree, 14 minutes East, 182.1 feet to an iron pin on the North side of proposed Maple Avenue, the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Dolores J. Hart, single and Judy E. Brown, single, as joint tenants with the right of survivorship by reason of the following:

BEING THE SAME premises which Allen I. McDonnell, etux, etal by Deed dated 5/2/72 and recorded __/__/__ in the County of Adams in Deed Book 300 Page 38 conveyed unto Dolores J. Brown.

AND BEING THE SAME premises which Dolores J. Brown now Dolores J. Hart, widow by Deed dated 6/18/93 and recorded 6/18/93 in the County of Adams in Record Book 740 Page 303 conveyed unto Dolores J. Hart, single and Judy E. Brown, single, as joint tenants with the right of survivorship.

Premises being: 37 Maple Avenue, Biglerville, PA 17307

Tax Parcel No. 3-18

SEIZED and taken into execution as the property of **Judy E. Brown** 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 January 28, 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.

11/21, 30 & 12/7

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 October 19, 2001, for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is MATTHEW BALEK, 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.

Matthew Balek, Inc.
240 Country Club Road
Abbottstown, PA 17301

11/21

CONDEMNATION OF BAUGHER

1. Discovery in eminent domain cases follows the same rules applicable to discovery in a civil action. Therefore, written interrogatories and requests for production of documents are allowable discovery tools in such cases. Answers, including objections, are due within 30 days after service of the discovery request. Modification of the 30-day period to object may be made by agreement of the parties.

2. Discarding late objections, at most, puts the responding party to the task of filing answers to the discovery request. The respondent maintains the right to object to the relevancy or admissibility of the discovered information at trial.

3. We view the 10-day requirement (to identify an expert witness) not as a shield to hide the expert's identity but rather as a sword used by his opponent to cut down any attempt to bring forth witnesses on the eve of trial if no other constraints are in place. The rule exists for the protection of the opponent, not to effectuate his demise.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 98-S-1016, CONDEMNATION BY THE COUNTY OF ADAMS, PENNSYLVANIA, FOR THE PUBLIC PURPOSES OF THE SAID COUNTY, OF ABSOLUTE FEE SIMPLE TITLE TO AND OWNERSHIP OF THAT CERTAIN IMPROVED REAL PROPERTY OF BAUGHER GRAIN FARMS, INC., LOCATED IN STRABAN TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA (ADAMS COUNTY DEED BOOK 362 AT PAGE 849).

Joseph A. Klein, Esq., Mark S. Silver, Esq., and John M. Hartzell, Esq., for Condemnor

Glenn R. Davis, Esq., for Condemnee

Kuhn, J., April 5, 2001

MEMORANDUM OPINION

This case is an eminent domain matter. The Court has been presented with a Motion to Compel Answers to Interrogatories and Responses to Requests for Production of Documents, filed February 2, 2001, by the County of Adams. A hearing and argument was held on March 5, 2001. Unfortunately, the history of this case reflects what has become a growing annoyance with the practice of law.

On October 15, 1998, the Condemnor, County of Adams, hereinafter "County", filed a Declaration of Taking to acquire title to what is, for the purpose of this litigation, known as the "Baugher farm." The Condemnee, Baugher Grain Farm, Inc., hereinafter "Baugher" on August 16, 2000, appealed the report of the Board of View.

Initially, it may be helpful to identify the players. County is represented by Mark S. Silver, Esquire and Joseph A. Klein, Esquire, of Harrisburg. Additionally, the County is represented locally by its solicitor, John M. Hartzell, Esquire. Baugher is represented by Glenn R. Davis, Esquire, also of Harrisburg. Harold A. Eastman, Jr., Esquire, is local counsel for Baugher.

On October 3, 2000, County, via Mark S. Silver, Esquire, served Interrogatories and a Request for Production of Documents on Mr. Davis. Subsequently, on November 8, 2000, Mr. Silver reminded Mr. Davis that answers had not been received and insisted on compliance within three business days. Two days later, Mr. Davis responded that answers would be provided by November 16. Apparently, on November 17, counsel had a telephone conversation which was memorialized in a letter from Mr. Klein to Mr. Davis. Therein it was suggested that Baugher's answers were late because of a delay in receipt of the verification to the answer from the client. County invited Baugher's counsel to affix his personal verification to the answer but this offer was declined. County also warned that there had been no agreement to extend the time for Baugher to file its answers. Again, on November 24, 2000, Mr. Klein wrote a reminder to Mr. Davis that Baugher's answers were overdue. Despite the clear verbiage in the correspondence, Baugher insists that local counsel had verbally agreed to stay discovery to allow negotiations aimed toward an amicable settlement.

Baugher's answers were provided under cover letter dated December 5, 2000. The verification attached thereto was dated November 17, 2000. Therein, Baugher raised numerous objections. County contends that the objections are untimely and must be stricken. Furthermore, County insists upon complete responses to all discovery inquiries.

In turn, Baugher claims dismay that County would oppose the objections. Baugher complains that on October 18, 2000, after receipt of County's discovery requests, Baugher forwarded nearly identical discovery requests to County. On November 17, 2000, County responded to Baugher's discovery and therein raised numerous objections similar to those now being raised by Baugher.

First, we shall address the timeliness of Baugher's objections. Discovery in eminent domain cases follows the same rules applicable

to discovery in a civil action. Pa. R.C.P. 4001(a). Therefore, written interrogatories and requests for production of documents are allowable discovery tools in such cases. Pa. R.C.P. 4005 and 4009.12. Answers, including objections, are due within 30 days after service of the discovery request. Pa. R.C.P. 4006 and 4009.12. Modification of the 30-day period to object may be made by agreement of the parties. Pa. R.C.P. 4002. No credible evidence of an agreement to extend has been presented in this case.[1] Here, Baugher's objections were filed on the 63rd day after service.

The most recent case on point appears to be *Lane v. Hartford Accident and Indemnity Co.*, 6 D&C4th 537 (Dauphin 1990), wherein the court held that objections to interrogatories or a request for production of documents may not be filed more than 30 days after service of the discovery request. Although such an approach may be contrary to the liberal philosophy embraced by Pa. R.C.P. 126, nevertheless, the *Lane* holding is attractive by virtue of its adherence to the clear and unambiguous mandatory 30-day time period to file objections. Disregarding late objections, at most, puts the responding party to the task of filing answers to the discovery request. The respondent maintains the right to object to the relevancy or admissibility of the discovered information at trial. This is not to say that adherence must be so strict as to disregard minor deviations where there has been an effort to comply and no substantial prejudice to the other party.

Here, however, we face a request by Baugher to overlook tardiness of 33 days. The discovery requests are not unique nor are the objections so novel that it should have taken 63 days to formulate the objections. Even if the late filing was due to delay in receipt of the verification, the objections were not forwarded until 18 days after the date the verification was executed. We would assume that normal office procedure involved preparing the answers and objections for

[1] By this statement we do not intend to challenge Mr. Davis' assertion of an agreement by local counsel to stay discovery. Rather, the written correspondence and the discovery responses submitted by the County clearly indicate that the County had not agreed to a stay. If counsel believes a stay was agreed upon, it was incumbent upon him to make that clear in writing, especially in the face of contrary action by his opponent. While many lament the passing of "the good ole days" when such ceremony may have been considered distasteful in the profession of law, the modern era regrettably requires more attention to detail.

the client's review before the client executed the verification thereby suggesting they were completed prior to November 17.

Thus, we conclude that Baugher's objections are waived. Therefore, all discovery requests to which objection has been made by Baugher must be answered within 30 days of the date of mailing of the attached Order.

In addition, we address other specific concerns raised by the County:

1. In Answer to Interrogatory 1C, Baugher stated that any changes to the reports or testimony of their identified experts "will be addressed in supplemental answers seasonably supplied in accordance with Pa. R.C.P. 4007.4." The County contends that Baugher should supply that information presently rather than later. The rule does require supplemental information not known by the responding party to be forwarded. Baugher's answer did not suggest that discoverable information was being withheld for subsequent disclosure. We must assume that counsel understands the duty proscribed by Rule 4007.4. If, and when, untimely responses are supplied, the Court will address the proper sanction.

2. In Answer to Interrogatory 1C and 2, Baugher "reserves the right to call any other expert witness at trial identified subsequent to these answers and within the time constraints of the Eminent Domain Code." The County fears Baugher will utilize Section 1-703 of the Code, 26 P.S. 1-703, as a shield from disclosure of previously unidentified experts until shortly before trial. That section requires a party to identify a valuation expert and provide a statement of his valuation to the other party at least 10 days prior to trial if that expert did not testify before the board of viewers.

We view the 10-day requirement not as a shield to hide an expert's identity but rather as a sword used by his opponent to cut down any attempt to bring forth witnesses on the eve of trial if no other constraints are in place. The rule exists for the protection of the opponent, not to effectuate his demise. Nor do we view Section 1-703 as interfering with the Court's ability, in its inherent power to administer justice and effect case management, to require a longer deadline for the identification of experts.

This case has not yet been set for a pre-trial conference at which time a trial date, as well as the parameters related to expert identification, will be set.

Accordingly, we enter the attached Order.

ORDER OF COURT

AND NOW, this 5th day of April, 2001, in consideration of the Motion to Compel Answers to Interrogatories and Responses to Requests for Production of Documents from Plaintiff-Condemnee, Baugher Grain Farms, Inc., filed by Defendant-Condemnor, County of Adams, on February 2, 2001, it is directed that:

1. All objections filed by the Condemnee to Condemnor's interrogatories and request for production of documents are dismissed.

2. Condemnee is directed to provide complete answers to all discovery requests for which the objections aforesaid have been dismissed.

3. Condemnee is required to provide supplemental discovery responses consistent with the Rules of Civil Procedure and the attached Memorandum Opinion.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-460 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate on the Northwest side of Bonneauville-Two Taverns State Highway in Mt. Pleasant Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of said highway at corner of land now or formerly of Loy Klinefelter, which point is South 55 3/4 degrees East from a post at the edge of said road; thence along the center of said highway, South 75 degrees West, 71 feet to a point in the center of said highway with an iron pin set back along the edge of the road along other lands now or formerly of Raymond E. Gebhart and Mildred Regina Gebhart; thence by the same and through said iron pin, North 57 1/4 degrees West, 200 feet to an iron pin; thence by the same, North 38 1/4 degrees East, 64 feet to an iron pin at land now or formerly of Loy Klinefelter; thence by said land of said Loy Klinefelter, South 55 3/4 degrees East, 240 feet through the aforementioned post to the center of said highway, the place of BEGINNING. CONTAINING 48 Perches and 22 Square Feet.

HAVING ERECTED THEREON a dwelling known as 1050 Two Taverns Road, Gettysburg, Pennsylvania.

BEING THE SAME PREMISES WHICH Neil T. Collins and Christine R. DeGroft, by Deed dated July 30, 1990 and recorded October 12, 1990 in Adams County Deed Book 569, Page 911 granted and conveyed unto Wayne G. Hughes and Dixie A. Hughes. Said Wayne G. Hughes is deceased, thereby title vests solely into Dixie A. Hughes by operation of law.

SEIZED IN EXECUTION AS THE PROPERTY OF DIXIE A. HUGHES ADAMS COUNTY JUDGMENT NO. 01-S-460

MAP & PARCEL # H14-14

SEIZED and taken into execution as the property of **Dixie A. Hughes** 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 January 21, 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.

11/9, 16 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-397 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract, parcel, piece of ground situate in Franklin Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a railroad spike set in Township Road T-361, Church Road, at corner of Lot No. 1 on the hereinafter referred to draft of survey; thence in Township Road T-361, Church Road, North Sixty-eight (68) degrees Fifty-three (53) minutes Twenty-four (24) seconds East, Twenty-five and Fifty-nine hundredths (25.59) feet to a point in said Township Road; thence continuing in said Township Road, North Sixty-eight (68) degrees Fifty-three (53) minutes Twenty-four (24) seconds East, Twenty-five and Sixty hundredths (25.60) feet to a railroad spike at corner of land now or late of Douglas B. Scott; thence by said land now or late of Scott, South Thirty-three (33) degrees Thirty (30) minutes Zero (0) seconds East, Five hundred seventy-three and Sixteen hundredths (573.16) feet to an iron pin and stones at corner of land now or late of Ralph M. Sangrey and along lands now or late of Frank S. Heidick; thence by said land now or late of Heidick, South Fifty-seven (57) degrees One (1) minute Sixteen (16) seconds West, Fourteen and seventy-eight hundredths (14.78) feet to an iron pin in concrete at corner of land now or late of Heidick and land now or late of John Sando; thence by said land now or late of Sando, South Eighty-one (81) degrees Zero (0) minutes Zero (0) seconds West, One Hundred Seventy (170) feet to a 5/8 inch rebar set at corner of Lot No. 3 on the hereinafter referred to draft of survey thence by Lot No. 3, North Forty-six (46) degrees Forty-six (46) minutes Six (6) seconds West, Two Hundred Seventy-six and Sixty-seven hundredths (276.67) feet to an iron pin at corner of Lot No. 1; thence by Lot No. 1, North Sixty-eight (68) degrees Fifty-three (53) minutes Twenty-four (24) seconds East, One Hundred Eighty-seven and Thirty-four hundredths (187.34) feet to an iron pin; thence continuing by Lot No. 1, North Thirty-three (33) degrees Thirty (30) minutes Zero (0) seconds West, Two Hundred Eighty-four and Forty-two hundredths (284.42) feet to a railroad spike set in Township Road T-361, Church Road, the place of BEGINNING.

CONTAINING 1.582 acres.

THE ABOVE description was taken from a Plan of Lots prepared by Robert A. Sharrah, and dated May 23, 1985, which said Plan of Lots is recorded in the Office of the Recorder of Deeds for Adams County in Plan Book 43, Page 42, designating the above as Lot No. 2 thereon.

SUBJECT, NEVERTHELESS, to the restrictions and/or conditions relating to private drives serving residential lots as recited on the Subdivision Plan recorded in the Office of the Recorder of Deeds for Adams County in Plan Book 43, Page 42.

BEING the same premises which Margaret E. Williams, by Deed dated October 9, 1997 and recorded on October 16, 1997, in the Office of the Recorder of Deeds for Adams County in Deed Book Volume 1457, Page 163, granted and conveyed unto James Mellott.

PARCEL 123F

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 21, 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.

11/16, 21 & 30

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for CALBAT, INC., were filed with the Pennsylvania Department of State Corporation Bureau on November 5, 2001, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Wolfe & Rice, LLC
Solicitor
47 West High Street
Gettysburg, PA 17325

11/21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-407 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate on the East side of Fifth Street in the Borough of McSherrystown, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin at lands now or formerly of Clarence Smith formerly Norbert Small and lands now or formerly of C.J. Delone Estate; thence by last mentioned lands, South fifty-two (52) degrees twenty-one (21) minutes West, one hundred twelve and two tenths (112.2) feet to an iron pin in line with the East side of Fifth Street Extended; thence by said line, North thirty-two (32) degrees twenty (20) minutes West, fifty-seven and four tenths (57.4) feet to an iron pin in line with the East side of Fifth Street Extended at other land now or formerly of Richard N. Smith; thence by the same, North fifty-seven (57) degrees forty (40) minutes East, one hundred eighteen and two tenths (118.2) feet to an iron pin at lands now or formerly of Clarence Smith aforesaid; thence by the same, South twenty-four (24) degrees thirty-five (35) minutes East, forty-seven and four tenths (47.4) feet to an iron pin, the place of BEGINNING.

Being known as 231 South 5th Street, McSherrystown, PA 17344.

Property ID# MAP: 6 PARCEL: 100A

TITLE TO SAID PREMISES IS VESTED IN Kimberly A. Sanders by deed from Scott A. Sanders and Kimberly A. Sanders, his wife dated 12/6/99 and recorded 12/6/99 in Deed Book 1974 Page 329.

SEIZED and taken into execution as the property of **Kimberly A. Sanders** 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 January 14, 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.

11/9, 16 & 21

SHERIFF'S SALE

October 26, 2001 Sale Continued to:

IN PURSUANCE of a Writ of Execution, Judgment No. 01-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 21st day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece, parcel of land situate in the Borough of New Oxford, County of Adams, and State of Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point along Pitt Street now known as Lincoln Way West at lands now or formerly of Abram Stambaugh; thence along said lands, South two and one-half (2-1/2) degrees East, eleven and sixty-four hundredths (11.64) perches to a public alley, South eighty-seven and one-fourth (87-1/4) degrees East, thirty-five (35) feet more or less to a point; thence North two (02) degrees West, eleven and two-tenths (11.2) perches to Pitt Street aforementioned; thence along said street, North eighty-seven and three-fourths (87-3/4) degrees West, thirty-five (35) feet, more or less, to the place of BEGINNING.

Being known as 329 Lincolnway West, New Oxford, PA 17350.

Property ID# MAP: 4 PARCEL: 51

TITLE TO SAID PREMISES IS VESTED IN Donald A. Briska and Jamie A. Markle, as joint tenants with the right of survivorship by deed from David L. Hatfield and Cindy L. Hatfield, husband and wife dated 4/30/99 and recorded 5/7/99 in Deed Book 1826 Page 242.

SEIZED and taken into execution as the property of **Donald Briska & Jamie A. Markle** 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 January 14, 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.

11/9, 16 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-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 14th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground situate in the Borough of Carroll Valley (formerly Hamiltonban Township), Adams County, Pennsylvania, being Lot No. 67 in Section K of the Charnita Development, bounded and described as follows:

BEGINNING at a point in the center of Black Bass Trail at Lot No. 68; thence by said lot, South 68 degrees 23 minutes 24 seconds West, 225 feet to Lot No. 43; thence by said lot and by Lot No. 44, North 21 degrees 36 minutes 36 seconds West, 100 feet to Lot No. 66; thence by said lot, North 68 degrees 23 minutes 24 seconds East, 225 feet to a point in the center of said Black Bass Trail; thence in said Black Bass Trail, South 21 degrees 36 minutes 36 seconds East, 100 feet to the place of BEGINNING.

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

HAVING erected thereon a dwelling known as 17 Black Bass Trail, Fairfield, PA 17320.

PARCEL NO. 6-35.52

BEING the same premises which Andrew J. Dorcus and Janice C. Dorcus, his wife, by deed dated 09/29/1997 in the Adams County, Pennsylvania, Recorder of Deeds Office in Deed Book Volume 1453, page 98, granted and conveyed unto Judith M. Grana.

SEIZED and taken into execution as the property of **Judith M. Grana** 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 January 7, 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.

11/9, 16 & 21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-648 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the Southern edge of Bugler Drive at Lot No. 70 of the hereinafter referenced subdivision plan; thence along said Bugler Drive North eighty-seven (87) degrees six (06) minutes thirty-four (34) seconds East, ninety and zero hundredths (90.00) feet to a point at Lot No. 72 of said plan; thence along same South two (02) degrees fifty-three (53) minutes twenty-six (26) seconds East, one hundred thirty-four and thirty-six hundredths (134.36) feet to a point at Lot No. 55 of said plan; thence along same South eighty-seven (87) degrees six (06) minutes thirty-four (34) seconds West, ninety and zero hundredths (90.00) feet to a point at Lot No. 70 of said plan; thence along same North two (02) degrees fifty-three (53) minutes twenty-six (26) seconds West, one hundred thirty-four and thirty-six hundredths (134.36) feet to a point on the Southern edge of Bugler Drive, the point and place of BEGINNING. CONTAINING 12,092 square feet.

The above described lot being designated as Lot No. 71 on the Subdivision Plan of "South Branch Estates", dated February 3, 1993, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 63, page 93.

HAVING ERECTED THEREON a dwelling known as 18 Bugler Drive, New Oxford, Pennsylvania.

BEING THE SAME PREMISES WHICH J.A. Myers Building and Development, Inc., William Bast and William Prin, Co-Partners in a Joint Venture known as MPR Associates by Deed dated October 11, 1995 and recorded October 30, 1995 in Adams County Deed Book 1101, Page 94, granted and conveyed unto Keith R. Strausbaugh and Lisa A. Strausbaugh.

SEIZED IN EXECUTION AS THE PROPERTY OF KEITH R. STRAUSBAUGH AND LISA A. STRAUSBAUGH ADAMS COUNTY JUDGMENT NO. 01-S-648

MAP & PARCEL #1-90

SEIZED and taken into execution as the property of **Keith R. Strausbaugh & Lisa A. 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 January 21, 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.

11/16, 21 & 30

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on or about October 29, 2001 for the incorporation of GETTYSBURG BIKE WEEK, INC. under the Pennsylvania Business Corporation Law of 1988. The corporation shall engage in the business of event organization and management, together with any legal function of a corporation under PA law. The initial registered office of the corporation is 21 Cavalry Field Road, Gettysburg, PA 17325.

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

11/21

NOTICE OF FILING
OF ARTICLES OF AMENDMENT

NOTICE IS HEREBY GIVEN that on November 14, 2001, THE PEOPLES STATE BANK, 100 East King Street, East Berlin, Adams County, Pennsylvania, submitted Articles of Amendment with the Department of Banking, Commonwealth of Pennsylvania, pursuant to the provisions of Chapter 15 of the Banking Code of 1965, to amend Article First, Second and Third of its Articles of Incorporation as follows:

1. Article First: The name of the institution is Community Banks.
2. Article Second: The location and post office address of its principal place of business is 150 Market Square, Millersburg, Pennsylvania 17061.
3. Article Third: The purpose for which the institution is incorporated is to conduct a general banking business, including the exercise of trust powers, as a bank and trust company under the provisions of the Banking Code of 1965.

11/21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 530-TL-2000 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE TWO CERTAIN lots, parcels, pieces of ground, situate in Reading Township, Adams County, Pennsylvania, designated as Lot Nos. 57 and 58 on Subdivision Plat of Hampton Plains, Inc., which is recorded in Plat Book 19, page 30.

UNDER AND SUBJECT, HOWEVER, to Declaration of Restrictions recorded in Miscellaneous Book 31, page 605, as amended November 14, 1983, by instrument recorded in Miscellaneous Book 44, page 854, and again amended on June 24, 1985 in Miscellaneous Book 403, page 184.

IT BEING the same premises which Gary L. Bankert and Laurel A. Bankert, his wife, by their Deed dated June 21, 1999, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 1863, Page 212, granted and conveyed unto John L. and Donna L. Becker.

67 Susan Lane
New Oxford, PA 17350

Tax Map J8, Parcel 85

SEIZED and taken into execution as the property of **John L. Becker & Donna L. Becker** 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 January 21, 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.

11/16, 21 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-506 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of January, 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 two (2) tracts of land, with the improvements thereon erected, situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

TRACT NO. 1: BEGINNING for a corner at an iron pin at the Northwest corner of lands now or formerly of Lester G. Mummert and Julia L. A. Mummert, his wife; thence along said lands, South twenty (20) degrees twenty-five (25) minutes East, sixty-three and five-tenths (63.5) feet to an iron pin at a corner of lands now or formerly of Mummert and lands now or formerly of Robert F. Hoover and Stella M. Hoover, his wife; thence along said Hoover's land, South seventy (70) degrees West, two hundred eighty-seven and two one-hundredths (287.02) feet to an iron pin at lands now or formerly of Howard Wetzel; thence along said Wetzel's land, North nineteen (19) degrees West, forty-nine and five-tenths (49.5) feet to an iron pin at lands now or formerly of Edna F. Krug, of which this tract was a part; thence along said Krug's land, North sixty-seven (67) degrees thirty-three (33) minutes East, two hundred eighty-five and five-tenths (285.5) feet to an iron pin, the place of BEGINNING. (The above description, courses and distances were taken from a survey made by Donald W. Resh, Registered Surveyor, bearing date June 9, 1956.)

TRACT NO. 2: BEGINNING for a corner at a steel pin set on the Southern line of other lands now or formerly of Walter S. Helwig and Mary E. Helwig, his wife, at the western end of an eighteen (18) feet right of way as herein extended; thence along lands now or formerly of Robert F. Hoover and Stella M. Hoover, his wife, South seventeen (17) degrees East, twenty-four and five one-hundredths (24.05) feet to a steel pin at lands now or formerly of Raymond Kline; thence along said Kline's land, South seventy-seven (77) degrees fifteen (15) minutes West, one hundred ninety-three and three one-hundredths (193.03) feet to a steel pin at lands now or formerly of Howard Wetzel; thence along other lands now or formerly of Walter S. Helwig and Mary E. Helwig, his wife, North seventy (70) degrees East, one hundred ninety-two and eight-tenths (192.8) feet to a steel pin and the place of BEGINNING. (The above description, courses and distances were taken from a survey made by J. H. Rife, Registered Engineer, bearing date November 15, 1958.)

TITLE TO SAID PREMISES IS VESTED IN Thomas E. McDaniels, Jr. by Deed from Joseph E. Gichner, unmarried and Grace E. Gichner, unmarried dated 7/26/1988, recorded 7/29/1988, in Record Book 496, Page 29.

Premises being: 1320 Carlisle Pike, Hanover, PA 17331

Tax Parcel No. #L-13-53

SEIZED and taken into execution as the property of **Thomas E. McDaniels, Jr.** and to be sold by me

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 28, 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.

11/21, 30 & 12/7

NOTICE

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that a Petition to Distribute and Confirm Title to Real Estate has been filed in the Court of Common Pleas of Adams County, Pennsylvania regarding the four tracts of land located in Hamiltonban Township, Adams County, Pennsylvania, being more fully described in the Quitclaim Deed filed at the Adams County Recorder of Deeds, Deed Book 209 at Page 119, Grantees listed as Wilbur Rentsel and Elsie Rentsel. Wilbur Rentsel and Elsie Rentsel having passed away, it is proposed that the land be distributed in accordance with the Will of Wilbur Rentsel and the intestate laws of Pennsylvania for Elsie Rentsel's and her deceased heirs' portion of the land, those deceased heirs being Sylvia McCleaf, formerly of Prince George's County, Maryland and Lee Rentsel, formerly of Carroll County, Maryland.

The proposed distribution shall be called for confirmation in Court Room Number 3 of the Adams County Courthouse, Gettysburg, Pennsylvania on Monday, December 31, 2001, at 9:00 o'clock a.m.

Anyone desiring to object or except to the proposed distribution must either appear in Court on December 31, 2001, at 9:00 o'clock a.m., or file objections or exceptions thereto in writing with the Clerk of the Orphans' Court of Adams County, Pennsylvania, before December 31, 2001.

If no exceptions or objections are made and filed with the Court, then the objections or exceptions will not be heard and a decree may be made directing distribution in accordance with the statement of proposed distribution in the Petition to Distribute and Confirm Title to Real Estate.

11/21

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 MARY A. BECKER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Melony A. Leidy, c/o Gates & Gates, 250 York Street, Hanover, PA 17331

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

ESTATE OF ANN (NMI) HOPKINS, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executrix: Joyce A. Gill, 21 Sunset Drive, Gettysburg, PA 17325

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

ESTATE OF IDAMAE F. KANE, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

PNC Bank, N.A., Attn: Linda J. Lundberg, P.O. Box 308, Camp Hill, PA 17001-0308

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

ESTATE OF CHARLES G. LAWRENCE, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executors: Joseph C. Lawrence, 127 South Madison Street, Hanover, PA 17331; Steven W. Lawrence, 36 Moul Avenue, Hanover, PA 17331; Karen S. Thomas, 45 Browns Dam Road, Lot 16, New Oxford, PA 17350; Donald P. Lawrence, 31139 Swan Road, Sorrento, FL 32776; Wanda K. Sipling, 28 Clearview Road, Hanover, PA 17331

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

ESTATE OF JOHN ALLEN ROSER, SR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: John A. Roser, Jr., 2990 Meadow View Rd., Manheim, PA 17545-8319

ESTATE OF AVE MARIA SMALL, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Chester Small, P.O. Box 184, Cashtown, PA 17310

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

SECOND PUBLICATION

ESTATE OF MADELINE KOLOJESKI, DEC'D

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

Executrix: Joan Campiglia, 18 Persimmon Trail, Carroll Valley, PA 17320

THIRD PUBLICATION

ESTATE OF BRUCE A. GALLAGHER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Paul R. Brasee, 85 Orrtanna Road, Box 22, Cashtown, PA 17310; Irene Starner, 1675 Old Rt. 30, Orrtanna, PA 17353

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

ESTATE OF HELEN H. KESBY, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executrix: Pamela K. Glockengeiser, 780 Harney Road, Littlestown, PA 17340

Attorney: Lynn G. Peterson, Esq., Peterson & Peterson, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF HAROLD R. MILLER, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Donald R. Miller, 8045 Carlisle Pike, P.O. Box 212, York Springs, PA 17372; Kenneth C. Miller, 2 Creekbottom Circle, Dillsburg, PA 17019

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

ESTATE OF PEGGY L. OTTOMEIER, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Co-Administrators: Irvin L. Smith, Sr. and Frances H. Smith, 5185 Old Harrisburg Road, York Springs, PA 17372

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

Adams County
Legal Journal

Vol. 43 November 30, 2001 No. 27, pp. 149–157

IN THIS ISSUE

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.

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

Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 334-6781 ext 336

Periodicals postage paid at Gettysburg, PA 17325.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-856 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of January, 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 lot of ground situate in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin on the Northern property line of West Middle Street at corner of lands formerly of John H. Kadel; thence along the Northern property line of West Middle Street, North 85 degrees West, 20.5 feet to an iron pin; thence by lot now or formerly of Hristos D. Koutsokostas and Aglaria Y. Koutsokostas, husband and wife, and running through the center of a double brick house, North 5 degrees East, 85 feet to an iron pin on line of lands now or formerly of Gerald D. Shealer and Suzanne E. Shealer, husband and wife; thence by said lands of Gerald D. Shealer and Suzanne E. Shealer, husband and wife, South 85 degrees East, 20.5 feet to an iron pin on line of lands now or formerly of John H. Kadel; thence by said lands formerly of John H. Kadel, South 5 degrees West, 85 feet to the iron pin on the Northern property line of West Middle Street, the place of BEGINNING.

BEING THE SAME PREMISES which Lois R. Rose by deed dated July 17, 1998 and recorded July 17, 1998 in the Recorder's Office in and for Adams County, Pennsylvania in Deed Book Volume 1623, Page 135, granted and conveyed unto Nancy A. Starner, the mortgagor herein.

PARCEL NO.: (16) 009-0010A

SEIZED and taken into execution as the property of **Nancy A. Starner** 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 January 28, 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.

11/21, 30 & 12/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-130 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of January, 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 lot of ground situate in the Borough of Biglerville, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin on the North side of a 28-foot wide street (proposed) known as Maple Avenue at the Southwest corner of land now or formerly of Izora L. Black; thence along the North side of proposed Maple Avenue North 89 degrees West, 95.8 feet to an iron pin on line of land now or formerly of Pennsylvania State College; thence along the line of land of Pennsylvania State College North 4 degrees West, 182.6 feet to an iron pin at the Southern edge of a 14-foot proposed alley; thence along the Southern edge of said 14-foot proposed alley, South 88 degrees 52 minutes East, 104.9 feet to an iron pin at the Northwest corner of land now or formerly of Izora L. Black; thence along said land of Izora L. Black South 1 degree, 14 minutes East, 182.1 feet to an iron pin on the North side of proposed Maple Avenue, the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Dolores J. Hart, single and Judy E. Brown, single, as joint tenants with the right of survivorship by reason of the following:

BEING THE SAME premises which Allen I. McDonnell, etux, etal by Deed dated 5/2/72 and recorded __/__/__ in the County of Adams in Deed Book 300 Page 38 conveyed unto Dolores J. Brown.

AND BEING THE SAME premises which Dolores J. Brown now Dolores J. Hart, widow by Deed dated 6/18/93 and recorded 6/18/93 in the County of Adams in Record Book 740 Page 303 conveyed unto Dolores J. Hart, single and Judy E. Brown, single, as joint tenants with the right of survivorship.

Premises being: 37 Maple Avenue, Biglerville, PA 17307

Tax Parcel No. 3-18

SEIZED and taken into execution as the property of **Judy E. Brown** 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 January 28, 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.

11/21, 30 & 12/7

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, Harrisburg, PA on July 24, 2001, on behalf of HIGHROCK, INC., a business corporation organized under the provisions of the Pennsylvania Business Corporation Law of 1988, for any lawful purpose including the construction of homes and additions.

Amy E.W. Ehrhart, Esq.
Solicitor

11/30

NEWCOMER VS. CROOK

1. JNOV can be granted only if defendant is entitled to judgment as a matter of law, and the evidence presented at trial was such that no two reasonable minds could disagree that the verdict should have been in his favor. To prevail on the breach of contract claim, plaintiff had to prove by a preponderance of the evidence that there was an agreement encompassing a duty to repair by the defendant, that the duty to repair was breached and damages resulted.

2. In real estate transactions, fraud arises where a seller makes a misrepresentation, undertakes a concealment calculated to deceive or commits a non-privileged failure to disclose. Superior Court has held that attempts to correct problems to a septic system without obtaining the proper permits places a duty on the seller of property to disclose the existence of problems, the nature of repairs performed and the fact that repairs were done without permits.

3. ...when a party is entitled to recover the fair and reasonable value of services, and has by agreement determined the exact value of such services, there is no longer an issue as to such value.

4. It is clear that any award of exemplary damages is purely discretional.

5. The purpose of an award of punitive damages is to punish outrageous and egregious conduct done in a reckless disregard of another's rights.

6. It also should be understood that the purpose of the rule (damages for delay) is to alleviate court congestion, not to establish a right of recovery. Extending the rule's benefit to a faulty repair case where property was arguably damaged would raise troubling questions about the rule's constitutionality.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 98-S-72, JANICE E. NEWCOMER VS. JOHN B. CROOK.

Michael A. Flannelly, Esq., for Plaintiff
Kurt A. Blake, Esq., for Defendant

Spicer, P.J., April 10, 2001

OPINION ON POST-VERDICT MOTIONS

This case involves defendant's repairs to a septic system made pursuant to defendant's sale of real estate to plaintiff. Plaintiff claimed defendant breached a contract under which work was done and also that defendant concealed his failure to obtain a necessary government permit. On August 9, 2000, at the beginning of a two day jury trial, plaintiff's counsel confirmed that the action involved breach of contract and fraud.[1] The following day, the jury returned with verdict of $8,000.00 against defendant for breach of contract

[1] Counsel made the following representation: "There's a breach of contract theory in terms of breaching the escrow agreement to repair the property, the septic system. There's a fraud theory and untrade practices and protection of practices claim which is essentially a piggyback fraud claim." NT. 3.

and awarded $8,500.00 for fraud. The Court conducted a short hearing on October 20, 2000 and molded the verdict to $25,272 to include prejudgment interest on the contract claim and attorney's fees as set in plaintiff's contingent fee agreement in the UTPCPL and fraud claim. We declined to increase UTPCPL damages[2] to the treble maximum authorized by the act and also refused to award delay damages pursuant to Rule 238.

Post verdict motions have been filed[3] by both parties. Defendant has moved for judgment notwithstanding the verdict as to the breach of contract and fraud claims. In his motion, defendant argues that plaintiff's claim should never have been submitted to the jury, because evidence at trial was insufficient to show either a breach of contract or any intent on his part to defraud plaintiff. Plaintiff seeks an award of attorney fees based on counsel's hourly rate rather than the amount in a contingent fee agreement, treble damages and delay damages.[4]

The dispute arose in connection with a sale of real estate located at 220 Anthony Road, East Berlin, Adams County. Plaintiff purchased and defendant conveyed improved land on which there was located an on site sewage disposal system. The sales agreement was dated February 1997 and provided for plaintiff's inspection of that system.[5] On April 10, 1997, a firm in the business of conducting such inspections (Homechek) found the system to be malfunctioning. The parties proceeded to settlement but entered into the following agreement to cover the system:

> 1. At the closing ...for the sale of real estate, $8,000.00 of Seller's proceeds shall be placed into escrow with

---

[2] 73 P.S.§201-1 et seq. Damage provisions are found in §201-9.2.

[3] The order molding the verdict was entered October 20, 2000 and post-verdict motions were timely filed thereafter. Defendant requested transcription of the entire trial. Transcripts were filed January 23, 2001, followed by defendant's request for argument. Argument was scheduled April 9, 2001, but parties agreed to have motions decided on brief. Neither party praeciped for judgment and motions are properly before the court for decision.

[4] An order of court on a motion for delay damages is not subject to a motion for post trial relief. Pa.R.C.P. 238 (c)(1). However, we deem it appropriate to discuss the issue and will do so, infra.

[5] According to the terms of the agreement inspection was to occur within 30 days. Even though the inspection occurred more than 30 days after the agreement was signed, this was not an issue at trial.

ERA Bell Real Estate, hereinafter referred to as "Escrow Agent."

2. Said escrow funds are specifically to be available to Buyers to pay any and all costs associated with the repair or replacement of the on-site sewage disposal system on the property and any expenses incurred, such as a need for pumping of the system for example, due to the unsuitability of the current on-site sewage disposal system.
3. Seller shall have thirty (30) days from April 18, 1997, to repair or replace the septic system and to arrange, at his expense, for a reinspection of the system by Homechek, Inc. Upon approval of the system by Homechek, Inc., Buyers shall direct the Escrow Agent to release the escrow funds to Seller.
4. If seller has not accomplished the approval of the system within the time allowed, the Escrow Agent shall release to Buyers funds from the escrow account upon receipt of copies of invoices related to any expenses for which the escrow was created.

Following settlement, defendant undertook repairs. At trial, he said that he determined that the problem was due to a cracked pipe, which he dug up using a backhoe and replaced. He said that while thus engaged and had the machinery, he decided to uncover and inspect the drain field.[6] He said he scooped out some dirt with the backhoe, then used a shovel to expose the pipes. This procedure was repeated about six times in different areas of the drain field. Noting no problems and satisfied the system was functional he placed burlap bags and stone over the pipes, tried to put the dirt back and notified the realtor who arranged for re-inspection by Homechek.

A second agent from Homechek, Douglas Tosten, returned to the property on May 25, 1997. Tosten testified that it appeared "someone had dug up the yard to do something with the drain field." N.T. 67. His inspection included checking the fluid level in the septic tank, a dye test, a dynamic flow test and probing the drain field.

[6] No permit was required to replace the pipe, or to inspect the drain field, but repairs to the drain field necessitated a permit.

According to him, he completed tests, prepared a report and passed the system.[7] Thereafter, defendant and realtor combined efforts to make the premises acceptable to plaintiff by removing stones from the front yard. When this was accomplished, the broker released the escrow fund of $8,000.00 to defendant. Approximately one month later, plaintiff noticed raw sewage in the front yard in the area of the drain field. Remedying the situation required a sand mound. Plaintiff learned from the township sewage enforcement officer that no permits had been issued for any repairs to the drain field. As a result, buyer initiated this lawsuit alleging three causes of action: 1) breach of contract for seller representing that the septic system had been repaired properly; 2) fraud as a result of seller misrepresenting or failing to disclose that repairs were performed illegally and improperly and therefore concealing a material latent condition on the property; and 3) a violation of the Unfair Trade Practices and Consumer Protection Law (UTPCPL) for making the repairs to the septic system illegally and improperly.

Defendant's motion:

Defendant's motion for judgment notwithstanding the verdict (JNOV) requires the court to determine whether competent evidence supports the verdict. *Price v. Chevrolet Motor Division of General Motors Corp.*, ___ Pa. Super. ___, 765 A.2d 800 (2000). JNOV can be granted only if defendant is entitled to judgment as a matter of law, and the evidence presented at trial was such that no two reasonable minds could disagree that the verdict should have been in his favor. *Brinich v. Jencka*, ___Pa. Super. ___, 757 A.2d 388 (2000). To prevail on the breach of contract claim, plaintiff had to prove by a preponderance of the evidence that there was an agreement

[7] Tosten testified he could not determine from his inspection whether "proper" repairs had been done. Nor was he aware the work was done without a permit or inspection /approval from the sewage enforcement officer. He further testified, had he known the work was done without a permit the results of the inspection would not have been different, but he probably would have noted that information on his report. Although Homechek was not a party to this suit, and we were not required to determine liability on its part, see *Aiello v. Ed Saxe Real Estate, Inc.*, 508 Pa. 553, 499 A.2d 282 (1985), Tosten's testimony raises a few questions, given environmental and health concerns regarding malfunctioning sewage disposal systems. While it is commendable he would have noted that repairs were illegally performed, it is hardly reassuring that he would have approved those same repairs.

encompassing a duty to repair by the defendant, that the duty to repair was breached and damages resulted.

Defendant's arguments can be summarized as follows: the contract defined what the parties meant by repair and evidence even viewed in a light most favorable to plaintiff showed compliance with contractual terms. He bases this contention mainly on Tosten's testimony that it would not have made any difference had he known repairs were performed without a permit. His fraud argument rests upon the lack of evidence showing concealment.

The agreement does not define what is meant by repair. However, a sensible reading supports the jury's interpretation. Defendant could have either restored the system to functioning condition, and if this was not possible replace it. "Repair" is not a concept that requires specialized knowledge to understand. It presented a simple factual question, which the jury properly resolved. Given the short time it took for troubles to manifest, the conclusion is almost inescapable that the system wasn't repaired. Further, given the way issues were framed for the jury, it is obvious there was a finding that defendant attempted to repair the distribution system. Photographs admitted showed digging in the area of the drain field. The jury was free to disbelieve defendant's protestations that he uncovered the field merely to look at it and placed burlap bags and stone over drain pipes merely to protect them.[8] In stark contrast to physical evidence, we have only defendant's uncorroborated assertions as to what he did and did not do with the drain field. By proceeding without a permit, he conveniently avoided inspections required by law.

We reject defendant's contention that the contract defines repair as he proposes. At most, the agreement is ambiguous and was properly resolved by the jury. Paragraph 3 of the agreement would appear to govern payment of the escrow fund, not to set a standard by which repairs were to be judged. The broker properly released the fund upon Homechek's approval. However, this did not mean that defendant had properly repaired the system. Tosten testified, in fact, that he could not determine if the repairs had been properly performed.

---

[8] We also note the testimony of Arthur Nelson that the old fashioned way of inspecting drain fields may have involved the use of backhoes, but present practice is to use an electronic device to locate the pipes, then use a hand probe to determine if the drain field can be repaired. He said "we don't want to disturb any of those pipes." N.T. 119.

Defendant's attack on the fraud recovery ignores that it can be proven by showing a failure to disclose when there is a duty to do so. It may very well be that his activities in the septic field were obvious to the naked eye, therefore not hidden or latent. However, the jury could have clearly concluded that defendant presented the system as having been repaired when only a few cosmetic and unverifiable changes had been accomplished, knew that his action was material to the transaction and failed to inform plaintiff that he had attempted repair without a required permit. It was obvious he had a duty to reveal this fact and that he was aware that concealment would mislead Plaintiff into authorizing payment. Under the terms of the contract, plaintiff had little choice except to rely on the misrepresentation to her resulting injury. Plaintiff testified she would not have released the escrow funds had she known repairs were done without a permit. N.T. 21.

In real estate transactions, fraud arises where a seller makes a misrepresentation, undertakes a concealment calculated to deceive or commits a non-privileged failure to disclose. *Sewak v. Lockhart*, ___ Pa. Super. ___, 699 A.2d 755 (1997). Superior Court has held that attempts to correct problems to a septic system without obtaining the proper permits places a duty on the seller of property to disclose the existence of problems, the nature of repairs performed and the fact that repairs were done without permits. *Anderson v. Harper*, 424 Pa. Super. 161, 622 A.2d 319 (1993), *alloc. dn.* 535 Pa. 659, 634 A.2d 222 (1993).

Plaintiff's motions:

Plaintiff seeks to increase the jury's verdict by larger allowances for punitive damages and attorney's fees. She also presses a claim for delay damages. Obviously, she contends that these items are set by the court, not by the jury.

Attorney's fees: We limited recovery of attorney's fees to the amount payable under the contingent fee arrangement. Plaintiff argues the award should have been based upon the firm's hourly rate.

We base our decision on principles enunciated in *Moorhead v. Crozer Chester Medical Center*, ___ Pa. ___, 765 A.2d 786 (2001), although that case dealt with medical services, not counsel fees. However, when a party is entitled to recover the fair and reasonable value of services, and has by agreement determined the exact value

of such services, there is no longer an issue as to such value. Superior Court has commented that the purpose of UTPCPL is to make a claimant whole and not to diminish her recovery by paying attorney's fees. *McCauslin v. Reliance Finance Co.*, ___ Pa. Super. ___ , 751 A.2d 683. 686 (2000). That purpose has been fulfilled by our award.

Punitive damages: We did not, as plaintiff asserts, improperly delegate our duty to the jury. Rather, we refused to alter the award because we found it reasonable.

The UTPCPL provides:

> § 201-9.2. Private Actions
>
> (a) Any person who purchases or leases goods or services primarily for personal, family or household purposes and thereby suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by any person of a method, act or practice declared unlawful by section 3 of this act, may bring a private action, to recover actual damages or one hundred dollars ($100), whichever is greater. The court may, in its discretion, award up to three times the actual damages sustained, but not less than one hundred ($100), and may provide such additional relief as it deems necessary or proper.

It is clear that any award of exemplary damages is purely discretional. While there is no clear guidance within the statute there are well established rules governing punitive damages. The purpose of an award of punitive damages is to punish outrageous and egregious conduct done in a reckless disregard of another's rights. *Johnson v. Hyundai Motor America*, ___ Pa. Super. ___, 698 A.2d 631, *alloc.dn.* 551 Pa. 704, 712 A.2d 286 (1997). We believe $8,500.00 fulfills the rule's intent and purpose, when we view the amount in controversy, defendant's conduct and other sums defendant must pay. Plaintiff was not only made whole by the return of $8,000.00, she recovered the expenses of a sand mound system. She has not been required to pay counsel fees.

The value set by contract was $8,000.00, whether we speak of repair or replacement. We point out that the maximum amount of recovery is $24,000.00, to address an argument advanced by

defendant, but reiterate that $8,500.00 is sufficient to punish defendant and deter others.

Delay Damages: By her motion to mold verdict filed August 18, 2000, Plaintiff requested delay damages. On October 11, 2000, we denied the motion. Plaintiff bases her demand on testimony by her expert that defendant damaged the drain field while attempting repairs. Thus she asserts property damage have been proven, so as to entitle her to benefits of Rule 238.[9]

Plaintiff proceeded on contract, fraud and the ancillary or piggy-backed UTPCPL claim. The issue of property damages was never pleaded or submitted to the jury.

Supreme Court has said the following with respect to the rule's interpretation:

> When called upon to interpret a rule of procedure, we are guided by the Rules of Construction which are contained in the Pennsylvania Rules of Procedure. In relevant part they provide that "Words and phrases shall be construed according to rules of grammar and according to their common and approved usage..." Pa. R.C.P. 103; that [T]he object of all interpretation and construction of rules is to ascertain and effectuate the intention of the Supreme Court" and that [E]very rule shall be construed, if possible, to give effect to all its provisions. When the words of a rule are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit." Pa. R.C.P. 127(a)(b). Moreover, a fundamental tenet of interpretation is that the rules "shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable..." Pa. R.C.P. 126.

---

[9] Rule 238. Damages for delay in an action for bodily injury, death or property damage

(a)(1) At the request of the plaintiff in a civil action seeking monetary relief for bodily injury, death or property damage, damages for delay shall be added to the amount of compensatory damages awarded against each defendant or additional defendant found to be liable to the plaintiff in the verdict of a jury, in the decision of the court in a nonjury trial or in the award of arbitrators appointed under section 7361 of the Judicial Code, 42 Pa. C.S. § 7361, and shall become part of the verdict decision or award.

Woods v. Commonwealth, Department of Transportation, 531 Pa. 295, 612 A.2d 970 (1992).

Plaintiff did not seek monetary relief for property damage and Rule 238 clearly is not applicable. It also should be understood that the purpose of the rule is to alleviate court congestion, not to establish a right of recovery. *See, Stillwagon v. Gettysburg Hospital*, 39 Adams County L.J. 287 (1997), 48 D&C 4th 512; *affm'd* Pa. Super., 726 A.2d. 422 (1998); alloc. dn. Pa. , A.2d (WL 148001) (1999). Extending the rule's benefit to a faulty repair case where property was arguably damaged would raise troubling questions about the rule's constitutionality.

Accordingly, the attached order is entered.

ORDER

AND NOW, this 10th day of April, 2001, all post-verdict motions are dismissed.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-397 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract, parcel, piece of ground situate in Franklin Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a railroad spike set in Township Road T-361, Church Road, at corner of Lot No. 1 on the hereinafter referred to draft of survey; thence in Township Road T-361, Church Road, North Sixty-eight (68) degrees Fifty-three (53) minutes Twenty-four (24) seconds East, Twenty-five and Fifty-nine hundredths (25.59) feet to a point in said Township Road; thence continuing in said Township Road, North Sixty-eight (68) degrees Fifty-three (53) minutes Twenty-four (24) seconds East, Twenty-five and Sixty hundredths (25.60) feet to a railroad spike at corner of land now or late of Douglas B. Scott; thence by said land now or late of Scott, South Thirty-three (33) degrees Thirty (30) minutes Zero (0) seconds East, Five hundred seventy-three and Sixteen hundredths (573.16) feet to an iron pin and stones at corner of land now or late of Ralph M. Sangrey and along lands now or late of Frank S. Heidick; thence by said land now or late of Heidick, South Fifty-seven (57) degrees One (1) minute Sixteen (16) seconds West, Fourteen and seventy-eight hundredths (14.78) feet to an iron pin in concrete at corner of land now or late of Heidick and land now or late of John Sando; thence by said land now or late of Sando, South Eighty-one (81) degrees Zero (0) minutes Zero (0) seconds West, One Hundred Seventy (170) feet to a 5/8 inch rebar set at corner of Lot No. 3 on the hereinafter referred to draft of survey thence by Lot No. 3, North Forty-six (46) degrees Forty-six (46) minutes Six (6) seconds West, Two Hundred Seventy-six and Sixty-seven hundredths (276.67) feet to an iron pin at corner of Lot No. 1; thence by Lot No. 1, North Sixty-eight (68) degrees Fifty-three (53) minutes Twenty-four (24) seconds East, One Hundred Eighty-seven and Thirty-four hundredths (187.34) feet to an iron pin; thence continuing by Lot No. 1, North Thirty-three (33) degrees Thirty (30) minutes Zero (0) seconds West, Two Hundred Eighty-four and Forty-two hundredths (284.42) feet to a railroad spike set in Township Road T-361, Church Road, the place of BEGINNING.

CONTAINING 1.582 acres.

THE ABOVE description was taken from a Plan of Lots prepared by Robert A. Sharrah, and dated May 23, 1985, which said Plan of Lots is recorded in the Office of the Recorder of Deeds for Adams County in Plan Book 43, Page 42, designating the above as Lot No. 2 thereon.

SUBJECT, NEVERTHELESS, to the restrictions and/or conditions relating to private drives serving residential lots as recited on the Subdivision Plan recorded in the Office of the Recorder of Deeds for Adams County in Plan Book 43, Page 42.

BEING the same premises which Margaret E. Williams, by Deed dated October 9, 1997 and recorded on October 16, 1997, in the Office of the Recorder of Deeds for Adams County in Deed Book Volume 1457, Page 163, granted and conveyed unto James Mellott.

PARCEL 123F

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 21, 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.

11/16, 21 & 30

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 311 of the Act of December 16, 1982, P.L. 1309, No. 295, codified as amended (54 Pa. C.S.A. §311), there was filed in the Office of the Secretary of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on August 24, 2001, an Application for Registration of Fictitious Name of "VILLAGE APARTMENTS", the address of the principal place of business being 1845C Baltimore Pike, Gettysburg, Pennsylvania 17325. The names and addresses of the persons who are parties to said registration are: Rodney A. Thomas, Partner, Rebecca A. Thomas, Partner, and Dennis I. Drobisch, Partner, of 1845C Baltimore Pike, Gettysburg, Pennsylvania 17325.

Puhl, Eastman & Thrasher
Attorneys

11/30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-867 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of January, 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 unit in the property known, named and identified in the Declaration referred to below as Oxford Commons Condominiums, located in the Borough of New Oxford, Adams County, PA which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 P.S.A. Section 3101, et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, PA, of a Declaration dated September 13, 1996 and recorded October 18, 1996 in Record Book 58, Page 41 (together with all amendments and supplements thereto recorded on or before the date hereof) being all designated in such Declaration as Unit Declaration No. 38 and more fully bounded and described in such Declaration, together with a proportionate undivided interest in the Common Elements as defined in such Declaration.

TITLE TO SAID PREMISES IS VESTED IN James J. Eline, Jr. by Deed from Philip R. Garland t/d/b/a Garland Construction dated 12/19/97 and recorded 12/29/97 in Record Book 1497, Page 219.

Premises being: 15 Oxford Court, New Oxford, PA 17350

Tax Parcel No. MAP 5, PARCEL 184-A

SEIZED and taken into execution as the property of **James J. Eline, Jr.** and to be sold by me

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 28, 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.

11/30, 12/7 & 14

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-648 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the Southern edge of Bugler Drive at Lot No. 70 of the hereinafter referenced subdivision plan; thence along said Bugler Drive North eighty-seven (87) degrees six (06) minutes thirty-four (34) seconds East, ninety and zero hundredths (90.00) feet to a point at Lot No. 72 of said plan; thence along same South two (02) degrees fifty-three (53) minutes twenty-six (26) seconds East, one hundred thirty-four and thirty-six hundredths (134.36) feet to a point at Lot No. 55 of said plan; thence along same South eighty-seven (87) degrees six (06) minutes thirty-four (34) seconds West, ninety and zero hundredths (90.00) feet to a point at Lot No. 70 of said plan; thence along same North two (02) degrees fifty-three (53) minutes twenty-six (26) seconds West, one hundred thirty-four and thirty-six hundredths (134.36) feet to a point on the Southern edge of Bugler Drive, the point and place of BEGINNING. CONTAINING 12,092 square feet.

The above described lot being designated as Lot No. 71 on the Subdivision Plan of "South Branch Estates", dated February 3, 1993, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 63, page 93.

HAVING ERECTED THEREON a dwelling known as 18 Bugler Drive, New Oxford, Pennsylvania.

BEING THE SAME PREMISES WHICH J.A. Myers Building and Development, Inc., William Bast and William Prin, Co-Partners in a Joint Venture known as MPR Associates by Deed dated October 11, 1995 and recorded October 30, 1995 in Adams County Deed Book 1101, Page 94, granted and conveyed unto Keith R. Strausbaugh and Lisa A. Strausbaugh.

SEIZED IN EXECUTION AS THE PROPERTY OF KEITH R. STRAUSBAUGH AND LISA A. STRAUSBAUGH ADAMS COUNTY JUDGMENT NO. 01-S-648

MAP & PARCEL #1-90

SEIZED and taken into execution as the property of **Keith R. Strausbaugh & Lisa A. 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 January 21, 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.

11/16, 21 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-506 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of January, 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 two (2) tracts of land, with the improvements thereon erected, situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

TRACT NO. 1: BEGINNING for a corner at an iron pin at the Northwest corner of lands now or formerly of Lester G. Mummert and Julia L. A. Mummert, his wife; thence along said lands, South twenty (20) degrees twenty-five (25) minutes East, sixty-three and five-tenths (63.5) feet to an iron pin at a corner of lands now or formerly of Mummert and lands now or formerly of Robert F. Hoover and Stella M. Hoover, his wife; thence along said Hoover's land, South seventy (70) degrees West, two hundred eighty-seven and two one-hundredths (287.02) feet to an iron pin at lands now or formerly of Howard Wetzel; thence along said Wetzel's land, North nineteen (19) degrees West, forty-nine and five-tenths (49.5) feet to an iron pin at lands now or formerly of Edna F. Krug, of which this tract was a part; thence along said Krug's land, North sixty-seven (67) degrees thirty-three (33) minutes East, two hundred eighty-five and five-tenths (285.5) feet to an iron pin, the place of BEGINNING. (The above description, courses and distances were taken from a survey made by Donald W. Resh, Registered Surveyor, bearing date June 9, 1956.)

TRACT NO. 2: BEGINNING for a corner at a steel pin set on the Southern line of other lands now or formerly of Walter S. Helwig and Mary E. Helwig, his wife, at the western end of an eighteen (18) feet right of way as herein extended; thence along lands now or formerly of Robert F. Hoover and Stella M. Hoover, his wife, South seventeen (17) degrees East, twenty-four and five one-hundredths (24.05) feet to a steel pin at lands now or formerly of Raymond Kline; thence along said Kline's land, South seventy-seven (77) degrees fifteen (15) minutes West, one hundred ninety-three and three one-hundredths (193.03) feet to a steel pin at lands now or formerly of Howard Wetzel; thence along other lands now or formerly of Walter S. Helwig and Mary E. Helwig, his wife, North seventy (70) degrees East, one hundred ninety-two and eight-tenths (192.8) feet to a steel pin and the place of BEGINNING. (The above description, courses and distances were taken from a survey made by J. H. Rife, Registered Engineer, bearing date November 15, 1958.)

TITLE TO SAID PREMISES IS VESTED IN Thomas E. McDaniels, Jr. by Deed from Joseph E. Gichner, unmarried and Grace E. Gichner, unmarried dated 7/26/1988, recorded 7/29/1988, in Record Book 496, Page 29.

Premises being: 1320 Carlisle Pike, Hanover, PA 17331

Tax Parcel No. #L-13-53

SEIZED and taken into execution as the property of **Thomas E. McDaniels, Jr.** and to be sold by me

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 28, 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.

11/21, 30 & 12/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-888 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of January, 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 Mt. Joy Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a railroad spike in the center of Township Road T-424 (Low Dutch Road) at corner of land now or formerly of Henry L. Horne; thence in said Township Road T-424, North eighteen (18) degrees twenty-nine (29) minutes fifty (50) seconds East, two hundred twenty-nine and twenty-six hundredths (229.26) feet to a railroad spike at corner of other land now or formerly of Raymond B. Koenig; thence by said other land of Raymond B. Koenig, South seventy-one (71) degrees forty-three (43) minutes twenty-five (25) seconds East, seven hundred twenty-six and ninety-two hundredths (726.92) feet to a steel pin on line of land now or formerly of Stephen B. Fisher; thence by said land of Stephen B. Fisher, South sixteen (16) degrees four (04) minutes twenty (20) seconds West, two hundred twenty-nine and forty-three hundredths (229.43) feet to a steel pin at corner of land now or formerly of Henry L. Horne, aforesaid; thence by said land of Henry L. Horne, North seventy-one (71) degrees forty-three (43) minutes twenty-five (25) seconds West, seven hundred thirty-six and sixty-two hundredths (736.62) feet to a railroad spike in the center line of Township Road T-424 (Low Dutch Road), the place of BEGINNING. CONTAINING 3.851 Acres.

THE above description was taken from a draft of survey prepared by Donald E. Worley, P.L.S., dated August 16, 1983, revised September 9, 1983, designating the above as a 3.851 Acre tract, and recorded in Plat Book 39 at page 49.

Premises being: 2590 Low Dutch Road, Gettysburg, PA 17325

Tax Parcel No. MAP G15, PARCEL 23B

SEIZED and taken into execution as the property of **Donny L. Ennis & Carol L. Ennis** 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 January 28, 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.

11/30, 12/7 & 14

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 530-TL-2000 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of December, 2001, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE TWO CERTAIN lots, parcels, pieces of ground, situate in Reading Township, Adams County, Pennsylvania, designated as Lot Nos. 57 and 58 on Subdivision Plat of Hampton Plains, Inc., which is recorded in Plat Book 19, page 30.

UNDER AND SUBJECT, HOWEVER, to Declaration of Restrictions recorded in Miscellaneous Book 31, page 605, as amended November 14, 1983, by instrument recorded in Miscellaneous Book 44, page 854, and again amended on June 24, 1985 in Miscellaneous Book 403, page 184.

IT BEING the same premises which Gary L. Bankert and Laurel A. Bankert, his wife, by their Deed dated June 21, 1999, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 1863, Page 212, granted and conveyed unto John L. and Donna L. Becker.

67 Susan Lane
New Oxford, PA 17350

Tax Map J8, Parcel 85

SEIZED and taken into execution as the property of **John L. Becker & Donna L. Becker** 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 January 21, 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.

11/16, 21 & 30

NOTICE

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that a Petition to Distribute and Confirm Title to Real Estate has been filed in the Court of Common Pleas of Adams County, Pennsylvania regarding the four tracts of land located in Hamiltonban Township, Adams County, Pennsylvania, being more fully described in the Quitclaim Deed filed at the Adams County Recorder of Deeds, Deed Book 209 at Page 119, Grantees listed as Wilbur Rentsel and Elsie Rentsel. Wilbur Rentsel and Elsie Rentsel having passed away, it is proposed that the land be distributed in accordance with the Will of Wilbur Rentsel and the intestate laws of Pennsylvania for Elsie Rentsel's and her deceased heirs' portion of the land, those deceased heirs being Sylvia McCleaf, formerly of Prince George's County, Maryland and Lee Rentsel, formerly of Carroll County, Maryland.

The proposed distribution shall be called for confirmation in Court Room Number 3 of the Adams County Courthouse, Gettysburg, Pennsylvania on Monday, December 31, 2001, at 9:00 o'clock a.m.

Anyone desiring to object or except to the proposed distribution must either appear in Court on December 31, 2001, at 9:00 o'clock a.m., or file objections or exceptions thereto in writing with the Clerk of the Orphans' Court of Adams County, Pennsylvania, before December 31, 2001.

If no exceptions or objections are made and filed with the Court, then the objections or exceptions will not be heard and a decree may be made directing distribution in accordance with the statement of proposed distribution in the Petition to Distribute and Confirm Title to Real Estate.

11/30

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that on November 6, 2001, Articles of Incorporation were filed with the Pennsylvania Department of State for the NATIONAL CIVIL WAR MEMORIAL COMMISSION, a non-profit, non-stock corporation organized and existing under the laws of the Commonwealth of Pennsylvania.

11/30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-734 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of January, 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 Freedom Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin on the western edge of the paved area of Legislative Route 01002, at the northernmost corner of land now or formerly of James R. Bigham, thence by said land of James R. Bigham and passing through a reference iron pin set back 12.50 feet from the last mentioned point, South 47 degrees 45 minutes 00 seconds West, 484.00 feet to an iron pin on line of land now or formerly of Donald G. Mason; thence by said land of Donald G. Mason, North 42 degrees 15 minutes 00 seconds West, 180.00 feet to an iron pin; thence by same, North 47 degrees 45 minutes 15 seconds East, 487.26 feet to an iron pin on line of land now or formerly of It's A New Dawn, Inc.; thence by said land It's A New Dawn, Inc., passing through a 5/8 inch rebar marking the corner of land now or formerly of James W. Bigham, and by said land of James W. Bigham, and re-entering the right of way of Legislative Route 01002, South 41 degrees 12 minutes 40 seconds East, 180.00 feet to an iron pin, the place of BEGINNING. CONTAINING 2.008 Acres, more or less.

The above description was taken from a draft of survey prepared by Boyer Surveys, dated April 29, 1982, designating the above as Lot No. 1.

Being known as 745 Camp Gettysburg, Gettysburg, PA 17325

PARCEL NO.: D15-0022C

BEING THE SAME PREMISES which Paul E. Miller, Jr., and Melva Eileen Miller, husband and wife by deed dated September 17, 1998 and recorded September 17, 1998 in the Recorder's Office in and for Adams County, Pennsylvania in Deed Book Volume 1663, Page 230, granted and conveyed unto Douglas R. Caskey and Lori A. Caskey, husband and wife, the mortgagors herein.

SEIZED and taken into execution as the property of **Douglas R. Caskey & Lori A. Caskey** 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 January 28, 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.

11/30, 12/7 & 14

NOTICE

Pennsylvania Bar Association Members Gain Customized Legal Research Tool Powered by LexisNexis™

HARRISBURG, PA – Nov. 12, 2001 – Beginning Dec. 15, 2001, Pennsylvania Bar Association (PBA) members will be able to conduct legal research online using InCite™, a customized Web-based legal research tool powered by LexisNexis™ information services.

InCite, the free legal research tool, will be available exclusively to PBA members at www.pabar.org. The PBA partnered with LexisNexis to create this ground-breaking product after an extensive, year-long evaluation and development process. The InCite program is the first of its kind between LexisNexis and any state bar association.

InCite will provide free access to a comprehensive list of Pennsylvania and federal legal research information.

11/30

NOTICE

In re: First and Final Account of PNC Bank National Association (formerly Gettysburg National Bank), of Camp Hill, Pennsylvania, Guardian of the Estate of Nicole Lee Gebhart, Adams County Orphans' Court No. OC-39-92.

NOTICE IS HEREBY GIVEN that the First and Final Account of PNC Bank National Association (formerly Gettysburg National Bank) has been filed in the Office of the Clerk of Orphans' Court and will be presented to the Court of Common Pleas of Adams County, Pennsylvania, at Gettysburg, Pennsylvania, for confirmation and approval on December 31, 2001, at 9:00 a.m.

This Account will be available for inspection and review at the Clerk of Court's Office, Adams County Courthouse, or at the office of Walton V. Davis, 63 West High Street, Gettysburg, Pennsylvania. Any objection or claims against the guardianship estate must be made at or prior to the date for confirmation, and may be filed with the said Clerk of Courts or raised in Court at the time and date stated above. Any claims or objections not raised may be lost.

Walton V. Davis, Esq.
Attorney for Guardian

11/30 & 12/7

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 EARL R. KEEFER a/k/a EARL ROBERT KEEFER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Administrator: Paul J. Wheeler, 1350 Fish & Game Road, Littlestown, PA 17340

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

ESTATE OF HELEN E. NEELY, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

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

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

ESTATE OF MARIE A. WOLF, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Co-Executors: Larry Wolf and Brenda Menges, c/o 106 Harrisburg Street, East Berlin, PA 17316

Attorney: Sharon E. Myers, Esq., Countess Gilbert Andrews, PC, CGA Law Firm

SECOND PUBLICATION

ESTATE OF MARY A. BECKER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Melony A. Leidy, c/o Gates & Gates, 250 York Street, Hanover, PA 17331

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

ESTATE OF ANN (NMI) HOPKINS, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executrix: Joyce A. Gill, 21 Sunset Drive, Gettysburg, PA 17325

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

ESTATE OF IDAMAE F. KANE, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

PNC Bank, N.A., Attn: Linda J. Lundberg, P.O. Box 308, Camp Hill, PA 17001-0308

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

ESTATE OF CHARLES G. LAWRENCE, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executors: Joseph C. Lawrence, 127 South Madison Street, Hanover, PA 17331; Steven W. Lawrence, 36 Moul Avenue, Hanover, PA 17331; Karen S. Thomas, 45 Browns Dam Road, Lot 16, New Oxford, PA 17350; Donald P. Lawrence, 31139 Swan Road, Sorrento, FL 32776; Wanda K. Sipling, 28 Clearview Road, Hanover, PA 17331

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

ESTATE OF JOHN ALLEN ROSER, SR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: John A. Roser, Jr., 2990 Meadow View Rd., Manheim, PA 17545-8319

ESTATE OF AVE MARIA SMALL, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Chester Small, P.O. Box 184, Cashtown, PA 17310

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

THIRD PUBLICATION

ESTATE OF MADELINE KOLOJESKI, DEC'D

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

Executrix: Joan Campiglia, 18 Persimmon Trail, Carroll Valley, PA 17320