

# *Adams County* **Legal Journal**

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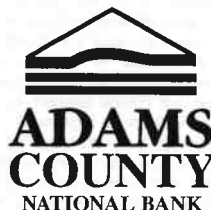
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**McMULLAN VS. BROWN ET AL**

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



Member FDIC

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-485 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of January, 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 parcel of land lying and situate in Menallen Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

## TRACT NO. 1:

BEGINNING at an iron pin at land now or formerly of the Clair W. Arnold Estate, which pin is at the end of the South 53 degrees East, 34.4 perch line (as referenced in the deed dated April 16, 1943 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 161 at Page 610, wherein Roy W. Schriver and Linnie A. Schriver, his wife, granted and conveyed to Howard R. Schriver and Mary M. Schriver, his wife); thence South 57 degrees 22 minutes 46 seconds West, 59.40 feet to an iron pin; thence running along and in Legislative Route 01006 South 44 degrees 24 minutes 01 second West, 365.43 feet to a point, said point being South 65 degrees 13 minutes 15 seconds East, 31.10 feet from the edge of stone building; thence continuing in aforesaid Legislative Route 01006 South 38 degrees 44 minutes 41 seconds West, 249.58 feet to a point; thence by land herein conveyed North 49 degrees 27 minutes 25 seconds West, 252.35 feet to an iron pin, thence by the same North 43 degrees 57 minutes 35 seconds East, 656.96 feet to an iron pin at land now or formerly of the Clair W. Arnold Estate; thence by same South 52 degrees 57 minutes 28 seconds East, 247.61 feet to an iron pin, the place of BEGINNING.

## TRACT NO. 2:

BEGINNING at an iron pin near the northwestern edge of Legislative Route 01006 on line of land now or formerly of Howard R. Schriver; thence by same North 54 degrees 00 minutes West 245.80 feet to an iron pin at corner of lands now or formerly of Ray K. Crum; thence by same North 45 degrees 39 minutes 07 seconds East 210.88 feet to an iron pin at corner of lands now or formerly of Erma Arnold; thence by same South 43 degrees 22 minutes East 51.39 feet to an iron pin; thence by same South 45 degrees 39 minutes 07 seconds West 88.40 feet to an iron pin; thence by same South 41 degrees 50 min-

utes 35 seconds East 200.38 feet to an iron pin near the northwestern edge of Legislative Route 01006; thence along said Legislative Route South 53 degrees 00 minutes West 72.22 feet to an iron pin, the place of BEGINNING.

Tax Parcel # F4-24

SEIZED and taken into execution as the property of **Peter J. Schriver & Vickie L. Schriver** 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 February 5, 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.

11/22, 12/1 & 8

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-771 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of January, 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.:

16 Summer Drive, Gettysburg, PA 17325

ALL THAT TRACT of land situate, lying and being in the Borough of Bonneauville, Adams County, Pennsylvania, being Lot No. 5 of Springfield Estates, bounded and described as follows:

BEGINNING at an iron pin on the Southerly edge of Summer Drive at Lot No. 4; thence by said Lot South 33 degrees 36 minutes 10 seconds West, 179.63 feet to an iron pin at lands now or formerly of Guy Francis Gebhart; thence by said lands North 56 degrees 20 minutes 46 seconds West, 115 feet to an iron pin at Lot No. 6; thence by said Lot North 33 degrees 36 minutes 10 seconds East, 179.53 feet to an iron pin on the Southerly edge of Summer Drive; thence along the

Southerly edge of said Summer Drive South 56 degrees 23 minutes 50 seconds East, 115 feet to the place of BEGINNING.

CONTAINING 20,652 square feet.

The above description was taken from a plan of lots labeled "Springfield Estates", dated June 22, 1977, prepared by Gettysburg Engineering Co., Inc., and recorded in Adams County Plan Book No. 20, Page 29.

TOGETHER WITH a right-of-way and SUBJECT to the restrictions as contained in the above recited Deed.

TITLE TO SAID PREMISES APPEARS TO BE VESTED IN Kathy L. Eckard of Washington, D.C., by Deed from James A. Walker and Diane M. Walker (formerly Diane M. Trone) by Deed dated June 28, 1989 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania on June 29, 1989 in Record Book 526 Page 721.

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

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 5, 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.

11/17, 22 & 12/1

## McMULLAN VS. BROWN ET AL

1. The rule of conclusiveness of a return of service of process is based upon the presumption that a sheriff, acting in the course of his official duties, acts with propriety, and, therefore, when the sheriff in the course of such official duties makes a statement, by way of an official return, such statement is given conclusive effect. However, both logic and common sense restrict the conclusive nature of the sheriff's return only to facts stated in the return of which the sheriff presumptively has personal knowledge, as when and where the writ was served.

2. However, the immutability of a return should not extend (a) to facts stated in the return of which the sheriff cannot be expected to have personal knowledge and which are based upon information obtained through hearsay or statements made to third persons or (b) to conclusions based upon facts known to the sheriff only through statements made by others.

3. The burden is placed on (Defendant) to establish that facts not presumptively within the Sheriff's personal knowledge are not correctly set forth in the return and failure to meet that burden results in his inability to establish a fraud so as to invalidate the return.

4. In order for punitive damages to be recovered in a replevin action there must be peculiar circumstances of outrage, oppression and wrong in the taking or detention of the property.

5. In a replevin action, the sole issue is one of title and right to possession.

6. Punitive damages are generally only available where the defendant's conduct is more egregious than that which establishes an underlying tort.

7. If Plaintiff can prove that Defendants know they have no title or right to possession as to Plaintiff and nevertheless, have refused to relinquish the property for nearly a year up to the filing of the Complaint, their conduct could be considered sufficiently egregious and outrageous as to justify an award of punitive damages.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 99-S-384. JOAN E. McMULLAN VS. MICHAEL JOHN BROWN AND ELIZABETH BROWN, a/k/a ELIZABETH SISKOS, HUSBAND AND WIFE.

Jeffrey A. Gettle, Esq., for Plaintiff

Brian P. Strong, Esq., for Defendants

Kuhn, J., September 30, 1999.

### OPINION ON PRELIMINARY OBJECTIONS

On April 28, 1999, Plaintiff filed a Complaint containing three counts (Replevin, Conversion, and Punitive Damages). Therein she averred that she was involved in an amorous relationship with Defendant, Michael John Brown, while he was still married to Defendant, Elizabeth Brown. Mr. Brown allegedly represented to Plaintiff that he and his wife were separated and in the process of a divorce. When the divorce was not forthcoming, Plaintiff broke off the relationship. Plaintiff further averred that Mr. Brown agreed to

transport Plaintiff's personal belongings from Baltimore to Gettysburg and then on to Connecticut where Plaintiff was moving. Plaintiff claims that the defendants reconciled and, despite demand, have refused to release or to deliver her personal property to her.

The Sheriff's return of service indicates that service was made on Mrs. Brown personally on May 3, 1999, and upon Mr. Brown the same day when Mrs. Brown accepted service for him.

On June 29, 1999, Defendants filed Preliminary Objections challenging service upon Mr. Brown and Plaintiff's entitlement to punitive damages. Disposition is being made pursuant to Local Rule 211.

First, we shall address the issue of service upon Mr. Brown. Pa. R.C.P. 1028(a)(1) allows for preliminary objections raising improper service of a complaint.<sup>1</sup> Pa. R.C.P. 402 provides that service of a complaint may be made upon a defendant by handing him a copy or by handing a copy at the defendant's residence to an adult with whom he lives or an adult in charge of the residence. Here, the Sheriff's return states that Mr. Brown's copy of the Complaint was served upon Ms. Brown at 2450 Fairfield Road, Gettysburg, Pennsylvania, which is the address listed in the Complaint for both defendants.

Defendants' Preliminary Objection avers that the Complaint was not properly served upon Mr. Brown "in that it was not personally handed to Defendant nor was it handed to an adult member in Defendant's residence."<sup>2</sup> When preliminary objections raise an issue as to service, that pleading should be endorsed with a notice to plead (see Note to Rule 1028) and verified. Such objections cannot be determined from the record. Where issues of fact are raised "the

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<sup>1</sup>Pa. R.C.P. 1026(a) requires that preliminary objections be filed within 20 days after service of a complaint that contains a notice to defend. Here, Defendants filed their preliminary objections 57 days after service. Plaintiff has not filed preliminary objections to Defendants' preliminary objections so this issue is waived. Furthermore, we note that the Complaint, filed April 28, 1999, did not contain a Notice to Defend as required by Pa. R.C.P. 1018.1. On April 30, 1999, a Notice to Defend was filed with the Prothonotary. The record does not reveal any instructions to attach the Notice to the Complaint nor does the record reveal whether the separate Notice was served with the Complaint.

<sup>2</sup>In his brief, Mr. Brown claims that "[t]he Complaint was simply dropped on the doorstep of Ms. Brown's residence. At all times Ms. Brown refused to accept service on behalf of Mr. Brown." (p. 1.) These alleged facts are unverified and only appear in the brief and, therefore, cannot be considered by the Court.

court shall consider evidence by depositions or otherwise.” Pa. R.C.P. 1028(a)(2).

It would appear that disposition of this issue must await a hearing. The parties have not graced the Court with depositions but this failure to provide the necessary evidence does not excuse the Court from further inquiry. Instead, the Court must take evidence at a hearing to resolve the factual dispute. *Ambrose v. Cross Creek Condominiums*, 412 Pa. Super. 1, 602 A.2d 864 (1992).

Plaintiff would have the Court resolve this issue without hearing. Citing *Miller v. Carr*, 221 Pa. Super. 306, 292 A.2d 423 (1972) she contends that in the absence of fraud, the Sheriff’s return is conclusive and immune from extrinsic attack as to facts of which the Sheriff presumptively had personal knowledge. Although the basic legal tenet is properly cited, Plaintiff misconstrues its application in this case. As was stated in *Hollinger v. Hollinger*, 416 Pa. 473, 206 A.2d (1965),

The rule of conclusiveness of a return of service of process is based upon the presumption that a sheriff, acting in the course of his official duties, acts with propriety, and, therefore, when the sheriff in the course of such official duties makes a statement, by way of an official return, such statement is given conclusive effect. However, both logic and common sense restrict the conclusive nature of the sheriff’s return only to facts stated in the return of which the sheriff presumptively has personal knowledge, as when and where the writ was served; when, in his official return, the sheriff states that he served a writ at a certain time and at a certain place, such facts are known to the sheriff personally and should be given conclusive effect. However, the immutability of a return should not extend (a) to facts stated in the return of which the sheriff cannot be expected to have personal knowledge and which are based upon information obtained through hearsay or statements made by third persons or (b) to conclusions based upon facts known to the sheriff only through statements made by others.  
416 Pa. at 477, 206 A.2d at 3 (emphasis in original).

Although the Sheriff's return, in the instant case, is conclusive as to the date, time, place and person served, it is not conclusive as to whether the address stated is that of Mr. Brown or, if it was, whether Ms. Brown was the person in charge of Mr. Brown's residence. The truthfulness of those matters is based upon statements from others. For example, Plaintiff is the person who presented the Sheriff with Mr. Brown's address. Matters such as the accuracy of defendant's address, whether he is married, whether he is living with his wife, and whether a person is in charge of the defendant's residences are not ordinarily within the personal knowledge of the Sheriff. See 2 Goodrich-Amram 2nd §405(b):4-8. The burden is placed on Mr. Brown to establish that facts not presumptively within the Sheriff's personal knowledge are not correctly set forth in the return and failure to meet that burden results in his inability to establish a fraud so as to invalidate the return. *Id.* §405(b):9.

Next, Defendant argues that Plaintiff has not sufficiently pled entitlement to punitive damages in Count III because the conduct was not alleged to be of sufficient magnitude. Plaintiff simply responds that punitive damages may be recovered in replevin actions, citing *Berman v. C.I.T. Corp.*, 122 Pa. Super. 130, 186 A. 268 (1936). With this statement there is no disagreement. However, the issue is not one of general law but of the adequacy of Plaintiff's complaint.

In order for punitive damages to be recovered in a replevin action there must be peculiar circumstances of outrage, oppression and wrong in the taking or detention of the property. *Wiley v. McGrath*, 198 Pa. 498, 45 A. 331 (1900). Here, according to the Complaint, Defendant's taking of the property to Gettysburg was consensual. The concern is the detention of the personal property.

In a replevin action, the sole issue is one of title and right to possession. *Stoltzfus v. Pittinger*, 34 Ad. C.L.J. 239, 241 (1992). Plaintiff alleges that the personal property involved is hers, that Defendants know it is hers, and that they refuse to release it to her. Punitive damages are generally only available where the defendant's conduct is more egregious than that which establishes an underlying tort. *Fitzpatrick v. Penn Advertising, Inc.*, 39 Ad. C.L.J. 151, 156 (1996). Under the circumstances, as pled, if Plaintiff can prove that Defendants know they have no title or right to possession as to Plaintiff and nevertheless, have refused to relinquish the property for

nearly a year up to the filing of the Complaint, their conduct could be considered sufficiently egregious and outrageous as to justify an award of punitive damages.

Accordingly, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 30th day of September 1999, Defendants' Preliminary Objections filed June 29, 1999, are denied as to the demurrer to Count III. The Objection to Service of the Complaint upon Defendant, Michael John Brown, shall be addressed in accordance with the attached Opinion at a hearing to be held on October 25, 1999, at 9:00 a.m. in Courtroom No. 2.

Defendant, Elizabeth Brown, is granted twenty (20) days from the date of mailing of this Order to file an answer to the Complaint.

If, and only if, the Court rules adverse to the preliminary objection as to service raised by Defendant, Michael John Brown, he shall have twenty (20) days after entry of said order to file an answer to the Complaint.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-807 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of January, 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 amendments and supplements thereto recorded on or before the date hereof) being all designated in such plan as Unit No. 34 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, PA in Record Book 1271 page 34.

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

Tax Parcel #1-52-034

SEIZED and taken into execution as the property of **Walter S. Stiles a/k/a Walter Scott Stiles & Karen Jean Stiles** 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 February 5, 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.

11/17, 22 & 12/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-830 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of January, 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 Abbots Drive in the Borough of Abbotstown, County of Adams and State of Pennsylvania known and numbered as Lot No. 38 on a plan of lots for Abbots Manor Phase II recorded in the Office of the Recorder of Deeds in and for Adams County, PA in subdivision Plot 73, page 43, more fully bounded and described as follows, to wit:

BEGINNING at a point on the northerly right of way line of Abbots Drive at a corner of Lot No. 37 on a final plan of lots for Abbots Manor Phase I recorded in the aforesaid Recorder's Office in Plot Book 69, page 95; thence extending along the said Lot No. 37 North 30 degrees 02 minutes 10 seconds West 277.24 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. 39 on a plan of Lots for Abbots Manor Phase II recorded in the aforesaid Recorder of Deeds Office in Plot Book 73, page 43; thence extending along the said Lot No. 39 South 35 degrees 47 minutes 14 seconds East 202.48 feet to a point; thence extending along the said right of way of Abbots Drive on a line curving to the right having a radius of 170 feet, an arc distance of 86.06 feet with a chord bearing South 45 degrees 27 minutes 41 seconds West 85.14 feet to the point and place of BEGINNING. CONTAINING 15,888 Sq. Ft.

Tax Parcel # 5-52

SEIZED and taken into execution as the property of **Troy A. Wolf & Bobbie Jo Spangler** 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 February 5, 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.

11/22, 12/1 & 8

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County — Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Friday, December 8, 2000, at 9:00 o'clock a.m.

**BAUMGARTNER—Orphans' Court** Action Number OC-52-99. The Second and Final Account of Charles M. Sanders, Executor of the Estate of George K. Baumgartner, deceased, late of Oxford Township, Adams County, Pennsylvania.

**COWAN—Orphans' Court** Action Number OC-119-92. The First and Final Account of David J. Cowan, Administrator of the Estate of Christopher Mayroe Cowan, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

11/22 & 12/1

LEGAL NOTICE

The Annual meeting of the policyholders of the Protection Mutual Insurance Company of Littlestown will be held at the office located at 101 South Queen Street, in Littlestown, PA, between the hours of 1:00 and 2:00 p.m., on January 13, 2001 to elect directors and to transact any other business properly presented.

Attest  
Marilyn Q. Butt  
Secretary-Treasurer

11/22, 12/1, 8 & 15



## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-N-988 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of December, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

Property of Mick Builders, Inc., situated at 726 Parkway Drive, Littlestown, Lot No. 250, Meadowview Estates, Union Township, Adams County, PA. Tax Map 3, Parcel 110

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

BEGINNING for a point along the northeasterly right-of-way line of Park Way Drive and Lot No. 183; thence along said Lot No. 183, North eighty-two (82) degrees thirty (30) minutes twenty-five (25) seconds West, two hundred thirteen and thirty-eight hundredths (213.38) feet to a point at Lot No. 239; thence along said Lot No. 239 and Lot No. 241, North forty-six (46) degrees forty-two (42) minutes forty-five (45) seconds East, two hundred thirty-seven and seventy-seven hundredths (237.77) feet to a point along the southerly right-of-way line of Hickory Lane; thence along the southerly right-of-way line of Hickory Lane, South sixty-one (61) degrees thirty-four (34) minutes thirty-eight (38) seconds East, one hundred eight and seventy-seven hundredths (108.77) feet to a point at the intersection of Hickory Lane and Park Way Drive; thence along the intersection of Hickory Lane and Park Way Drive, South sixteen (16) degrees thirty-four (34) minutes thirty-eight (38) seconds East, thirty-five and zero hundredths (35.00) feet to a point along the northwesterly right-of-way line of Park Way Drive; thence along the northwesterly right-of-way line of Park Way Drive, South twenty-eight (28) degrees twenty-four (24) minutes thirty-eight (38) seconds West, three and twenty-nine hundredths (3.29) feet to a point; thence continuing along same by a curve to the right which has a radius of eight hundred forty and zero hundredths (840.00) feet, an arc distance of one hundred twenty-one and ninety-two hundredths (121.92) feet, the long chord of which is South thirty-two (32) degrees thirty-four (34) minutes fifty-two (52) seconds West, one hundred twenty-one and eighty-two hundredths (121.82) feet to a point, the place of BEGINNING. (CONTAINING 29,632.20 square feet and being identified as Lot No. 250 on the final subdivision plan of Meadowview Estates, Phase V, which plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 74, page 77.)

UNDER AND SUBJECT, NEVERTHELESS, to Declaration of Restrictions recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1661, page 225.

IT BEING the same premises which Lynn Lee Construction Co., Inc., a Maryland corporation, by its deed dated February 26, 1999, and recorded March 2, 1999, in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1776, page 133, granted and conveyed to Mick Builders, Inc.

SEIZED and taken into execution as the property of **Mick Builders Inc.** 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 22, 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.

11/17, 22 & 12/1

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-741 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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, situate, lying and being in the Township of Mt. Joy, County of Adams, State of Pennsylvania, being more particularly described in accordance with a survey prepared by J. Riley Redding dated December 29, 1977, and approved by the Mt. Joy Township Supervisors, February 3, 1978, as follows:

BEGINNING at a railroad spike in the centerline of Township Road T-420, also known as Highland Avenue and at other lands now or formerly of William H. Scott; thence along and through Township Road T-420 South twenty-five (25) degrees fifteen (15) minutes zero (00) seconds West one hundred fifteen (115.00) feet to a railroad spike in said road; thence South twenty-seven (27) degrees fifty-five (55) minutes twenty (20) seconds West one hundred five and sixty-hundredths (105.60) feet to a stone

at lands now or formerly of Wilson Clapsaddle; thence along lands of Clapsaddle North fifty (50) degrees forty (40) minutes zero (00) seconds West two hundred twenty (220.00) feet to a pipe and at other lands now or formerly of William H. Scott; thence along said lands North twenty-six (26) degrees thirty-one (31) minutes forty (40) seconds East two hundred twenty and fifty-four hundredths (220.54) feet to a pipe; thence South fifty (50) degrees forty (40) minutes zero (00) seconds East two hundred twenty (220.00) feet to a railroad spike in centerline of Township Road T-420, also known as Highland Avenue and the place of BEGINNING.

CONTAINING 1.092 Acres.

HAVING THEREON ERECTED A DWELLING KNOWN AS 1735 HIGHLAND AVENUE ROAD, GETTYSBURG, PENNSYLVANIA 17325.

BEING THE SAME PREMISES which Christopher S. Hertz, single and Ann A. Cherry, single, by their Deed dated December 30, 1993 and recorded in Adams County Recorder of Deeds Office on January 10, 1994 in Deed Book 832, page 230, granted and conveyed unto Kevin G. Wantz and Susan L. Wantz.

SEIZED IN EXECUTION AS THE PROPERTY OF KEVIN G. WANTZ AND SUSAN L. WANTZ UNDER ADAMS COUNTY JUDGMENT NO. 00-S-741.

PARCEL # 39

TAX MAP # G14

SEIZED and taken into execution as the property of **Kevin G. Wantz & Susan L. Wantz** 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 February 12, 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.

12/1, 8, 15

## 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 C. DENNIS GEESEY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Fulton Financial Advisors, N.A., successor to Fulton Bank, P.O. Box 7989, Lancaster, PA 17604

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

## ESTATE OF MARY JANE HEIKES, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Theresa A. Plastino, 9752 SW 1st Street, Plantation, FL 33324

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

## ESTATE OF FRANZ C. MARTIN, JR., DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Joyce C. Speelman, 2730 Fairfield Rd., Gettysburg, PA 17325; Fred J. Martin, 60 South Avenue, Gettysburg, PA 17325; Leonard J. Martin, 1874 Herr's Ridge Rd., Gettysburg, PA 17325

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

## ESTATE OF ELIZABETH B. NORMAN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Martha M. Horlebein, c/o 29 North Duke Street, York, PA 17401

Attorney: John D. Flinchbaugh, Esq., 29 North Duke Street, York, PA 17401

## ESTATE OF BOBBY L. SHORT, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Executor: Gregory L. Short, 1515 Tract Road, Fairfield, PA 17320

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

## SECOND PUBLICATION

## ESTATE OF NELLIE JANE GLADFELTER, DEC'D

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

Executor: Marshall H. Gladfelter, c/o 29 North Duke Street, York, PA 17401

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

## ESTATE OF CATHRYN I. MYERS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Clyde F. Myers, 669 Grant Drive, Gettysburg, PA 17325; Donna J. Boyer, 77 Wheatland Drive, Gettysburg, PA 17325

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

## THIRD PUBLICATION

## ESTATE OF ANNA M. KESSLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrices: Jane Marie Bankert, RD#1, Box 1535, Spring Grove, PA 17362; Marian E. Altland, 11 South Water Street, Spring Grove, PA 17362

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

## ESTATE OF FRANCIS GREAM LOW, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executor: Steve Snyder, 5 Sunset Drive, Gettysburg, PA 17325

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-873 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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 Northern side of Township Road T-343 in Franklin Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a railroad spike in the center of Township Road T-343 which railroad spike is South 64 degrees 58 minutes 20 seconds West, 100 feet from a railroad spike at the Southwestern corner of Lot No. 2 on a plan of lots of Robert Shirley prepared by Boyer-Price Surveys; thence running in the center of Township Road T-343, South 64 degrees 58 minutes 20 seconds West, 80 feet to a railroad spike in the center of said road; thence by land now or formerly of Robert Shirley and through an iron pin set back 20 feet from the start of this course, North 53 degrees 47 minutes 40 seconds West, 435.60 feet to an iron pin; thence by land of the same, North 54 degrees 27 minutes 20 seconds East, 294.58 feet to an iron pin; thence by land formerly of Robert Shirley and through an iron pin set back 20 feet from the end of this course, South 25 degrees 01 minutes 40 seconds East, 435.60 feet to a railroad spike in the center of Township Road T-343 the point and place of BEGINNING. CONTAINING 1.799 Acres.

THIS TRACT is referred to as Tract No. 1 on a subdivision plan of Robert Shirley prepared by Boyer-Price Surveys and dated October 16, 1972 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 2 at page 59.

BEING known as 391 Seven Star Road, Gettysburg, PA

Property ID No. 33 Map No. D 12

TITLE TO SAID PREMISES IS VESTED IN Rose B. Nathan, unmarried by deed from Robert Shirley and Gladys Shirley, Husband and Wife dated 5/24/1973 and recorded 5/25/1973 in Deed Book 307 page 160.

SEIZED and taken into execution as the property of **Rose B. Nathan** 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 February 12, 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.

12/1, 8, 15

## 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 November 13, 2000.

The name of the corporation is SIXEAS PREMIER MARKETING, INC.

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

John R. White  
Campbell & White  
112 Baltimore Street  
Gettysburg, PA 17325  
Attorneys for the Corporation

12/1

# Adams County Legal Journal

Vol. 42

December 8, 2000

No. 28, pp. 151-153

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION-LAW  
NO.: 00-S-736

NOTICE OF SHERIFF SALE OF REAL  
ESTATE PURSUANT TO Pa.R.C.P. 3129

ALLFIRST BANK, f/k/a FIRST NATIONAL  
BANK OF MARYLAND, successor to  
FARMERS BANK, Plaintiff

vs.

ALICE C. LATRAY-KUHN and BERNARD  
J. KUHN, Defendants.

TO: Alice C. Latray-Kuhn

That the Sheriff's Sale of Real Property (Real Estate) will be held at the Adams County Sheriff's Office, Adams County Courthouse, 117 Baltimore Street, Gettysburg, Pennsylvania 17325 on Friday, February 9, 2001 at 10:00 a.m. prevailing local time.

THE PROPERTY TO BE SOLD is delineated in detail in a legal description consisting of a statement of the measured boundaries of the property, together with a brief mention of the buildings and any other major improvements erected on the land.

THE LOCATION of your property to be sold is:

1179 Old Harrisburg Road  
Gettysburg, PA 17325  
Adams County

The JUDGMENT under or pursuant to which your property is being sold is docketed to:

No.: 00-S-736

A complete copy of the Notice of Sheriff Sale will be sent to you upon request to the Attorney for the Plaintiff, Scott A. Dietterick, Esquire, P.O. Box 650, Hershey, PA 17033. Phone (717) 533-3280.

THIS PAPER IS A NOTICE OF THE TIME AND PLACE OF THE SALE OF YOUR PROPERTY.

IT HAS BEEN ISSUED BECAUSE THERE IS A JUDGMENT AGAINST YOU.

IT MAY CAUSE YOUR PROPERTY TO BE HELD, TO BE SOLD OR TAKEN TO PAY THE JUDGMENT.

You may have legal rights to prevent your property from being taken away. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, YOU MUST ACT PROMPTLY. YOU SHOULD TAKE THIS PAPER TO

YOUR LAWYER AT ONCE. GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET FREE LEGAL ADVICE.

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
P.O. Box 186  
Harrisburg, Pennsylvania 17108  
(800) 692-7375

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-736 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of December, 2000, 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 2 tracts of land situate in Straban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

Tract No. 1: BEGINNING at a point in the center of the State Highway leading from Gettysburg to Harrisburg at corner of lands now or formerly of William W. Shields; thence in and along the center of said State Highway, North 38 degrees East, 50 feet to a point in center of said State Highway; thence by lands now or formerly of Robert Johnson and through an iron pin set back along the line, South 52 degrees East, 180 feet to an iron pin; thence by lands now or formerly of William W. Shields, South 38 degrees West, 50 feet to an iron pin; thence by lands of same, North 52 degrees West, 180 feet through an iron pin to the point in the center of the aforesaid State Highway, the place of BEGINNING.

Tract No. 2: BEGINNING at an iron pin at corner of lands now or formerly of William A. Bigham and Robert Johnson; thence by lands now or formerly of William W. Shields, South 52 degrees East, 16 feet to a point; thence by lands of same, South 38 degrees West, 50 feet to a point; thence by lands of same, North 52 degrees West, 16 feet to an iron pin at lands now or formerly of William A. Bigham; thence by lands of same, North 38 degrees East, 50 feet to an iron pin, the place of BEGINNING.

BEING THE SAME TWO TRACTS OF LAND WHICH Gary W. Peterson and Dianne S. Peterson, Husband and wife, by their Deed, dated August 21, 1989, and recorded August 22, 1989, in the Office of Recorder of Deeds in and for Adams County, Pennsylvania, at Deed Book Volume 531, Page 688, granted

and conveyed unto Bernard J. Kuhn and Alice C. Latray-Kuhn, husband and wife as tenants of an estate by the entireties.

PARCEL MAP # G12-27

SEIZED and taken into execution as the property of **Alice C. Latray-Kuhn & Bernard J. Kuhn** 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 8, 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.

12/8

## LEGAL NOTICE

The Annual meeting of the policyholders of the Protection Mutual Insurance Company of Littlestown will be held at the office located at 101 South Queen Street, in Littlestown, PA, between the hours of 1:00 and 2:00 p.m., on January 13, 2001 to elect directors and to transact any other business properly presented.

Attest  
Marilyn Q. Butt  
Secretary-Treasurer

11/22, 12/1, 8 & 15

## INCORPORATION NOTICE

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

12/8

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

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Periodicals postage paid at Gettysburg, PA 17325.

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-485 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of January, 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 parcel of land lying and situate in Menallen Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

## TRACT NO. 1:

BEGINNING at an iron pin at land now or formerly of the Clair W. Arnold Estate, which pin is at the end of the South 53 degrees East, 34.4 perch line (as referenced in the deed dated April 16, 1943 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 161 at Page 610, wherein Roy W. Schriver and Linnie A. Schriver, his wife, granted and conveyed to Howard R. Schriver and Mary M. Schriver, his wife); thence South 57 degrees 22 minutes 46 seconds West, 59.40 feet to an iron pin; thence running along and in Legislative Route 01006 South 44 degrees 24 minutes 01 second West, 365.43 feet to a point, said point being South 65 degrees 13 minutes 15 seconds East, 31.10 feet from the edge of stone building; thence continuing in aforesaid Legislative Route 01006 South 38 degrees 44 minutes 41 seconds West, 249.58 feet to a point; thence by land herein conveyed North 49 degrees 27 minutes 25 seconds West, 252.35 feet to an iron pin, thence by the same North 43 degrees 57 minutes 35 seconds East, 656.96 feet to an iron pin at land now or formerly of the Clair W. Arnold Estate; thence by same South 52 degrees 57 minutes 28 seconds East, 247.61 feet to an iron pin, the place of BEGINNING.

## TRACT NO. 2:

BEGINNING at an iron pin near the northwestern edge of Legislative Route 01006 on line of land now or formerly of Howard R. Schriver; thence by same North 54 degrees 00 minutes West 245.80 feet to an iron pin at corner of lands now or formerly of Ray K. Crum; thence by same North 45 degrees 39 minutes 07 seconds East 210.88 feet to an iron pin at corner of lands now or formerly of Erna Arnold; thence by same South 43 degrees 22 minutes East 51.39 feet to an iron pin; thence by same South 45 degrees 39 minutes 07 seconds West 88.40 feet to an iron pin; thence by same South 41 degrees 50 min-

utes 35 seconds East 200.38 feet to an iron pin near the northwestern edge of Legislative Route 01006; thence along said Legislative Route South 53 degrees 00 minutes West 72.22 feet to an iron pin, the place of BEGINNING.

Tax Parcel # F4-24

SEIZED and taken into execution as the property of **Peter J. Schriver & Vickie L. Schriver** 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 February 5, 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.

11/22, 12/1 & 8

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-936 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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, lying and being in the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a steel rod on the northerly edge of Rice Lane at Lot No. 2A on the hereinafter recited draft; thence by said Lot No. 2A North 4 degrees 21 minutes 32 seconds West, 320.95 feet to an aluminum pipe; thence continuing by said Lot No. 2A North 7 degrees 46 minutes 42 seconds West, 370.88 feet to a steel rod at lands now or formerly of Mervin E. Showers; thence by said lands North 82 degrees 34 minutes 27 seconds East, 82.66 feet to a rebar set at the corner of Lot No. 2A and 2B on the hereinafter recited draft; thence South 10 degrees 56 minutes 56 seconds East, 375.24 feet to a

rebar bolt; thence South 6 degrees 19 minutes 38 seconds East, 322.48 feet to a point on the northerly edge of said Rice Lane; thence along the northerly edge of said Rice Lane South 85 degrees 22 minutes 25 seconds West, 114.56 feet to the place of BEGINNING. CONTAINING 1.601 Acres.

The above description was taken from a draft of survey prepared by Mark A. Kuntz, Surveyor, dated December 10, 1997, recorded in Adams County Plat Book 73 at page 57, being designated thereon as Lot No. 2A.

BEING the same premises which Robert C. Peters and Gertrude I. Peters, Husband and Wife, and Larry J. Peters and Mary L. Peters, Husband and Wife, by Deed dated the 13th day of August, 1998 and recorded the 20th day of August, 1998 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book Volume 1645, Page 58, granted and conveyed unto Anthony Wade Bretzman and Tammy Sue Bretzman, Husband and Wife, As Tenants Of An Estate By The Entireties.

Property ID# 1-1A

SEIZED and taken into execution as the property of **Anthony W. Bretzman & Tammy S. Bretzman** 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 February 12, 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.

12/8, 15 & 22

## WHEATON ASSOC. VS. MARCO TRADING

1. There is no absolute right to amend and amendments are subject to the trial court's discretion to allow full development of a party's theories and averments.

2. Amendments should not be allowed where the plaintiff or defendant will be subject to undue delay or prejudice resulting from an unexpected amendment to join one or more additional parties.

3. Timeliness is an issue to be considered, but only to the extent that it prejudices the opposing party, as to loss of witnesses or eleventh hour surprise.

4. To be prejudicial, the amendment must compromise the other party's ability to present its case. Amendments usually result in delay and expense, but that alone is not prejudicial. Denial of a motion to amend based on nothing more than delay is an abuse of discretion.

In the Court of Common Pleas of Adams County, Pennsylvania,  
Civil, No. 97-S-0524. PAUL S. WHEATON & ASSOCIATES, INC.  
VS. MARCO TRADING CORPORATION.

Michael J. Colleran, Esq., for Plaintiff

Stephen M. Greecher, Jr., Esq., for Defendant

Spicer, P.J., October 8, 1999

### OPINION ON PLAINTIFF'S PETITION FOR LEAVE TO FILE AMENDED COMPLAINT JOINING ADDITIONAL PARTIES

Plaintiff seeks to amend its complaint by adding new parties as defendants. The original complaint was filed on June 2, 1997. The complaint alleged breach of written contract, breach of oral contract<sup>1</sup>, breach of implied contract and unjust enrichment. Plaintiff claims that defendant agreed to pay for natural gas provided by plaintiff to the Gettysburg Foundry. Defendant filed an answer to the complaint July 17, 1997.

Asserting that the discovery process has revealed new information, plaintiff asks the Court for leave to amend its complaint and add new defendants: Alan Kestenbaum, Marcel Smigel, Marco International Corporation and Island Accessories Corporation on continuation and piercing the corporate veil theories. Defendant does not object to amendment of the complaint to add Island Accessories as a defendant, but opposes the amendment of the complaint to add Kestenbaum, Smigel and Marco International Corporation.

---

<sup>1</sup> Statutes of Frauds, 33 Pa.Cons.Stat. Ann. § 3, 13 Pa.Cons.Stat. Ann. § 2201, have not been made an issue.

Pennsylvania Rule of Civil Procedure 2229(b) authorizes permissive joinder of parties as follows:

A plaintiff may join as defendants persons against whom the plaintiff asserts any right to relief jointly, severally, separately or in the alternative, in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences if any common question of law or fact affecting the liabilities of all such persons will arise in the action.

This rule is intended to promote trial convenience, prevent a multiplicity of suits and to avoid the possibility of inconsistent verdicts in separate trials of the same cause. *Siranovich et al. v. Butkovich et al.*, 366 Pa. 56, 63, 76 A.2d 640, 643 (1950); 3 Standard Pennsylvania Practice 2d, § 14.209. Liberal allowance of the joinder of parties is favored. *Id.*

Pennsylvania Rule of Civil Procedure 1033 governs late amendment of pleadings:

A party, either by filed consent of the adverse party or by leave of Court, may at any time change the form of action, correct the name of a party or amend his pleading. The amended pleading may aver transactions or occurrences which have happened before or after the filing of the original pleading, even though they give rise to a new cause of action or defense. An amendment may be made to conform the pleading to the evidence offered or admitted.

This rule is intended to protect those who are already parties to the action and to permit the Court to supervise the orderly progression of the action. *Paden v. Baker Concrete Construction, Inc.*, 437 Pa. Super. 59, 60, 648 A.2d 1227, 1228, *rev'd on other grounds*, 540 Pa. 409, 658 A.2d 341 (1995). However, there are no bright line tests that can be applied in ruling upon requests for amendment. There is no absolute right to amend and amendments are subject to the trial court's discretion to allow full development of a party's theories and averments. *Id.*<sup>2</sup>; 3 Standard Pennsylvania Practice 2d, § 16.17. Amendments should not be allowed where the plaintiff or defendant

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<sup>2</sup> Supreme Court held in *Paden* that a trial court properly exercised discretion in dismissing an amended complaint filed without leave of court. Dismissal resulted from objections filed by the added party, however, and not an original defendant.

will be subject to undue delay or prejudice resulting from an unexpected amendment to join one or more additional parties. *Paden, supra*.

As a preliminary observation, it is noted that the statute of limitations for prosecuting the claims has not expired. Timeliness is an issue to be considered, but only to the extent that it prejudices the opposing party, as to loss of witnesses or eleventh hour surprise. *Capobianchi v. BIC, Corp.*, 446 Pa. Super. 130,133, 666 A.2d 344, 347 (1995); *alloc. dn.* 544 Pa. 599, 674 A.2d 1065 (1996).

Defendant argues that problems of service, jurisdiction and complicated issues will prolong litigation and thus prejudice it. This argument certainly merits consideration. To be prejudicial, the amendment must compromise the other party's ability to present its case. Amendments usually result in delay and expense, but that alone is not prejudicial. *Gutierrez v. Pennsylvania Gas & Water Co.*, 352 Pa. Super. 282, 507 A.2d 1230 (1986). Denial of a motion to amend based on nothing more than delay is an abuse of discretion. *Capobianchi, supra*.

The defendant argues that the proposed amended complaint does not set forth adequate facts to support piercing the corporate veil or successor liability. All that needs to be said presently is that plaintiff asserts joint and several liability on grounds that new defendants either treated defendant as an alter ego or assumed its liabilities. The Court will not attempt to resolve these issues.<sup>3</sup>

This case has not yet been set for pretrial and liberal applications of applicable rules persuade us to grant leave to amend the complaint.

#### ORDER OF COURT

AND NOW, this 8TH day of October, 1999, plaintiff is granted leave to amend its complaint to add new defendants. Plaintiff shall have twenty days (20) to amend after receiving notice of this Order.

---

<sup>3</sup> We choose to gloss over the issues of piercing the corporate veil and successor liability since added defendants doubtlessly will litigate these issues in the future.



## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-830 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of January, 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. 38 on a plan of lots for Abbotts Manor Phase II recorded in the Office of the Recorder of Deeds in and for Adams County, PA in subdivision Plot 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. 37 on a final plan of lots for Abbotts Manor Phase I recorded in the aforesaid Recorder's Office in Plot Book 69, page 95; thence extending along the said Lot No. 37 North 30 degrees 02 minutes 10 seconds West 277.24 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. 39 on a plan of Lots for Abbotts Manor Phase II recorded in the aforesaid Recorder of Deeds Office in Plot Book 73, page 43; thence extending along the said Lot No. 39 South 35 degrees 47 minutes 14 seconds East 202.48 feet to a point; thence extending along the said right of way of Abbotts Drive on a line curving to the right having a radius of 170 feet, an arc distance of 86.06 feet with a chord bearing South 45 degrees 27 minutes 41 seconds West 85.14 feet to the point and place of BEGINNING. CONTAINING 15,888 Sq. Ft.

Tax Parcel # 5-52

SEIZED and taken into execution as the property of **Troy A. Wolf & Bobbie Jo Spangler** 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 February 5, 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.

11/22, 12/1 & 8

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-741 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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, situate, lying and being in the Township of Mt. Joy, County of Adams, State of Pennsylvania, being more particularly described in accordance with a survey prepared by J. Riley Redding dated December 29, 1977, and approved by the Mt. Joy Township Supervisors, February 3, 1978, as follows:

BEGINNING at a railroad spike in the centerline of Township Road T-420, also known as Highland Avenue and at other lands now or formerly of William H. Scott; thence along and through Township Road T-420 South twenty-five (25) degrees fifteen (15) minutes zero (00) seconds West one hundred fifteen (115.00) feet to a railroad spike in said road; thence South twenty-seven (27) degrees fifty-five (55) minutes twenty (20) seconds West one hundred five and sixty-hundredths (105.60) feet to a stone at lands now or formerly of Wilson Clapsaddle; thence along lands of Clapsaddle North fifty (50) degrees forty (40) minutes zero (00) seconds West two hundred twenty (220.00) feet to a pipe and at other lands now or formerly of William H. Scott; thence along said lands North twenty-six (26) degrees thirty-one (31) minutes forty (40) seconds East two hundred twenty and fifty-four hundredths (220.54) feet to a pipe; thence South fifty (50) degrees forty (40) minutes zero (00) seconds East two hundred twenty (220.00) feet to a railroad spike in centerline of Township Road T-420, also known as Highland Avenue and the place of BEGINNING.

CONTAINING 1.092 Acres.

HAVING THEREON ERECTED A DWELLING KNOWN AS 1735 HIGHLAND AVENUE ROAD, GETTYSBURG, PENNSYLVANIA 17325.

BEING THE SAME PREMISES which Christopher S. Hertz, single and Ann A. Cherry, single, by their Deed dated December 30, 1993 and recorded in Adams County Recorder of Deeds Office on January 10, 1994 in Deed Book 832, page 230, granted and conveyed unto Kevin G. Wantz and Susan L. Wantz.

SEIZED IN EXECUTION AS THE PROPERTY OF KEVIN G. WANTZ AND SUSAN L. WANTZ UNDER ADAMS COUNTY JUDGMENT NO. 00-S-741.

PARCEL # 39

TAX MAP # G14

SEIZED and taken into execution as the property of **Kevin G. Wantz & Susan L. Wantz** 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 February 12, 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.

12/1, 8 & 15

## 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 16, 2000, 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 **LAWRENCE'S BODY SHOP, 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.

**LAWRENCE'S BODY SHOP, INC.**  
84 Evergreen Drive  
Hanover, PA 17331

12/8

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is **GETTYSBURG CAMPFIRE, INC.**

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

12/8

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-873 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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 Northern side of Township Road T-343 in Franklin Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a railroad spike in the center of Township Road T-343 which railroad spike is South 64 degrees 58 minutes 20 seconds West, 100 feet from a railroad spike at the Southwestern corner of Lot No. 2 on a plan of lots of Robert Shirley prepared by Boyer-Price Surveys; thence running in the center of Township Road T-343, South 64 degrees 58 minutes 20 seconds West, 80 feet to a railroad spike in the center of said road; thence by land now or formerly of Robert Shirley and through an iron pin set back 20 feet from the start of this course, North 53 degrees 47 minutes 40 seconds West, 435.60 feet to an iron pin; thence by land of the same, North 54 degrees 27 minutes 20 seconds East, 294.58 feet to an iron pin; thence by land formerly of Robert Shirley and through an iron pin set back 20 feet from the end of this course, South 25 degrees 01 minutes 40 seconds East, 435.60 feet to a railroad spike in the center of Township Road T-343 the point and place of BEGINNING. CONTAINING 1.799 Acres.

THIS TRACT is referred to as Tract No. 1 on a subdivision plan of Robert Shirley prepared by Boyer-Price Surveys and dated October 16, 1972 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 2 at page 59.

BEING known as 391 Seven Star Road, Gettysburg, PA

Property ID No. 33 Map No. D 12

TITLE TO SAID PREMISES IS VESTED IN Rose B. Nathan, unmarried by deed from Robert Shirley and Gladys Shirley, Husband and Wife dated 5/24/1973 and recorded 5/25/1973 in Deed Book 307 page 160.

SEIZED and taken into execution as the property of **Rose B. Nathan** 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 February 12, 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.

12/1, 8 & 15

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-196 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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.:

The description of the real estate is as described as follows: ALL that tract of land situate, lying and being in Straban Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the Western curbline of Rodes Avenue which point is located at the Northeasternmost corner of Lot No. 11 on the hereinafter described plan of lots; thence running by Lot No. 11 North 59 degrees 10 minutes 30 seconds West 150 feet to a point on line of land now or formerly of Ronald Hoff; thence running by land now or formerly of Ronald Hoff North 30 degrees 49 minutes 30 seconds East 90 feet to an iron pin on line of other land of Evelyn Murray (Lot No. 13 on the hereinafter described plan of lots); thence running by Lot No. 13 South 59 degrees 10 minutes 30 seconds East 150 feet to a point on the western curbline of Rodes Avenue; thence running along the Western curbline of Rodes Avenue South 30 degrees 49 minutes 30 seconds West 90 feet to a pin, the point and place of BEGINNING. CONTAINING 13,500 square feet.

The description was taken from a plan of lots of J.H. Rife, R.E., dated June 6, 1978 and recorded in Adams County Plat Book 21 at page 49. The tract herein conveyed is Tract No. 12 on said plan of lots.

SUBJECT, NEVERTHELESS, TO the covenants and restrictions which affect this lot and all subsequent conveyances thereof as if more specifically set forth in Adams County Miscellaneous Book 30 at page 676.

BEING the same which Evelyn Murray, widow, by her deed dated August 30, 1995, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1075 at page 313, sold and conveyed unto Tim A. Rothaupt and Jill N. Rothaupt, husband and wife, as tenants of an estate by the entireties, the Defendants herein.

IMPROVED WITH a 1-1/2 story dwelling.

SEIZED and taken into execution as the property of **Tim A. Rothaupt & Jill**

**N. Rothaupt** 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 February 12, 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.

12/8, 15 & 22

## 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, 2000, 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 **J. TOMECEK ENTERPRISES, INC.**

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

**J. TOMECEK ENTERPRISES, INC.**  
1020 Forest Drive  
Abbottstown, PA 17301

12/8

## DISSOLUTION NOTICE

NOTICE IS HEREBY GIVEN that the Shareholders and Directors of McCoy Insurance Agency, Inc., a Pennsylvania Corporation, most recently conducting business at 545 West Middle Street, Gettysburg, Pennsylvania, have approved a proposal that the Corporation voluntarily dissolve, and that the Board of Directors engage in winding-up and settling the affairs of the Corporation. This notice of the dissolution proceedings are given pursuant to Section 1975 of the Pennsylvania Business Corporation Law of 1988, as amended.

Robert E. Campbell  
Campbell & White  
112 Baltimore Street  
Gettysburg, PA 17325  
Attorney for the Corporation

12/8

## 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 JUAN ROSARIO MONTANEZ a/k/a JUAN ROSARIO, SR., DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Frances M. Rosario, 402-A E. Main St., Mechanicsburg, PA 17055

Attorney: Steven M. Montresor, Esq., Latsha Davis & Yohe, P.C., P.O. Box 825, Harrisburg, PA 17108-0825

ESTATE OF PAULINE C. MUMMERT, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executors: Burnell H. Mummert, 710 Pine Grove Road, Hanover, PA 17331; Elwood K. Mummert, 700 Pine Grove Road, Hanover, PA 17331; Peggy Ann Sellman, 351 High Street, Hanover, PA 17331

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

ESTATE OF GLADYS C. SHEARER, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Co-Executors: Dorothy M. McCauslin, 261 Wierman's Mill Road, York Springs, PA 17372; Gerald E. McCauslin, 105 High Street, York Springs, PA 17372

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

ESTATE OF ROBERT M. SMITH, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: PNC Bank, N.A., c/o Linda J. Lundberg, Assistant Vice President, 4242 Carlisle Pike, Camp Hill, PA 17001-0308

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

ESTATE OF ELIZABETH K. TRUMP a/k/a ELIZABETH H. TRUMP, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executrix: Arlene M. Smith, 202 Lindy Avenue, P.O. Box 134, York Springs, PA 17372

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

ESTATE OF ELIZABETH L. WALLEN a/k/a E. LUCILLE WALLEN, DEC'D

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

Executor: Michael C. Wallen, Sr., 154 Hamilton Drive, Abbottstown, PA 17301

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

## SECOND PUBLICATION

ESTATE OF C. DENNIS GEESEY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Fulton Financial Advisors, N.A., successor to Fulton Bank, P.O. Box 7989, Lancaster, PA 17604

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

ESTATE OF MARY JANE HEIKES, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Theresa A. Plastino, 9752 SW 1st Street, Plantation, FL 33324

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

ESTATE OF FRANZ C. MARTIN, JR., DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Joyce C. Speelman, 2730 Fairfield Rd., Gettysburg, PA 17325; Fred J. Martin, 60 South Avenue, Gettysburg, PA 17325; Leonard J. Martin, 1874 Herr's Ridge Rd., Gettysburg, PA 17325

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

ESTATE OF ELIZABETH B. NORMAN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Martha M. Horlebein, c/o 29 North Duke Street, York, PA 17401

Attorney: John D. Flinchbaugh, Esq., 29 North Duke Street, York, PA 17401

ESTATE OF BOBBY L. SHORT, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Executor: Gregory L. Short, 1515 Tract Road, Fairfield, PA 17320

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

## THIRD PUBLICATION

ESTATE OF NELLIE JANE GLADFELTER, DEC'D

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

Executor: Marshall H. Gladfelter, c/o 29 North Duke Street, York, PA 17401

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

ESTATE OF CATHRYN I. MYERS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Clyde F. Myers, 669 Grant Drive, Gettysburg, PA 17325; Donna J. Boyer, 77 Wheatland Drive, Gettysburg, PA 17325

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

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW  
NO. 00-S-1075  
Action to Quiet Title

GERALD L. PARRISH, JR., Plaintiff

vs.

CROSS KEYS INDUSTRIES, INC., its successors and assigns, and any unknown persons having or claiming any right, lien, title or interest through or under the named descendants or in their own right, Defendants.

TO: Cross Keys Industries, Inc., its successors and assigns.

TAKE NOTICE that on November 3, 2000, Gerald L. Parrish, Jr., filed a Complaint in an action to quiet title against you as defendants averring that he is the owner of the real property described herein. The Complaint requests the Court to extinguish any possible interest you may have in said real estate. Subject Property is a portion of a tract of land situate in New Oxford, Adams County, Pennsylvania, more particularly bounded and described as follows:

ALL those certain three (3) pieces, parcels or tracts of land, situate, lying and being in Berwick Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows:

**TRACT NO. 1** - BEGINNING for a corner at a point in the Lincoln Highway, U.S. Route No. 30, a corner also of Tract No. 2 described below, thence along Tract No. 2, South thirteen (13) degrees twelve (12) minutes twenty-one (21) seconds West, two hundred ninety-eight and sixty hundredths (298.60) feet to a point at land now or formerly of Mildred I. Haverstock; thence along said last mentioned lands, South sixty-six (66) degrees seventeen (17) minutes fifteen (15) seconds West, one hundred thirty-eight and five hundredths (138.05) feet to a steel pin at land now or formerly of J. William Krebs; thence along said last mentioned land, North thirteen (13) degrees thirty-three (33) minutes twenty-two (22) seconds West, two hundred ninety-seven and fourteen hundredths (297.14) feet to a point at lands now or formerly of Alphonsus Neiderer; thence along said land now or formerly of Alphonsus Neiderer, North sixty-five (65) degrees forty-nine (49) minutes fifty-six (56) seconds East, seventy-five (75) feet to a point; thence again along lands now or formerly of Alphonsus Neiderer, North thirteen (13) degrees thirty-three (33) minutes twenty-two (22) seconds East, one hundred ninety (190) feet to a point in the Lincoln Highway, U.S. Route No. 30, aforesaid, thence along and in the Lincoln Highway, North sixty-five (65) degrees forty-nine (49) minutes fifty-six (56) seconds East, sixty-five and eleven

hundredths (65.11) feet to the point and place of BEGINNING. (CONTAINING .6134 acres, neat measure.) (The foregoing description has been prepared in accordance with the survey of J. H. Rife, Registered Engineer, dated June 16, 1972, and revised June 20, 1972.)

**TRACT NO. 2** - BEGINNING for a corner at a point in the Lincoln Highway, U.S. Route No. 30, a corner also of Tract No. 1, hereinabove described, and land now or formerly of Mildred I. Haverstock; thence along said last mentioned land and through a bolt set twenty-four and eighty hundredths (24.80) feet from the beginning, South twenty-three (23) degrees East, two hundred ninety-three and sixty-two hundredths (293.62) feet to a steel pin; thence again along land now or formerly of Mildred I. Haverstock, South sixty-six (66) degrees seventeen (17) minutes fifteen (15) seconds West, fifty and eighty hundredths (50.80) feet to a point at Tract No. 1, described above; thence along Tract No. 1, North thirteen (13) degrees twelve (12) minutes twenty-one (21) seconds West, two hundred ninety-eight and sixty hundredths (298.60) feet to a point in the Lincoln Highway, the point and place of BEGINNING. (CONTAINING .1712 Acres, neat measure.) (The foregoing description has been prepared in accordance with the survey of J. H. Rife, Registered Engineer, dated June 16, 1972, and revised June 20, 1972.)

**TRACT NO. 3** - BEGINNING at a point in the Lincoln Highway, U.S. Route 30, at lands now or formerly of Alphonsus Neiderer, unmarried; thence along said last mentioned land, South thirteen (13) degrees thirty-three (33) minutes twenty-two (22) seconds East, one hundred ninety (190) feet to a point; thence along said land, South sixty-five (65) degrees forty-nine (49) minutes fifty-six (56) seconds West, seventy-five (75) feet to a point at land now or formerly of J. William Krebs; thence along said last mentioned land, and through a bolt set eighteen and ninety-nine hundredths (18.99) feet from the terminus of this course, North thirteen (13) degrees thirty-three (33) minutes twenty-two (22) seconds West, one hundred ninety (190) feet to a point on the Lincoln Highway, U.S. Route No. 30, aforesaid; thence in and along the Lincoln Highway, North sixty-five (65) degrees forty-nine (49) minutes fifty-six (56) seconds East, seventy-five (75) feet to the point and place of BEGINNING. (CONTAINING .3215 acres, neat measure.) (The foregoing description has been prepared in accordance with a survey of J. H. Rife, Registered Engineer, dated June 16, 1972, and revised June 20, 1972.)

Said Complaint requests the Court to enter a Decree to terminate all rights, title or interest of any of the Defendants, their heirs or personal representatives, successors and assigns, of any nature, whatsoever in and to the Property, under and by nature of any Will, Deed, Power of

Attorney, or any other unrecorded or lost deed or other instrument, and declaring the Plaintiff sole and absolute owner of the Property in fee simple.

WHEREFORE, the Court of Common Pleas of Adams County, Pennsylvania, has ordered that service of the Complaint be made on the above Defendants, their respective heirs, personal representatives, successors and assigns, by publication once a week for three consecutive weeks in the Adams County Legal Record and one daily newspaper of general circulation in the County of Adams, Pennsylvania. Plaintiff will request the Court to enter final judgment ordering that any possible legal interest said Defendants might have had in said Property be extinguished.

NOTICE TO DEFEND

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

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

County Referral Officer  
Adams County Court House  
Gettysburg, Pennsylvania 17325  
Telephone 1-888-707-3300

/s/Beverly J. Points, Esquire  
Date: November 22, 2000

12/8, 15 & 22

# Adams County Legal Journal

Vol. 42

December 15, 2000

No. 29, pp. 154-156

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-761 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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 three tracts of land situate in the Borough of Fairfield, Adams County, Pennsylvania, bounded and described as follows:

**TRACT NO. 1:** Being Lot No. 1 on a Plan prepared for John P. Stahley by Boyer Surveys dated February 21, 1979, Drawing No. D-231, being recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 27 at page 35, being more fully bounded and described as follows:

BEGINNING at a point in the center of Water Street (L.R. 01071), at corner of lands now or formerly of Harry O. and Lucille H. Shanoltz; thence along the center of Water Street (L.R. 01071), South 58 degrees 54 minutes 43 seconds East, 57.39 feet to a point on the Westerly side of a 12 feet wide alley; thence along said 12 feet wide alley, South 52 degrees 0 minutes 0 seconds West, 132.52 feet to a chisel mark in concrete at corner of Lot No. 2 on the aforementioned Plan of Lots; thence along Lot No. 2, North 39 degrees 12 minutes 9 seconds West, 48.47 feet to a point at lands now or formerly of Harry O. and Lucille H. Shanoltz; thence along lands now or formerly of Harry O. and Lucille H. Shanoltz, North 49 degrees 23 minutes 43 seconds East 113.18 feet to a point, the place of BEGINNING. CONTAINING 6,294 square feet.

**TRACT NO. 2:** BEGINNING at a chisel mark in concrete on the northern edge of a 12 foot wide alley at corner of land now or formerly of Alfonso V. Lenzi; thence by land now or formerly of Alfonso V. Lenzi North 39 degrees 07 minutes 45 seconds West, 48.28 feet to an iron pin at corner of land now or formerly of Alfonso V. Lenzi and land now or formerly of Harry O. and Lucille H. Shanoltz; thence by said land of Harry O. and Lucille H. Shanoltz, North 49 degrees 23 minutes 43 seconds East, 4.02 feet to an iron pin on line of said land now or formerly of Harry O. and Lucille H. Shanoltz at corner of land now or formerly of John P. Stahley; thence by said land of John P. Stahley, South 39 degrees 12 minutes 09

seconds East, 48.47 feet to a chisel mark in concrete at corner of land now or formerly of John P. Stahley on the northern edge of a 12 foot wide alley; thence running along the northern edge of said 12 foot wide alley, South 52 degrees 00 minutes 00 seconds West, 4.09 feet to a chisel mark in concrete on the northern edge of a 12 foot wide alley at corner of land now or formerly of Alfonso V. Lenzi, the place of BEGINNING. CONTAINING 196 square feet.

The above description was taken from a final subdivision plan of the property of John P. Stahley dated February 21, 1979, prepared by Boyer Surveys, Drawing #D-231, which is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 27 at page 35 and designated as Lot #2.

**TRACT NO. 3:** BEGINNING at a post on the northern side of a 12 foot alley, at corner of land now or formerly of Alfonso V. Lenzi and the southeastern corner of the tract herein conveyed; thence along the northern side of said 12 foot alley South 52 degrees 00 minutes 00 seconds West 66.60 feet to a point at corner of land now or formerly of Ronald F and Caroline B. Kump; thence along land now or formerly of Ronald F. and Caroline B. Kump North 38 degrees 00 minutes 00 seconds West 80.00 feet to a point at corner of land now or formerly of Charles L. and Sylvia J. Deardorff; thence by land now or formerly of Charles L. and Sylvia J. Deardorff North 52 degrees 39 minutes 51 seconds East, 65.04 feet to a point on line of land now or formerly of Harry O. and Lucille H. Shanoltz; thence along land now or formerly of Harry O. and Lucille H. Shanoltz and land now or formerly of Alfonso V. Lenzi, South 39 degrees 07 minutes 45 seconds East 79.26 feet to a post on the northern side of a 12 foot alley, the place of BEGINNING.

The above description was taken from a Plan prepared for John P. Stahley by Boyer Surveys dated February 21, 1979, Drawing No. D-231, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 27 at page 35.

BEING the same premises which William O. Stern and Judith L. Stern, by deed dated June 23, 1999, recorded in the Office of the Recorder of Deeds for Adams County, in Book 1854, on Page 139, granted and conveyed unto Thomas E. Kuykendall, Jr. and Tamra L. Kuykendall, Mortgagors herein.

Tax Parcel Number: Map 6 - Parcel 43  
SEIZED and taken into execution as the property of **Thomas E. Kuykendall & Tamra L. Kuykendall** 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 February 12, 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.

12/15, 22 & 29

## DISSOLUTION NOTICE

NOTICE IS HEREBY GIVEN THAT the shareholders and directors of BEHAVIORAL HEALTH PROFESSIONALS, (BHP), a Pennsylvania corporation, with an address at 262 Baltimore Street, Gettysburg, Pennsylvania, have approved a proposal to voluntarily dissolve, and that the Board of Directors is now engaged in winding up and settling the affairs of the corporation under the provisions of the Pennsylvania Business Corporation Law of 1988 as amended.

Anthony Miley, Esq.  
3585 Carlisle Street, Suite A  
New Oxford, PA 17350  
Attorney for Corporation

12/15

## 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.

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-741 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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, situate, lying and being in the Township of Mt. Joy, County of Adams, State of Pennsylvania, being more particularly described in accordance with a survey prepared by J. Riley Redding dated December 29, 1977, and approved by the Mt. Joy Township Supervisors, February 3, 1978, as follows:

BEGINNING at a railroad spike in the centerline of Township Road T-420, also known as Highland Avenue and at other lands now or formerly of William H. Scott; thence along and through Township Road T-420 South twenty-five (25) degrees fifteen (15) minutes zero (00) seconds West one hundred fifteen (115.00) feet to a railroad spike in said road; thence South twenty-seven (27) degrees fifty-five (55) minutes twenty (20) seconds West one hundred five and sixty-hundredths (105.60) feet to a stone at lands now or formerly of Wilson Clapsaddle; thence along lands of Clapsaddle North fifty (50) degrees forty (40) minutes zero (00) seconds West two hundred twenty (220.00) feet to a pipe and at other lands now or formerly of William H. Scott; thence along said lands North twenty-six (26) degrees thirty-one (31) minutes forty (40) seconds East two hundred twenty and fifty-four hundredths (220.54) feet to a pipe; thence South fifty (50) degrees forty (40) minutes zero (00) seconds East two hundred twenty (220.00) feet to a railroad spike in centerline of Township Road T-420, also known as Highland Avenue and the place of BEGINNING.

CONTAINING 1.092 Acres.

HAVING THEREON ERECTED A DWELLING KNOWN AS 1735 HIGHLAND AVENUE ROAD, GETTYSBURG, PENNSYLVANIA 17325.

BEING THE SAME PREMISES which Christopher S. Hertz, single and Ann A. Cherry, single, by their Deed dated December 30, 1993 and recorded in Adams County Recorder of Deeds Office on January 10, 1994 in Deed Book 832, page 230, granted and conveyed unto Kevin G. Wantz and Susan L. Wantz.

SEIZED IN EXECUTION AS THE PROPERTY OF KEVIN G. WANTZ AND SUSAN L. WANTZ UNDER ADAMS COUNTY JUDGMENT NO. 00-S-741.

PARCEL # 39

TAX MAP # G14

SEIZED and taken into execution as the property of **Kevin G. Wantz & Susan L. Wantz** 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 February 12, 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.

12/1, 8 & 15

## SHERIFF'S SALE

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ALL THAT TRACT of land situate on the Northern side of Township Road T-343 in Franklin Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a railroad spike in the center of Township Road T-343 which railroad spike is South 64 degrees 58 minutes 20 seconds West, 100 feet from a railroad spike at the Southwestern corner of Lot No. 2 on a plan of lots of Robert Shirley prepared by Boyer-Price Surveys; thence running in the center of Township Road T-343, South 64 degrees 58 minutes 20 seconds West, 80 feet to a railroad spike in the center of said road; thence by land now or formerly of Robert Shirley and through an iron pin set back 20 feet from the start of this course, North 53 degrees 47 minutes 40 seconds West, 435.60 feet to an iron

pin; thence by land of the same, North 54 degrees 27 minutes 20 seconds East, 294.58 feet to an iron pin; thence by land formerly of Robert Shirley and through an iron pin set back 20 feet from the end of this course, South 25 degrees 01 minutes 40 seconds East, 435.60 feet to a railroad spike in the center of Township Road T-343 the point and place of BEGINNING. CONTAINING 1.799 Acres.

THIS TRACT is referred to as Tract No. 1 on a subdivision plan of Robert Shirley prepared by Boyer-Price Surveys and dated October 16, 1972 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 2 at page 59.

BEING known as 391 Seven Star Road, Gettysburg, PA

Property ID No. 33 Map No. D 12

TITLE TO SAID PREMISES IS VESTED IN Rose B. Nathan, unmarried by deed from Robert Shirley and Gladys Shirley, Husband and Wife dated 5/24/1973 and recorded 5/25/1973 in Deed Book 307 page 160.

SEIZED and taken into execution as the property of **Rose B. Nathan** 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 February 12, 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.

12/1, 8 & 15

## CHORBA VS. COUNTRY BUILDERS

1. Courts may liberally construe material filed by a *pro se* litigant.
2. Claimant is not entitled to any particular advantage because he lacks legal training.
3. Where the owner of a parcel of property is also the general contractor for a building to be erected thereon, any person dealing with the general contractor is a general contractor, rather than a subcontractor.
4. To effectuate a valid mechanic's lien the contractor or subcontractor must be in strict compliance with the notice requirements of the statute. The object of the notice requirement is to protect the owner from making payments to the contractor when his property is liable to be subjected to a lien; and should be sufficiently definite to enable the owner to ascertain the amount claimed and the date and nature out of which it arises.
5. The doctrine of substantial compliance has been applied to temper the strict construction of the Mechanic's Lien Law as to the "form" of the notice, but where there is nonperformance of the notice requirements a claim must be stricken.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 107 of 1999. GEORGE CHORBA VS. COUNTRY BUILDERS CUSTOM HOMES, INC.

Plaintiff - *Pro se*

Wendy Weikal-Bauchat, Esq., for Defendant

Spicer, P.J., October 20, 1999

### OPINION ON PRELIMINARY OBJECTIONS

Claimant filed a mechanic's lien claim on March 23, 1999 for work completed December 19, 1998. The labor and materials for which the debt is due consisted of the exterior and interior brickwork for a new two story dwelling located on Lot B-26 Skylark Trail. Owner filed preliminary objections on August 19, 1999, followed by a brief in support of the objections.

Claimant has proceeded *pro se* and has filed no brief. While this contravenes a local rule of court, we cannot strike the claim for this reason alone. *Schultz v. Celotex Corp.*, 447 Pa. Super. 391, 669 A.2d 404 (1996). Courts may liberally construe material filed by a *pro se* litigant, but this case involves not what claimant has filed, but what he has failed to file. At any rate, claimant is not entitled to any particular advantage because he lacks legal training. *Cole v. Czegan*, \_\_\_ Pa. Super. \_\_\_, 722 A.2d 686 (1998); *reargument denied* December 16, 1998. The objections to the mechanic's lien are as follows:

- 1) Claimant has failed to give the owner formal written notice of his intention to file a claim as required by 49 P.S. § 1501(b).
- 2) Claimant has failed to give notice of entry of the claim by filing an affidavit of service as required by 49 P.S. § 1502(a)(2).

Section 1201 of the statute provides the following definitions:

(4) “Contractor” means one who, **by contract with the owner**, express or implied, erects, constructs, alters or repairs an improvement or any part thereof or furnishes labor, skill or superintendence thereto; or supplies or hauls materials, fixtures, machinery or equipment reasonably necessary for and actually used therein; or any or all of the foregoing, whether as superintendent, builder or materialman.

(5) “Subcontractor” means one who, **by contract with the contractor**, express or implied, erects, constructs, alters or repairs an improvement or any part thereof; or furnishes labor, skill or superintendence thereto; or supplies or hauls materials, fixtures, machinery or equipment reasonably necessary for and actually used therein; or any or all of the foregoing, whether as superintendent, builder or materialman.

Where the owner of a parcel of property is also the general contractor for a building to be erected thereon, any person dealing with the general contractor is a general contractor, rather than a subcontractor. *Denlinger, Inc. v. Agresta*, \_\_\_ Pa. Super. \_\_\_, 714 A.2d 1048, 1053 (1998) (citing *Camden Wood-Turning Co. v. Malcolm*, 190 Pa. 62, 65, 42 A. 458 (1899); *L-Co Cabinet Corp. v. Summit Square Apartments, Inc.*, 64 Pa. D. & C.2d 528, 532 (1973)). Since claimant is a contractor 49 P.S. § 1501 titled “Notices by subcontractor as condition precedent” is not applicable and owner’s first preliminary objection must be dismissed.

Owner’s second preliminary objection attacks the service of the claim. Requirements for service are set forth at 49 P.S. § 1502. To perfect a lien a claimant must file a claim with the Prothonotary within four (4) months after completion of his work and serve written



notice of filing on the owner within one (1) month after filing. An affidavit of service of notice, or acceptance of service, shall be filed within twenty (20) days after service. Failure to serve such notice or to file the affidavit or acceptance of service within the times specified shall be sufficient ground for striking off the claim.

To effectuate a valid mechanic's lien the contractor or subcontractor must be in strict compliance with the notice requirements of the statute. *Denlinger, supra; Castle Pre-Cast Superior Walls of Delaware, Inc. v. Strauss-Hammer* 416 Pa. Super. 53, 56, 610 A.2d 503, 504 (1992). The object of the notice requirement is to protect the owner from making payments to the contractor when his property is liable to be subjected to a lien; and should be sufficiently definite to enable the owner to ascertain the amount claimed and the date and nature out of which it arises. *Tesauro v. Baird*, 232 Pa. Super. 185, 191, 335 A. 2d 792,795 (1975) (quoting *Este v. Pennsylvania R.R. Co.*, 27 Pa. Super. 521, 525 (1905)). The doctrine of substantial compliance has been applied to temper the strict construction of the Mechanic's Lien Law as to the "form" of the notice. *Id.* at 194, 335 A.2d. at 796. Amendment of affidavits timely filed has been permitted to adhere to the statutory requirements, *Id.*, but where there is nonperformance of the notice requirements a claim must be stricken. *McCarthy v. Reed Terrace, Inc.*, 420 Pa. 534, 218 A.2d 229 (1966); *Rees, Weaver & Company, Inc. v. M.B.C. Paper Miller Corp.*, 267 Pa. Super. 148, 406 A.2d 562 (1979).

Preliminary objections in a mechanic's lien proceeding should only be sustained in cases which are clear and free from doubt. *Castle, supra* at 56, 610 A.2d at 504 (1992). The record is void of any indication that notice was ever served. The owner's preliminary objection must therefore be sustained and the claim stricken. Claimant has not requested the right to file a return of service *nunc pro tunc* and we do not consider this issue.

#### ORDER OF COURT

AND NOW, this 20th day of October, 1999, the mechanic's lien claim is stricken.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-196 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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.:

The description of the real estate is as described as follows: ALL that tract of land situate, lying and being in Straban Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the Western curbline of Rodes Avenue which point is located at the Northeasternmost corner of Lot No. 11 on the hereinafter described plan of lots; thence running by Lot No. 11 North 59 degrees 10 minutes 30 seconds West 150 feet to a point on line of land now or formerly of Ronald Hoff; thence running by land now or formerly of Ronald Hoff North 30 degrees 49 minutes 30 seconds East 90 feet to an iron pin on line of other land of Evelyn Murray (Lot No. 13 on the hereinafter described plan of lots); thence running by Lot No. 13 South 59 degrees 10 minutes 30 seconds East 150 feet to a point on the western curbline of Rodes Avenue; thence running along the Western curbline of Rodes Avenue South 30 degrees 49 minutes 30 seconds West 90 feet to a pin, the point and place of BEGINNING. CONTAINING 13,500 square feet.

The description was taken from a plan of lots of J.H. Rife, R.E., dated June 6, 1978 and recorded in Adams County Plat Book 21 at page 49. The tract herein conveyed is Tract No. 12 on said plan of lots.

SUBJECT, NEVERTHELESS, TO the covenants and restrictions which affect this lot and all subsequent conveyances thereof as if more specifically set forth in Adams County Miscellaneous Book 30 at page 676.

BEING the same which Evelyn Murray, widow, by her deed dated August 30, 1995, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1075 at page 313, sold and conveyed unto Tim A. Rothhaupt and Jill N. Rothhaupt, husband and wife, as tenants of an estate by the entireties, the Defendants herein.

IMPROVED WITH a 1-1/2 story dwelling.

SEIZED and taken into execution as the property of **Tim A. Rothhaupt & Jill N. Rothhaupt** 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 February 12, 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.

12/8, 15 & 22

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-936 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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, lying and being in the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a steel rod on the northerly edge of Rice Lane at Lot No. 2A on the hereinafter recited draft; thence by said Lot No. 2A North 4 degrees 21 minutes 32 seconds West, 320.95 feet to an aluminum pipe; thence continuing by said Lot No. 2A North 7 degrees 46 minutes 42 seconds West, 370.88 feet to a steel rod at lands now or formerly of Mervin E. Showers; thence by said lands North 82 degrees 34 minutes 27 seconds East, 82.66 feet to a rebar set at the corner of Lot No. 2A and 2B on the hereinafter recited draft; thence South 10 degrees 56 minutes 56 seconds East, 375.24 feet to a rebar bolt; thence South 6 degrees 19 minutes 38 seconds East, 322.48 feet to a point on the northerly edge of said Rice Lane; thence along the northerly edge of said Rice Lane South 85 degrees 22 minutes 25 seconds West, 114.56 feet to the place of BEGINNING. CONTAINING 1.601 Acres.

The above description was taken from a draft of survey prepared by Mark A. Kuntz, Surveyor, dated December 10, 1997, recorded in Adams County Plat Book 73 at page 57, being designated thereon as Lot No. 2A.

BEING the same premises which Robert C. Peters and Gertrude I. Peters, Husband and Wife, and Larry J. Peters and Mary L. Peters, Husband and Wife, by Deed dated the 13th day of August, 1998 and recorded the 20th day of August, 1998 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book Volume 1645, Page 58, granted and conveyed unto Anthony Wade Bretzman and Tammy Sue Bretzman, Husband and Wife, As Tenants Of An Estate By The Entireties.

Property ID# 1-1A

SEIZED and taken into execution as the property of **Anthony W. Bretzman & Tammy S. Bretzman** 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 February 12, 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.

12/8, 15 & 22

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for THE CRASH CLINIC, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on December 1, 2000, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Guthrie & Yingst  
Solicitor

12/15

## DISSOLUTION NOTICE

NOTICE IS HEREBY GIVEN, that the Shareholders and Directors of GETTYSBURG REFERRAL ASSOCIATES, INC., a Pennsylvania Corporation, most recently conducting business at 224 Baltimore Street, Gettysburg, Pennsylvania, have approved a proposal that the Corporation voluntarily dissolve, and that the Board of Directors engage in winding-up and settling the affairs of the Corporation. This notice of the dissolution proceedings are given pursuant to Section 1975 of the Pennsylvania Business Corporation Law of 1988, as amended.

Robert E. Campbell  
Campbell & White  
112 Baltimore Street  
Gettysburg, PA 17325  
Attorney for the Corporation

12/15

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-582 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of January, 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.:

Tax Map: J-16

Parcel Number: 7

ALL THAT CERTAIN tract of land situate in Union Township, Adams County, Pennsylvania, identified as Tract No. 3 on Plan of Donald E. Worley, Registered Surveyor, dated October 16, 1996, File No. C-1674, prepared for Aberdeen Holdings and recorded in the Recorder's Office, Adams County, Pennsylvania, in Plan/Plot Book 70, page 44, on December 27, 1996, and being more particularly bounded, limited and described as follows:

BEGINNING for a corner at a point in the center of White Hall Road (State Route 2002) at a corner in common with Charles A. Connolly, the said point being 252 feet Northwestwardly from the intersection of Feeser Road (Township Road No. T-447); then leaving the said road and binding upon the common boundary lines of the said Charles A. Connolly the four following lines (1) North 41 degrees, 04 minutes, 27 seconds East, 339.90 feet to a 24" hickory tree, passing through a steel pin 30.00 feet from the beginning thereof; then (2) South 51 degrees 51 minutes 09 seconds East, 262.20 feet to a steel pin; then (3) South 55 degrees 08 minutes 13 seconds East, 813.99 feet to a planted stone; then (4) North 28 degrees, 45 minutes, 00 seconds East, 1022.62 feet to a steel pin at lands of Kosmos Horse Breeders, Inc., then binding on the common boundary with said property (5) South 68 degrees, 34 minutes, 05 seconds East, 709.50 feet to a point on the Easterly edge of the cartway of the Littlestown Road (State Route 2019) and a distance of 16.50 feet from the centerline thereof, passing through a steel pin 30.00 feet from the end thereof; then laterally crossing the said road (6) South 21 degrees, 08 minutes, 01 seconds West, 330.99 feet to a point on the Western side of the said road and 30.40 feet from the centerline thereof; then crossing said road (7) South 69 degrees, 11 minutes, 51 seconds East, 61.05 feet to a point on the Eastern side of said road and 30.50 feet from the centerline thereof; then running in and through the said road (8) South 29 degrees, 52 minutes, 37 seconds West, 1442.64 feet to a point in the center of the said road; then continuing in and through the said road (9) South 29 degrees, 55 minutes, 22 seconds West, 1012.65 feet to a point in the center of said road, a corner in common with David R. Clark; then leaving the said Littlestown Road and binding on the

common boundary lines of David R. Clark (10) North 68 degrees, 50 minutes, 11 seconds West, 226.78 feet to a steel pin on the Eastern side of White Hall Road (SR 2002), passing through a steel pin 30.00 feet from the beginning thereof; then by the same (11) South 74 degrees, 09 minutes, 50 seconds West, 20.98 feet to a point in the center of the White Hall Road; then running in and through the centerline of the said road all the remaining 7 lines, by a curve to the left whose radius is 1264.00 feet, an arc distance of 175.38 feet, the long chord of which is (12) North 11 degrees, 28 minutes, 41 seconds West, 175.24 feet to a point in the centerline; then (13) North 15 degrees, 27 minutes, 06 seconds West, 530.37 feet to a point in the centerline; then by a curve to the right whose radius is 592.00 feet, an arc distance of 28.18 feet, the long chord of which is (14) North 14 degrees, 05 minutes, 18 seconds West, 28.17 feet to a point in the centerline; then by a curve to the right whose radius is 592.00 feet, an arc distance of 221.57 feet, the long chord of which is (15) North 02 degrees, 00 minutes, 10 seconds West, 220.27 feet to a point in the centerline; then by a curve to the left whose radius is 336.00 feet, an arc distance of 193.22 feet, the long chord of which is (16) North 07 degrees, 45 minutes, 19 seconds West, 190.57 feet to a point in the centerline; then (17) North 24 degrees, 13 minutes, 48 seconds West, 707.62 feet to a point in the centerline; then by a curve to the left whose radius is 964.50 feet, an arc distance of 166.51 feet, the long chord of which is (18) North 29 degrees, 10 minutes, 32 seconds West, 166.30 feet to a railroad spike in the center of the intersection of White Hall Road aforementioned and Feeser Road (Township Road No. 447); then continuing in the center of White Hall Road (19) North 34 degrees, 51 minutes, 54 seconds West, 252.07 feet to a point in the centerline of said road, the place of BEGINNING.

CONTAINING 62.5443 Acres (neat measure).

SEIZED and taken into execution as the property of **G.C.W. Properties, Inc.** 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 February 19, 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.

12/15, 22 & 29

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-422 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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 described lot of ground with improvements thereon erected, situate in Reading Township being known as Lot No. 891 on a plan of lots of Lake Meade Subdivision, said plan being duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 1 at page 6.

SEIZED and taken into execution as the property of **Pamela M. Howe & Danny Howe** 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 February 12, 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.

12/15, 22 & 29

## LEGAL NOTICE

The Annual meeting of the policyholders of the Protection Mutual Insurance Company of Littlestown will be held at the office located at 101 South Queen Street, in Littlestown, PA, between the hours of 1:00 and 2:00 p.m., on January 13, 2001 to elect directors and to transact any other business properly presented.

Attest  
Marilyn Q. Butt  
Secretary-Treasurer

11/22, 12/1, 8 & 15

## 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 ANNA BUSINDA, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Allfirst Trust Company of Pennsylvania, N.A. Successor by merger to Valleybank and Trust Company, P.O. Box 459, Chambersburg, PA 17201

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF DORIS J. MOSES, DEC'D

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

Executrix: Ms. Susan McCleaf, 500 Jack's Mountain Road, Fairfield, PA 17320

Attorney: Matthew R. Battersby, Esq., Battersby & Sheffer, 20 West Main Street, P.O. Box 215, Fairfield, PA 17320

## ESTATE OF HUBER SMITH, JR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

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

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

## ESTATE OF ELIZABETH L. SNYDER, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania

Executrix: Joyce A. Eicholtz, 31 North High Street, Arendtsville, PA 17303

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

## SECOND PUBLICATION

## ESTATE OF JUAN ROSARIO MONTANEZ a/k/a JUAN ROSARIO, SR., DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Frances M. Rosario, 402-A E. Main St., Mechanicsburg, PA 17055

Attorney: Steven M. Montresor, Esq., Latsha Davis & Yohe, P.C., P.O. Box 825, Harrisburg, PA 17108-0825

## ESTATE OF PAULINE C. MUMMERT, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executors: Burnell H. Mummert, 710 Pine Grove Road, Hanover, PA 17331; Elwood K. Mummert, 700 Pine Grove Road, Hanover, PA 17331; Peggy Ann Sellman, 351 High Street, Hanover, PA 17331

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

## ESTATE OF GLADYS C. SHEARER, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Co-Executors: Dorothy M. McCauslin, 261 Wierman's Mill Road, York Springs, PA 17372; Gerald E. McCauslin, 105 High Street, York Springs, PA 17372

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

## ESTATE OF ROBERT M. SMITH, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: PNC Bank, N.A., c/o Linda J. Lundberg, Assistant Vice President, 4242 Carlisle Pike, Camp Hill, PA 17001-0308

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

## ESTATE OF ELIZABETH K. TRUMP a/k/a ELIZABETH H. TRUMP, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executrix: Arlene M. Smith, 202 Lindy Avenue, P.O. Box 134, York Springs, PA 17372

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

## ESTATE OF ELIZABETH L. WALLEN a/k/a E. LUCILLE WALLEN, DEC'D

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

Executor: Michael C. Wallen, Sr., 154 Hamilton Drive, Abbottstown, PA 17301

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

## THIRD PUBLICATION

## ESTATE OF C. DENNIS GEESEY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Theresa A. Plastino, N.A., successor to Fulton Bank, P.O. Box 7989, Lancaster, PA 17604

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

## ESTATE OF MARY JANE HEIKES, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Theresa A. Plastino, 9752 SW 1st Street, Plantation, FL 33324

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

## ESTATE OF FRANZ C. MARTIN, JR., DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Joyce C. Speelman, 2730 Fairfield Rd., Gettysburg, PA 17325; Fred J. Martin, 60 South Avenue, Gettysburg, PA 17325; Leonard J. Martin, 1874 Herr's Ridge Rd., Gettysburg, PA 17325

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

## ESTATE OF ELIZABETH B. NORMAN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Martha M. Horlebein, c/o 29 North Duke Street, York, PA 17401

Attorney: John D. Flinchbaugh, Esq., 29 North Duke Street, York, PA 17401

## ESTATE OF BOBBY L. SHORT, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Executor: Gregory L. Short, 1515 Tract Road, Fairfield, PA 17320

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

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW  
NO. 00-S-1075  
Action to Quiet Title

GERALD L. PARRISH, JR., Plaintiff  
vs.

CROSS KEYS INDUSTRIES, INC., its successors and assigns, and any unknown persons having or claiming any right, lien, title or interest through or under the named descendants or in their own right, Defendants.

TO: Cross Keys Industries, Inc., its successors and assigns.

TAKE NOTICE that on November 3, 2000, Gerald L. Parrish, Jr., filed a Complaint in an action to quiet title against you as defendants averring that he is the owner of the real property described herein. The Complaint requests the Court to extinguish any possible interest you may have in said real estate. Subject Property is a portion of a tract of land situate in New Oxford, Adams County, Pennsylvania, more particularly bounded and described as follows:

ALL those certain three (3) pieces, parcels or tracts of land, situate, lying and being in Berwick Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows:

**TRACT NO. 1** - BEGINNING for a corner at a point in the Lincoln Highway, U.S. Route No. 30, a corner also of Tract No. 2 described below, thence along Tract No. 2, South thirteen (13) degrees twelve (12) minutes twenty-one (21) seconds West, two hundred ninety-eight and sixty hundredths (298.60) feet to a point at land now or formerly of Mildred I. Haverstock; thence along said last mentioned lands, South sixty-six (66) degrees seventeen (17) minutes fifteen (15) seconds West, one hundred thirty-eight and five hundredths (138.05) feet to a steel pin at land now or formerly of J. William Krebs; thence along said last mentioned land, North thirteen (13) degrees thirty-three (33) minutes twenty-two (22) seconds West, two hundred ninety-seven and fourteen hundredths (297.14) feet to a point at lands now or formerly of Alphonsus Neiderer; thence along said land now or formerly of Alphonsus Neiderer, North sixty-five (65) degrees forty-nine (49) minutes fifty-six (56) seconds East, seventy-five (75) feet to a point, thence again along lands now or formerly of Alphonsus Neiderer, North thirteen (13) degrees thirty-three (33) minutes twenty-two (22) seconds East, one hundred ninety (190) feet to a point in the Lincoln Highway, U.S. Route No. 30, aforesaid, thence along and in the Lincoln Highway, North sixty-five (65) degrees forty-nine (49) minutes fifty-six (56) seconds East, sixty-five and eleven

hundredths (65.11) feet to the point and place of BEGINNING. (CONTAINING .6134 acres, neat measure.) (The foregoing description has been prepared in accordance with the survey of J. H. Rife, Registered Engineer, dated June 16, 1972, and revised June 20, 1972.)

**TRACT NO. 2** - BEGINNING for a corner at a point in the Lincoln Highway, U.S. Route No. 30, a corner also of Tract No. 1, hereinabove described, and land now or formerly of Mildred I. Haverstock; thence along said last mentioned land and through a bolt set twenty-four and eighty hundredths (24.80) feet from the beginning, South twenty-three (23) degrees East, two hundred ninety-three and sixty-two hundredths (293.62) feet to a steel pin; thence again along land now or formerly of Mildred I. Haverstock, South sixty-six (66) degrees seventeen (17) minutes fifteen (15) seconds West, fifty and eighty hundredths (50.80) feet to a point at Tract No. 1, described above; thence along Tract No. 1, North thirteen (13) degrees twelve (12) minutes twenty-one (21) seconds West, two hundred ninety-eight and sixty hundredths (298.60) feet to a point in the Lincoln Highway, the point and place of BEGINNING. (CONTAINING .1712 Acres, neat measure.) (The foregoing description has been prepared in accordance with the survey of J. H. Rife, Registered Engineer, dated June 16, 1972, and revised June 20, 1972.)

**TRACT NO. 3** - BEGINNING at a point in the Lincoln Highway, U.S. Route 30, at lands now or formerly of Alphonsus Neiderer, unmarried; thence along said last mentioned land, South thirteen (13) degrees thirty-three (33) minutes twenty-two (22) seconds East, one hundred ninety (190) feet to a point; thence along said land, South sixty-five (65) degrees forty-nine (49) minutes fifty-six (56) seconds West, seventy-five (75) feet to a point at land now or formerly of J. William Krebs; thence along said last mentioned land, and through a bolt set eighteen and ninety-nine hundredths (18.99) feet from the terminus of this course, North thirteen (13) degrees thirty-three (33) minutes twenty-two (22) seconds West, one hundred ninety (190) feet to a point on the Lincoln Highway, U.S. Route No. 30, aforesaid; thence in and along the Lincoln Highway, North sixty-five (65) degrees forty-nine (49) minutes fifty-six (56) seconds East, seventy-five (75) feet to the point and place of BEGINNING. (CONTAINING .3215 acres, neat measure.) (The foregoing description has been prepared in accordance with a survey of J. H. Rife, Registered Engineer, dated June 16, 1972, and revised June 20, 1972.)

Said Complaint requests the Court to enter a Decree to terminate all rights, title or interest of any of the Defendants, their heirs or personal representatives, successors and assigns, of any nature, whatsoever in and to the Property, under and by nature of any Will, Deed, Power of

Attorney, or any other unrecorded or lost deed or other instrument, and declaring the Plaintiff sole and absolute owner of the Property in fee simple.

WHEREFORE, the Court of Common Pleas of Adams County, Pennsylvania, has ordered that service of the Complaint be made on the above Defendants, their respective heirs, personal representatives, successors and assigns, by publication once a week for three consecutive weeks in the Adams County Legal Record and one daily newspaper of general circulation in the County of Adams, Pennsylvania. Plaintiff will request the Court to enter final judgment ordering that any possible legal interest said Defendants might have had in said Property be extinguished.

NOTICE TO DEFEND

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

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

County Referral Officer  
Adams County Court House  
Gettysburg, Pennsylvania 17325  
Telephone 1-888-707-3300

/s/Beverly J. Points, Esquire

Date: November 22, 2000

12/8, 15 & 22

# Adams County Legal Journal

Vol. 42

December 22, 2000

No. 30, pp. 157-169

## IN THIS ISSUE

### HIMMELREICH VS. ADAMS ABSTRACT ET AL

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#### NOTICE OF ACTION IN MORTGAGE FORECLOSURE

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

NO. 00-S-385

COUNTRYWIDE HOME LOANS, INC.,  
Plaintiff

vs.

CHAD M. SURDICH, Defendant.

#### NOTICE

TO: Chad M. Surdich.

#### NOTICE OF SHERIFF'S SALE OF REAL PROPERTY

TAKE NOTICE that all that certain lot or piece of ground situate at a point on the southerly right of way line of Abbots Drive, at a corner of Lot No. 24 on said plan; thence extending along the said southerly right of way line Abbots Drive North thirty (30) degrees fifty-seven (57) minutes thirty-three (33) seconds East eighty-six and forty-three one hundredths (86.43) feet to a point; thence continuing along the said right-of-way line of Abbots Drive on a line curving to the right having a radius of two hundred

seventy-five (275) feet, at a distance of sixty-three and ninety-nine one-hundredths (63.99) feet with a chord bearing North thirty-seven (37) degrees thirty-seven (37) minutes thirty (30) seconds East sixty-three and eighty-four one hundredths (63.84) feet to a point, at a corner of Lot No. 22 on said plan; thence extending along the said Lot No. 22 on the said plan South twelve (12) degrees three (03) minutes thirty-three (33) seconds one hundred seventy-seven and fifteen one-hundredths (177.15) feet East to a point; thence South sixty-four (64) degrees thirty (30) minutes zero (00) seconds West fifty (50) feet to a point, at a corner of Lot No. 24 on said plan; thence extending along the said Lot No. 24 North forty-seven (47) degrees three (03) minutes forty-five (45) seconds West one hundred two and eighty-eight one-hundredths (102.88) feet to the point and place of BEGINNING. CONTAINING 12,326 sq. feet, more or less being known as 158 Abbots Drive is scheduled to be sold at the Sheriff's Sale on March 09, 2001 at 10:00 A.M., at the Adams County Courthouse, 111 Baltimore Street, Gettysburg, PA 17325, to enforce the Court Judgment of \$122,640.65 obtained by Countrywide Home Loans, Inc., (the mortgagee), against you.

Prop. sit. in the City of Abbottstown, County of Adams, and State of Pennsylvania.

Being Premises: 158 Abbots Drive, Abbottstown, PA 17301

Improvements consist of residential property.

Sold as the property of **Chad M. Surdich**.

#### TERMS OF SALE:

THE HIGHEST AND BEST BIDDER SHALL BE THE BUYER.

The purchaser at the sale must take ten (10%) percent down payment of the bid price or of the Sheriff's cost, whichever is higher, at the time of the sale in the form of cash, money order or bank check. The balance must be paid within ten (10) days of the sale or the purchaser will lose the down money.

Frank Federman, Esq.  
One Penn Center at Suburban Station  
1617 John F. Kennedy Boulevard  
Suite 1400  
Philadelphia, PA 19103  
(215) 563-7000  
Attorney for Plaintiff

12/22

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-787 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of January, 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 tracts of land, situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to-wit:

## TRACT NO. 1:

BEGINNING at an iron pin on the Northwest property line of East King Street, where the same is intersected by the Eastern side of a 16 foot public alley; thence by the Eastern side of said alley, North 25 degrees 15 minutes West, 150 feet to an iron pin; thence through the original tract now or formerly of John W. Messinger and Anna M. Messinger, North 65 degrees 45 minutes East, 44 feet to an iron pin; thence continuing through said original tract, South 25 degrees 15 minutes East, 150 feet to an iron pin on the Northwest property line of E. King Street aforesaid, which iron pin is South 65 degrees 45 minutes West, 22 feet from the Southwest corner of another lot now or formerly of John W. Messinger and wife (Deed Book 248 at page 457); thence along the Northwest side of E. King Street, South 65 degrees 45 minutes West, 44 feet to the above described place of BEGINNING. CONTAINING 6,598.5 square feet.

## TRACT NO. 2:

BEGINNING at an existing iron pipe on the Eastern edge of a 16 foot public alley which is located at the Northwest corner of a lot now or formerly owned by Grantors herein, which is referenced in Adams County Deed Book 321 at page 435; thence continuing along the Eastern edge of the above referenced 16 foot public alley and along lands now or formerly of John W. Messinger and Anna M. Messinger, North 25 degrees 15 minutes 00 seconds West, 114 feet to a steel pin on the Southern edge of a 20 foot public alley at a corner of lands now or formerly of John W. Messinger and Anna M. Messinger; thence continuing along the Southern edge of a 20 foot public alley and by lands now or formerly of John W. Messinger and Anna M. Messinger, North

65 degrees 30 minutes 00 seconds East, 44 feet to a steel pin on the southern edge of a 20 foot public alley at a corner of lands now or formerly of John W. Messinger and Anna M. Messinger; thence continuing along said same lands, South 25 degrees 15 minutes 00 seconds East, 114.19 feet to an existing iron pipe located at corner of lands now or formerly of the Grantors herein, said line forming the North boundary line of a tract now or formerly of Grantors herein, and more particularly referenced in Adams County Deed Book 321 at page 435, South 65 degrees 45 minutes 00 seconds West, 44 feet to an existing iron pipe on the Eastern edge of a 16 foot public alley, which said pipe is located at the Northwest corner of a tract of lands now or formerly of the Grantors herein, more particularly referenced in Adams County Deed Book, 321 at page 435, the place of BEGINNING. CONTAINING 5,020 square feet.

THE above description was taken from a draft of survey prepared by Mort, Brown and Associates, dated April 22, 1986, and identified as Lot No. 1 therein.

SUBJECT, however, to the restriction that neither the Grantors nor Grantee herein, nor their heirs, successors or assigns, shall block or otherwise impede the entrance to a macadam driveway which is located at the Southeastern corner of the above described lot.

BEING the same premises which Tom L. Klepac and Barbara Michelle Johnson-Klepac, by Deed dated August 6, 1998 and recorded in the Office of the Recorder of Deeds of Adams County on August 13, 1998, in Deed Book Volume 1644, Page 52, granted and conveyed unto Michael A. Bialecki.

TOGETHER with all and singular the buildings, improvements, ways, streets, alleys, driveways, passages, waters, watercourses, rights, liberties, privileges, hereditaments and appurtenances, whatsoever unto the hereby granted premises belonging, or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof; and all the estate, right title, interest property, claim and demand whatsoever of them, the said Grantors, as well at law as in equity, of, in and to the same.

TO HAVE and to hold the said lot or piece of ground above described with the buildings and improvements thereon erected, hereditaments and premises hereby granted, or mentioned, and intended so to be, with the appurtenances, unto

the said Grantee, Grantee's heirs and assigns, to and for the only proper use and behoof of the said Grantee, Grantee's heirs and assigns forever.

## Parcel No. 6-31

SEIZED and taken into execution as the property of Michael E. Bialecki 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 February 19, 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.

12/22, 29 & 1/5

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of a Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania in Harrisburg, Pennsylvania, on or about December 8, 2000, pursuant to the Pennsylvania Fictitious Name Act, Act No. 1982-295, setting forth that Clark J. Smith and Jesse J. Smith are the only individuals engaged or interested in a business, the character of which is for the purpose of purchasing, maintaining, leasing and selling real estate, and to do all things necessary or convenient to carry out the foregoing purpose, and that the name, style and designation under which said business is and will be conducted is C&J ASSOCIATES. The principal office or place of business is 1967 Oxford Road, New Oxford, Pennsylvania 17350.

Thomas E. Miller, Esq.  
Miller & Shults, P.C.  
Solicitor

12/22

## HIMMELREICH VS. ADAMS ABSTRACT ET AL

1. The Pennsylvania Supreme Court has stated that “[a] demurrer admits every well-pleaded material fact set forth in the pleadings to which it is addressed as well as all inferences reasonably deducible therefrom, but not conclusions of law.” A demurrer is properly sustained where the complaint indicates on its face that the plaintiff’s claim cannot be sustained, and the law will not permit recovery. If there is any doubt as to the propriety of a judgment in favor of a demurring party, it should not be entered.

2. Negligence is proved by 1) a duty of standard of care; 2) a breach of that duty or standard; 3) proximate causation; and 4) actual damages.

3. Although mere non-performance of a contract does not constitute a fraud ... it is possible that a breach of contract also gives rise to an actionable tort ... “To be construed as in tort, however, the wrong ascribed to defendant must be the gist of the action, the contract being collateral.”

4. Although they derive from a common origin, distinct differences between civil actions for tort and contract breach have developed at common law. Tort actions lie for breaches of duties imposed by law as a matter of social policy, while contract actions lie only for breaches of duties imposed by mutual consensus agreements between particular individuals.

5. The test used to determine if there exists a cause of action in tort growing out of a breach of contract is whether there was an improper performance of a contractual obligation (misfeasance) rather than the mere failure to perform (nonfeasance).

6. In order to state such a claim (of fraud) the following elements must be pled with particularity in a plaintiff’s complaint: (1) a representation; (2) which is material to the transaction at hand; (3) made falsely, with knowledge of its falsity or recklessness as to whether it is true or false; (4) with the intent of misleading another into relying on it; (5) justifiable reliance on the misrepresentation; and (6) the resulting injury was proximately caused by the reliance.

7. A purpose behind the rules of pleading is to enable parties to ascertain, by utilizing their own professional discretion, the claims and defenses that are asserted in the case. This purpose would be thwarted if courts, rather than the parties, were burdened with the responsibility of deciphering the cause of action from a pleading of facts which obscurely support the claim in question.

8. Fraud has not been defined in the Unfair Trade Practices and Consumer Protection Law but case law holds that it is the equivalent of common law fraud.

9. The mere breach of (contractual) duty is not actionable under the UTPCPL.

10. One seeking to prevail in an action for specific performance has the burden of proving: (1) a valid agreement, (2) that the agreement was breached, and (3) that the plaintiff had no adequate remedy at law. Such relief is not a matter of right, but grace, and will only be granted if the plaintiff is clearly entitled to such relief.

11. “Bad faith” has a particular meaning in the insurance context:

Insurance. “Bad faith” on [the] part of [an] insurer is any frivolous or unfounded refusal to pay proceeds of a policy; it is not necessary that such refusal be fraudulent. For purpose of an action against an insurer for failure to pay a claim, such conduct imparts a dishonest purpose and means a breach of a known duty (i.e., good faith and fair dealing) through some motive of self-interest or ill will; mere negligence or bad judgment is not bad faith.



In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 92-S-1145. MARK A. HIMMELREICH AND LISA HIMMELREICH VS. ADAMS ABSTRACT ASSOCIATES AND PENN TITLE INSURANCE COMPANY.

Charles I. Himmelreich, Esq., for Plaintiffs  
Mark K. Emery, Esq., for Defendant, Adams Abstract  
Ralph D. Oyler, Esq., for Defendant, Penn Title  
Kuhn, J., October 28, 1999

OPINION ON PRELIMINARY OBJECTIONS OF  
PENN TITLE INSURANCE COMPANY TO  
SECOND AMENDED COMPLAINT

For purposes of this Opinion the procedural history of this case is condensed to solely reflect its relevancy as to Defendant, Penn Title Insurance Company. On April 13, 1995, Plaintiffs filed their original Complaint and subsequently on March 27, 1998, filed an Amended Complaint. On April 29, 1998, Penn Title filed preliminary objections to the Amended Complaint. In turn, on May 19, 1998, Plaintiffs filed a Second Amended Complaint. Before the Court for disposition are Penn Title's preliminary objections to the Second Amended Complaint filed June 9, 1998.<sup>1</sup>

STATEMENT OF FACTS

On September 13, 1991, Plaintiffs purchased property located at 120 Bittle Road, Littlestown, Adams County, Pennsylvania at a tax sale in a case docketed at 91-S-982. The property was formerly owned by Robert E. and Jacquelyn N. Foster. After the tax sale was complete, they attempted to get a \$25,000 mortgage from the Adams County National Bank to pay off the prior mortgage on the real estate and to cover other expenses related to the purchase of the property. Plaintiffs claim to have hired Defendant, Adams Abstract Associates, to perform the title search on the property. Adams Abstract allegedly represented to Plaintiffs that the bank required title insurance. As a result of the suggestions and **recommendations** of Adams Abstract, Plaintiffs purchased an "owner's policy" of title insurance. Plaintiffs were not represented by counsel at closing, held on January 3, 1992,

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<sup>1</sup>Disposition of these preliminary objections has been delayed because the parties did not set the matter for Argument Court until August 31, 1999.

and were allegedly informed that within the numerous papers they had signed that day they had purchased title insurance from Penn Title which would cover the full market price of the property.

On January 15, 1992, the Fosters filed a Petition Nunc Pro Tunc in the Court of Common Pleas of Adams County at docket number 91-S-982 asking that the tax sale be set aside and asking that ejectment proceedings initiated against them by Plaintiffs be stayed. By Order of the same date, a stay was entered and a hearing scheduled. In response to this Petition, Plaintiffs asked that Adams Abstract and/or Penn Title provide legal counsel to help them defend their interest in the property. Both Adams Abstract and Penn Title failed and refused to provide such representation and the Plaintiffs were forced to hire their own counsel. Subsequently, the Court of Common Pleas of Adams County and the Commonwealth Court of Pennsylvania upheld Plaintiffs' interest in the property. Plaintiffs' present Complaint regards the failure of both Adams Abstract and Penn Title to provide representation and alleges breach of contract, negligence, gross negligence, fraud, violation of the Unfair Trade Practices and Consumer Protection Law, and violation of 42 P.S. §8371 (bad faith). Plaintiffs also ask for specific performance among the other legal remedies.

### LEGAL DISCUSSION

Penn Title initially contends that the Second Amended Complaint violates Pa. R.C.P. 1019(a) which provides that "The material facts on which a cause of action or defense is based shall be stated in a concise and summary form."

The complaint, exclusive of exhibits, consists of 40 pages containing 14 counts and 185 paragraphs. The background is set forth in the first 49 paragraphs and the individual counts are set forth in the remaining paragraphs. The seven counts which apply to Penn Title are: Count VI – Breach of Contract (incorporating paragraphs 1-93 and 94-98); Count VII – Negligence (incorporating paragraphs 1-98 and 100-103); Count VIII – Gross Negligence (incorporating paragraphs 1-103 and 104-111); Count IX – Fraud (incorporating paragraphs 1-111 and 112-121); Count X – Violation of the Unfair Trade Practices and Consumer Protection Law (incorporating paragraphs 1-121 and 122-129); Count XI – Specific Performance (incorporating paragraphs 1-129 and 130-137); and Count XIV – Bad Faith

(incorporating paragraphs 1-165 and 166-185). Thus, in order to respond to the complaint, Penn Title would be required to answer all 185 paragraphs. Penn Title argues that the complaint is so lengthy that it will be unduly burdensome to prepare an answer. It asks that the complaint be stricken.

Although Penn Title's concern has some merit, the issue is too close to resolve in its favor and to require Plaintiffs to re-plead for this reason alone. As noted, there are seven separate counts against each defendant. The rules require that each cause of action be stated in a separate count. Pa. R.C.P. 1020(a). Plaintiffs allege that Adams Abstract was acting as the title agent for Penn Title and that the conduct of Adams Abstract must, therefore, be incorporated into the counts involving Penn Title. The 14 separate counts average 9-10 paragraphs each. Under the circumstances, this objection is denied. However, as will become obvious hereinafter (and in an accompanying opinion addressing objections filed by Adams Abstract) much of Penn Title's concern may be alleviated based upon our disposition of other objections.

The balance of the preliminary objections is in the form of a demurrer to each count against Penn Title. In deciding on an objection in the nature of a demurrer, the Pennsylvania Supreme Court has stated that "[a] demurrer admits every well-pleaded material fact set forth in the pleadings to which it is addressed as well as all inferences reasonably deducible therefrom, but not conclusions of law." *Gekas v. Shap*, 469 Pa. 1, 5, 364 A.2d 691, 693 (1976). A demurrer is properly sustained where the complaint indicates on its face that the plaintiff's claim cannot be sustained, and the law will not permit recovery. *Lobdell v. Leichtenberger*, 442 Pa. Super. 21, 24, 658 A.2d 399, 410 (1995) (citations omitted). If there is any doubt as to the propriety of a judgment in favor of a demurring party, it should not be entered. *Creeger Brick & Building Supply, Inc. v. Mid-State Bank and Trust Co.*, 385 Pa. Super. 30, 32-33, 560 A.2d 151, 152 (1989).

In Count VI, Plaintiffs allege that Penn Title had a contractual duty under the written title insurance policy to provide legal representation when the Fosters challenged the propriety of the tax sale in 91-S-982. Plaintiffs claim that Penn Title breached that contractual duty by refusing to provide counsel thereby causing Plaintiffs to incur unnecessary expenses. Penn Title responds by noting that the

policy specifically excludes from coverage the “Possible outstanding interest of Robert E. Foster, sold out at Tax Claim Bureau Sale held September 13, 1991” and “Suit Action: 91-S-982 – Petition for Confirmation of Distribution, entered 11-15-91.”

We believe there is a factual issue that must be resolved. Plaintiffs claim that at the time of settlement on January 3, 1992, they had no opportunity to completely review the documents (§32), they were advised that they had purchased coverage for the full value of the property (§34), and they would receive a copy of the title policy within a few days (§51). However, despite numerous requests, a copy of the policy was not received until August 23, 1993 (§53-56). They also discovered that the copy of the policy delivered to the bank did not contain the exclusions noted above (§95). Thus, Plaintiffs are contending that the exclusions were not part of the policy. Although the policy contains a page which would have been signed by Plaintiffs containing a statement “That they received a copy of Penn Title Insurance Company, Report of Title, and that they are aware of exceptions to said policy” the actual pages setting forth the exceptions were not purportedly counter-signed by Plaintiffs.

In Count VII Plaintiffs allege that Penn Title had a contractual and a fiduciary duty to provide legal representation in 91-S-982 and negligently breached that duty by failing to provide that service. Penn Title mounts a two-prong attack to this count. First, it argues that it had no contractual duty to provide the legal representation requested. As noted in the discussion under Count VI, the issue regarding the actual provisions of the contract will have to await later resolution. Second, Penn Title argues that even if a contractual duty exists, the breach thereof sounds in contract not in negligence.

Negligence is proved by 1) a duty or standard of care; 2) a breach of that duty or standard; 3) proximate causation; and 4) actual damages. *Carlotti v. Employees of General Electric Federal Credit Union*, 717 A.2d 564, 567 (Pa. Super. 1998). Neither party has cited any authority to support its position. Additionally, we have found no case holding that the facts alleged by Plaintiffs make out a cause of action in negligence. However, our research has revealed pertinent language in *Bash v. Bell Telephone Company of Pennsylvania*, 411 Pa. Super. 347, 601 A.2d 825 (1992). There, Superior Court adopted the following analysis of the difference between tort and contract

actions discussed in several federal cases:

Although mere non-performance of a contract does not constitute a fraud...it is possible that a breach of contract also gives rise to an actionable tort... "To be construed as in tort, however, the wrong ascribed to defendant must be the gist of the action, the contract being collateral." 1 C.J.S. Actions §46. A claim ex contractu cannot be converted to one in tort simply by alleging that the conduct in question was wantonly done.

...

[a]lthough they derive from a common origin, distinct differences between civil actions for tort and contract breach have developed at common law. Tort actions lie for breaches of duties imposed by law as a matter of social policy, while contract actions lie only for breaches of duties imposed by mutual consensus agreements between particular individuals . . . To permit a promisee to sue his promisor in tort for breaches of contract inter se would erode the usual rules of contractual recovery and inject confusion into our well-settled forms of actions...

411 Pa. Super. at 355-6, 601 A.2d at 829 (emphasis in original) (citations omitted).

We find nothing in Plaintiffs' complaint to support a negligence claim. The wrong allegedly done was to breach the contractual duty of supplying legal representation. Here, the contract was not collateral to the conduct of the parties, rather it constituted the very foundation of their relationship and the duties which arose therefrom. Plaintiffs have alleged no duty which has been imposed upon Penn Title as a matter of social policy which would change the breach thereof into tortious conduct.

We also note the following language adopted in *Raab v. Keystone Insurance Comp.*, 271 Pa. Super. 185, 412 A.2d 638 (1979),

Generally when the breach of a contractual relationship is expressed in terms of tortious conduct, the cause of action is properly brought in *assumpsit* and not in *trespass* . . . However, there are circumstances out of which a

breach of contract may give rise to an actionable tort. . . . The test used to determine if there exists a cause of action in tort growing out of a breach of contract is whether there was an improper performance of a contractual obligation (misfeasance) rather than the mere failure to perform (nonfeasance). 271 Pa. Super. at 187-8, 412 A.2d at 639 (citations omitted).

Thus, nonfeasance, or the failure to perform a contractual obligation is not the basis for a cause of action for negligent breach of contract. Here, Plaintiffs are not alleging that Penn Title improperly performed a contractual obligation but rather that it failed to perform.

Therefore, we grant Penn Title's demurrer as to Count VII.

In Count VIII Plaintiffs allege that Penn Title committed gross negligence in that it knew Plaintiffs were entitled under the contract to legal representation and intentionally and unjustifiably refused coverage. Having concluded that Plaintiffs fail to state a cause of action in Count VII for negligence, it follows that they have also failed to state a cause of action for gross negligence.<sup>2</sup>

In Count IX Plaintiffs allege fraud. Specifically, they allege that Adams Abstract was acting as agent for Penn Title (¶113), misrepresented the necessity and requirement for title insurance (¶116),

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<sup>2</sup> There is certainly some question whether a separate cause of action for gross negligence exists in Pennsylvania. In *Bloom v. Dubois Regional Medical Center*, 409 Pa. Super. 83, 597 A.2d 671 (1991) the Court was faced with determining the meaning of "gross negligence" in the Mental Health Procedures Act, 50 P.S. §7114(a). Finding no definition in the Act, the Court looked to the common law for assistance. It noted that "attempts at distinguishing between negligence and gross negligence have resulted in distinctions which are vague and impractical." 597 A.2d at 678. The prevailing view is that there are no degrees of negligence, only different amounts of care. In *Henry v. First Federal Savings & Loan Assoc.*, 313 Pa. Super. 128, 459 A.2d 772 (1983) the court observed that gross negligence is simply a different degree of negligence and both are premised upon violation of a duty to the plaintiff. 313 Pa. Super. at 132, 459 A.2d at 774. In *Ferrick Excavating v. Senger Trucking Co.*, 506 Pa. 181, 484 A.2d 744 (1984) our Supreme Court stated "there are no degrees of negligence in Pennsylvania." 506 Pa. at 191, 484 A.2d 749. However, in *Romah v. Hygienic Sanitation Company*, 705 A.2d 841 (Pa. Super. 1997) the Superior Court seemed to suggest that a cause of action for gross negligence requesting punitive damages was not derivative of a cause of action for ordinary negligence when there is an attempt to amend a complaint after the expiration of the statute of limitations. 705 A.2d at 861, n.9.

misrepresented what was included and excluded in the policy (¶116) and then “deleted the exclusion” relating to 91-S-982. Plaintiffs claim that based upon these representations, they justifiably and reasonably believed they were covered under the policy for any claim raised by the Fosters.

The pleading rules clearly state that averments of fraud must be averred with particularity. Pa. R.C.P. 1019(b). Recently *Huddleston v. Infertility Center of America, Inc.*, 700 A.2d 453 (Pa. Super. 1997) set forth the standard for stating a viable cause of action in fraud.

In order to state such a claim, the following elements must be pled with particularity in a plaintiff’s complaint: (1) a representation; (2) which is material to the transaction at hand; (3) made falsely, with knowledge of its falsity or recklessness as to whether it is true or false; (4) with the intent of misleading another into relying on it; (5) justifiable reliance on the misrepresentation; and (6) the resulting injury was proximately caused by the reliance...The complaint must provide sufficient facts to support a plaintiff’s contention that the defendant intended to induce him to act based on the misrepresentation.

Id at 461 (citations omitted).

See also *Pittsburgh Live Inc. v. Servov*, 419 Pa. Super. 423, 615 A.2d 438 (1992) (“fraud consists of anything calculated to deceive, whether by single act or combination, or by suppression of truth, or suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or silence, word of mouth, or look or gesture.” 615 A.2d at 440).

Frankly, as pled, this Count is confusing. First, Plaintiffs allege that they were misled into believing that title insurance was required yet as part of their damages they seek to recover for legal fees incurred as a result of Penn Title’s alleged breach of the contract. Under Plaintiffs’ theory, if they were not misled, it follows that they would not have purchased the title insurance. Had they not purchased the policy, they would not have been entitled to coverage and legal representation in 91-S-982. Second, they allege that they were misled regarding the policy’s coverage, specifically that any claim by the Fosters would be covered. They also aver that the exclusion for claims by the Fosters was deleted from the policy. If the exclusion

was deleted it would mean that coverage existed for the claim and that no misrepresentation has been made by the defendants. The confusion which this inconsistency generates is such that the Court is unable to clearly understand what Plaintiffs are alleging.

Our Superior Court has aptly recognized the frustration which arises from inconsistent and confusing pleadings when it stated,

A purpose behind the rules of pleading is to enable parties to ascertain, by utilizing their own professional discretion, the claims and defenses that are asserted in the case. This purpose would be thwarted if courts, rather than the parties, were burdened with the responsibility of deciphering the cause of action from a pleading of facts which obscurely support the claim in question. Parties ought not be allowed to delegate their duties under the Rules of Procedure to our courts.

*Krajsa v. Key Punch, Inc.*, 424 Pa. Super. 230, 236, 622 A.2d 355, 357 (1993).

We conclude that Plaintiffs should be required to re-plead and clarify Count IX.

In Count X Plaintiffs are alleging violation of the Unfair Trade Practices and Consumer Protection Law, 73 P.S. §201-1, et seq (hereinafter "UTPCPL"). Specifically, they claim to have purchased services (to obtain title insurance) and goods (namely the title insurance policy) from Penn Title. They aver being misled and deceived into believing that the policy would cover any claims raised in 91-S-982 when, in fact, Penn Title is alleging that the claim is not covered.

Penn Title raises two issues under this count. First, it argues that Plaintiffs had a duty to read the contract and are presumed to know the meaning of its terms. Penn Title contends that because the contract expressly excluded claims arising under 91-S-982 Plaintiffs cannot be heard to argue that they were misled.

The UTPCPL permits private civil actions to be filed where a person purchases goods or services primarily for personal, family or household purposes and suffers any ascertainable loss as a result of an act or practice declared unlawful under this statute. 73 P.S. §201-9.2. Clearly, the purchase of title insurance in connection with the purchase of a residence qualifies as far as "personal, family or



household purpose”. Unlawful acts are those acts described in 73 P.S. §201-2(4)(I)-(xxi). 73 P.S. §201-3.

Plaintiffs’ complaint does not set forth which statutory “unfair or deceptive acts” they allege were committed by Penn Title, however, the court feels safe in concluding that they are proceeding under Section 201-2(4)(xv) (knowingly misrepresenting that services are needed if they are not needed) and Section 201-2(4)(xxi) (engaging in any other fraudulent or deceptive conduct which creates a likelihood of misunderstanding) (formerly §201-2(4)(xvii)). Each of these sections is aimed toward fraudulent conduct. Fraud has not been defined in the Unfair Trade Practices and Consumer Protection Law but case law holds that it is the equivalent of common law fraud, *Sewak v. Lockhart*, 699 A.2d 755 (Pa. Super. 1997); *Hammer v. Nikol*, 659 A.2d 617 (Pa. Cmwlth., 1995); *Prime Meats, Inc. v. Yochin*, 422 Pa. Super. 460, 619 A.2d 769 (1993), Alloc. den. 646 A.2d 1180 (1994), the elements of which have been set forth above.

We believe the reasoning used and conclusion reached as to Count IX (Fraud) would equally apply in this count. Therefore, we will require Plaintiffs to re-plead for clarification purposes.

We must also address the second issue raised by Penn Title under Count X. Penn Title contends that under the UTPCPL nonfeasance or the failure to perform a contractual duty is not actionable, citing *Caplan v. Fellheimer, Eichen, Braverman & Kasky*, 5 F. Supp. 2d 299 (E.D. 1998). Thus, Penn Title argues, even if it had a contractual duty to provide legal representation in the claims made by the Fosters, the mere breach of that (contractual) duty is not actionable under the UTPCPL. In *Caplan* the insured alleged that the insurer failed to provide the insured with a defense in a sexual harassment action filed by one of the insured’s employees. The court held that the insurer’s refusal to provide a defense constituted a failure to perform and that nonfeasance was not actionable under the UTPCPL.

The *Caplan* approach to the UTPCPL has been consistently followed by the courts. See *Gordon v. Pennsylvania Blue Shield*, 378 Pa. Super. 256, 264, 548 A.2d 600, 604 (1988); *Horowitz v. Federal Kemper Life Assurance Co.*, 57 F.3d 300, 307 (3rd Cir. 1995); *Leo v. State Farm Mutual Automobile Ins. Co.*, 939 F. Supp. 1186, 1193 (E.D. Pa. 1996); *Parasco v. Pacific Indemnity Comp.*, 920 F. Supp. 647, 656 (E.D. Pa. 1996); *Aetna Casualty and Surety Comp. v.*

*Erickson*, 903 F. Supp. 836, 841 (M.D. Pa. 1995). However, an insured does state a cause of action under the UTPCPL if the insured sufficiently alleges that fraudulent misrepresentations were made in order to sell a policy or avers some other form of misfeasance. *Id.*

Although one version of Plaintiffs' complaint alleges misrepresentations made in order to sell the title insurance policy and which is sufficient to state a cause of action under the UTPCPL, the internal confusion in the pleading also suggests nonfeasance. We conclude that Plaintiffs need to re-plead Count X consistent with the discussion herein.

In Count XI, Plaintiffs are seeking specific performance requiring Penn Title to provide a defense in 91-S-982. Penn Title demurred to this count on the basis that "no such remedy is available to plaintiffs". Penn Title has not discussed this objection in its brief and, for that reason, we could consider it as having been abandoned. However, no good purpose would be served by such a sanction.

One seeking to prevail in an action for specific performance has the burden of proving: (1) a valid agreement, (2) that the agreement was breached, and (3) that the plaintiff has no adequate remedy at law. *Boyd & Mahoney v. Chevron U.S.A.*, 419 Pa. Super. 24, 30, 614 A.2d 1191, 1194 (1992); Alloc. den. 631 A.2d 1003. Such relief is not a matter of right, but grace, and will only be granted if the plaintiff is clearly entitled to such relief. *Barnes v. McKellar*, 434 Pa. Super. 597, 609, 644 A.2d 770, 776 (1994); alloc. den. 652 A.2d 834. For two reasons this claim must be dismissed. First, the action at 91-S-982 is concluded and it would, therefore, be impossible for Penn Title to now perform. Second, if Plaintiffs can plead and prove that Penn Title had a contractual obligation to provide a defense in 91-S-982, they have an adequate remedy at law, for breach of contract.

Finally, in Count XIV, Plaintiffs aver bad faith in that Penn Title knew the claims raised in 91-S-982 were covered by a policy in effect, intentionally refused to provide coverage, and refused to offer to settle Plaintiffs' claim. Penn Title argues that Plaintiffs' bad faith claim under 42 Pa. C.S.A. §8371 must be dismissed because there was no contractual duty to provide legal representation for a claim which was specifically excluded from the policy.

42 Pa. C.S.A. §8371 provides:

In an action arising under an insurance policy, if the court finds that the insurer has acted in bad faith toward the insured, the court may take all the following actions:

- (a) Award interest on the amount of the claim from the date the claim was made by the insured in an amount equal to the prime rate of interest plus 3%.
- (b) Award punitive damages against the insurer.
- (c) Assess court costs and attorney fees against the insurer.

Recently, *MGA Insurance Comp. v. Bakos*, 699 A.2d 751 (Pa. Super., 1997) described how the courts will interpret the term “bad faith” in §8371.

Our legislature has not defined the term “bad faith” within this statute, but this Court has recognized that “bad faith” has a particular meaning in the insurance context:

Insurance. “Bad faith” on [the] part of [an] insurer is any frivolous or unfounded refusal to pay proceeds of a policy; it is not necessary that such refusal be fraudulent. For purpose of an action against an insurer for failure to pay a claim, such conduct imports a dishonest purpose and means a breach of a known duty (i.e., good faith and fair dealing) through some motive of self-interest or ill will; mere negligence or bad judgment is not bad faith.

. . . A recovery for bad faith requires clear and convincing evidence of bad faith rather than mere insinuation, and a showing by the insured that the insurer did not have a reasonable basis for denying benefits under the policy and that the insurer knew of or recklessly disregarded its lack of a reasonable basis in denying the claim . . .

699 A.2d at 754 (citations omitted).

It is clear that bad faith claims for denial of coverage will fail where there is no duty to defend because of a contractual exclusion. *Hyde-Athletic Industries, Inc. v. Continental Casualty Company*, 969 F. Supp. 289, 306 (E.D. Pa. 1997). However, the pleadings are not yet at a point where we can determine whether the claim in 91-S-982 was excluded from coverage. Plaintiffs claim the policy does not exclude coverage while Penn Title argues that the policy does exclude coverage. If the policy did not exclude coverage and Penn Title refused to provide the defense requested for no proper reason, bad faith would exist. Therefore, Plaintiffs have stated a cause of action as to Count XIV.

Accordingly, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 28th day of October, 1999, in consideration of the Preliminary Objections of Penn Title Insurance Company to Plaintiffs' Second Amended Complaint and in accordance with the attached Opinion, it is directed that:

1. The Motion to Strike is denied.
2. The demurrer to Count No. VI (Breach of Contract) and XIV (Bad Faith) is denied.
3. The demurrer to Count No. VII (Negligence), VIII (Gross Negligence), IX (Fraud), X (Violation of UTPCPL), and XI (Specific Performance) is granted and those counts are dismissed.
4. Plaintiffs are granted twenty (20) days from the date of mailing of this Order to file a third amended complaint as to all counts against Penn Title Insurance Company except Count No. XI, which Plaintiffs are hereby precluded from pursuing.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-196 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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.:

The description of the real estate is as described as follows: ALL that tract of land situate, lying and being in Straban Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the Western curbline of Rodes Avenue which point is located at the Northeasternmost corner of Lot No. 11 on the hereinafter described plan of lots; thence running by Lot No. 11 North 59 degrees 10 minutes 30 seconds West 150 feet to a point on line of land now or formerly of Ronald Hoff; thence running by land now or formerly of Ronald Hoff North 30 degrees 49 minutes 30 seconds East 90 feet to an iron pin on line of other land of Evelyn Murray (Lot No. 13 on the hereinafter described plan of lots); thence running by Lot No. 13 South 59 degrees 10 minutes 30 seconds East 150 feet to a point on the western curbline of Rodes Avenue; thence running along the Western curbline of Rodes Avenue South 30 degrees 49 minutes 30 seconds West 90 feet to a pin, the point and place of BEGINNING. CONTAINING 13,500 square feet.

The description was taken from a plan of lots of J.H. Rife, R.E., dated June 6, 1978 and recorded in Adams County Plat Book 21 at page 49. The tract here-in conveyed is Tract No. 12 on said plan of lots.

SUBJECT, NEVERTHELESS, TO the covenants and restrictions which affect this lot and all subsequent conveyances thereof as if more specifically set forth in Adams County Miscellaneous Book 30 at page 676.

BEING the same which Evelyn Murray, widow, by her deed dated August 30, 1995, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1075 at page 313, sold and conveyed unto Tim A. Rothhaupt and Jill N. Rothhaupt, husband and wife, as tenants of an estate by the entireties, the Defendants herein.

IMPROVED WITH a 1-1/2 story dwelling.

SEIZED and taken into execution as the property of **Tim A. Rothhaupt & Jill N. Rothhaupt** 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 February 12, 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.

12/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-936 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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, lying and being in the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a steel rod on the northerly edge of Rice Lane at Lot No. 2A on the hereinafter recited draft; thence by said Lot No. 2A North 4 degrees 21 minutes 32 seconds West, 320.95 feet to an aluminum pipe; thence continuing by said Lot No. 2A North 7 degrees 46 minutes 42 seconds West, 370.88 feet to a steel rod at lands now or formerly of Mervin E. Showers; thence by said lands North 82 degrees 34 minutes 27 seconds East, 82.66 feet to a rebar set at the corner of Lot No. 2A and 2B on the hereinafter recited draft; thence South 10 degrees 56 minutes 56 seconds East, 375.24 feet to a rebar bolt; thence South 6 degrees 19 minutes 38 seconds East, 322.48 feet to a point on the northerly edge of said Rice Lane; thence along the northerly edge of said Rice Lane South 85 degrees 22 minutes 25 seconds West, 114.56 feet to the place of BEGINNING. CONTAINING 1.601 Acres.

The above description was taken from a draft of survey prepared by Mark A. Kuntz, Surveyor, dated December 10, 1997, recorded in Adams County Plat Book 73 at page 57, being designated thereon as Lot No. 2A.

BEING the same premises which Robert C. Peters and Gertrude I. Peters, Husband and Wife, and Larry J. Peters and Mary L. Peters, Husband and Wife, by Deed dated the 13th day of August, 1998 and recorded the 20th day of August, 1998 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book Volume 1645, Page 58, granted and conveyed unto Anthony Wade Bretzman and Tammy Sue Bretzman, Husband and Wife, As Tenants Of An Estate By The Entireties.

Property ID# 1-1A

SEIZED and taken into execution as the property of **Anthony W. Bretzman & Tammy S. Bretzman** 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 February 12, 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.

12/8, 15 & 22

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 27, 2000, under the Pennsylvania Business Corporation Law for: ALLEN-WRENCH AUTOMOTIVE, INC.

The address of the Corporation is: 55 Victory Church Road, Gardners, PA 17324.

12/22

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania Corporation Law of 1988, approved December 21, 1988, P. L. 1444, No. 177, as amended.

The name of the corporation is QUANTUM HORIZON MEDIA GROUP, INC. with its principal office or place of business at 116 Carlisle Street, Gettysburg, PA 17325. The names and addresses of all persons owning or interested in said business are Gregory Christianson, 116 Carlisle Street, Gettysburg, PA 17325, Suzanne Christianson, 116 Carlisle Street, Gettysburg, PA 17325, and Matthew Crowner, 803 Burnside Drive, Gettysburg, PA 17325

12/22

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-582 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of January, 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.:

Tax Map: J-16

Parcel Number: 7

ALL THAT CERTAIN tract of land situate in Union Township, Adams County, Pennsylvania, identified as Tract No. 3 on Plan of Donald E. Worley, Registered Surveyor, dated October 16, 1996, File No. C-1674, prepared for Aberdeen Holdings and recorded in the Recorder's Office, Adams County, Pennsylvania, in Plan/Plot Book 70, page 44, on December 27, 1996, and being more particularly bounded, limited and described as follows:

BEGINNING for a corner at a point in the center of White Hall Road (State Route 2002) at a corner in common with Charles A. Connolly, the said point being 252 feet Northwestwardly from the intersection of Feeser Road (Township Road No. T-447); then leaving the said road and binding upon the common boundary lines of the said Charles A. Connolly the four following lines (1) North 41 degrees, 04 minutes, 27 seconds East, 339.90 feet to a 24" hickory tree, passing through a steel pin 30.00 feet from the beginning thereof; then (2) South 51 degrees 51 minutes 09 seconds East, 262.20 feet to a steel pin; then (3) South 55 degrees 08 minutes 13 seconds East, 813.99 feet to a planted stone; then (4) North 28 degrees, 45 minutes, 00 seconds East, 1022.62 feet to a steel pin at lands of Kosmos Horse Breeders, Inc.; then binding on the common boundary with said property (5) South 68 degrees, 34 minutes, 05 seconds East, 709.50 feet to a point on the Easterly edge of the cartway of the Littlestown Road (State Route 2019) and a distance of 16.50 feet from the centerline thereof, passing through a steel pin 30.00 feet from the end thereof; then laterally crossing the said road (6) South 21 degrees, 08 minutes, 01 seconds West, 330.99 feet to a point on the Western side of the said road and 30.40 feet from the centerline thereof; then crossing said road (7) South 69 degrees, 11 minutes, 51 seconds East, 61.05 feet to a point on the Eastern side of said road and 30.50 feet from the centerline thereof; then running in and through the said road (8) South 29 degrees, 52 minutes, 37 seconds West, 1442.64 feet to a point in the center of the said road; then continuing in and through the said road (9) South 29 degrees, 55 minutes, 22 seconds West, 1012.65 feet to a point in the center of said road, a corner in common with David R. Clark; then leaving the said Littlestown Road and binding on the

common boundary lines of David R. Clark (10) North 68 degrees, 50 minutes, 11 seconds West, 226.78 feet to a steel pin on the Eastern side of White Hall Road (SR 2002), passing through a steel pin 30.00 feet from the beginning thereof; then by the same (11) South 74 degrees, 09 minutes, 50 seconds West, 20.98 feet to a point in the center of the White Hall Road; then running in and through the centerline of the said road all the remaining 7 lines, by a curve to the left whose radius is 1264.00 feet, an arc distance of 175.38 feet, the long chord of which is (12) North 11 degrees, 28 minutes, 41 seconds West, 175.24 feet to a point in the centerline; then (13) North 15 degrees, 27 minutes, 06 seconds West, 530.37 feet to a point in the centerline; then by a curve to the right whose radius is 592.00 feet, an arc distance of 28.18 feet, the long chord of which is (14) North 14 degrees, 05 minutes, 18 seconds West, 28.17 feet to a point in the centerline; then by a curve to the right whose radius is 592.00 feet, an arc distance of 221.57 feet, the long chord of which is (15) North 02 degrees, 00 minutes, 10 seconds West, 220.27 feet to a point in the centerline; then by a curve to the left whose radius is 336.00 feet, an arc distance of 193.22 feet, the long chord of which is (16) North 07 degrees, 45 minutes, 19 seconds West, 190.57 feet to a point in the centerline; then (17) North 24 degrees, 13 minutes, 48 seconds West, 707.62 feet to a point in the centerline; then by a curve to the left whose radius is 964.50 feet, an arc distance of 166.51 feet, the long chord of which is (18) North 29 degrees, 10 minutes, 32 seconds West, 166.30 feet to a railroad spike in the center of the intersection of White Hall Road aforementioned and Feeser Road (Township Road No. 447); then continuing in the center of White Hall Road (19) North 34 degrees, 51 minutes, 54 seconds West, 252.07 feet to a point in the centerline of said road, the place of BEGINNING.

CONTAINING 62.5443 Acres (neat measure).

SEIZED and taken into execution as the property of **G.C.W. Properties, Inc.** 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 February 19, 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.

12/15, 22 & 29

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-422 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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 described lot of ground with improvements thereon erected, situate in Reading Township being known as Lot No. 891 on a plan of lots of Lake Meade Subdivision, said plan being duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 1 at page 6.

SEIZED and taken into execution as the property of **Pamela M. Howe & Danny Howe** 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 February 12, 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.

12/15, 22 & 29

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW  
NO. 00-S-1075  
Action to Quiet Title

GERALD L. PARRISH, JR., Plaintiff

vs.

CROSS KEYS INDUSTRIES, INC., its successors and assigns, and any unknown persons having or claiming any right, lien, title or interest through or under the named descendants or in their own right, Defendants.

TO: Cross Keys Industries, Inc., its successors and assigns.

TAKE NOTICE that on November 3, 2000, Gerald L. Parrish, Jr., filed a Complaint in an action to quiet title against you as defendants averring that he is the owner of the real property described herein. The Complaint requests the Court to extinguish any possible interest you may have in said real estate. Subject Property is a portion of a tract of land situate in New Oxford, Adams County, Pennsylvania, more particularly bounded and described as follows:

All those certain three (3) pieces, parcels or tracts of land, situate, lying and being in Berwick Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows:

**TRACT NO. 1** - BEGINNING for a corner at a point in the Lincoln Highway, U.S. Route No. 30, a corner also of Tract No. 2 described below, thence along Tract No. 2, South thirteen (13) degrees twelve (12) minutes twenty-one (21) seconds West, two hundred ninety-eight and sixty hundredths (298.60) feet to a point at land now or formerly of Mildred I. Haverstock; thence along said last mentioned lands, South sixty-six (66) degrees seventeen (17) minutes fifteen (15) seconds West, one hundred thirty-eight and five hundredths (138.05) feet to a steel pin at land now or formerly of J. William Krebs; thence along said last mentioned land, North thirteen (13) degrees thirty-three (33) minutes twenty-two (22) seconds West, two hundred ninety-seven and fourteen hundredths (297.14) feet to a point at lands now or formerly of Alphonsus Neiderer; thence along said land now or formerly of Alphonsus Neiderer, North sixty-five (65) degrees forty-nine (49) minutes fifty-six (56) seconds East, seventy-five (75) feet to a point; thence again along lands now or formerly of Alphonsus Neiderer, North thirteen (13) degrees thirty-three (33) minutes twenty-two (22) seconds East, one hundred ninety (190) feet to a point in the Lincoln Highway, U.S. Route No. 30, aforesaid, thence along and in the Lincoln Highway, North sixty-five (65) degrees forty-nine (49) minutes fifty-six

(56) seconds East, sixty-five and eleven hundredths (65.11) feet to the point and place of BEGINNING. (CONTAINING .6134 acres, neat measure.) (The foregoing description has been prepared in accordance with the survey of J. H. Rife, Registered Engineer, dated June 16, 1972, and revised June 20, 1972.)

**TRACT NO. 2** - BEGINNING for a corner at a point in the Lincoln Highway, U.S. Route No. 30, a corner also of Tract No. 1, hereinabove described, and land now or formerly of Mildred I. Haverstock; thence along said last mentioned land and through a bolt set twenty-four and eighty hundredths (24.80) feet from the beginning, South twenty-three (23) degrees East, two hundred ninety-three and sixty-two hundredths (293.62) feet to a steel pin; thence again along land now or formerly of Mildred I. Haverstock, South sixty-six (66) degrees seventeen (17) minutes fifteen (15) seconds West, fifty and eighty hundredths (50.80) feet to a point at Tract No. 1, described above; thence along Tract No. 1, North thirteen (13) degrees twelve (12) minutes twenty-one (21) seconds West, two hundred ninety-eight and sixty hundredths (298.60) feet to a point in the Lincoln Highway, the point and place of BEGINNING. (CONTAINING .1712 Acres, neat measure.) (The foregoing description has been prepared in accordance with the survey of J. H. Rife, Registered Engineer, dated June 16, 1972, and revised June 20, 1972.)

**TRACT NO. 3** - BEGINNING at a point in the Lincoln Highway, U.S. Route 30, at lands now or formerly of Alphonsus Neiderer, unmarried; thence along said last mentioned land, South thirteen (13) degrees thirty-three (33) minutes twenty-two (22) seconds East, one hundred ninety (190) feet to a point; thence along said land, South sixty-five (65) degrees forty-nine (49) minutes fifty-six (56) seconds West, seventy-five (75) feet to a point at land now or formerly of J. William Krebs; thence along said last mentioned land, and through a bolt set eighteen and ninety-nine hundredths (18.99) feet from the terminus of this course, North thirteen (13) degrees thirty-three (33) minutes twenty-two (22) seconds West, one hundred ninety (190) feet to a point on the Lincoln Highway, U.S. Route No. 30, aforesaid; thence in and along the Lincoln Highway, North sixty-five (65) degrees forty-nine (49) minutes fifty-six (56) seconds East, seventy-five (75) feet to the point and place of BEGINNING. (CONTAINING .3215 acres, neat measure.) (The foregoing description has been prepared in accordance with a survey of J. H. Rife, Registered Engineer, dated June 16, 1972, and revised June 20, 1972.)

Said Complaint requests the Court to enter a Decree to terminate all rights, title or interest of any of the Defendants, their heirs or personal representatives,

of any nature, whatsoever in and to the Property, under and by nature of any Will, Deed, Power of Attorney, or any other unrecorded or lost deed or other instrument, and declaring the Plaintiff sole and absolute owner of the Property in fee simple.

WHEREFORE, the Court of Common Pleas of Adams County, Pennsylvania, has ordered that service of the Complaint be made on the above Defendants, their respective heirs, personal representatives, successors and assigns, by publication once a week for three consecutive weeks in the Adams County Legal Record and one daily newspaper of general circulation in the County of Adams, Pennsylvania. Plaintiff will request the Court to enter final judgment ordering that any possible legal interest said Defendants might have had in said Property be extinguished.

NOTICE TO DEFEND

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

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

County Referral Officer  
Adams County Court House  
Gettysburg, Pennsylvania 17325  
Telephone 1-888-707-3300

/s/Beverly J. Points, Esquire

Date: November 22, 2000

12/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-345 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of January, 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 in Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a stake along the Southern property line of the Gettysburg-Fairfield State Highway, at the Northwest corner of land of Jay R. Schmitt and wife; thence by said Schmitt land, South 16 degrees 30 minutes East, 120 feet to a stake; thence through the original tract of the Grantor, South 73 degrees 30 minutes West, 219.95 feet to a stake; thence by land of David Swisher, North 25 degrees East, 160.22 feet to a stake on the Southern property line of said Gettysburg Fairfield State Highway; thence by the Southern property line of said State Highway, North 73 degrees, 30 minutes East, 110 feet to the above described place of BEGINNING.

CONTAINING 72.7 Perches.

HAVING THEREON ERECTED A DWELLING KNOWN AS 986 Fairfield Road, Gettysburg, PA 17325.

BEING THE SAME PREMISES WHICH Gettysburg Construction Company, by their Deed dated November 24, 1971, and recorded in Adams County Recorder of Deeds on November 24, 1971, in Deed Book 296, page 938, granted and conveyed onto William C. Becker (Deceased) and Anna M. Becker.

Map & Parcel # W2-28

SEIZED and taken into execution as the property of **Anna M. Becker** and to be sold by me

Raymond W. Newnan  
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 February 19, 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.

12/22, 29 & 1/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-457 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of January, 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, limited and described as follows, to wit:

BEGINNING for a point on the Northern edge of Drummer Drive at Lot No. 57 of the hereinafter referenced subdivision plan; thence along said Northern edge of Drummer Drive 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. 59 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-seven hundredths (134.37) feet to a point at Lot No. 60 of said plan; thence along same 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. 57 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-seven hundredths (134.37) feet to a point on the Northern edge of Drummer Drive, the point and place of BEGINNING.

CONTAINING 12,093 square feet.

THE above described lot being designated as Lot No. 58 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.

BEING the same premises which J.A. Myers Building and Development, Inc., William Bast and William Prin, Co-Partners in a joint venture MPR Associates, by Deed dated July 3, 1995 and recorded in the Office of the Recorder of Deeds of Adams County on July 31, 1995 in Deed Book Volume 1060, Page 249, granted and conveyed unto David S. Schreiber and Susan M. Schreiber, husband and wife as Tenants by the Entirety.

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

Parcel No.: 1-83

SEIZED and taken into execution as the property of **David S. Schreiber & Susan M. Schreiber** and to be sold by me

Raymond W. Newnan  
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 February 19, 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.

12/22, 29 & 1/5

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Names Act, 1982-295, approved December 16, 1987, of the filing on August 11, 2000, in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, PA, of a certificate for the conduct of business under the fictitious name of CREATIVE ONLINE DESIGNS, with its principal place of business at 62 Tilletown Road, McKnightstown, PA 17343. The name and address of the person owning or interested in said business is Christy Hemler of the same address.

Christy Hemler

12/22



## 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 CLAIRE T. CHAMBERLAIN a/k/a CLAIRE THERESA CHAMBERLAIN, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Linda Miller, 3081 York Road, Gettysburg, PA 17325

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

**ESTATE OF DOROTHY E. ELICKER, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: William H. Bentz and Donna J. Stoudnour, c/o Wm. D. Schrack, III, 124 West Harrisburg Street, Dillsburg, PA 17019-0310

Attorney: Wm. D. Schrack, III, 124 West Harrisburg Street, Dillsburg, PA 17019-0310

**ESTATE OF BERTHA B. ERB, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executor: James R. Erb, 201 Quail Run, Wyoming, Delaware 19934

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

**ESTATE OF BONNIE L. HAWK, DEC'D**

Late of Union Township, Adams County, Pennsylvania

J. Larry Hawk, 1938 White Hall Road, Littlestown, PA 17340

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

**ESTATE OF JUNIOR RALPH HELLER, DEC'D**

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executors: Raymond E. Heller, 261 Clines Church Road, Aspers, PA 17304; Eugene P. Heller, 380 Potato Road, Aspers, PA 17304

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

**ESTATE OF EDNA C. PLUNKERT, DEC'D**

Late of Union Township, Adams County, Pennsylvania

Merwyn D. Dutterer, 1714 Lauterbach Road, Finksburg, MD 21048

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

**ESTATE OF RELDA G. WILDASIN, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executors: Elsie M. Amspacher, 310 Fleming Avenue, Hanover, PA 17331; Robert Amspacher, Jr., 310 Fleming Avenue, Hanover, PA 17331

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

## SECOND PUBLICATION

**ESTATE OF ANNA BUSINDA, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executor: Allfirst Trust Company of Pennsylvania, N.A. Successor by merger to Valleybank and Trust Company, P.O. Box 459, Chambersburg, PA 17201

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF DORIS J. MOSES, DEC'D**

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

Executrix: Ms. Susan McCleaf, 500 Jack's Mountain Road, Fairfield, PA 17320

Attorney: Matthew R. Battersby, Esq., Battersby & Sheffer, 20 West Main Street, P.O. Box 215, Fairfield, PA 17320

**ESTATE OF HUBER SMITH, JR., DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

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

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

**ESTATE OF ELIZABETH L. SNYDER, DEC'D**

Late of the Borough of Arendtsville, Adams County, Pennsylvania

Executrix: Joyce A. Eicholtz, 31 North High Street, Arendtsville, PA 17303

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

## THIRD PUBLICATION

**ESTATE OF JUAN ROSARIO MONTANEZ a/k/a JUAN ROSARIO, SR., DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Frances M. Rosario, 402-A E. Main St., Mechanicsburg, PA 17055

Attorney: Steven M. Montresor, Esq., Latsha Davis & Yohe, P.C., P.O. Box 825, Harrisburg, PA 17108-0825

**ESTATE OF PAULINE C. MUMMERT, DEC'D**

Late of Union Township, Adams County, Pennsylvania

Executors: Burnell H. Mummert, 710 Pine Grove Road, Hanover, PA 17331; Elwood K. Mummert, 700 Pine Grove Road, Hanover, PA 17331; Peggy Ann Sellman, 351 High Street, Hanover, PA 17331

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

**ESTATE OF GLADYS C. SHEARER, DEC'D**

Late of Huntington Township, Adams County, Pennsylvania

Co-Executors: Dorothy M. McCauslin, 261 Wierman's Mill Road, York Springs, PA 17372; Gerald E. McCauslin, 105 High Street, York Springs, PA 17372

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

**ESTATE OF ROBERT M. SMITH, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: PNC Bank, N.A., c/o Linda J. Lundberg, Assistant Vice President, 4242 Carlisle Pike, Camp Hill, PA 17001-0308

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

**ESTATE OF ELIZABETH K. TRUMP a/k/a ELIZABETH H. TRUMP, DEC'D**

Late of Butler Township, Adams County, Pennsylvania

Executrix: Arlene M. Smith, 202 Lindy Avenue, P.O. Box 134, York Springs, PA 17372

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

**ESTATE OF ELIZABETH L. WALLEN a/k/a E. LUCILLE WALLEN, DEC'D**

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

Executor: Michael C. Wallen, Sr., 154 Hamilton Drive, Abbottstown, PA 17301

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

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-761 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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 three tracts of land situate in the Borough of Fairfield, Adams County, Pennsylvania, bounded and described as follows:

**TRACT NO. 1:** Being Lot No. 1 on a Plan prepared for John P. Stahley by Boyer Surveys dated February 21, 1979, Drawing No. D-231, being recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 27 at page 35, being more fully bounded and described as follows:

**BEGINNING** at a point in the center of Water Street (L.R. 01071), at corner of lands now or formerly of Harry O. and Lucille H. Shanoltz; thence along the center of Water Street (L.R. 01071), South 58 degrees 54 minutes 43 seconds East, 57.39 feet to a point on the Westerly side of a 12 foot wide alley; thence along said 12 foot wide alley, South 52 degrees 0 minutes 0 seconds West, 132.52 feet to a chisel mark in concrete at corner of Lot No. 2 on the aforementioned Plan of Lots; thence along Lot No. 2, North 39 degrees 12 minutes 9 seconds West, 48.47 feet to a point at lands now or formerly of Harry O. and Lucille H. Shanoltz; thence along lands now or formerly of Harry O. and Lucille H. Shanoltz, North 49 degrees 23 minutes 43 seconds East 113.18 feet to a point, the place of **BEGINNING**. CONTAINING 6,294 square feet.

**TRACT NO. 2:** **BEGINNING** at a chisel mark in concrete on the northern edge of a 12 foot wide alley at corner of land now or formerly of Alfonso V. Lenzi; thence by land now or formerly of Alfonso V. Lenzi North 39 degrees 07 minutes 45 seconds West, 48.28 feet to an iron pin at

corner of land now or formerly of Alfonso V. Lenzi and land now or formerly of Harry O. and Lucille H. Shanoltz; thence by said land of Harry O. and Lucille H. Shanoltz, North 49 degrees 23 minutes 43 seconds East, 4.02 feet to an iron pin on line of said land now or formerly of Harry O. and Lucille H. Shanoltz at corner of land now or formerly of John P. Stahley; thence by said land of John P. Stahley, South 39 degrees 12 minutes 09 seconds East, 48.47 feet to a chisel mark in concrete at corner of land now or formerly of John P. Stahley on the northern edge of a 12 foot wide alley; thence running along the northern edge of said 12 foot wide alley, South 52 degrees 00 minutes 00 seconds West, 4.09 feet to a chisel mark in concrete on the northern edge of a 12 foot wide alley at corner of land now or formerly of Alfonso V. Lenzi, the place of **BEGINNING**. CONTAINING 196 square feet.

The above description was taken from a final subdivision plan of the property of John P. Stahley dated February 21, 1979, prepared by Boyer Surveys, Drawing #D-231, which is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 27 at page 35 and designated as Lot #2.

**TRACT NO. 3:** **BEGINNING** at a post on the northern side of a 12 foot alley, at corner of land now or formerly of Alfonso V. Lenzi and the southeastern corner of the tract herein conveyed; thence along the northern side of said 12 foot alley South 52 degrees 00 minutes 00 seconds West 66.60 feet to a point at corner of land now or formerly of Ronald F. and Caroline B. Kump; thence along land now or formerly of Ronald F. and Caroline B. Kump North 38 degrees 00 minutes 00 seconds West 80.00 feet to a point at corner of land now or formerly of Charles L. and Sylvia J. Deardorff; thence by land now or formerly of Charles L. and Sylvia J. Deardorff North 52 degrees 39 minutes 51 seconds East, 65.04 feet to a point on line of land now or formerly of Harry O. and Lucille H. Shanoltz; thence

along land now or formerly of Harry O. and Lucille H. Shanoltz and land now or formerly of Alfonso V. Lenzi, South 39 degrees 07 minutes 45 seconds East 79.26 feet to a post on the northern side of a 12 foot alley, the place of **BEGINNING**.

The above description was taken from a Plan prepared for John P. Stahley by Boyer Surveys dated February 21, 1979, Drawing No. D-231, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 27 at page 35.

**BEING** the same premises which William O. Stern and Judith L. Stern, by deed dated June 23, 1999, recorded in the Office of the Recorder of Deeds for Adams County, in Book 1854, on Page 139, granted and conveyed unto Thomas E. Kuykendall, Jr. and Tamra L. Kuykendall, Mortgagors herein.

Tax Parcel Number: Map 6 - Parcel 43

**SEIZED** and taken into execution as the property of **Thomas E. Kuykendall & Tamra L. Kuykendall** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

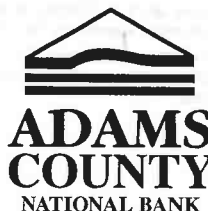
**TO ALL PARTIES IN INTEREST AND CLAIMANTS:** You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 12, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. 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.

12/15, 22 & 29

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# Adams County Legal Journal

Vol. 42

December 29, 2000

No. 31, pp. 170-175

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-787 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of January, 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 tracts of land, situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to-wit:

### TRACT NO. 1:

BEGINNING at an iron pin on the Northwest property line of East King Street, where the same is intersected by the Eastern side of a 16 foot public alley; thence by the Eastern side of said alley, North 25 degrees 15 minutes West, 150 feet to an iron pin; thence through the original tract now or formerly of John W. Messinger and Anna M. Messinger, North 65 degrees 45 minutes East, 44 feet to an iron pin; thence continuing through said original tract, South 25 degrees 15 minutes East, 150 feet to an iron pin on the Northwest property line of E. King Street aforesaid, which iron pin is South 65 degrees 45 minutes West, 22 feet from the Southwest corner of another lot now or formerly of John W. Messinger and wife (Deed Book 248 at page 457); thence along the Northwest side of E. King Street, South 65 degrees 45 minutes West, 44 feet to the above described place of BEGINNING. CONTAINING 6,598.5 square feet.

### TRACT NO. 2:

BEGINNING at an existing iron pipe on the Eastern edge of a 16 foot public alley which is located at the Northwest corner of a lot now or formerly owned by Grantors herein, which is referenced in Adams County Deed Book 321 at page 435; thence continuing along the Eastern edge of the above referenced 16 foot public alley and along lands now or formerly of John W. Messinger and Anna M. Messinger, North 25 degrees 15 minutes 00 seconds West, 114 feet to a steel pin on the Southern edge of a 20 foot public alley at a corner of lands now or formerly of John W. Messinger and Anna M. Messinger; thence continuing along the Southern edge of a 20 foot public alley and by lands now or formerly of John W. Messinger and Anna M. Messinger,

North 65 degrees 30 minutes 00 seconds East, 44 feet to a steel pin on the southern edge of a 20 foot public alley at a corner of lands now or formerly of John W. Messinger and Anna M. Messinger; thence continuing along said same lands, South 25 degrees 15 minutes 00 seconds East, 114.19 feet to an existing iron pipe located at corner of lands now or formerly of the Grantors herein, said line forming the North boundary line of a tract now or formerly of Grantors herein, and more particularly referenced in Adams County Deed Book 321 at page 435, South 65 degrees 45 minutes 00 seconds West, 44 feet to an existing iron pipe on the Eastern edge of a 16 foot public alley, which said pipe is located at the Northwest corner of a tract of lands now or formerly of the Grantors herein, more particularly referenced in Adams County Deed Book 321 at page 435, the place of BEGINNING. CONTAINING 5,020 square feet.

THE above description was taken from a draft of survey prepared by Mort, Brown and Associates, dated April 22, 1986, and identified as Lot No. 1 therein.

SUBJECT, however, to the restriction that neither the Grantors nor Grantee herein, nor their heirs, successors or assigns, shall block or otherwise impede the entrance to a macadam driveway which is located at the Southeastern corner of the above described lot.

BEING the same premises which Tom L. Klepac and Barbara Michelle Johnson-Klepac, by Deed dated August 6, 1998 and recorded in the Office of the Recorder of Deeds of Adams County on August 13, 1998, in Deed Book Volume 1644, Page 52, granted and conveyed unto Michael A. Bialecki.

TOGETHER with all and singular the buildings, improvements, ways, streets, alleys, driveways, passages, waters, watercourses, rights, liberties, privileges, hereditaments and appurtenances, whatsoever unto the hereby granted premises belonging, or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof; and all the estate, right title, interest property, claim and demand whatsoever of them, the said Grantors, as well at law as in equity, of, in and to the same.

TO HAVE and to hold the said lot or piece of ground above described with the buildings and improvements thereon

erected, hereditaments and premises hereby granted, or mentioned, and intended so to be, with the appurtenances, unto the said Grantee, Grantee's heirs and assigns, to and for the only proper use and behoof of the said Grantee, Grantee's heirs and assigns forever.

### Parcel No. 6-31

SEIZED and taken into execution as the property of **Michael E. Bialecki** 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 February 19, 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.

12/22, 29 & 1/5

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-582 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of January, 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.:

Tax Map: J-16

Parcel Number: 7

ALL THAT CERTAIN tract of land situate in Union Township, Adams County, Pennsylvania, identified as Tract No. 3 on Plan of Donald E. Worley, Registered Surveyor, dated October 16, 1996, File No. C-1674, prepared for Aberdeen Holdings and recorded in the Recorder's Office, Adams County, Pennsylvania, in Plan/Plot Book 70, page 44, on December 27, 1996, and being more particularly bounded, limited and described as follows:

BEGINNING for a corner at a point in the center of White Hall Road (State Route 2002) at a corner in common with Charles A. Connolly, the said point being 252 feet Northwestwardly from the intersection of Feeser Road (Township Road No. T-447); then leaving the said road and binding upon the common boundary lines of the said Charles A. Connolly the four following lines (1) North 41 degrees, 04 minutes, 27 seconds East, 339.90 feet to a 24" hickory tree, passing through a steel pin 30.00 feet from the beginning thereof; then (2) South 51 degrees 51 minutes 09 seconds East, 262.20 feet to a steel pin; then (3) South 55 degrees 08 minutes 13 seconds East, 813.99 feet to a planted stone; then (4) North 28 degrees, 45 minutes, 00 seconds East, 1022.62 feet to a steel pin at lands of Kosmos Horse Breeders, Inc.; then binding on the common boundary with said property (5) South 68 degrees, 34 minutes, 05 seconds East, 709.50 feet to a point on the Easterly edge of the cartway of the Littlestown Road (State Route 2019) and a distance of 16.50 feet from the centerline thereof, passing through a steel pin 30.00 feet from the end thereof; then laterally crossing the said road (6) South 21 degrees, 08 minutes, 01 seconds West, 330.99 feet to a point on the Western side of the said road and 30.40 feet from the centerline thereof; then crossing said road (7) South 69 degrees, 11 minutes, 51 seconds East, 61.05 feet to a point on the Eastern side of said road and 30.50 feet from the centerline thereof; then running in and through the said road (8) South 29 degrees, 52 minutes, 37 seconds West, 1442.64 feet to a point in the center of the

said road; then continuing in and through the said road (9) South 29 degrees, 55 minutes, 22 seconds West, 1012.65 feet to a point in the center of said road, a corner in common with David R. Clark; then leaving the said Littlestown Road and binding on the common boundary lines of David R. Clark (10) North 68 degrees, 50 minutes, 11 seconds West, 226.78 feet to a steel pin on the Eastern side of White Hall Road (SR 2002), passing through a steel pin 30.00 feet from the beginning thereof; then by the same (11) South 74 degrees, 09 minutes, 50 seconds West, 20.98 feet to a point in the center of the White Hall Road; then running in and through the centerline of the said road all the remaining 7 lines, by a curve to the left whose radius is 1264.00 feet, an arc distance of 175.38 feet, the long chord of which is (12) North 11 degrees, 28 minutes, 41 seconds West, 175.24 feet to a point in the centerline; then (13) North 15 degrees, 27 minutes, 06 seconds West, 530.37 feet to a point in the centerline; then by a curve to the right whose radius is 592.00 feet, an arc distance of 28.18 feet, the long chord of which is (14) North 14 degrees, 05 minutes, 18 seconds West, 28.17 feet to a point in the centerline; then by a curve to the right whose radius is 592.00 feet, an arc distance of 221.57 feet, the long chord of which is (15) North 02 degrees, 00 minutes, 10 seconds West, 220.27 feet to a point in the centerline; then by a curve to the left whose radius is 336.00 feet, an arc distance of 193.22 feet, the long chord of which is (16) North 07 degrees, 45 minutes, 19 seconds West, 190.57 feet to a point in the centerline; then (17) North 24 degrees, 13 minutes, 48 seconds West, 707.62 feet to a point in the centerline; then by a curve to the left whose radius is 964.50 feet, an arc distance of 166.51 feet, the long chord of which is (18) North 29 degrees, 10 minutes, 32 seconds West, 166.30 feet to a railroad spike in the center of the intersection of White Hall Road aforementioned and Feeser Road (Township Road No. 447); then continuing in the center of White Hall Road (19) North 34 degrees, 51 minutes, 54 seconds West, 252.07 feet to a point in the centerline of said road, the place of BEGINNING.

CONTAINING 62.5443 Acres (neat measure).

SEIZED and taken into execution as the property of **G.C.W. Properties, Inc.** 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 February 19, 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.

12/15, 22 & 29

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-422 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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 described lot of ground with improvements thereon erected, situate in Reading Township being known as Lot No. 891 on a plan of lots of Lake Meade Subdivision, said plan being duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 1 at page 6.

SEIZED and taken into execution as the property of **Pamela M. Howe & Danny Howe** 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 February 12, 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.

12/15, 22 & 29

## COMMONWEALTH VS. STAUB

1. Section 9544 of the PCRA provides that an issue has been previously litigated if the highest appellate court in which defendant could have had review as a matter of right has ruled on the merits of the issue. An issue is waived if defendant could have raised the issue but failed to do so before trial, at trial, during unitary review, or on direct appeal.

2. Pa. R. Crim. P. 1507 authorizes dismissal of a PCRA petition without a hearing if a judge decides, after reviewing the petition, answer and matters of record, that "there are no genuine issues concerning any material fact and that the defendant is not entitled to post-conviction collateral relief, and no purpose would be served by any further proceedings."

3. Claims of ineffectiveness (of counsel) should be raised at the earliest opportunity. This claim is being raised for the first time on collateral appeal and has therefore been waived for purposes of post conviction relief.

4. A court reviewing a claim of ineffective assistance of counsel is first required to determine whether the issue underlying the claim is of arguable merit.

5. It is well settled that the statements made during the plea colloquy cannot be contradicted in hopes of advancing a claim for relief under the PCRA.

6. Police are not empowered to enter into plea agreements.

7. In order to be cognizable under the PCRA the petitioner must plead and prove by a preponderance of the evidence that the sentence resulted from the imposition of a sentence greater than the lawful maximum. Allegations concerning a trial court's consideration of various allegedly mitigating factors do not fall within cognizable basis for relief under PCRA.

In the Court of Common Pleas of Adams County, Pennsylvania,  
Criminal, No. CC-797-95. COMMONWEALTH OF PENNSYLVANIA VS. VIRGINIA M. STAUB.

Michael A. George, Esq., for Commonwealth

Barbara Jo Entwistle, Esq., for Defendant.

Spicer, P.J., October 29, 1999.

### OPINION ON MOTION TO DISMISS PCRA PETITION

Defendant was arrested for possession with intent to deliver cocaine and criminal conspiracy to possess cocaine with intent to deliver. Defendant appeared in court April 8, 1996, represented by Anthony Miley, Assistant Public Defender of Adams County, and entered a plea of *nolo contendere* to the charges pursuant to a plea agreement. The plea agreement called for a sentence of not less than 14 months nor more than 28 months. Sentencing was deferred until June 21, 1996.

On May 21, 1996, defendant with counsel, appeared before the court and requested and was granted leave to withdraw her plea of

*nolo contendere*. During this proceeding defendant was warned by the District Attorney and the court that withdrawal of the plea could result in a mandatory three year sentence for the possession of more than two grams of cocaine. The case then proceeded to trial and a jury found defendant guilty of both charges on June 14, 1996. On July 24, 1996, defendant was sentenced to not less than three years nor more than six years.

Defendant filed post-sentence motions challenging the imposition of the mandatory sentence and raising an ineffectiveness of counsel claim. Trial counsel then filed and was granted motion to withdraw as counsel and new counsel was appointed. Supplemental post-sentence motions were filed alleging trial counsel was ineffective for failing to object to highly prejudicial testimony concerning a series of controlled drug transactions occurring in her home. The court dismissed the post-trial motions after a hearing finding that counsel's failure to object to the testimony was grounded in a reasonable trial strategy.

Superior Court affirmed the conviction and the Supreme Court denied defendant's petition for allowance of appeal. Defendant now files a petition for post conviction relief alleging ineffectiveness of trial counsel for failing to enforce a plea agreement and that the trial court should not have imposed the mandatory sentence.

The Commonwealth has moved to dismiss the petition contending that the issues raised have been previously litigated or waived and do not necessitate a hearing.

Section 9544 of the PCRA provides that an issue has been previously litigated if the highest appellate court in which defendant could have had review as a matter of right has ruled on the merits of the issue. An issue is waived if defendant could have raised the issue but failed to do so before trial, at trial, during unitary review, or on direct appeal.

Pa. R. Crim. P. 1507 authorizes dismissal of a PCRA petition without a hearing if a judge decides, after reviewing the petition, answer and matters of record, that "there are no genuine issues concerning any material fact and that the defendant is not entitled to post-conviction collateral relief, and no purpose would be served by any further proceedings." The rule requires twenty days' advance notice of intention to dismiss, with reasons therefore, but an opinion

and order entered after argument will satisfy the rule. *Commonwealth v. Hardcastle*, 549 Pa. 450, 701 A.2d 541 (1997), *reargument denied* 1/2/98; *Commonwealth v. Lark*, 548 Pa. 441, 698 A.2d 43 (1997).

The defendant claims that trial counsel was ineffective for failing to enforce a plea offer which was later revoked by the Commonwealth. Claims of ineffectiveness (of counsel) should be raised at the earliest opportunity. *Commonwealth v. Kenney*, \_\_\_ Pa. \_\_\_, 732 A.2d 1161 (1999). Although defendant asserted ineffectiveness following the jury verdict, the specific ground advanced in the PCRA proceedings was not presented. This claim is being raised for the first time on collateral appeal and has therefore been waived for purposes of post conviction relief. 42 Pa. C.S.A. § 9544(b).

However, we still must determine if a layered ineffectiveness claim may prove successful. *Commonwealth v. Pursell*, 555 Pa. 233, 724 A.2d 293, *reargument denied* 4/5/99, *petition for cert. filed* 9/2/99. Defendant has submitted a letter with her memorandum, which we view as an offer for purposes of a hearing. The letter dated March 21, 1996 from trial counsel to defendant stated:

Enclosed is an offer from the District Attorney with reference to your pending criminal charges here in Adams County. As you will see, the District Attorney is offering you a 14-28 month state suspended sentence in exchange for a guilty plea in the above-referenced case. This plea is contingent upon your truthful or testimony in a trial against Mr. Sanchez, should that need arise.

I have recently spoken to Ken Hassinger regarding the progress of your case. He has indicated to me in no uncertain terms that you need to make at least one more buy in order to reduce these charges to simple possession. A conviction on simple possession could potentially give you a probationary sentence as opposed to a jail sentence. I hope this difference in sentence ranges is enough to convince you to give Mr. Hassinger a call. I have spoken to him. He is still willing to use you if you make the effort to call him.

There is no dispute that the terms of the alleged offer, to reduce the charge to (a)(16) were never met. Defendant's memorandum again is in the form of an offer for purposes of a hearing. Defendant contends that the Commonwealth prevented her from fulfilling the agreement.

The question is may she assert this as grounds for relief? Certainly the record provides no support for the position. Defendant appeared before the court April 8, 1996, and entered a plea of *nolo contendere* to the charge of possession with intent to deliver pursuant to a plea agreement that defendant would serve a sentence of 14 to 28 months incarceration. A review of the plea colloquy indicates that defendant was satisfied with the services and advice of her attorney. Specifically, the following exchange took place:

**THE COURT:** Do you think you understand enough to make an intelligent decision about pleading guilty or pleading *nolo contendere*?

**THE DEFENDANT:** Yes, Your Honor.

**THE COURT:** Have you had enough time to discuss your decision with Mr. Miley?

**THE DEFENDANT:** Yes, Your Honor.

**THE COURT:** Are you satisfied with his advice and his service?

**THE DEFENDANT:** Yes, Your Honor.

**THE COURT:** Anybody pressured you in any way or promised you anything other than the plea arrangement that we have heard to cause you to enter this plea of *nolo contendere*?

**THE DEFENDANT:** No, Your Honor.

**THE COURT:** You're doing this of your own free will and choice then?

**THE DEFENDANT:** Yes, Your Honor.

Transcript of plea colloquy April 8, 1996, at pp. 6-7.

A court reviewing a claim of ineffective assistance of counsel is first required to determine whether the issue underlying the claim is of arguable merit. *Commonwealth v. Lewis*, \_\_\_ Pa. Super. \_\_\_, 708 A.2d 497 (1998), *alloc. denied* 555 Pa. 741, 725 A.2d 1219 (1998). It is well settled that the statements made during the plea colloquy



cannot be contradicted in hopes of advancing a claim for relief under the PCRA. *Commonwealth v. Harris*, 381 Pa. Super. 206, 553 A.2d 428 (1989). “A defendant may not assert grounds for withdrawing the guilty plea that contradicts statements made when he pled guilty.” *Commonwealth v. Barnes*, 455 Pa. Super. 267, 276, 687 A.2d 1163, 1167 (1996), *alloc. denied* 548 Pa. 613, 693 A.2d 585 (1997). Therefore, even if the claim of ineffectiveness of trial counsel for failing to enforce a plea offer is not waived, the claim is without merit since appellant’s own statement indicates she was satisfied with counsel’s representation and was not promised anything other than the plea agreement as entered.

Although defendant advances an interesting argument to the effect that plea negotiations may be specifically enforced, just as any other contractual matter, two observations are in order. First, the only definite agreement to which Mr. Miley’s letter refers, was the one offered by the Commonwealth and ultimately rejected by defendant. It is interesting to note that her rejection, as reflected by both her trial testimony and her motion to withdraw, was an assertion of innocence. During trial, she admitted being a drug user but specifically denied being a drug seller.

Secondly, the purported agreement evidently came from the prosecuting officer, not from the District Attorney. Police are not empowered to enter into plea agreements. *Commonwealth v. Stipetich*, 539 Pa. 428, 652 A.2d 1294 (1995).

Appellant’s second claim is that the Commonwealth should not have demanded and the court should not have imposed a mandatory sentence in light of appellant’s cooperation with the police. Appellant asserts she is not arguing that the sentence was illegal, but that it was unwarranted. In order to be cognizable under the PCRA the petitioner must plead and prove by a preponderance of the evidence that the sentence resulted from the imposition of a sentence greater than the lawful maximum. 42 Pa. C.S.A. § 9543(a)(2)(vii). Allegations concerning a trial court’s consideration of various allegedly mitigating factors do not fall within cognizable basis for relief under PCRA. *Commonwealth v. Gonzalez*, 415 Pa. Super. 65, 76, 608 A.2d 528, 533 (1992).

For the above mentioned reasons the Commonwealth’s motion to dismiss the PCRA petition without hearing is granted.

The attached order is entered.

#### ORDER OF COURT

AND NOW, this 29th day of October, 1999, defendant's PCRA petition is dismissed. This order and opinion shall act as notice, under Pa. R.Crim. P. 1507, in accordance with *Commonwealth v. Hardcastle*, 549 Pa. 450, 701 A.2d 541 (1997), *cert. denied* 1/2/98. Defendant is notified that she may either move to vacate this order within ten days hereof, or appeal to Superior Court within thirty days hereof. The Clerk of Courts is directed to provide a copy of this order to counsel, and to mail a copy to defendant at the state correctional institution where she is housed, by certified mail, return receipt requested.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-345 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of January, 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 in Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a stake along the Southern property line of the Gettysburg-Fairfield State Highway, at the Northwest corner of land of Jay R. Schmitt and wife; thence by said Schmitt land, South 16 degrees 30 minutes East, 120 feet to a stake; thence through the original tract of the Grantor, South 73 degrees 30 minutes West, 219.95 feet to a stake; thence by land of David Swisher, North 25 degrees East, 160.22 feet to a stake on the Southern property line of said Gettysburg-Fairfield State Highway; thence by the Southern property line of said State Highway, North 73 degrees, 30 minutes East, 110 feet to the above described place of BEGINNING.

CONTAINING 72.7 Perches.

HAVING THEREON ERECTED A DWELLING KNOWN AS 986 Fairfield Road, Gettysburg, PA 17325.

BEING THE SAME PREMISES WHICH Gettysburg Construction Company, by their Deed dated November 24, 1971, and recorded in Adams County Recorder of Deeds on November 24, 1971, in Deed Book 296, page 938, granted and conveyed onto William C. Becker (Deceased) and Anna M. Becker.

Map & Parcel # W2-28

SEIZED and taken into execution as the property of **Anna M. 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 February 19, 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.

12/22, 29 & 1/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-457 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of January, 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, limited and described as follows, to wit:

BEGINNING for a point on the Northern edge of Drummer Drive at Lot No. 57 of the hereinafter referenced subdivision plan; thence along said Northern edge of Drummer Drive 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. 59 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-seven hundredths (134.37) feet to a point at Lot No. 60 of said plan; thence along same 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. 57 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-seven hundredths (134.37) feet to a point on the Northern edge of Drummer Drive, the point and place of BEGINNING.

CONTAINING 12,093 square feet.

THE above described lot being designated as Lot No. 58 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.

BEING the same premises which J.A. Myers Building and Development, Inc., William Bast and William Prin, Co-Partners in a joint venture MPR Associates, by Deed dated July 3, 1995 and recorded in the Office of the Recorder of Deeds of Adams County on July 31, 1995 in Deed Book Volume 1060, Page 249, granted and conveyed unto David S. Schreiber and Susan M. Schreiber, husband and wife as Tenants by the Entirety.

Grenen & Birsic, P.C.  
By: /s/Kristine M. Faust, Esq.

Attorneys for Plaintiff  
One Gateway Center, Nine West  
Pittsburgh, PA 15222  
(412) 281-7650

Parcel No.: 1-83

SEIZED and taken into execution as the property of **David S. Schreiber & Susan M. Schreiber** 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 February 19, 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.

12/22, 29 & 1/5

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-761 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of January, 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 three tracts of land situate in the Borough of Fairfield, Adams County, Pennsylvania, bounded and described as follows:

**TRACT NO. 1:** Being Lot No. 1 on a Plan prepared for John P. Stahley by Boyer Surveys dated February 21, 1979, Drawing No. D-231, being recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 27 at page 35, being more fully bounded and described as follows:

BEGINNING at a point in the center of Water Street (L.R. 01071), at corner of lands now or formerly of Harry O. and Lucille H. Shanoltz; thence along the center of Water Street (L.R. 01071), South 58 degrees 54 minutes 43 seconds East, 57.39 feet to a point on the Westerly side of a 12 feet wide alley; thence along said 12 feet wide alley, South 52 degrees 0 minutes 0 seconds West, 132.52 feet to a chisel mark in concrete at corner of Lot No. 2 on the aforementioned Plan of Lots; thence along Lot No. 2, North 39 degrees 12 minutes 9 seconds West, 48.47 feet to a point at lands now or formerly of Harry O. and Lucille H. Shanoltz; thence along lands now or formerly of Harry O. and Lucille H. Shanoltz, North 49 degrees 23 minutes 43 seconds East 113.18 feet to a point, the place of BEGINNING. CONTAINING 6,294 square feet.

**TRACT NO. 2:** BEGINNING at a chisel mark in concrete on the northern edge of a 12 foot wide alley at corner of land now or formerly of Alfonso V. Lenzi; thence by land now or formerly of Alfonso V. Lenzi North 39 degrees 07 minutes 45 seconds West, 48.28 feet to an iron pin at corner of land now or formerly of Alfonso V. Lenzi and land now or formerly of Harry O. and Lucille H. Shanoltz; thence by said land of Harry O. and Lucille H. Shanoltz, North 49 degrees 23 minutes 43 seconds East, 4.02 feet to an iron pin on line of said land now or formerly of Harry O. and Lucille H. Shanoltz at corner of land now or formerly of John P. Stahley; thence by said land of John P. Stahley, South 39 degrees 12 minutes 09 seconds East, 48.47 feet to a chisel mark in concrete at corner of land now or formerly of John P. Stahley on the northern edge of a 12 foot wide alley; thence running along the northern edge of said 12 foot wide alley, South 52 degrees 00 minutes 00 seconds West, 4.09 feet to a chisel mark in concrete on the northern edge of a 12 foot wide alley at corner of land now or formerly of Alfonso V. Lenzi,

the place of BEGINNING. CONTAINING 196 square feet.

The above description was taken from a final subdivision plan of the property of John P. Stahley dated February 21, 1979, prepared by Boyer Surveys, Drawing #D-231, which is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 27 at page 35 and designated as Lot #2.

**TRACT NO. 3:** BEGINNING at a post on the northern side of a 12 foot alley, at corner of land now or formerly of Alfonso V. Lenzi and the southeastern corner of the tract herein conveyed; thence along the northern side of said 12 foot alley South 52 degrees 00 minutes 00 seconds West 66.60 feet to a point at corner of land now or formerly of Ronald F. and Caroline B. Kump; thence along land now or formerly of Ronald F. and Caroline B. Kump North 38 degrees 00 minutes 00 seconds West 80.00 feet to a point at corner of land now or formerly of Charles L. and Sylvia J. Deardorff; thence by land now or formerly of Charles L. and Sylvia J. Deardorff North 52 degrees 39 minutes 51 seconds East, 65.04 feet to a point on line of land now or formerly of Harry O. and Lucille H. Shanoltz; thence along land now or formerly of Harry O. and Lucille H. Shanoltz and land now or formerly of Alfonso V. Lenzi, South 39 degrees 07 minutes 45 seconds East 79.26 feet to a post on the northern side of a 12 foot alley, the place of BEGINNING.

The above description was taken from a Plan prepared for John P. Stahley by Boyer Surveys dated February 21, 1979, Drawing No. D-231, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 27 at page 35.

BEING the same premises which William O. Stern and Judith L. Stern, by deed dated June 23, 1999, recorded in the Office of the Recorder of Deeds for Adams County, in Book 1854, on Page 139, granted and conveyed unto Thomas E. Kuykendall, Jr. and Tamra L. Kuykendall, Mortgagees herein.

Tax Parcel Number: Map 6 - Parcel 43

SEIZED and taken into execution as the property of **Thomas E. Kuykendall & Tamra L. Kuykendall** 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 February 12, 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.

12/15, 22 & 29

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-932 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of January, 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 lot or parcel of land situate, lying and being in the Township of Franklin in the development of Gettysburg Mountain Campsites, Inc., County of Adams and State of Pennsylvania, to wit:

LOT No. 24, of Section A, respectively as shown on the survey and original plat of Gettysburg Mountain Campsites, Inc., Adams County, Pennsylvania, made by a Registered Surveyor and of record in the Recorder of Deeds Office of Adams County, Pennsylvania, in Miscellaneous Book No. 4, page 487.

Tax Parcel # 2-25A

The improvements thereon being known as No. 53 Pheasant Trail, Box 448.

IMPROVEMENTS consist of a single family residential dwelling.

BEING PREMISES: 53 Pheasant Trail, Box 448, Orrtanna, PA 17353.

SOLD as the property of Richard J. Smith, Jr. and Ethel Smith.

SEIZED and taken into execution as the property of **Richard J. Smith, Jr. & Ethel M. Smith** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 19, 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.

12/29, 1/5 & 12

**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 F. BLACK a/k/a MARY FLORENCE BLACK, DEC'D**

Late of Huntington Township, Adams County, Pennsylvania

Executors: Darwyn L. Black and Kenneth D. Black, c/o 645 Lindsey Rd., Carlisle, PA 17013

Attorney: William S. Daniels, Esq., Humer & Daniels, 1 W. High St., Ste. 205, Carlisle, PA 17013

**SECOND PUBLICATION****ESTATE OF CLAIRE T. CHAMBERLAIN a/k/a CLAIRE THERESA CHAMBERLAIN, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Linda Miller, 3081 York Road, Gettysburg, PA 17325

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

**ESTATE OF DOROTHY E. ELICKER, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: William H. Bentz and Donna J. Stoudnour, c/o Wm. D. Schrack, III, 124 West Harrisburg Street, Dillsburg, PA 17019-0310

Attorney: Wm. D. Schrack, III, 124 West Harrisburg Street, Dillsburg, PA 17019-0310

**ESTATE OF BERTHA B. ERB, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executor: James R. Erb, 201 Quail Run, Wyoming, Delaware 19934

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

**ESTATE OF BONNIE L. HAWK, DEC'D**

Late of Union Township, Adams County, Pennsylvania

J. Larry Hawk, 1938 White Hall Road, Littlestown, PA 17340

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

**ESTATE OF JUNIOR RALPH HELLER, DEC'D**

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executors: Raymond E. Heller, 261 Clines Church Road, Aspers, PA 17304; Eugene P. Heller, 380 Potato Road, Aspers, PA 17304

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

**ESTATE OF EDNA C. PLUNKERT, DEC'D**

Late of Union Township, Adams County, Pennsylvania

Merwyn D. Dutterer, 1714 Lauterbach Road, Finksburg, MD 21048

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

**ESTATE OF RELDA G. WILDASIN, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executors: Elsie M. Amspacher, 310 Fleming Avenue, Hanover, PA 17331; Robert Amspacher, Jr., 310 Fleming Avenue, Hanover, PA 17331

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

**THIRD PUBLICATION****ESTATE OF ANNA BUSINDA, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executor: Allfirst Trust Company of Pennsylvania, N.A. Successor by merger to Valleybank and Trust Company, P.O. Box 459, Chambersburg, PA 17201

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF DORIS J. MOSES, DEC'D**

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

Executrix: Ms. Susan McCleaf, 500 Jack's Mountain Road, Fairfield, PA 17320

Attorney: Matthew R. Battersby, Esq., Battersby & Sheffer, 20 West Main Street, P.O. Box 215, Fairfield, PA 17320

**ESTATE OF HUBER SMITH, JR., DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

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

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

**ESTATE OF ELIZABETH L. SNYDER, DEC'D**

Late of the Borough of Arendtsville, Adams County, Pennsylvania

Executrix: Joyce A. Eicholtz, 31 North High Street, Arendtsville, PA 17303

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-989 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of January, 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 real estate located in Reading Township, Adams County, Pennsylvania, and more particularly described in accord with a final subdivision plan prepared by Adams County Surveyors, Drawing D-321-A, dated June 30, 1978, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 23, page 6, as follows:

BEGINNING at a pipe in the Southwestern edge of a fifty (50) foot right-of-way known as Germany Court and the Eastern edge of Lot No. 5 as shown on the aforesaid final subdivision plan; thence along the Southwestern edge of said Germany Court, South forty-nine (49) degrees forty-one (41) minutes twenty (20) seconds East, three hundred thirty and no hundredths (330.00) feet to a pipe in the edge of Germany Court; thence along Lot No. 7 as shown on said plan, South forty (40) degrees eighteen (18) minutes forty (40) seconds West, three hundred fifty and no hundredths (350.00) feet to a pipe; thence by same, North forty-nine (49) degrees five (5) minutes twenty (20) seconds West, four hundred twenty-one and no hundredths (421.00) feet to a pipe at the Southern corner of Lot No. 5 as shown on said plan; thence by same, North fifty-five (55) degrees three (3) minutes thirty (30) seconds East, three hundred fifty-seven and thirty-six hundredths (357.36) feet to a pipe in the Southwestern edge of Germany Court, the point and place of BEGINNING.

Tax Parcel #K6-15J

BEING KNOWN AS: 155 Germany Court, East Berlin, PA 17316

TITLE TO SAID PREMISES IS VESTED IN Albert E. Pate by deed from Albert E. Pate and Linda L. Pate, husband and wife dated August 27, 1991, recorded August 28, 1991, in Deed Book 598, Page 453.

SEIZED and taken into execution as the property of **Albert E. Pate** 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 February 19, 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.

12/29, 1/5 & 12

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-603 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of February, 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.:

Herr's Ridge Road and Old Mill Road, Gettysburg, PA, Tax Map E-13, Parcel 6A

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

BEGINNING at a cotton gin spindle found in the centerline of Herr's Ridge Road, T-338, at corner of lands now or formerly of John Weaver; thence along centerline of said road, South 41 degrees 46 minutes 05 seconds West, 255.21 feet to a P.K. nail found 1.5 feet east of the centerline of aforesaid road; thence in said road, South 41 degrees 27 minutes 10 seconds West, 492.08 feet to a cotton gin spindle in centerline of said Herr's Ridge Road, T-338, at lands now or formerly of Robert Fitz; thence along said lands of Robert Fitz and passing through a steel post found 22.70 feet back from the beginning of this course, North 48 degrees 36 minutes 20 seconds West, 227.71 feet to a steel rod found at lands of same; thence along same and lands now or formerly of Garnet Newton and passing through a steel rod found 20.00 feet back from the terminus of this course, South 41 degrees 27 minutes 10 seconds West, 400.00 feet to a cotton gin spindle found near the centerline of Old Mill Road, T-337; thence in and along said Old Mill Road, North 48 degrees 36 minutes 20 seconds West, 197.29 feet to a P.K. nail found 1.00 foot south of the centerline of said Old Mill Road; thence in and along same, North 48 degrees 44 minutes 15 seconds West, 560.79 feet to a cotton gin spindle found in said Old Mill Road at lands now or formerly of W. Richard Schubert; thence along said lands of Schubert and passing through a steel rod found 25.63 feet back from the beginning of this course, North 42 degrees 03 minutes 25 seconds East, 730.00 feet to a pipe found at lands now or formerly of

Melinda H. Davis, et al.; thence along said lands of Davis, North 41 degrees 30 minutes 10 seconds East, 325.00 feet to a pipe found at lands of same; thence along same and lands now or formerly of Donald Doersom, North 39 degrees 54 minutes 30 seconds East, 642.79 feet to a pipe found at lands now or formerly of Dale Hikes; thence along said lands of Hikes, South 45 degrees 38 minutes 30 seconds East, 583.67 feet to a steel rod in concrete found at lands now or formerly of Robert Hand; thence along said lands of Robert Hand, South 42 degrees 12 minutes 55 seconds West, 134.30 feet to a steel rod found at lands of said Hand; thence along same, South 45 degrees 22 minutes 45 seconds East, 99.97 feet to a steel rod found at corner of lands now or formerly of Robert Hand and now or formerly of George Singer; thence along said lands of George Singer and lands now or formerly of John Weaver, South 42 degrees 12 minutes 30 seconds West, 360.03 feet to a steel rod found; thence along said lands of Weaver and passing through a pipe found 24.63 feet back from the terminus of this course, South 45 degrees 14 minutes 05 seconds East, 320.87 feet to a cotton gin spindle found in the centerline of Herr's Ridge Road, T-338, the point and place of BEGINNING. CONTAINING 31.702 acres, more or less. (The foregoing description was taken from a Subdivision Plat prepared by Robert A. Sharrah, P.L.S., dated March 14, 1995, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 66, page 78, and identified as Lot No. 1 thereon.)

SEIZED and taken into execution as the property of **Cannon Ridge Developers** 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 March 5, 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.

12/29, 1/5 & 12