

Adams County Legal Journal

Vol. 46

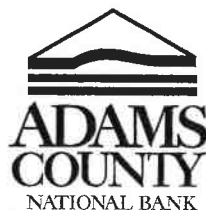
April 1, 2005

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COMMONWEALTH VS. SANCHEZ

Adams County National Bank's commitment to its communities is more than a fleeting promise. It is a tradition founded upon our more than 130 years of service to the individuals, businesses and organizations in these communities.



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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-26 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 April, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being in the Township of Mount Joy, County of Adams and Commonwealth of Pennsylvania, being known and numbered as Lot No. 2 as shown on the Final Plan prepared for Dorothy J. Boggs by Adams County Surveyors, dated the 26th day of July 1999, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plan Book 77, page 39, and more particularly bounded, limited and described as follows, to wit:

BEGINNING at a magnetic spike in the public road known as Krug Road, also known as T-429, at a corner of lands now or formerly of Clarence Williams; thence crossing said road and along lands now or formerly of said Clarence Williams (passing thru an existing axle set thirty (30) feet from the aforesaid beginning point), and lands now or formerly of Clarence Myers, North 14 degrees 42 minutes 30 seconds East, 400.41 feet to a steel rod at a corner of Lot No. 1 on the above-mentioned Plan, which lands were formerly a part hereof; thence along said Lot No. 1, South 75 degrees 17 minutes 30 seconds East, 180.00 feet to a steel rod; thence continuing along said Lot No. 1 and passing thru a steel rod set on the Northern dedicated right-of-way line of the aforesaid public road known as Krug Road, South 14 degrees 42 minutes 30 seconds West, 332.92 feet to a magnetic spike in the aforesaid public road known as Krug Road, also known as T-429; thence in and along said Krug Road, South 84 degrees 09 minutes 15 seconds West, 192.24 feet to a magnetic spike, the point and place of BEGINNING.

CONTAINING 66,000 square feet in area.

Map #30-H17-13E.

TITLE TO SAID PREMISES IS VESTED IN Ryan Robert Heflin and Erica

Nicole Kint, as Joint Tenants with Right of Survivorship and not as Tenants in Common by Deed from Thomas R. Boggs and Noelle J. Boggs, husband and wife dated 5/10/2004 and recorded 5/11/2004, in Record Book 3562 Page 227.

SEIZED and taken into execution as the property of **Ryan R. Heflin a/k/a Ryan Robert Heflin & Erica N. Kint a/k/a Erica Nicole Kint** 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 May 23, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/18, 24 & 4/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-4 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of April, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that herein described piece or parcel of land lying and being in the Borough of McSherrystown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at the center of the whole lot, being a point on the South side of North Street; thence by the division line between the said half lot and the remaining half lot on the West, and running Southward one hundred eighty-two (182) feet North to North Street alley; thence by said North Street alley, thirty (30) feet Eastward to lot now or formerly of Henry

Noel; thence with the line of the lot now or formerly of Henry Noel, one hundred eighty-two (182) feet North to North Street aforesaid; and thence with said North Street, Westward thirty (30) feet to the place of BEGINNING. CONTAINING 5,460 Square Feet, more or less.

IT BEING the same tract of land which Joseph A. Myers and Gladys A. Myers, his wife, by their Deed dated September 3, 1982, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book Vol. 364, page 303, granted and conveyed unto Yvonne R. Hayes, Grantor herein.

SUBJECT TO conditions pertaining to well as contained in Adams County Deed Book 65, at page 304.

Premises being: 220 North Street,
McSherrystown, PA 17344

Tax Parcel No. 28-002-0072-000

SEIZED and taken into execution as the property of **James H. Groff & Joanne E. Groff** 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 May 23, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/18, 24 & 4/1

COMMONWEALTH VS. SANCHEZ

1. It is an axiomatic principle of criminal law that the Court is not bound to accept a plea agreement reached between the parties.
2. Once the plea agreement is accepted, the Court lacks authority to alter the terms of the agreement absent mistake, misrepresentation or illegality. Accordingly, a challenge to the discretionary aspects of a sentence imposed pursuant to a negotiated plea is improper.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-970-03. COMMONWEALTH OF PENNSYLVANIA VS. STEVEN LUIS SANCHEZ.

Brian R. Sinnett, Esq., Assistant District Attorney, for Commonwealth
Kristin L. Rice, Esq., for Defendant
George, J., May 14, 2004

OPINION PURSUANT TO P.A.R.A.P. 1925

The Appellant, Steven Luis Sanchez (hereinafter referred to as “Sanchez”) appeals from a sentence this Court entered on March 8, 2004 which was entered pursuant to a plea agreement with the Commonwealth. In his Concise Statement of Matters Complained of on Appeal, Sanchez alleges that the Court “failed to modify the Defendant’s sentence of two (2) to four (4) years to one of state-suspension”. This issue is meritless.

On March 8, 2004 Sanchez appeared before your undersigned for the purpose of entering a plea pursuant to a plea agreement with the Commonwealth. The plea agreement called for Sanchez to plead guilty to the charge of theft by receiving stolen property as a felony of the third degree in exchange for a sentence of two (2) to four (4) years in a state correctional institution. The agreement called for the place of sentence, however, to be suspended and the sentence to be served at the Adams County Prison as long as Sanchez complied with the rules and regulations of that facility. The agreement further specified an effective date of October 23, 2003 and left to this Court the discretion to impose a fine up to the maximum allowed by law. After discussing the terms of the agreement with Sanchez, this Court rejected the agreement indicating that the state-suspended portion of the agreement was unacceptable. In doing so, your undersigned noted that following imposition and service of the current sentence, Sanchez would be recommitted to a state facility as a result of a state parole violation. Additionally, Sanchez’s substantial previous

criminal record and his inability to conform his conduct under local supervision were considered. Finally, your undersigned referenced the potential for additional treatment opportunities in a state setting.

Following the Court's rejection of the plea agreement, Sanchez indicated that he was willing to move forward with the guilty plea pursuant to an agreement similar to that which was originally tendered to this Court. However, Sanchez agreed that service of the sentence would not be suspended to the local facility but rather would be served in a state setting. Following this modification and agreement by the parties, this Court accepted the plea agreement. The sentence was imposed that same date pursuant to the terms of the modified agreement. Thereafter, Sanchez filed a Motion to Modify Sentence which this Court denied on March 24, 2004.

It is an axiomatic principle of criminal law that the Court is not bound to accept a plea agreement reached between the parties. Pa.R.Crim.P. 590(A)(3); *Commonwealth v. Marsh*, 293 A.2d 57, 60 (Pa. 1972). Interestingly, Sanchez does not challenge whether his subsequent guilty plea was voluntarily or knowingly entered. Neither does Sanchez challenge the legality of the sentence imposed nor whether the Court followed an accepted plea agreement. Accordingly, Sanchez has not raised a cognizable claim.

Since Sanchez frames his appeal in language challenging the Court's refusal to modify the sentence, he appears to raise a challenge to the discretionary aspects of the sentence. Interpreting this claim in such a manner, however, does not provide Sanchez relief. Initially, the sentence this Court imposed was not a discretionary sentence pursuant to an open plea bargain but rather was negotiated as to its terms. See generally *Commonwealth v. Dalberto*, 648 A.2d 16, 19-20 (Pa.Super. 1994). In such instances, once the plea agreement is accepted, the Court lacks authority to alter the terms of the agreement absent mistake, misrepresentation or illegality. *Commonwealth v. Coles*, 530 A.2d 453, 456 (Pa.Super. 1987). Accordingly, a challenge to the discretionary aspects of a sentence imposed pursuant to a negotiated plea is improper. *Id.*; see also *Commonwealth v. Reichle*, 589 A.2d 1140, 1141 (Pa.Super. 1991).

Even if this Court would view the place of service of this sentence as remaining in the discretion of this Court, Sanchez's argument must still fail. It is incomprehensible as to how Sanchez is able to

establish that his sentence “violated the fundamental norms underlying the sentencing process” See *Commonwealth v. Simpson*, 829 A.2d 334, 337 (Pa.Super. 2003). Sanchez was sentenced to a minimum sentence at the bottom of the standard range under the Pennsylvania Sentencing Guidelines.¹ A sentence to the state correctional institution on a sentence the length of Sanchez’s sentence also falls squarely within the statutory authorization. See 42 Pa.C.S.A. § 9762.

Under these circumstances, Sanchez’s challenge is meritless.

¹ Sanchez was sentenced as a repeat felon for a charge carrying an offense gravity score of five. The Sentencing Guidelines call for a standard sentence in the range of twenty-four (24) to thirty-six (36) months.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1266 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 April, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the right-of-way line of Charlestown Court as Lot No. 52 as shown on the hereinafter referenced subdivision plan; thence running along said right-of-way line of Charlestown Court North fifty-three (53) degrees nineteen (19) minutes three (3) seconds East, seventy and seventy-one hundredths (70.71) feet to a point on the right-of-way line of Charlestown Court at Lot No. 54 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 54 South twenty-seven (27) degrees thirty-six (36) minutes fifty-one (51) minutes East, one hundred nineteen and ninety-eight hundredths (119.98) feet to a point at Lot No. 55 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 55 South sixty-four (64) degrees seventeen (17) minutes thirty-four (34) seconds West, sixty-nine and eighty-six hundredths (69.86) feet to a point at Lot No. 52 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 52 North twenty-seven (27) degrees thirty-six (36) minutes fifty-one (51) seconds West, one hundred six and fifty-one hundredths (106.51) feet to a point on the right-of-way line of Charlestown Court as Lot No. 52 the point and place of BEGINNING, CONTAINING 7,907 square feet.

The above description being Lot No. 53 on the Phase 4 Final Plan for Heritage Hill II, prepared by Martin and Martin, Incorporated, dated December 7, 1997, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 76, Page 17.

SUBJECT, NEVERTHELESS, to the Protective Covenants of Heritage Hill II, dated April 1, 1996, and recorded April 10, 1996, in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 1172, Page 270.

BEING THE SAME PREMISES which Heritage Hill II Limited Partnership and New Age Associates, Incorporated by Deed dated September 22, 2000 and

recorded in the Office of the Recorder of Deeds of Adams County on September 22, 2000 in Deed Book Volume 2130, Page 226, granted and conveyed unto James R. Seldomridge and Christie D. Seldomridge, husband and wife, as tenants by the entireties.

DBV 2130

Page 226

Parcel 10-55

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

SEIZED and taken into execution as the property of **James R. Seldomridge & Christie D. Seldomridge** 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 May 23, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/18, 24 & 4/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-731 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 April, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County PA, the following Real Estate, viz.:

ALL THE FOLLOWING described tract of land situate, lying and being in Reading Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a corner at a point three and eighty-one hundredths (3.81) feet South of the centerline of Possum Hollow Road (T-576); thence in and along said Possum Hollow Road (T-576) North forty (40) degrees forty-five (45) minutes East two hundred and thirty-one hundredths (200.31) feet to a point two and thirty-seven hundredths (2.37) feet South of the centerline of said Possum Hollow

Road (T-576); thence along lands now or formerly of Donald Sponseller, South forty-six (46) degrees four (4) minutes sixteen (16) seconds East, four hundred fifty-seven and eighty hundredths (457.80) feet to a steel pin; thence along lands now or formerly of Ervin A. Sauble South fifty-eight (58) degrees thirty-three (33) minutes three (3) seconds East two hundred seventy-eight and sixty-four hundredths (278.64) feet to a steel pin; thence along lands now or formerly of Larry E. Myers, South forty-five (45) degrees forty-four (44) minutes eleven (11) seconds West three hundred forty-nine and forty-seven hundredths (349.47) feet to a steel pin; thence along lands now or formerly of Larry E. Myers North thirty-one (31) degrees fifty-one (51) minutes forty-three (43) seconds West three hundred sixty-two and ninety hundredths (362.90) feet to a steel pin; thence continuing along said land now or formerly of Larry E. Myers, North forty-six (46) degrees four (4) minutes sixteen (16) seconds West three hundred fifty-five and ninety-three hundredths (355.93) feet to the point and place of BEGINNING.

BEING THE SAME property conveyed to Kevin M. Myers and Rachel L. Myers, husband and wife by deed from Kevin M. Myers and Rachel L. Myers recorded 02/22/2000 in Deed Book 2088 Page 60, in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

Premises being: 745 Possum Hollow Road, East Berlin, PA 17316

Tax Parcel No. L7-1G

SEIZED and taken into execution as the property of **Kevin M. Myers & Rachel L. Myers a/k/a Rachel L. Beamer** 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 May 23, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/18, 24 & 4/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1273 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point along the right-of-way line of Johnamac North at corner of Lot No. 380 on subdivision plan hereinafter referred to; thence along Lot No. 380, North eighty-nine (89) degrees thirty (30) minutes forty (40) seconds East, one hundred one and ninety-three hundredths (101.93) feet to a point along Lot No. 469 on subdivision plan hereinafter referred to; thence along Lot No. 469, South zero (00) degrees twenty-nine (29) minutes twenty (20) seconds East, twenty (20.00) feet to a corner of Lot No. 382 on subdivision plan hereinafter referred to; thence along Lot No. 382, South eighty-nine (89) degrees thirty (30) minutes forty (40) seconds West, one hundred one and ninety-three hundredths (101.93) feet to a point along the right-of-way line of Johnamac North, North zero (00) degrees twenty-nine (29) minutes twenty (20) seconds West, twenty (20) feet to a point along the right-of-way line of Johnamac North, the point and place of BEGINNING. (CONTAINING 2,039 square feet and being designated as Lot No. 381 on subdivision plan of Appler Development prepared by Group Hanover, Inc., dated 7/15/94, as revised, project No. 921060, which said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 65, Page 89.)

Being Tract No. 2 which Davis S. Weinberg, individually, a married man, and David S. Weinberg and Delbert S. Null, co-partners, trading as D & D Partnership, a Maryland general partnership, by Edward G. Smariga, their attorney-in-fact, by deed dated May 29, 1996, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1205 at page 63, sold and conveyed unto Windsor Homes, Inc., a Pennsylvania Corporation, the grantors herein.

TITLE TO SAID PREMISES IS VESTED IN James M. Leonard and Kathy Kelley-Leonard, his wife by Deed from Windsor Homes, Inc., A Pennsylvania Corporation dated 9/16/1996 and recorded 9/25/1996, in Record Book 1263 Page 234.

Premises being: 27 Johnamac North, Littlestown, PA 17340

Tax Parcel No. 27-4-15

SEIZED and taken into execution the property of **James M. Leonard & Kathy K. Leonard a/k/a Kathy Kelley-Leonard** 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 May 27, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/18, 24 & 4/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-64 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 April, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a bolt along Township Road T-455, Clouser Road, at a corner of land now or formerly of Preston L. Bentzel; thence in and along Township Road T-455, Clouser Road, South 35 degrees 32 minutes 14 seconds East, 150.00 feet to a railroad spike in Township Road T-455, Clouser Road, and at a corner of Lot No. 2 on the hereinafter referred to draft of survey; thence by Lot No. 2 and passing through a steel pin set 20.00 feet from the last-mentioned point, South 76 degrees 22 minutes 53 seconds West, 149.27 feet to a steel pin set; thence by the same, South 44 degrees 51 minutes 21 seconds West, 162.43 feet to a steel pin set on line of Lot No. A on the hereinafter referred to draft of survey; thence by Lot No. A, South 44 degrees 51 minutes 21 seconds West, 162.43 feet to a steel pin set on line of Lot No. A on the hereinafter referred to draft of survey; thence by Lot No. A South 44 degrees 51 minutes 21 seconds West, 41.37 feet to a steel pin

set; thence by same, North 35 degrees 32 minutes 14 seconds West, 160.81 feet to a steel pin set on line of land now or formerly of Preston L. Bentzel; thence by said land of Bentzel and passing through an iron pipe 40.98 feet from the last-mentioned point, North 59 degrees 56 minutes 9 seconds East, 340.98 feet, and passing through a steel pin found 20.00 feet from the end of this course, to a bolt along Township Road T-455, Clouser Road, the place of BEGINNING.

THE ABOVE DESCRIPTION was taken from a draft of survey prepared by Worley Surveying, dated May 5, 1989 and being a perimeter description of Lot 1 and Lot 8 thereon, and as recorded in Adams County, Plot Book 53, Page 6.

UNDER AND SUBJECT to restrictions and conditions as now appear of record.

BEING the same premises which Charles W. Weidner, Jr. and Tina M. Wagman, now through marriage known as Tina M. Stevens, joint by Robert M. Stevens, II, her husband, by Deed dated February 21, 2002 and recorded in Adams County on May 7, 2002 at Deed Book Volume 2651, Page 1999, granted and conveyed to Charles W. Weidner, Jr. and James Weidner.

Weltman, Weinberg & Reis, Co., L.P.A.
Kimberly J. Hong, Esq.
Attorney for Plaintiff
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

Parcel No.: (41) K-18-16A

SEIZED and taken into execution the property of **Charles W. Weidner, Jr. & James Weidner** 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 May 23, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/18, 24 & 4/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-128 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point at North Queen Street aforesaid at lands now or formerly of L. Irene Crouso; thence by said lands in a Northeasterly direction for a distance of 200 feet, more or less, to a point at an alley; thence by said alley in a Northwesterly direction for a distance of 47 feet, more or less, to a point at lands now or formerly of Wallace R. Gullickson; thence by said lands in a Southwesterly direction for a distance of 200 feet, more or less, to a point at North Queen Street aforesaid; thence by said street in a Southeasterly direction for a distance of 47 feet, more or less, to a point, the place of BEGINNING.

BEING known as: 57 North Queen Street, Littlestown, PA 17340

Property ID No.: (27) 8-93

TITLE TO SAID PREMISES IS VESTED IN Timothy S. Kelley and Debra L. Kelley, husband and wife, as tenants of an estate by the entireties by Deed from Douglas R. Murren and Jacqueline E. Murren, husband and wife dated 8/19/94 recorded 8/24/94 in Deed Book 929 Page 905.

SEIZED and taken into execution as the property of **Timothy S. Kelley & Debra L. Kelley** 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 May 27, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/18, 24 & 4/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1018 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 April, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN property situated in the Township of Reading in the County of Adams and Commonwealth of Pennsylvania, being more fully described in a deed dated August 15, 1992 and recorded on August 24, 1992 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 638, Page 1059.

IMPROVEMENTS thereon consisting of a residential dwelling.

BEING KNOWN AS 1275 Green Ridge Road, East Berlin, PA 17316.

BEING Tax Parcel No. 36-K08-0002F.

BEING the same premises which Kevin S. Holtzinger and Karen L. Holtzinger, husband and wife, by Deed dated August 19, 1992 and recorded on August 24, 1992 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 638, Page 1059, granted and conveyed unto Guy I. Brown and Lori A. Brown, husband and wife, in fee.

SEIZED AND TAKEN in execution as the property of Guy I. Brown and Lori A. Brown under Judgment No. 03-S-1018.

SEIZED and taken into execution as the property of **Guy I. Brown & Lori A. Brown** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 23, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/18, 24 & 4/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-40 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or piece of ground situate in Franklin Township, County of Adams, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a point in an alley; thence South 27 degrees West 175 feet to a point; thence North 66 degrees 10 minutes West 150 feet to a point; thence North 27 degrees East 175 feet to a point in said alley; thence in said alley South 66 degrees 10 minutes East 150 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION was taken from a draft of survey prepared by W. Andrew Bitner, P.E., dated April 17, 1972.

TITLE TO SAID PREMISES IS VESTED IN Jack L. Ringler and Rhonda S. Ringler, husband and wife, as tenants of an Estate by the entireties by Deed from Patricia L. McKenna, single and Kimberly S. Henry, single dated 7/21/2000 and recorded 7/24/2000 in Record Book 2092 Page 240.

Premises being: 257 A High Street, Cashtown, PA 17310

Tax Parcel No. 12-C10-80A

SEIZED and taken into execution as the property of **Jack L. Ringler & Rhonda S. Ringler** 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 May 27, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/24, 4/1 & 8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1293 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated in Hamiltonban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an existing steel rod with washer located on the Southern edge of a private existing 33 foot right-of-way at lands of Donald Rohrbaugh and lands of Michael Gastley; thence along said lands of Gastley and along the Southern edge of said private 33 foot right-of-way, North 71 degrees 05 minutes 30 seconds West, 172.07 feet to an existing tall pipe at corner of lands of Judith Eveland, et al.; thence along said lands of Eveland, North 20 degrees 36 minutes 00 seconds East, 340.00 feet to a steel rod at corner of Lot No. 1; thence along Lot No. 1, South 69 degrees 24 minutes 00 seconds East, 144.94 feet to a steel rod at corner of said Lot No. 1; thence along same and passing through a new 50 foot private right-of-way as shown on the hereinafter mentioned Final Plan, South 15 degrees 58 minutes 50 seconds West, 145.59 feet to an existing steel rod located at corner of lands of Donald Rohrbaugh; thence along said lands of Rohrbaugh and passing through the aforementioned private existing 33 foot right-of-way, South 15 degrees 58 minutes 50 seconds West, 190.42 feet to an existing steel rod with washer located on the Southern edge of said private existing 33 foot right-of-way, the point and place of BEGINNING.

CONTAINING 1.228 acre.

TITLE TO SAID PREMISES IS VESTED IN Karen E. McGarry by Deed from Robert O. Mickley and Elizabeth S. Mickley, husband and wife, dated 4/2/1993 and recorded 4/5/1993 in Record Book 0707 Page 159.

Premises being: 1125 Mount Hope Road, Fairfield, PA 17320

Tax Parcel No. 18B14-0092

SEIZED and taken into execution as the property of **Karen E. McGarry** 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 May 27, 2005, and distribution will be made in accordance with said schedule, unless exceptions are

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

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

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

3/24, 4/1 & 8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-41 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in Reading Township, Adams County, Pennsylvania, being designated as Lot No. 1, on the final subdivision plan prepared for Edward C. Wallen, Sr., dated December 29, 1998, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 76 at Page 5, more particularly bounded and described as follows:

BEGINNING at a steel pin set in Miller Road (T-572) and corner of land now or formerly of Gene H. Shenberger; thence continuing along Miller Road North 40 degrees 19 minutes 42 seconds East 160.00 feet to a steel pin set; thence along land now or formerly of Edward Kopp and Edward C. Wallen and through an existing iron pipe set back 24.91 feet from the beginning of this course South 49 degrees 40 minutes 18 seconds East 281.50 feet to a steel pin set at corner of Lot No. 2; thence along Lot No. 2 South 40 degrees 19 minutes 42 seconds West 160.00 feet to a steel pin set; thence along land now or formerly of Gene H. Shenberger and through an existing iron pipe set back 24.65 feet from the terminus of this course North 49 degrees 40 minutes 18 seconds West 281.50 feet to a steel pin set in Miller Road, the point and place of BEGINNING.

TOGETHER with the right to use the stone driveway as it is extended across Lot No. 1 as shown on the aforesaid subdivision plan. The rights and responsibilities related to the use and maintenance of the driveway as between owners of Lots 1 and 2 are set forth in a Declaration of Right-of-way and Responsibilities recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1784 at Page 159.

BEING the same property conveyed to Michelle L. McDannell and Ronald L.

McDannell, husband and wife as joint tenants with right of survivorship by Deed from Edward C. Wallen, Sr. and Darlene K. Wallen, husband and wife recorded 09/29/2000 in Deed Book 2136 Page 56, in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

Premises being: 24 Miller Road, New Oxford, PA 17350

Tax Parcel No. J7-53

SEIZED and taken into execution as the property of **Ronald L. McDannell & Michelle L. McDannell** 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 May 27, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/24, 4/1 & 8

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that on February 28, 2005, Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, incorporating BURNS MOTOR WORKS, INC., under the provisions of the Business Corporation Law.

The purpose for which said corporation is formed: The corporation shall have unlimited power to engage in and do any lawful act concerning any and all lawful business for which corporations may be incorporated under the Business Corporation Law of 1988.

The location and post office address of the initial registered office of said corporation is 39 Ram Drive, Hanover, PA 17331.

Amy E. W. Ehrhart, Esq.
141 Broadway, Suite 230
Hanover, PA 17331
(717) 632-9580

4/1

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 GEORGE W. ALTLAND, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Nevin Eugene Altland, 2 Bangor Road, Middletown, PA 17057; JoAnn Kline, 22 Northview Drive, Hanover, PA 17331

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

ESTATE OF MARGARET A. BECKER, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Executrix: Gladys F. Smith, 526 N. Scott Street, York, PA 17404

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

ESTATE OF RICHARD L. FOX, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Richard L. Fox, Jr., 4115 Linden Street, Harrisburg, PA 17109; Linda L. Reynolds, 240 New Haven Drive, Litzitz, PA 17543

Attorney: John DeLorenzo, Esq., Goldberg Katzman, P.C., 320 Market Street, P.O. Box 1268, Harrisburg, PA 17108-1268

ESTATE OF ELSIE E. MUMMERT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Yvonne C. Smith, 1505 Holman Drive, Edgewood, MD 21040

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

ESTATE OF ANNA POLANSKY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Irene D. Polansky, 15213 Baileys Lane, Silver Spring, MD 20906-1350

SECOND PUBLICATION

ESTATE OF MILDRED E. ADAMS, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Neva M. Hagarman, 3211 Centennial Road, Hanover, PA 17331

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

ESTATE OF GLADYS REBECCA BLACK a/k/a GLADYS R. BLACK, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executrix: Bernice M. Shenberger, 7129 Carlisle Pike, York Springs, PA 17372

Attorney: Mary A. Kenney, Esq., 1085 Stone Jug Road, Biglerville, PA 17307

ESTATE OF EDWARD T. CHIDBOY, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Personal Representative: Todd P. Chidboy, c/o Patterson, Kiersz & Murphy, P.C., 239-B East Main St., Waynesboro, PA 17268-1681

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

ESTATE OF HENRY W. JARVINEN, DEC'D

Late of Liberty Township, Adams County, Pennsylvania

Eric W. Jarvinen, 2579 Bullfrog Road, Fairfield, PA 17320

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

ESTATE OF REGINA A. STEVENS, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executors: Anna Catherine Shanebrook, 110 N. Queen Street, Littlestown, PA 17340; Nadine Marie Keefer, 117 W. Hanover Street, Biglerville, PA 17307; Richard Nelson Stevens, Jr., 301 Centennial Road, Gettysburg, PA 17325

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

ESTATE OF MARGARET A. THOMAS, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania

Executor: PNC Bank, N.A., P.O. Box 308, 4242 Carlisle Pike, Camp Hill, PA 17011

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

ESTATE OF SUSAN M. THOMPSON, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrices: Lori A. Thompson and Jill M. Kinser, c/o Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

Attorney: Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF MARTHA E. ELICKER, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executors: Walter J. Chrismer, 2 Sunset Drive, Gettysburg, PA 17325; Joyce L. Hartlaub, 411 Feeser Road, Littlestown, PA 17340

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

ESTATE OF NADINE AGNES SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Linda Melinger, c/o Paul G. Lutz, Esq., 110 South Northern Way, York, PA 17402

Attorney: Paul G. Lutz, Esq., 110 South Northern Way, York, PA 17402

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-6 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

Property Address: 161 Peakview Road
Tax Parcel No.: Map I-1, Parcel 4A
Township: Latimore
County: Adams

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

BEGINNING at a p.k. nail set in or near the centerline of Peakview Road (T-609); thence leaving said roadway and extending along lands now or formerly of Anthony C. Bookhultz, North 53 degrees 27 minutes 36 seconds West, a distance of 437.25 feet to an iron pin at other lands now or formerly of Marling A. Pletcher, et ux.; thence along the last mentioned lands, North 65 degrees 18 minutes 36 seconds East, a distance of 305.00 feet to a point at Lot No. 2 on the hereinafter referred to Subdivision Plan; thence along Lot No. 2, South 33 degrees 08 minutes 19 seconds East, a distance of 372.16 feet to a point in or near the centerline of Peakview Road (T-609); thence in and along said centerline, South 59 degrees 30 minutes 37 seconds West, a distance of 150.00 feet to the point and place of BEGINNING.

CONTAINING in gross area of 1.9819 acres and a net area of 1.9304 acres and being designated as Lot No. 1 on the Plan of Minor Subdivision for Marling A. Pletcher and Louise S. Pletcher, his wife, prepared by LaRue Survey Associates. Said Plan is recorded in Adams County Records in Plan Book 77 at Page 1.

IT BEING the same premises which Robert A. Wilson and Crystal J. Wilson, his wife, by deed dated April 11, 2002 and recorded May 17, 2002 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 2664, Page 283, granted and conveyed unto Gregory A. Forsythe, his heirs and assigns, Grantor herein.

SEIZED IN EXECUTION as the property of Gregory A. Forsythe, on Judgment No. 04-S-6.

SEIZED and taken into execution as the property of Gregory A. Forsythe and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a

schedule of distribution will be filed by the Sheriff in his office on June 6, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/1, 8 & 15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-75 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

TRACT NO. 1:

ALL THAT CERTAIN lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 304 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing on record in the Office of the Recorder of Deeds of Adams County in Plat Book 1, Page 1 and subject to all legal highway, easements, rights of way and restrictions of record.

HAVING thereon erected a one-story ranch type dwelling house with detached 2-car garage.

TRACT NO. 2:

ALL THAT CERTAIN lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 303 on Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, in Plan Book 1, Page 1 and subject to all legal highway, easement, right of way and restrictions of record.

TRACT No. 1 and 2 are conveyed under and subject nevertheless, to the building and use conditions, rules and regulations, etc., as set forth and referred to in a prior deed recorded in Adams County Deed Book 263 at Page 319.

TITLE TO SAID PREMISES IS VESTED IN Leonardo Landaeta, single person by Deed from Lyndon R. Landaeta, single person, dated 11/22/1995 and recorded 12/8/1995 in Deed Book 1120 Page 46.

Premises being: 538 Lake Meade Drive, East Berlin, PA 17316

Tax Parcel No. 37-11-80

SEIZED and taken into execution as the property of Leonardo Landaeta 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 May 27, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/24, 4/1 & 8

LAWYERS CONCERNED FOR LAWYERS HAS A NEW WEBSITE!

Lawyers Concerned for Lawyers (LCL) has a new website at www.lclpa.org. Attorneys and judges will find information on how LCL can help them, a member of their family or a colleague who may be in distress because of stress, anxiety, depression, gambling or substance abuse or addiction.

The website offers information on LCL's free, confidential services including a free evaluation, intervention assistance, LCL's Volunteer peer support, lawyer recovery meetings, and free literature on addictive and emotional issues. It also provides information on LCL sponsored CLEs.

The new LCL website is confidential and easy to navigate. Take some time to visit it today!

4/1

NOTICE

NOTICE IS HEREBY GIVEN to all beneficiaries and creditors that the Account and Statement of Proposed Distribution of PNC Bank, N.A., Trustee of the Margaret S. Kessel Trust dated August 21, 1992 has been filed with the Adams County Clerk of Courts, No. OC-16-05, and will be presented to the Court of Common Pleas of Adams County - Orphans Court, Gettysburg, Pennsylvania, for confirmation and approval on April 5, 2005, at 9:00 a.m. The Trustee is PNC Bank, N.A., attention Carrie M. Vogelsong, Assistant Vice President, P.O. Box 308, Camp Hill, PA 17011.

Robert G. Teeter, Esq.
Teeter, Teeter & Teeter

3/24 & 4/1

Adams County Legal Journal

Vol. 46

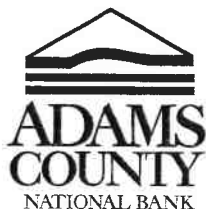
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Our Trust Department
makes a business of caring
for other people's property.



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-6 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

Property Address: 161 Peakview Road
Tax Parcel No. Map I-1, Parcel 4A
Township: Latimore
County: Adams

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

BEGINNING at a p.k. nail set in or near the centerline of Peakview Road (T-609); thence leaving said roadway and extending along lands now or formerly of Anthony C. Bookhultz, North 53 degrees 27 minutes 36 seconds West, a distance of 437.25 feet to an iron pin at other lands now or formerly of Marling A. Pletcher, et ux.; thence along the last mentioned lands, North 65 degrees 18 minutes 36 seconds East, a distance of 305.00 feet to a point at Lot No. 2 on the hereinafter referred to Subdivision Plan; thence along Lot No. 2, South 33 degrees 08 minutes 19 seconds East, a distance of 372.16 feet to a point in or near the centerline of Peakview Road (T-609); thence in and along said centerline, South 59 degrees 30 minutes 37 seconds West, a distance of 150.00 feet to the point and place of BEGINNING.

CONTAINING in gross area of 1.9819 acres and a net area of 1.9304 acres and being designated as Lot No. 1 on the Plan of Minor Subdivision for Marling A. Pletcher and Louise S. Pletcher, his wife, prepared by LaRue Survey Associates. Said Plan is recorded in Adams County Records in Plan Book 77 at Page 1.

IT BEING the same premises which Robert A. Wilson and Crystal J. Wilson, his wife, by deed dated April 11, 2002 and recorded May 17, 2002 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 2664, Page 283, granted and conveyed unto Gregory A. Forsythe, his heirs and assigns, Grantor herein.

SEIZED IN EXECUTION as the property of Gregory A. Forsythe, on Judgment No. 04-S-6.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 6, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/1, 8 & 15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-40 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or piece of ground situate in Franklin Township, County of Adams, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a point in an alley; thence South 27 degrees West 175 feet to a point; thence North 66 degrees 10 minutes West 150 feet to a point; thence North 27 degrees East 175 feet to a point in said alley; thence in said alley South 66 degrees 10 minutes East 150 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION was taken from a draft of survey prepared by W. Andrew Bitner, P.E., dated April 17, 1972.

TITLE TO SAID PREMISES IS VESTED IN Jack L. Ringler and Rhonda S. Ringler, husband and wife, as tenants of

an Estate by the entireties by Deed from Patricia L. McKenna, single and Kimberly S. Henry, single dated 7/21/2000 and recorded 7/24/2000 in Record Book 2092 Page 240.

Premises being: 257 A High Street, Cashtown, PA 17310

Tax Parcel No. 12-C10-80A

SEIZED and taken into execution as the property of **Jack L. Ringler & Rhonda S. Ringler** 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 May 27, 2005, 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.

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3/24, 4/1 & 8

LEWIS VS. GETTYSBURG DIAGNOSTIC

1. The granting of judgment on the pleadings is proper only where the pleadings establish that there are no material facts in dispute thereby making a trial by jury unnecessary.

2. If a condition precedent to a contract is unsatisfied, no binding contract exists.

3. The determination of what constitutes just cause for termination of an employment relationship is a matter to be determined by the factfinder.

4. The presumption under Pennsylvania law is that an employment relationship is generally considered to be "at will" and, absent a contract, may be terminated by either party at any time, for any reason or for no reason. Because of this presumption, there is no common law cause of action for termination of an "at will" employment relationship.

5. Pennsylvania courts have recognized three circumstances difficult to rebut the presumption of at-will employment as follows: (1) there is sufficient additional consideration provided by the employee to the employer which infers that the parties intended that the employment relationship not be terminable-at-will; (2) there is an employment agreement for a definite duration; (3) there is an employment agreement specifying that the employee will be discharged for just cause only; or (4) an applicable recognized public policy exception exists.

6. The burden of overcoming the presumption of at-will employment "rests squarely" upon the employee.

7. Although an employee and an employer can effectively enter a contract for a specific duration, definitiveness in doing so is required. "Courts are highly reluctant to make definite that which the parties themselves failed to do. An employment contract for a broad, unspecified duration of time is insufficient."

8. Salary computed over a specific time period, such as annually, does not establish that the contract is intended for that period of time.

9. Where a party attempts to modify an at-will relationship to one that cannot be severed absent "just cause," an unambiguous statement of intention is required.

10. Thus, a court will find "additional consideration" when an employee affords his employer a substantial benefit other than the services which the employee is hired to perform, or when the employee undergoes a substantial hardship other than the services which he is hired to perform.

11. Whether an employee has been given additional consideration sufficient to rebut the presumption of at-will employment is generally a question of fact for the jury.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 03-S-254, JOFFRE P. LEWIS, M.D., VS. GETTYSBURG
DIAGNOSTIC IMAGING, P.C.

Joseph L. Hitchings, Esq., for Plaintiff

Michael J. Salmanson, Esq., for Defendants

George, J., May 26, 2004

OPINION

This matter comes before the Court on a Motion for Judgment on the Pleadings filed by Gettysburg Diagnostic Imaging, P.C (hereinafter referred to as "GDI"). For the reasons set forth below, the Motion for Judgment on the Pleadings is denied.

In the spring of 2001, GDI and Dr. Joffre P. Lewis entered into discussions concerning Dr. Lewis's potential employment by GDI. At that time, Milford Diagnostic Imaging employed Dr. Lewis in the State of Delaware.¹ Apparently, the discussions led to correspondence dated June 30, 2001 wherein GDI offered Dr. Lewis a position in the corporation. Although no person at GDI signed the offer letter, Dr. Lewis claims to have accepted the offer of employment and returned and executed documents back to GDI. Dr. Lewis claims that he was informed that he would begin his employment with GDI on September 10, 2001.² Apparently, in reliance upon this information, Dr. Lewis appeared before the Credentials Committee of Gettysburg Hospital on July 26, 2001. At that time, Dr. Joseph Jones, a partner in GDI and a member of the Credentials Committee for Gettysburg Hospital, informed Dr. Lewis that he would receive temporary privileges at Gettysburg Hospital. Anticipating his approaching employment in Gettysburg, Dr. Lewis placed his Delaware home for sale and purchased a property in Hanover, Pennsylvania. The cordial relationship between the parties, however, began to deteriorate. Due to issues relative to Dr. Lewis's malpractice insurance, commencement of Dr. Lewis's employment was delayed. During the delay, various correspondence occurred between the parties and others. Among the correspondence were Dr. Lewis's references to GDI which indicated mistrust, disagreement and language which was less than flattering to

¹For a ruling on a Motion for Judgment on the Pleadings, all of the opposing parties' allegations of fact must be viewed as true. *Otterson v. Jones*, 69 A.2d 1166 (1997). Accordingly, this factual background is derived from the allegations in Dr. Lewis's Complaint and the admitted allegations in Dr. Lewis's Reply to GDI's New Matter.

²In paragraph ten of his Complaint, Dr. Lewis alleges a start date of September 1, 2001. However, in paragraph fourteen of his Complaint, Dr. Lewis alleges his start date to be September 10, 2001. The later date is consistent with GDI's Answer which denies paragraph ten of Dr. Lewis's Complaint and alleges the tentative start date to be September 10, 2001. Since the distinction between September 1, 2001 and September 10, 2001 is not important to the resolution of the matter before this Court, this Court will treat paragraph ten as a typographical error.

GDI and its management. Included among the correspondence was Dr. Lewis's disclaimer of any contract between the parties.³ Various correspondence also included a letter from Dr. Lewis to the President of Gettysburg Hospital dated September 16, 2001. In that letter, Dr. Lewis advised that he had sought and obtained alternative employment. The final piece of correspondence included in the record is a letter from Dr. Jones to Dr. Lewis dated September 20, 2001 wherein Dr. Jones terminates negotiations concerning GDI's employment of Dr. Lewis.

The unfortunate history of the parties' relationship culminated on March 6, 2003 when Dr. Lewis instituted a suit against GDI for breach of contract.⁴ GDI has moved for judgment on the pleadings advancing several alternative theories.

A number of the theories GDI advanced can be addressed summarily. Each of these theories assumes, for the sake of argument, that a contractual relationship existed between the parties. GDI argues that even assuming such a relationship, Dr. Lewis has, as a matter of law, failed to comply with a condition precedent to consummation of the contract or, in the alternative, terminated the contractual relationship prior to any act of termination by GDI. GDI further argues that even assuming the contractual relationship remained intact, Dr. Lewis's actions provided "just cause" for his termination.

The granting of judgment on the pleadings is proper only where the pleadings establish that there are no material facts in dispute thereby making a trial by jury unnecessary. *Pennsylvania Financial Responsibility Assigned Claims Plan v. English*, 664 A.2d 84, 86 (Pa. 1995). While each of the arguments advanced by GDI find support in the record and may be attractive to a jury, it is premature to reach conclusions in regard to those arguments as a matter of law. For instance, GDI urges that Dr. Lewis failed to provide the necessary information

³ In an e-mail dated September 11, 2001 from Dr. Lewis to Dr. Jones, Dr. Lewis claims that he told a third party that: "I have no formalized contract with GDI . . ." Later, in that same e-mail, when speaking of the potential for breach of contract, Dr. Lewis parenthetically claims: "there we go with that phantom contract again".

⁴ The initial Complaint contained two separate causes of action and included GDI and the individual partners in that Corporation as Defendants. Count I of the original Complaint alleged a breach of contract action while Count II alleged a claim of civil conspiracy. Count II of the Complaint and the cause of action against the individual Defendants was dismissed by Opinion and Order dated July 10, 2003 following the filing of Preliminary Objections by each of the Defendants.

to secure medical malpractice coverage which was a condition precedent to employment. Clearly, the document referenced as a contract includes language that employment was “contingent upon [Dr. Lewis’s] approval for malpractice coverage”. As a matter of law, lack of such approval, if factually established, may be fatal to Dr. Lewis’s claim. *Franklin Interiors v. Wall of Fame Management Co., Inc.*, 511 A.2d 761, 762 (Pa. 1986) (noting if a condition precedent to a contract is unsatisfied, no binding contract exists). However, at this stage of the litigation, those factual issues have not been developed.⁵ Unless the factual disputes are eliminated, resolution of this issue remains for a jury. See generally *English*, 664 A.2d at 86.

Similarly, I am unwilling to rule, as a matter of law, that Dr. Lewis was the first to terminate the relationship between GDI and himself. Although Dr. Lewis’s September 16, 2001 letter to Gettysburg Hospital referencing alternative employment is intriguing, the effect of that letter is for a factfinder. See generally *Id.* It is noteworthy that the September 16, 2001 letter is not clear notice from one party to another as to intent but rather, Dr. Lewis wrote it to an entity which is not a party to the alleged contract. As such, the relief GDI sought based upon this correspondence is not definitive as a matter of law.

GDI’s related argument that Dr. Lewis’s actions justified termination is also a matter for the jury. The determination on what constitutes just cause for termination of an employment relationship is a matter to be determined by the factfinder. *Wilson v. Benjamin*, 481 A.2d 328 (Pa.Super. 1984) (discussing role of factfinder at trial). While it is certainly reasonable to conclude that Dr. Lewis’s actions throughout the parties’ relationship support termination, it is similarly possible that Dr. Lewis’s actions may be viewed as appropriate responses to GDI once the facts are fully developed. Accordingly, it is not clear to me that a trial would be a fruitless exercise. See generally *Otterson*, 690 A.2d at 1166.

Having preliminarily resolved a number of the issues GDI raised, it is now appropriate to address the more fundamental argument advanced by the Motion for Judgment on the Pleadings. The final argument raised by GDI’s Motion strikes at the heart of the relationship

⁵In an exhibit attached to the Answer and New Matter of GDI, Dr. Lewis claims to have obtained “insurance with MIXX” See GDI’s Answer and New Matter, Exhibit 2.

between the parties. Specifically, GDI asserts that Dr. Lewis cannot legally state a claim for breach of contract since the employment relationship between the parties was “at-will”. This argument merits meaningful discussion.

The presumption under Pennsylvania law is that an employment relationship is generally considered to be “at-will” and, absent a contract, may be terminated by either party at any time, for any reason or for no reason. See *Darlington v. General Electric*, 504 A.2d 306, 309 (Pa.Super. 1986). Because of this presumption, there is no common law cause of action for termination of an “at-will” employment relationship. See *Scott v. Extracorporeal, Inc.*, 545 A.2d 334 (Pa.Super. 1988). An employee, however, can defeat the “at-will” presumption and establish a cause of action for breach of contract. See generally *Robertson v. Atlantic Richfield Petroleum*, 537 A.2d 814 (Pa.Super. 1987). Pennsylvania courts have recognized three circumstances sufficient to rebut the presumption of at-will employment as follows: (1) there is sufficient additional consideration provided by the employee to the employer which infers that the parties intended that the employment relationship not be terminable at-will; (2) there is an employment agreement for a definite duration; (3) there is an employment agreement specifying that the employee will be discharged for just cause only; or (4) an applicable recognized public policy exception exists.⁶ *Robertson*, 537 A.2d at 819. The burden of overcoming the presumption of at-will employment “rests squarely” upon the employee. *Rutherford v. Presbyterian-University Hospital*, 612 A.2d 500, 503 (Pa.Super. 1992).

Dr. Lewis bases his cause of action upon the June 30, 2001 offer which he claims to have accepted. He argues that this meeting of minds between the parties is definitive in establishing an employment relationship for a determinate amount of time. I disagree.

A careful review of the June 30, 2001 document reveals that it specifies a salary for the first year of employment to be paid in twelve equal monthly installments. The document further provides

⁶Dr. Lewis does not advance claims that the parties specifically contracted that employment could only be terminated for cause or that public policy considerations overcome the presumption of at-will employment. An independent review of the pleadings in this matter reveals that neither such exception to the presumption of at-will employment is applicable instantly. I conclude, therefore, that neither theory would provide a basis to avoid the granting of judgment on the pleadings in favor of GDI.

an annual salary for the second year of employment “[i]f we agree to continue the relationship”. There are additional references throughout the document to benefits and partnership opportunities. A number of the benefit provisions are couched in language which calculates the application of a benefit over an annual period of time.⁷ Dr. Lewis relies upon this language in urging that it conclusively established a definitive time of employment.

The essence of contract interpretation is fulfilling the reasonable expectations of the parties. See *Darlington*, 504 A.2d at 312 (citing *Magnan v. Anaconda Industries, Inc.*, 479 A.2d 781 (Conn. 1984)). Although experience tells us that an employee and an employer can effectively enter a contract for a specific duration, definitiveness in doing so is required. “Courts are highly reluctant to make definite that which the parties themselves failed to do.” *Darlington*, 504 A.2d at 312. An employment contract for a broad, unspecified duration of time is insufficient. *Murphy v. Publicker Industries, Inc.*, 516 A.2d 47, 51 (Pa.Super. 1986). Moreover, salary computed over a specific time period, such as annually, does not establish that the contract is intended for that period of time. *Booth v. McDonnell Douglas Truck Services, Inc.*, 585 A.2d 24, 27 (Pa.Super. 1991). Where a party attempts to modify an at-will relationship to one that cannot be severed absent “just cause”, an unambiguous statement of intention is required. See *Veno v. Meredith*, 515 A.2d 571, 579 (Pa.Super. 1986) (concluding an employer’s statements of hope that an employee will remain in his employ until retirement is insufficient). I find nothing in the June 30, 2001 document that evidences such a clear intention to justify a substantial modification to the presumption of at-will employment.⁸ Accordingly, as a matter of law,

⁷ An example of such language is found in paragraph four of the document which reads as follows: “Paid Time Off. You will be entitled to 8 weeks paid time off for vacation, sick time and seminars, etc. . . .”

⁸ In fact, the June 30, 2001 document contains references to the contrary. For instance, a non-competition provision of the document contemplates termination of the relationship by either party without providing any notice requirements or other time periods. Additional paragraphs of the document call for the allocation of certain expenses if the employment relationship is terminated within the first two years of employment. See Dr. Lewis’s Complaint, Exhibit A, ¶¶ 3, 9. Implicit in the language of these paragraphs is recognition that the parties contemplated a possibility of a termination in the relationship at the will of either party.

Dr. Lewis has not overcome the presumption of at-will employment based upon the theory that the parties entered a contract for a specific duration.

Dr. Lewis also maintains that there was sufficient additional consideration present which, by itself, is sufficient to overcome the at-will presumption. In his Complaint, Dr. Lewis contends that in reliance upon his employment with GDI, he moved his family to a home he purchased in Hanover, Pennsylvania, after selling his previous residence in Delaware. Also, in reliance with his employment with GDI, Dr. Lewis alleges that he purchased a Tail Policy for malpractice insurance⁹ at cost to him. Finally, he claims to have lost vacation benefits from his previous employer due to the change in employment.¹⁰

A classic definition of what constitutes sufficient additional consideration was set forth in *Darlington* when the Court remarked:

Thus, a court will find “additional consideration” when an employee affords his employer a substantial benefit other than the services which the employee is hired to perform, or when the employee undergoes a substantial hardship other than the services which he is hired to perform. “If the circumstances are such that a termination of the relation by one party will result in a great hardship or loss to the other, as they must have known it would when they made the contract, this is a fact of great weight in inducing a holding that the parties agreed upon a special period.”

Id. at 315 (citing 3 A.P. Corbin, Corbin on Contracts § 684 (1960)).

⁹The definition of Tail Policy is not clear from a reading of the pleadings, however, it appears that a Tail Policy is a malpractice insurance policy which provides coverage for a medical doctor for any claims made after employment terminates, but arose during employment.

¹⁰Dr. Lewis also alleges that he provided additional consideration consisting of expenses relating to him accepting employment in Carlisle, Pennsylvania, and an alleged financial loss involved in the sale of his Hanover home and the purchase of a Carlisle home. These items, however, are more correctly described as damages and cannot possibly have been contemplated by the parties as additional considerations from an employee to an employer in reliance upon employment. See generally *Darlington*, cited above.

In *Lucacher v. Kerson*, 45 A.2d 245 (Pa.Super. 1946), an employee was promised permanent employment in his new job. After moving his family to Philadelphia from New York, the employee was abruptly discharged from his new position after three days into his employment. Under these circumstances, the Pennsylvania Superior Court found the presence of additional consideration. Similarly, in *Cashdollar v. Mercy Hosp. of Pittsburgh*, 595 A.2d 70 (Pa.Super. 1991), an employee surrendered secure employment at a position where he had been employed for four years and moved his pregnant wife and two-year-old daughter from Fairfax, Virginia, to Pittsburgh, Pennsylvania, in reliance upon employment. The Superior Court found these hardships to be sufficient additional consideration to rebut the at-will presumption. While it is true that no additional consideration exists where an employee has suffered detriments that are “commensurate with those incurred by all manner of salaried professionals”, see *Veno*, 515 A.2d 571, our appellate courts have found circumstances similar to those Dr. Lewis pled to be sufficient additional consideration. Although, in appropriate cases, the Court may determine as a matter of law whether the threshold of sufficient additional consideration has been met to rebut the presumption of at-will employment, see *Darlington*, cited above; *Veno*, cited above, whether an employee has given additional consideration sufficient to rebut the presumption of at-will employment is generally a question of fact for the jury. *Murphy*, 516 A.2d at 51. In light of the Superior Court’s decision in *Cashdollar* and *Lucacher*, it appears possible that a jury might reasonably interpret the allegations Dr. Lewis pled in a manner so as to conclude that Dr. Lewis has rebutted the at-will presumption. Clearly, reasonable minds might differ in weighing this issue. See *Booth*, cited above; *Greene v. Oliver Realty, Inc.*, 526 A.2d 1192 (Pa.Super. 1987).

For the foregoing reasons, the attached Order is entered.¹¹

ORDER OF COURT

AND NOW, this 26th day of May, 2004, the Defendant’s Motion for Judgment on the Pleadings is denied.

¹¹This Opinion does not preclude future motions for summary judgment once the factual circumstances of this litigation are developed. This decision is based solely on the pleadings as they currently present. *English*, 664 A.2d at 86.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1293 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated in Hamiltonban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an existing steel rod with washer located on the Southern edge of a private existing 33 foot right-of-way at lands of Donald Rohrbaugh and lands of Michael Gastley; thence along said lands of Gastley and along the Southern edge of said private 33 foot right-of-way, North 71 degrees 05 minutes 30 seconds West, 172.07 feet to an existing tall pipe at corner of lands of Judith Eveland, et al.; thence along said lands of Eveland, North 20 degrees 36 minutes 00 seconds East, 340.00 feet to a steel rod at corner of Lot No. 1; thence along Lot No. 1, South 69 degrees 24 minutes 00 seconds East, 144.94 feet to a steel rod at corner of said Lot No. 1; thence along same and passing through a new 50 foot private right-of-way as shown on the hereinafter mentioned Final Plan, South 15 degrees 58 minutes 50 seconds West, 145.59 feet to an existing steel rod located at corner of lands of Donald Rohrbaugh; thence along said lands of Rohrbaugh and passing through the aforementioned private existing 33 foot right-of-way, South 15 degrees 58 minutes 50 seconds West, 190.42 feet to an existing steel rod with washer located on the Southern edge of said private existing 33 foot right-of-way, the point and place of BEGINNING.

CONTAINING 1.228 acre.

TITLE TO SAID PREMISES IS VESTED IN Karen E. McGarry by Deed from Robert O. Mickley and Elizabeth S. Mickley, husband and wife, dated 4/2/1993 and recorded 4/5/1993 in Record Book 0707 Page 159.

Premises being: 1125 Mount Hope Road, Fairfield, PA 17320

Tax Parcel No. 18B14-0092

SEIZED and taken into execution as the property of Karen E. McGarry 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 May 27, 2005, and

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

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

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

3/24, 4/1 & 8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-75 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

TRACT NO. 1:

ALL THAT CERTAIN lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 304 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing on record in the Office of the Recorder of Deeds of Adams County in Plat Book 1, Page 1 and subject to all legal highway, easements, rights of way and restrictions of record.

HAVING thereon erected a one-story ranch type dwelling house with detached 2-car garage.

TRACT NO. 2:

ALL THAT CERTAIN lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 303 on Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, in Plan Book 1, Page 1 and subject to all legal highway, easement, right of way and restrictions of record.

TRACT No. 1 and 2 are conveyed under and subject nevertheless, to the building and use conditions, rules and regulations, etc., as set forth and referred to in a prior deed recorded in Adams County Deed Book 263 at Page 319.

TITLE TO SAID PREMISES IS VESTED IN Leonardo Landaeta, single person by Deed from Lyndon R. Landaeta, single person, dated 11/22/1995 and recorded 12/8/1995 in Deed Book 1120 Page 46.

Premises being: 538 Lake Meade Drive, East Berlin, PA 17316

Tax Parcel No. 37-11-80

SEIZED and taken into execution as the property of Leonardo Landaeta 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 May 27, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/24, 4/1 & 8

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on or about February 14, 2005, for the incorporation of STEVE RICE, P.C. under the Pennsylvania Business Corporation Law of 1988. The corporation shall engage in the business of the practice of law, together with any legal function of a corporation under PA law. The initial registered office of the corporation is 18 Carlisle Street, Suite 215, Gettysburg, PA 17325.

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

4/8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-403 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE CERTAIN lots, parcels or tracts of land situate in Tyrone Township, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1:

BEGINNING at a point for a corner in the center of the State Highway leading from Gettysburg to Carlisle (known as Route No. 34); thence running in the center of said Highway North forty-five and one-quarter (45-1/4) degrees East one hundred (100) feet to a point in the center of said Highway; thence running by land formerly of C.B. Gardner South forty-four and three-quarters (44-3/4) degrees East two hundred sixty-seven and seven-tenths (267.7) feet to a stake; thence running by land of the same and lands now or formerly of Jacob Lobaugh and William Bream South fifty-eighty (58) degrees West two hundred twenty-three and five-tenths (223.5) feet to a point in a stone fence; thence running by land formerly of Charley Group North seventeen and one-half (17-1/2) degrees West two hundred forty-six (246) feet to a point in the center of the aforesaid Highway, the point and place of BEGINNING.

TRACT NO. 2:

BEGINNING at an iron pin for a corner; thence running by Tract No. 1 North forty-four and three-quarters (44-3/4) degrees West two hundred sixty-seven and seven-tenths (267.7) feet to a point in the center of the State Highway leading from Gettysburg to Carlisle; thence running in the center of the State Highway North forty-five and one-quarter (45-1/4) degrees East fifteen (15) feet to a point in the center of the State Highway; thence running by lands formerly of C.B. Gardner South forty-four and three-quarters (44-3/4) degrees East two hundred sixty-six (266) feet to an iron pin; thence running by land of the same South fifty-eight (58) degrees West fifteen and three-tenths (15.3) feet to an iron pin, the point and place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Thomas Alberts and Barbara Alberts, husband and wife by Deed from Danny E. Taylor, single man and Shelly R. Taylor a/k/a Shelley R. Taylor, single woman dated 2/21/2002 and recorded 9/13/2002 in Record Book 2802 Page 203.

Premises being: 3103 Carlisle Pike a/k/a 3103 Carlisle Road, Gardners, PA 17324

Tax Parcel No. 33 Map G4

SEIZED and taken into execution as the property of **Barbara Alberts & Thomas Alberts** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 6, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-41 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in Reading Township, Adams County, Pennsylvania, being designated as Lot No. 1, on the final subdivision plan prepared for Edward C. Wallen, Sr., dated December 29, 1998, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 76 at Page 5, more particularly bounded and described as follows:

BEGINNING at a steel pin set in Miller Road (T-572) and corner of land now or formerly of Gene H. Shenberger; thence continuing along Miller Road North 40 degrees 19 minutes 42 seconds East 160.00 feet to a steel pin set; thence along land now or formerly of Edward Kopp and Edward C. Wallen and through an existing iron pipe set back 24.91 feet from the beginning of this course South 49 degrees 40 minutes 18 seconds East 281.50 feet to a steel pin set at corner of Lot No. 2; thence along Lot No. 2 South 40 degrees 19 minutes 42 seconds West 160.00 feet to a steel pin set; thence along land now or formerly of Gene H. Shenberger and through an existing iron pipe set back 24.65 feet from the terminus of this course North 49 degrees 40

minutes 18 seconds West 281.50 feet to a steel pin set in Miller Road, the point and place of BEGINNING.

TOGETHER with the right to use the stone driveway as it is extended across Lot No. 1 as shown on the aforesaid subdivision plan. The rights and responsibilities related to the use and maintenance of the driveway as between owners of Lots 1 and 2 are set forth in a Declaration of Right-of-way and Responsibilities recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1784 at Page 159.

BEING the same property conveyed to Michelle L. McDannell and Ronald L. McDannell, husband and wife as joint tenants with right of survivorship by Deed from Edward C. Wallen, Sr and Darlene K. Wallen, husband and wife recorded 09/29/2000 in Deed Book 2136 Page 56, in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

Premises being: 24 Miller Road, New Oxford, PA 17350

Tax Parcel No. J7-53

SEIZED and taken into execution as the property of **Ronald L. McDannell & Michelle L. McDannell** 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 May 27, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

3/24, 4/1 & 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 EVELYN LOIS BORKOWSKI, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

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

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

ESTATE OF MADELINE M. DEARDORFF, DEC'D

Late of the Borough of Hanover, York County, Pennsylvania

Executors: Jane Reinaman and James Robert Crouse, c/o Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

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

ESTATE OF ELEANOR P. FERRY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Jean E. Freeman, 193 Primrose Lane, Hanover, PA 17331; Charles S. Freeman, 193 Primrose Lane, Hanover, PA 17331

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

ESTATE OF THOMAS G. SPANGLER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Jeffrey T. Spangler, 1111 Arlington Boulevard #739, Rosslyn, VA 22209-3206-09

Attorney: Arthur J. Becker, Jr., Esq., Arthur J. Becker, Jr., P.C., 544 Carlisle Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF GEORGE W. ALLTAND, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Nevin Eugene Alltand, 2 Bangor Road, Middletown, PA 17057; JoAnn Kline, 22 Northview Drive, Hanover, PA 17331

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

ESTATE OF MARGARET A. BECKER, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Executrix: Gladys F. Smith, 526 N. Scott Street, York, PA 17404

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

ESTATE OF RICHARD L. FOX, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Richard L. Fox, Jr., 4115 Linden Street, Harrisburg, PA 17109; Linda L. Reynolds, 240 New Haven Drive, Lititz, PA 17543

Attorney: John DeLorenzo, Esq., Goldberg Katzman, P.C., 320 Market Street, P.O. Box 1268, Harrisburg, PA 17108-1268

ESTATE OF ELSIE E. MUMMERT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Yvonne C. Smith, 1505 Holman Drive, Edgewood, MD 21040

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

ESTATE OF ANNA POLANSKY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Irene D. Polansky, 15213 Baileys Lane, Silver Spring, MD 20906-1350

THIRD PUBLICATION

ESTATE OF MILDRED E. ADAMS, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Neva M. Hagarman, 3211 Centennial Road, Hanover, PA 17331

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

ESTATE OF GLADYS REBECCA BLACK a/k/a GLADYS R. BLACK, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executrix: Bernice M. Shenberger, 7129 Carlisle Pike, York Springs, PA 17372

Attorney: Mary A. Kenney, Esq., 1085 Stone Jug Road, Biglerville, PA 17307

ESTATE OF EDWARD T. CHIDBOY, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Personal Representative: Todd P. Chidboy, c/o Patterson, Kiersz & Murphy, P.C., 239-B East Main St., Waynesboro, PA 17268-1681

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

ESTATE OF HENRY W. JARVINEN, DEC'D

Late of Liberty Township, Adams County, Pennsylvania

Eric W. Jarvinen, 2579 Bullfrog Road, Fairfield, PA 17320

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

ESTATE OF REGINA A. STEVENS, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executors: Anna Catherine Shanebrook, 110 N. Queen Street, Littlestown, PA 17340; Nadine Marie Keefer, 117 W. Hanover Street, Biglerville, PA 17307; Richard Nelson Stevens, Jr., 301 Centennial Road, Gettysburg, PA 17325

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

ESTATE OF MARGARET A. THOMAS, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania

Executor: PNC Bank, N.A., P.O. Box 308, 4242 Carlisle Pike, Camp Hill, PA 17011

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

ESTATE OF SUSAN M. THOMPSON, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrices: Lori A. Thompson and Jill M. Kinser, c/o Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

Attorney: Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 05-S-304

RICHARD D. HORIGAN, JR., Plaintiff
vs.

ROBERT G. STORCK and ROBERT C.
ABBOTT, Defendants

TO: Robert G. Storck and Robert C.
Abbott

The above named Plaintiff, Richard D. Horigan, Jr. has filed a civil action in the Court of Common Pleas of Adams County, Pennsylvania at the above-referenced case asserting that there is an outstanding obligation owed by you in the total amount of \$34,400.00 for repairs and storage of an airplane.

NOTICE

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 HELP.

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

If you wish to obtain a copy of the complaint, you should notify the counsel of record for the Plaintiff, John A. Wolfe, Esq., Wolfe & Rice, LLC, 47 West High Street, Gettysburg, PA 17325 in order to obtain a copy of that complaint.

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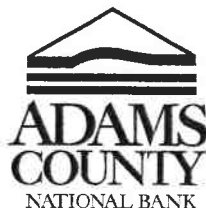
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LEASE VS. HAMILTON TWP. ET AL

Commitment:

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-6 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

Property Address; 161 Peakview Road

Tax Parcel No.; Map I-1, Parcel 4A

Township; Latimore

County; Adams

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

BEGINNING at a p.k. nail set in or near the centerline of Peakview Road (T-609); thence leaving said roadway and extending along lands now or formerly of Anthony C. Bookhultz, North 53 degrees 27 minutes 36 seconds West, a distance of 437.25 feet to an iron pin at other lands now or formerly of Marling A. Pletcher, et ux.; thence along the last mentioned lands, North 55 degrees 18 minutes 36 seconds East, a distance of 305.00 feet to a point at Lot No. 2 on the hereinafter referred to Subdivision Plan; thence along Lot No. 2, South 33 degrees 08 minutes 19 seconds East, a distance of 372.16 feet to a point in or near the centerline of Peakview Road (T-609); thence in and along said centerline, South 59 degrees 30 minutes 37 seconds West, a distance of 150.00 feet to the point and place of BEGINNING.

CONTAINING in gross area of 1.9819 acres and a net area of 1.9304 acres and being designated as Lot No. 1 on the Plan of Minor Subdivision for Marling A. Pletcher and Louise S. Pletcher, his wife, prepared by LaRue Survey Associates. Said Plan is recorded in Adams County Records in Plan Book 77 at Page 1.

IT BEING the same premises which Robert A. Wilson and Crystal J. Wilson, his wife, by deed dated April 11, 2002 and recorded May 17, 2002 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 2664, Page 283, granted and conveyed unto Gregory A. Forsythe, his heirs and assigns, Grantor herein.

SEIZED IN EXECUTION as the property of Gregory A. Forsythe, on Judgment No. 04-S-6.

SEIZED and taken into execution as the property of Gregory A. Forsythe and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 6, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/1, 8 & 15

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-113 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land, together with improvements thereon erected, lying and being and situate in the Borough of Abbottstown, Adams County, Pennsylvania, more particularly described as follows:

BEGINNING at a point at High Street at Lot No. 3 now or formerly of George Hoffeirs; thence by the same North fourteen and one-fourth (14-1/4) degrees West one hundred eighty-one and five-tenths (181.5) feet to a point at fourteen (14) foot wide alley; thence along said alley North seventy-five and three-fourths (75-3/4) degrees East sixty-six (66) feet to a stone at another fourteen (14) foot wide alley; thence along the last mentioned alley South fourteen and one-fourth (14-1/4) degrees East one hun-

dred eighty-one and five-tenths (181.5) feet to a stone at High Street aforesaid; thence along High Street South seventy-five and three-fourths (75-3/4) degrees to a point, the place of BEGINNING.

IT BEING KNOWN as Lot No. 4 on a plan of lots as laid out by Z.E. Craumer, Surveyor, on January 14, 1928, as the land of Grant Freed.

BEING KNOWN AS: 249 High Street, Abbottstown, PA 17301

PROPERTY ID NO.: 1-3-20

TITLE TO SAID PREMISES IS VESTED IN David R. Kirby by deed from David R. Kirby and Sandra L. Kirby, husband and wife dated 06/23/00 recorded 06/29/00 in Deed Book 2078 Page 20.

SEIZED and taken into execution as the property of David R. Kirby and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/15, 22 & 29

LEASE VS. HAMILTON TWP. ET AL

1. For a grant of summary judgment in a mandamus action the moving party must satisfy its burden of proving a clear, legal right to have its subdivision and land development plan deemed approved.

2. So long as the denial letter incorporates by reference document or documents it does not need to contain the statutes and ordinances relied upon within the four corners of the letter. Alternatively, incorporation is invalid when a denial letter itself is invalid and refers to documents, which satisfy §10508(2) but those documents are not attached to the denial letter.

3. The language of MPC section 10508(3) unambiguously provides for an automatic deemed approval if the governing body fails to abide by the rules set forth in subsections (1) or (2). Additionally, there is no requirement that an appeal needs to be taken.

4. Mandamus is an appropriate remedy for seeking review of a governing body's denial.

5. A time delay between the denial and the institution of a mandamus action will not defeat the applicant's right to proceed in mandamus.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 03-S-648, DAVID R. LEASE VS. HAMILTON TOWNSHIP AND THE HAMILTON TOWNSHIP BOARD OF SUPERVISORS, JOHN O'BRIEN, CHAIRMAN.

John M. Ogden, Esq., for Plaintiff

Joseph C. Adams, Esq., for Defendants

Bigham, J., June 18, 2004

OPINION

STATEMENT OF FACTS

This matter comes before the Court on a Complaint in Mandamus filed by David R. Lease, (hereinafter referred to as "Plaintiff") against Hamilton Township and the Hamilton Township Board of Supervisors, (hereinafter referred to as "Defendants"). In his Complaint Plaintiff requests that the Court enter an Order issuing a Writ of Mandamus requiring and directing Defendants to approve the subdivision plan known as Alwine Meadows. Additionally, Plaintiff sought attorney fees and costs.¹

¹Subsequently, Defendants filed a Preliminary Objection to strike the request for fees and costs and Plaintiff filed a Praecepto to discontinue the request for attorney fees and costs. In response, this Court entered an Order dated August 22, 2003 noting that Defendants Preliminary Objection was moot as a result of Plaintiff's Praecepto to discontinue and dismissed the request for attorney fees and costs.

On October 28, 2002, Plaintiff submitted a request for Review of Subdivision and Land development Plan, for a development known as Alwine Meadows.² The plan was submitted to the Adams County Planning and Development Office and the Township Engineer for review. Both the Adams County Planning and Development Office and the Township Engineer issued a report on November 20, 2000. Both reports include specific references to the relevant Zoning Ordinances relied upon. Plaintiff contends that through his engineer/project manager all of the issues raised in the comments from the Township Engineer and the Adams County Planning Office were addressed. Defendants allege that the response they received from Plaintiff's engineer/project manager on January 5, 2001 was incomplete because it failed to address all of the Township Engineer's comments. On January 10, 2001, the Township Engineer responded to Plaintiff's January 5, 2001 letter. Defendants contend that Plaintiff never responded to the January 10, 2001 letter.

On June 7, 2001, Plaintiff was notified that Defendants had denied approval of the subdivision plan. The letter reads as follows:

This letter is to inform you that the Hamilton Township Board of Supervisors has denied your subdivision plan known as Alwine Meadows at their June 5, 2001, meeting. The Township Planning Commission recommended denial of the plan at their May 21, 2001, meeting. After discussion by the supervisors a motion was made to deny the plan, for the following reasons (a) since public sewer is not available and no design was submitted for providing on lot sewer or a sewer is not available and no design was submitted for providing on lot sewer collecting system for the homes and (b) no action taken on addressing the comments given by Adams County Planning & Development letter dated November 20, 2000, and the

²There is some discrepancy as to when Plaintiff submitted the preliminary plan. Plaintiff's Complaint states that the plan was submitted in September 2002, (Complaint at 3). However, Defendants' Brief in Opposition to Plaintiff's Motion for Summary Judgment and in support of Defendants' Motion for Summary Judgment and Plaintiff's Motion for Summary Judgment recites a date of October 28, 2000, (brief at 1 and Motion for Summary Judgment at 1). Therefore, in light of the above and the dates of subsequent activity the Court finds that the Plaintiff submitted the plan on October 28, 2000.

township's engineer C.S. Davidson, Inc. letters dated November 20, 2000, and January 10, 2001.

Plaintiff contends that the denial was invalid under the Municipalities Planning Code, Section 10508(2), (hereinafter referred to as "MPC §10508(2)"), because it did not specify: (1) the defects found in the application, (2) the requirements which were not met, and (3) the statute or ordinance relied upon.

In May of 2003, approximately two years later, Plaintiff advertised for a deemed decision in the *Adams County Legal Journal* and the *Gettysburg Times*. Subsequently, on June 23, 2003, Plaintiff filed the present action for Mandamus seeking to enforce the deemed decision that had been advertised and not appealed by the Township. All parties have filed Motions for Summary Judgment and the Court notes that the parties have complied with all of the briefing deadlines.

LEGAL DISCUSSION

I. PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

The Plaintiff seeks Summary Judgment on the basis that a deemed decision was obtained by the township's non-compliance with §10508(2).

"[A]ny party may move for summary judgment in whole or in part as a matter of law whenever, . . . there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery of expert reports." *Pa.R.C.P. 1035.2 (1)*. The trial court must, "resolve all doubts against the moving party and examine the record in a light most favorable to the non-moving party." *Horne v. Haladay*, 728 A.2d, 954-955 (Pa.Super. 1999). For a grant of summary judgment in a mandamus action the moving party must satisfy its burden of proving a clear, legal right to have its Subdivision and Land Development plan deemed approved. *Advantage Dev., Inc. v. Bd. of Supervisors*, 743 A2d. 1008, 1014 (Pa.Cmwlth. 2000). In the present action, Plaintiff must prove: (1) that the denial letter was invalid pursuant to §10508(2) and, (2) due to the invalidity of the denial letter a deemed approval is appropriate.

MPC §10508(2) is as follows:

"[w]hen the application is not approved in terms as filed the decision shall specify the defects found in the application

and describe the requirements which have not been met and shall, in each case, cite to the provisions of the statute or ordinance relied upon.” 53 Pa. C.S.A. 10508(2).

The Commonwealth Court has narrowly construed §10508(2) by making compliance with this section mandatory. *Newberry Twp. Bd. of Supervisors v. Newberry Estates, Inc.*, 427 A2d.327, 328 (Pa.Cmwlt. 1981). However, the Commonwealth Court has allowed some flexibility in the manner in which the requirements of §10508(2) are met. *Advantage Dev., Inc.*, cited above. So long as the denial letter incorporates by reference document or documents it does not need to contain the statutes and ordinances relied upon within the four corners of the letter. *Id.* at 1014. The Court has held incorporation to be valid in cases when attached to a patently invalid denial letter is documentation containing the requisite citations to statutes and ordinances required by §10508(2). *Id.* (engineer’s report attached to denial letter satisfied §10508(2) because it included specific reasons along with citations and ordinances relied upon for denial). Alternatively, incorporation is invalid when a denial letter itself is invalid and refers to documents, which satisfy §10508(2) but those documents are not attached to the denial letter. *Id.* at 1013, citing *Warwick Land Dev., Inc. v. Bd. of Supervisors*, 700 A2d. 446 (1997).

This Court finds that the denial letter is invalid pursuant to §10508 because: (1) the letter itself does not contain cites to statutes or ordinances, and (2) additional documentation is not attached to the denial letter that would satisfy §10508(2).

Defendants argue that incorporation occurred by making reference in the denial letter to an engineer’s report, containing citations to statutes and ordinances. However, this is not valid incorporation by reference “[a]pplicants whose plans are denied have a right to a denial letter that comports with section [10]508(2) so that they can effectively appeal the denial to the trial court.” *Advantage Dev., Inc.* at 1012, cited above. Had the Defendants stapled the engineer’s report to the letter dated June 7, 2001 the Defendants would have complied with § 10508(2) as interpreted by the Pennsylvania Commonwealth Court. Without such attachments, the Defendants attempt to satisfy §10508(2) is simply inadequate.

Upon determining that Defendants' attempt to deny Plaintiff's preliminary plan was invalid, the Court must determine if a deemed approval is appropriate. Section 10508(3) of the MPC provides,

Failure of the governing body or agency to render a decision and communicate it to the applicant within the time and in the manner required herein shall be deemed an approval of the application in terms as presented unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision . . . (53 Pa. C.S.A. 10508(3)).

"The language of section [10]508(3) unambiguously provides for an automatic deemed approval if the governing body fails to abide by the rules set forth in subsections (1) or (2)." *Borough of Plum v. Tresco*, 606 A.2d 951, 953-954 (Pa.Cmwlth. 1992). Additionally, there is no requirement that an appeal needs to be taken. *Id.*, *Harrisburg Fore Assoc. v. Bd. of Supervisors*, 344 A.2d 277, 280-281 (Pa.Cmwlth. 1975).

Defendants argue that Plaintiff was required to seek an appeal of Defendants' decision. The Court has specifically held in *Croft v. Board of Supervisors of Middletown Township*, 464 A.2d 625 (Pa.Cmwlth. 1983), that mandamus is an appropriate remedy for seeking review of a governing body's denial. *Id.* The, "applicant is not seeking review of the substance of the decision [i]nstead the applicant is seeking a determination that the municipality has failed to comply with the notice requirements of Section [10]508." *Id.* Additionally, the Court in *Croft* held that a time delay between the denial and the institution of a mandamus action will, "not defeat the applicant's right to proceed in mandamus." *Croft* cited above, at 628 (mandamus action was properly brought even with an approximately two and one-half years delay between the denial and the institution of the mandamus action). In the present case, a mandamus action is appropriate because §10508(2) was not complied with, and therefore, Plaintiff has received a deemed approval pursuant to §10508(3).

Upon review of the record in the light most favorable to Defendants there is no genuine issue of fact that remains. Therefore, Plaintiff's Motion for Summary Judgment is granted.

II. DEFENDANTS' MOTION FOR SUMMARY JUDGEMENT

Defendants seek Summary Judgment on the basis that Plaintiff failed to timely appeal the Defendants' decision. As a result of this Court's resolution of Plaintiff's motion for Summary Judgment, Defendants' Motion for Summary Judgment is moot and therefore denied.

Accordingly the attached Order is entered.

ORDER OF COURT

AND NOW, this 18th day of June 2004, the Plaintiff's Motion for Summary Judgment is granted. The Defendants' Motion for Summary Judgment is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-403 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE CERTAIN lots, parcels or tracts of land situate in Tyrone Township, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1:

BEGINNING at a point for a corner in the center of the State Highway leading from Gettysburg to Carlisle (known as Route No. 34), thence running in the center of said Highway North forty-five and one-quarter (45-1/4) degrees East one hundred (100) feet to a point in the center of said Highway; thence running by land formerly of C.B. Gardner South forty-four and three-quarters (44-3/4) degrees East two hundred sixty-seven and seven-tenths (267.7) feet to a stake, thence running by land of the same and lands now or formerly of Jacob Lobaugh and William Bream South fifty-eighty (58) degrees West two hundred twenty-three and five-tenths (223.5) feet to a point in a stone fence, thence running by land formerly of Charley Group North seventeen and one-half (17-1/2) degrees West two hundred forty-six (246) feet to a point in the center of the aforesaid Highway, the point and place of BEGINNING.

TRACT NO. 2:

BEGINNING at an iron pin for a corner; thence running by Tract No. 1 North forty-four and three-quarters (44-3/4) degrees West two hundred sixty-seven and seven-tenths (267.7) feet to a point in the center of the State Highway leading from Gettysburg to Carlisle; thence running in the center of the State Highway North forty-five and one-quarter (45-1/4) degrees East fifteen (15) feet to a point in the center of the State Highway; thence running by lands formerly of C.B. Gardner South forty-four and three-quarters (44-3/4) degrees East two hundred sixty-six (266) feet to an iron pin; thence running by land of the same South fifty-eight (58) degrees West fifteen and three-tenths (15.3) feet to an iron pin, the point and place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Thomas Alberts and Barbara Alberts, husband and wife by Deed from Danny E. Taylor, single man and Shelly R. Taylor a/k/a Shelley R. Taylor, single woman dated 2/21/2002 and recorded 9/13/2002 in Record Book 2802 Page 203.

Premises being: 3103 Carlisle Pike a/k/a 3103 Carlisle Road, Gardners. PA 17324

Tax Parcel No. 33 Map G4

SEIZED and taken into execution as the property of **Barbara Alberts & Thomas Alberts** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 6, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-120 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the right-of-way line of Charlestown Court at Lot No. 207 as shown on the hereinafter referenced Subdivision Plan; thence running along said Lot No. 207 North seventy-three (73) degrees fifty-five (55) minutes five (05) seconds East, one hundred twenty-four and forty hundredths (124.40) feet to a point at Lot No. 56 as shown on the hereinafter referenced Subdivision Plan; thence running along Lot No. 56 South thirty-one (31) degrees two (02) minutes fifty (50) seconds East, sixty-seven and twenty-eight hundredths (67.28) feet to a point at Lot No. 56 and Lot No. 209 as shown on the hereinafter referenced Subdivision Plan; thence running along Lot No. 209 South seventy-three (73) degrees fifty-five (55) minutes five (05) seconds West, one hundred forty-one and seventy-seven hundredths (141.77) feet to a point on the right-of-

way line of Charlestown Court; thence running along said right-of-way line of Charlestown Court North sixteen (16) degrees four (04) minutes fifty-five (55) seconds West, sixty-five and zero hundredths (65.00) feet to a point on the right-of-way line of Charlestown Court at Lot No. 207 the point and place of BEGINNING.

CONTAINING 8651 square feet.

THE above described being Lot No. 208 on the Phase 5 Final Plan for Heritage Hill II, prepared by Martin and Martin, Incorporated, dated October 4, 1999, which said Subdivision Plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 79 at Page 63.

TITLE TO SAID PREMISES IS VESTED IN Johnathan N. Izquierdo and Brandee M. Izquierdo, his wife by Deed from Johnathan N. Izquierdo and Brandee M. Izquierdo, his wife, dated 8/24/2001 and recorded 9/5/2001 in Record Book 2396, Page 187.

Premises being: 40 Charlestown Court, Littlestown, PA 17340

Tax Parcel No. 57; Map #13

SEIZED and taken into execution as the property of **Johnathan N. Izquierdo & Brandee M. Izquierdo** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-360 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.,

ALL those described 4 tracts of land described lot of ground, with improvements thereon erected, situate in Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1

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

TRACT NO. 2

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

TRACT NO. 3

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

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

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

TRACT NO. 4

BEGINNING at a railroad spike in the center line of New Road T-364 at corner of Lot No. 1 on the draft of survey hereinafter referred to; thence along Lot No. 1, North 71 degrees 05 minutes 10 seconds East, passing through a reference pipe 25.00 feet from the beginning of this course, 642.47 feet to a pipe at land now or formerly of Thomas Reeve; thence by same South 32 degrees 30 minutes 50 seconds East, 136.21 feet to an existing pipe and stones at lands now or formerly of Elizabeth R. McClear; thence by same South 60 degrees 32 minutes 24 seconds West, 355.00 feet to an existing iron pin at land now or formerly of Robert W. Prater; thence by same South 76 degrees 16 minutes 43 seconds West, 235.17 feet to an existing pin at land now or formerly of David Stewart; thence by same South 76 degrees 15 minutes 55 seconds West, 108.71 feet to an existing nail in the center line of New Road T-364 aforesaid; thence in the center line of such road North 13 degrees 05 minutes 00 seconds West, 167.14 feet to a railroad spike, the place of BEGINNING, CONTAINING 2,670 acres.

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

Tax Map No: Map: C9-32

BEING KNOWN AS: 788 New Road, Orttanna, PA 17353

TITLE TO SAID PREMISES IS VESTED IN Raymond B. Williams Sr. and Candy S. Williams, husband and wife by

deed from Gerlad H. Deighton, single person, by attorney in fact, Edward G. Puhl, and Harry J. Blaisdell, single person, by his attorney in fact Edward G. Puhl dated 03/31/00 recorded 04/17/00 in Deed Book 2032 Page 136.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/15, 22 & 29

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Pennsylvania "Fictitious Names Act," 54 Pa C.S.A. Section 301 et seq, of the filing of an Application of Registration for Fictitious Name under the said Act. The fictitious name is SCOTT'S HOME IMPROVEMENTS. The address of the principal office of place of business to be carried on under or through the fictitious name is 920 Turkey Pit School Road, New Oxford, Adams County, Pennsylvania 17350. The name and address of the entity interested in the business is Scott Christopher, 920 Turkey Pit School Road, New Oxford, Adams County, Pennsylvania 17350. An Application for Registration of the said Fictitious Name was filed in the Office of the Secretary of the Commonwealth of Pennsylvania on February 22, 2005.

4/15

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 DOROTHY W. BEATTY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Richard A. Beatty, Jr., 185 Valley View Drive, Littlestown, PA 17340; Gary C. Beatty, 2023 River Road, Elkton, VA 22827; Doreen Kay Lawyer, 8500 Woodfall Road, Baltimore, MD 21236

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

ESTATE OF EVELYN C. COLGAN, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Thomas H. Colgan, 1180 Irishtown Road, New Oxford, PA 17350

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

ESTATE OF CATHERINE M. HARPER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Administratrix: Shirley Ann Staley, 2741 Taneytown Road, Gettysburg, PA 17325

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

ESTATE OF WILLIAM JOHN HINRICHS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Donald W. Hinrichs, 40 Wenschhoff Rd., Fairfield, PA 17320

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

ESTATE OF ANNE STIDGER PICKERING, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executors: James Stidger Pickering, 6726 Revere Avenue, Wauwatosa, WI 53213; David Read Pickering, 9606 Lorain Avenue, Silver Spring, MD 20901

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

SECOND PUBLICATION

ESTATE OF EVELYN LOIS BORKOWSKI, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

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

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

ESTATE OF MADELINE M. DEARDORFF, DEC'D

Late of the Borough of Hanover, York County, Pennsylvania

Executors: Jane Reinaman and James Robert Crouse, c/o Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

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

ESTATE OF ELEANOR P. FORRY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Jean E. Freeman, 193 Primrose Lane, Hanover, PA 17331; Charles S. Freeman, 193 Primrose Lane, Hanover, PA 17331

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

ESTATE OF THOMAS G. SPANGLER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Jeffrey T. Spangler, 1111 Arlington Boulevard #739, Rosslyn, VA 22209-3206-09

Attorney: Arthur J. Becker, Jr., Esq., Arthur J. Becker, Jr., P.C., 544 Carlisle Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF GEORGE W. ALTLAND, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Nevin Eugene Altland, 2 Bangor Road, Middletown, PA 17057; JoAnn Kline, 22 Northview Drive, Hanover, PA 17331

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

ESTATE OF MARGARET A. BECKER, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Executrix: Gladys F. Smith, 526 N. Scott Street, York, PA 17404

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

ESTATE OF RICHARD L. FOX, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Richard L. Fox, Jr., 4115 Linden Street, Harrisburg, PA 17109; Linda L. Reynolds, 240 New Haven Drive, Lititz, PA 17543

Attorney: John DeLorenzo, Esq., Goldberg Katzman, P.C., 320 Market Street, P.O. Box 1268, Harrisburg, PA 17108-1268

ESTATE OF ELSIE E. MUMMERT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Yvonne C. Smith, 1505 Holman Drive, Edgewood, MD 21040

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

ESTATE OF ANNA POLANSKY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Irene D. Polansky, 15213 Baileys Lane, Silver Spring, MD 20906-1350

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-144 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground situate, lying and being in the Borough of McSherrystown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at Main Street in the Borough of McSherrystown, Adams County and on line of lot now or formerly of Peter P. McSherry; thence West along said Main Street, thirty-three (33) feet six (6) inches, more or less, to eleven (11) feet wide alley now or formerly of Louis E. Schoefelder; thence North with said alley, one hundred forty-seven (147) feet six (6) inches, more or less, to a point; thence East twenty-one (21) feet six (6) inches to lands now or formerly of Peter P. McSherry, thence South along said lands now or formerly of Peter P. McSherry, one hundred forty-seven (147) feet six (6) inches, more or less, to the aforesaid Main Street, the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Patrick A. Taylor and Michelle L. Taylor, husband and wife by Deed from Stanley R. Taylor, Jr and Patricia A. Taylor, husband and wife, dated 9/8/1998 and recorded 9/18/1998 in Record Book 1664, Page 312.

Premises being: 135 Main Street, McSherrystown, PA 17344

Tax Parcel No. 28002-0112-000

SEIZED and taken into execution as the property of **Patrick A. Taylor & Michelle L. Taylor** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1168 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece or parcel of land, situate, lying and being in the Borough of McSherrystown, County of Adams, and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING for a corner at a point on the Northern edge of North Street at lands now or formerly of Ernest E. Strasbaugh (as shown on the survey referred to below); thence along lands now or formerly of Ernest E. Strasbaugh North 22 degrees West 143 78 feet to a point on the Southern edge of a 16 foot wide public alley; thence along the Southern edge of the 16 foot wide public alley North 68 degrees 17 minutes East 21.56 feet to a steel pin at the corner of lands now or formerly of Francis E. Devine; thence along the last mentioned lands and through the middle of a carport and the center of a partition wall of a double house located on this and the adjacent lot on the East, South 22 degrees East 143 84 feet to a point on the Northern line of North Street; thence along the Northern line of North Street South 68 degrees 27 minutes East 21.56 feet to a nail at the point and place of BEGINNING. CONTAINING 3,101 square feet.

The above description was taken from a survey plan prepared by J.H. Rife, Registered Engineer, dated January 7, 1969, and captioned "Francis E. Devine", and designated thereon as #525 North Street.

BEING the same premises which Robert F. Studzinski, Jr. and Carla J. Studzinski, by Indenture dated July 27, 1999 and recorded March 23, 2000 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 2019, Page 22, granted and conveyed unto Robert F. Studzinski, Jr.

UNDER AND SUBJECT to any and all covenants, conditions, reservations, restrictions, limitations, rights-of-way, objections, easements, agreements, etc., as they appear of record.

Parcel No. (28) 5-98.

SEIZED and taken into execution as the property of **Robert F. Studzinski** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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4/15, 22 & 29

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Act of Assembly No. 295 of 1982, of the filing in the Office of the Secretary of Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about the 8th day of April, 2005, a certificate for the conduct of business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of PENN SQUARE TOWNHOMES, with its principal place of business at 415 Cedar Ridge Road, New Oxford, Pennsylvania. The entity who owns or is interested in said business is Times Square, II, LLC, 415 Cedar Ridge Road, New Oxford, Pennsylvania.

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

4/15

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 March 23, 2005.

The name of the corporation is MAKE-UPSTUDIO WORLDWIDE, LTD.

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

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

4/15

Adams County Legal Journal

Vol. 46

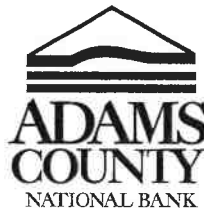
April 22, 2005

No. 48, pp. 312-318

IN THIS ISSUE

CRIMMINS ET AL VS. PA. DEPT. OF TRANSPORTATION

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



Member FDIC

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-113 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land, together with improvements thereon erected, lying and being and situate in the Borough of Abbottstown, Adams County, Pennsylvania, more particularly described as follows:

BEGINNING at a point at High Street at Lot No. 3 now or formerly of George Hofferis; thence by the same North fourteen and one-fourth (14-1/4) degrees West one hundred eighty-one and five-tenths (181.5) feet to a point at fourteen (14) foot wide alley; thence along said alley North seventy-five and three-fourths (75-3/4) degrees East sixty-six (66) feet to a stone at another fourteen (14) foot wide alley; thence along the last mentioned alley South fourteen and one-fourth (14-1/4) degrees East one hundred eighty-one and five-tenths (181.5) feet to a stone at High Street aforesaid; thence along High Street South seventy-five and three-fourths (75-3/4) degrees to a point, the place of BEGINNING.

IT BEING KNOWN as Lot No. 4 on a plan of lots as laid out by Z.E. Craumer, Surveyor, on January 14, 1928, as the land of Grant Freed.

BEING KNOWN AS: 249 High Street, Abbottstown, PA 17301

PROPERTY ID NO.: 1-3-20

TITLE TO SAID PREMISES IS VESTED IN David R. Kirby by deed from David R. Kirby and Sandra L. Kirby, husband and wife dated 06/23/00 recorded 06/29/00 in Deed Book 2078 Page 20.

SEIZED and taken into execution as the property of David R. Kirby and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance

with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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4/15, 22 & 29

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BEGINNING at Main Street in the Borough of McSherrystown, Adams County and on line of lot now or formerly of Peter P. McSherry; thence West along said Main Street, thirty-three (33) feet six (6) inches, more or less, to eleven (11) feet wide alley now or formerly of Louis E. Schoeufelder; thence North with said alley, one hundred forty-seven (147) feet six (6) inches, more or less, to a point; thence East twenty-one (21) feet six (6) inches to lands now or formerly of Peter P. McSherry; thence South along said lands now or formerly of Peter P. McSherry, one hundred forty-seven (147) feet six (6) inches, more or less, to the aforesaid Main Street, the place of BEGINNING

TITLE TO SAID PREMISES IS VESTED IN Patrick A. Taylor and Michelle L. Taylor, husband and wife by Deed from Stanley R. Taylor, Jr. and Patricia A. Taylor, husband and wife, dated 9/8/1998 and recorded 9/18/1998 in Record Book 1664, Page 312.

Premises being: 135 Main Street, McSherrystown, PA 17344

Tax Parcel No. 28002-0112-000

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

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4/15, 22 & 29

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on March 21, 2005 the Petition of William Joseph Goodin was filed in the Court of Common Pleas of Adams County, Pennsylvania praying for a decree to change his name from William Joseph Goodin to William Joseph Wolf.

The Court has fixed Wednesday, May 25, 2005 at 9:00 o'clock A.M. in Courtroom No. 2 of the Adams County Courthouse as the time and place for the hearing of said Petition, when and where all persons interested may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

Thomas M. Shultz, Esq. Attorney for Petitioner

4/22

CRIMMINS ET AL VS. PA. DEPT. OF TRANSPORTATION

1. 75 C.S.A. Section 3754(b) mandates, in explicit and unambiguous terms that “in depth accident investigations and safety studies and information, records and reports used in their preparation shall not be discoverable nor admissible as evidence in any legal action or other proceeding.”

2. A study conducted pursuant to Section 210.6(1) meets the element of an “in-depth” study.

3. Persons or entities may fairly be considered to be an association where they have some interest or purpose in common.

4. Statutes should not be read in the abstract, but must be construed with a view to its place in the entire legislative structure of the statute.

5. It is clear that the statutory scheme envisions a free exchange of information concerning the State Police investigation of accident scenes in combination with the Department’s efforts to provide a safe and efficient system of motor vehicle transportation in the Commonwealth.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 96-S-1080, JO ROBNEY CRIMMINS AND WILLIAM F. CRIMMINS, ET AL VS. THE DEPARTMENT OF TRANSPORTATION OF THE COMMONWEALTH OF PENNSYLVANIA.

Shawn P. McLaughlin, Esq., for Plaintiffs

Jay W. Stark, Esq., for Defendant

George, J., July 1, 2004

OPINION

This matter comes before this Court on the Plaintiffs’, Jo Robey Crimmins and William F. Crimmins (hereinafter referred to as “the Crimmins”), Motion to Compel Discovery. In their request for production of documents, the Crimmins seek the safety, engineering and accident investigation studies concerning the intersection of U.S. Route 30 and Cashtown Road, Adams County, Pennsylvania. The Pennsylvania Department of Transportation (hereinafter referred to as “Department”) has objected to discovery of those items arguing that they are privileged from discovery pursuant to state and federal law. See 75 Pa.C.S.A. § 3754; 23 U.S.C. § 409. In light of the decision herein, it is unnecessary to consider the Crimmins’ request under 23 U.S.C. § 409.

Title 75, Section 3754 provides in relevant part:

- (a) **General rule.** - The department, in association with the Pennsylvania State Police, may conduct in-depth accident investigations and safety studies of the human, vehicle and environmental aspects of traffic accidents for the purpose of

determining the causes of traffic accidents and the improvements which may help prevent similar types of accidents or increase the overall safety of roadways and bridges.

- (b) **Confidentiality of reports.** - In-depth accident investigations and safety studies and information, records and reports used in their preparation shall not be discoverable nor admissible as evidence in any legal action or other proceeding, nor shall officers or employees or the agencies charged with the development, procurement or custody of in-depth accident investigations and safety study records and reports be required to give depositions or evidence pertaining to anything contained in such in-depth accident investigations or safety study records or reports in any legal action or other proceeding.

75 Pa.C.S.A. § 3754.

In an earlier opinion in this matter, this Court determined that the purpose of this legislation was to effectuate “a safe and efficient system of motor vehicle transportation in the Commonwealth by providing its officers and employees ‘an unbiased, honest and accurate body of information regarding motor vehicle accidents’”. *Crimmins v. Dep’t of Transp.*, 96-S-1080 (C.P. Adams February 13, 2003) (quoting *Dep’t of Transp. v. Taylor*, 746 A.2d 626, 630 (Pa.Super. 2000)). The Pennsylvania Supreme Court very recently reversed the Superior Court’s ultimate determination in *Taylor*, 841 A.2d 108 (Pa. 2004), while reiterating the important governmental objective of this section is to provide for a safe and efficient highway system in Pennsylvania. Although the *Crimmins* do not currently challenge the legitimacy of this section, they argue that it is inapplicable to the investigations and studies which they seek. Specifically, the *Crimmins* argue that in order for the documents at issue to be privileged, they must be both “in-depth” investigations and safety studies and also prepared “in association” with the Pennsylvania State Police. While conceding the nature of the documents as being investigations and safety studies, the *Crimmins* assert that they are not protected since the studies were neither “in-depth” nor prepared “in association” with the State Police. For the reasons set forth below, I disagree.

The genesis of the *Crimmins*’ argument is found in *Commonwealth v. Hall*, 744 A.2d 1287 (Pa.Super. 2000). In *Hall*, a

criminal defendant charged with vehicular homicide sought accident reconstruction and visibility studies in possession of the Department that were, however, prepared by the City of Pittsburgh Police. In recognizing that evidentiary privileges are disfavored, the *Hall* Court concluded that the records at issue were not privileged. They reasoned that “the investigation in question was not conducted by PennDOT or the Pennsylvania State Police, but rather, was conducted by the City of Pittsburgh Police”. *Id.* at 1290 (emphasis added). The Crimmins’ current argument focuses upon the language of the *Hall* Court which interprets Section 3754 as empowering:

. . . PennDOT to conduct “in-depth accident investigations and safety studies” only in a specific manner (i.e. “in association with the Pennsylvania State Police”) and only for specific purposes (i.e. “determining the causes of traffic accidents and the improvements which may help prevent similar types of accidents or increase the overall safety of roadways and bridges”). Thus, upon reading the two subsections in *para materia*, we conclude that an “in-depth accident investigation [] [or] safety study” is rendered undiscoverable or inadmissible under subsection (b) only to the extent that it was compiled in conformity with subsection (a).

Id.

As mentioned, subsequent to *Hall*, the Pennsylvania Supreme Court had the opportunity to interpret Section 3754 in *Taylor*, 841 A.2d 108. Although the issue in *Taylor* involved whether the privilege of Section 3754 applied to criminal proceedings, the Supreme Court recognized that Section 3754 was clear and unambiguous in its language. Justice Castille, in authoring the majority opinion, stated:

Section 3754(b) mandates, in explicit and unambiguous terms that “in-depth accident investigations and safety studies and information, records and reports used in their preparation shall not be discoverable nor admissible as evidence in any legal action or other proceeding”. 75 Pa. C.S. § 3754(b). The statute provides for no exceptions. It further mandates that employees of agencies, such as PennDOT here, which are charged with the development or procurement of such studies or reports, shall not be

required to give depositions or evidence pertaining to anything contained in them. *Id.* Contrary to appellee’s argument, the fact that the statute does not “explicitly state” that it applies to criminal cases does not clothe the statute in ambiguity. The statute speaks in the broadest of terms, stating that it applies in **any legal action or other proceeding**; such global language obviously encompasses criminal proceedings no less than civil proceedings. There is no ambiguity. In the apparent interest of maintaining confidentiality, the statute prohibits the discovery of in—depth accident investigations and safety studies and information as well as records and reports used in their preparation—the very items requested by appellee. By the clear terms of § 3754(b), appellee is not entitled to subpoena these materials. To allow discovery of these accident reports and studies in collateral matters would directly counter the statutory mandate of promoting a safe and efficient highway system by providing PennDOT with unbiased and accurate information unfettered by involving PennDOT employees and consultants in collateral legal actions or other proceedings of any type. Such restriction is an appropriate manner designed to achieve important governmental objectives; a safe and efficient highway system in Pennsylvania.

Id. at 112-13 (emphasis in original).

Although the *Taylor* Opinion does not specifically address the issue currently before this Court, it provides insight to the unambiguous language in which the statute is written.

It is precisely this clarity that the Crimmins rely upon in arguing that the privilege is currently inapplicable. The Crimmins argue that all words in the statute are to be given meaning and should not be disregarded. Although their argument is legally sound, see *Keystone Aerial Surveys, Inc. v. Pennsylvania Guar. Ass’n*, 777 A.2d 84, 90 (Pa.Super. 2001), it misapplies the plain language of the legislation by subjecting it to microscopic analysis.

The Statutory Construction Act directs that, in construing the statutory language, “[w]ords and phrases shall be construed according to rules of grammar and according to their common and

approved usage . . .” 1 Pa.C.S.A. § 1903. Instantly, the words at issue are not defined by the enabling legislation. Accordingly, it is appropriate to reference a dictionary to determine a word’s common meaning and usage. *Fogle v. Malvern Courts, Inc.*, 722 A.2d 680, 682 (Pa. 1999) (citing *Love v. City of Philadelphia*, 543 A.2d 531, 532 (Pa. 1988)).

The American Heritage Dictionary defines “in-depth” as meaning “[d]etailed; thorough”. The American Heritage Dictionary 668 (1981). Applying this common usage definition to the record before me, I find that the Department’s records fall within this element of the privilege.

The uncontested February 2, 2004 affidavit of Sunil R. Patel¹ indicates that safety studies of the intersection at issue are included in the safety file. Patel further represented that those studies “involved a thorough engineering analysis of data pursuant to Title 67 Pa. Code § 201 and also the consideration of elements, as appropriate, contained in 201.6”. See Affidavit of Sunil R. Patel, Feb. 2, 2004. Patel further claims that the information and data compiled in the safety file was collected to identify “hazardous elements which may constitute a danger to motorists and to develop and implement projects to address them”. *Id.*

A cursory examination of Title 67, Pennsylvania Code Section 201.6 reveals twenty-two areas of inquiry in preparing an engineering and traffic study. A subsection specifically addresses accident analysis and sets forth nine areas of inquiry in such an analysis. 67 Pa.Code § 201.6(1)(i-ix). Those areas of inquiry include, but are not limited to, examination of the previous three years of accidents at the location; causes of accidents; type of accident and environmental conditions which may be applicable. *Id.* The thoroughness of a study conducted pursuant to this section clearly falls within the common definition of “in-depth”. Accordingly, I am unwilling to blur the clear meaning of the language with shades of gray which will flood future courts with unnecessary issues. I find, therefore, that a study conducted pursuant to Section 201.6(1) meets the element of an “in-depth” study. *Id.*

¹ The Department employs Sunil R. Patel in the capacity of Assistant District Traffic Manager/Safety for Department Engineering District 8-0, which is the district which encompasses Adams County.

Similarly, I am unwilling to read greater meaning into the language “in association with . . .” than is required by common usage. “Association” commonly refers to “the act of associating, the state of being associated: PARTNERSHIP, COMBINATION”. See American Heritage Dictionary 67 (1981). It does not, however, require the performance of any specific duty by all associated entities nor does it require a minimum threshold or division of responsibilities. Rather, persons or entities may fairly be considered to be an association where they have some interest or purpose in common. *Id.*

Once again, uncontested affidavits submitted by the Department are determinative of the issue currently before this Court.² The November 25, 2002 affidavit of Devang D. Patel indicates that the safety studies involved “the review and analysis of accident reports submitted to PennDOT by the Pennsylvania State Police”. See Affidavit of Devang D. Patel, Nov. 25, 2002. They further indicated that the “purpose of reviewing and analyzing the Pennsylvania State Police accident reports submitted to PennDOT was to determine the causes of traffic accidents and to increase highway safety”. *Id.* This background brings the safety files at issue within the clear protections of Section 3754. Moreover, the instant issue is clearly distinguishable from that before the *Hall* Court in that the *Hall* Court considered the discovery of accident reports prepared by neither the Department nor the Pennsylvania State Police. Accordingly, I cannot accede to the Crimmins’ request to discover the very items Section 3754 is meant to protect.

In reaching this decision, I am mindful of the well-established principles of statutory construction that statutes “should not be read in the abstract, but ‘must be construed with a view to its place in the entire legislative structure of the [statute]’.” *Casiano v. Casiano*, 815 A.2d 638, 642 (Pa.Super. 2002) (citing *In the Matter of T.R.*, 665 A.2d 1260, 1264 (Pa.Super. 1995), reversed on other grounds, 731 A.2d 1276 (1999)). Pennsylvania’s statutory scheme vests the Pennsylvania State Police with the authority to preserve law and order and to enforce regulations on the use of highways. See 71 P.S.

²The Department submitted the November 25, 2002 Affidavit of Devang D. Patel, Assistant District Traffic Manager/Safety. The Crimmins do not refute the factual basis contained in the affidavit.

§ 250. Inherent in that authority is the ability to institute investigations concerning whether motor vehicle laws have been violated. See generally *Pennsylvania State Police v. Bradley*, 297 A.2d 554 (Pa.Cmwlth. 1972). The Pennsylvania State Police, however, are not sanctioned to develop or maintain a comprehensive and coordinated transportation system. Rather, that mandate rests with the Department which is charged with the duty of maintaining an efficient highway system. See 71 P.S. § 512. When these statutory delegations of authority are read together with Section 3754, it is clear that the statutory scheme envisions a free exchange of information concerning the State Police investigation of accident scenes in combination with the Department's efforts to provide a safe and efficient system of motor vehicle transportation in the Commonwealth.³ Any other reading would have the absurd result of entirely nullifying the privilege in light of the separate mandates placed on the Department and the Pennsylvania State Police by the state legislature.

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 1st day of July, 2004, the Plaintiff's Request to Compel Discovery of the safety studies and investigations held in the possession of the Pennsylvania Department of Transportation is denied.

³This Opinion is limited to the issue before this Court which is whether the Crimmins may obtain from the Department "information, records and reports from safety studies in possession of the Department".

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-403 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE CERTAIN lots, parcels or tracts of land situate in Tyrone Township, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1:

BEGINNING at a point for a corner in the center of the State Highway leading from Gettysburg to Carlisle (known as Route No. 34); thence running in the center of said Highway North forty-five and one-quarter (45-1/4) degrees East one hundred (100) feet to a point in the center of said Highway; thence running by land formerly of C.B. Gardner South forty-four and three-quarters (44-3/4) degrees East two hundred sixty-seven and seven-tenths (267.7) feet to a stake; thence running by land of the same and lands now or formerly of Jacob Lobaugh and William Bream South fifty-eighty (58) degrees West two hundred twenty-three and five-tenths (223.5) feet to a point in a stone fence; thence running by land formerly of Charley Group North seventeen and one-half (17-1/2) degrees West two hundred forty-six (246) feet to a point in the center of the aforesaid Highway, the point and place of BEGINNING.

TRACT NO. 2:

BEGINNING at an iron pin for a corner; thence running by Tract No. 1 North forty-four and three-quarters (44-3/4) degrees West two hundred sixty-seven and seven-tenths (267.7) feet to a point in the center of the State Highway leading from Gettysburg to Carlisle; thence running in the center of the State Highway North forty-five and one-quarter (45-1/4) degrees East fifteen (15) feet to a point in the center of the State Highway; thence running by lands formerly of C.B. Gardner South forty-four and three-quarters (44-3/4) degrees East two hundred sixty-six (266) feet to an iron pin; thence running by land of the same South fifty-eight (58) degrees West fifteen and three-tenths (15.3) feet to an iron pin, the point and place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Thomas Alberts and Barbara Alberts, husband and wife by Deed from Danny E. Taylor, single man and Shelly R. Taylor a/k/a Shelley R. Taylor, single woman dated 2/21/2002 and recorded 9/13/2002 in Record Book 2802 Page 203.

Premises being: 3103 Carlisle Pike a/k/a 3103 Carlisle Road, Gardners, PA 17324

Tax Parcel No. 33 Map G4

SEIZED and taken into execution as the property of **Barbara Alberts & Thomas Alberts** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 6, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-120 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the right-of-way line of Charlestown Court at Lot No. 207 as shown on the hereinafter referenced Subdivision Plan; thence running along said Lot No. 207 North seventy-three (73) degrees fifty-five (55) minutes five (05) seconds East, one hundred twenty-four and forty hundredths (124.40) feet to a point at Lot No. 56 as shown on the hereinafter referenced Subdivision Plan; thence running along Lot No. 56 South thirty-one (31) degrees two (02) minutes fifty (50) seconds East, sixty-seven and twenty-eight hundredths (67.28) feet to a point at Lot No. 56 and Lot No. 209 as shown on the hereinafter referenced Subdivision Plan; thence running along Lot No. 209 South seventy-three (73) degrees fifty-five (55) minutes five (05) seconds West, one hundred forty-one and seventy-seven hundredths (141.77) feet to a point on the right-of-

way line of Charlestown Court; thence running along said right-of-way line of Charlestown Court North sixteen (16) degrees four (04) minutes fifty-five (55) seconds West, sixty-five and zero hundredths (65.00) feet to a point on the right-of-way line of Charlestown Court at Lot No. 207 the point and place of BEGINNING.

CONTAINING 8651 square feet.

THE above described being Lot No. 208 on the Phase 5 Final Plan for Heritage Hill II, prepared by Martin and Martin, Incorporated, dated October 4, 1999, which said Subdivision Plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 79 at Page 63.

TITLE TO SAID PREMISES IS VESTED IN Johnathan N. Izquierdo and Brandee M. Izquierdo, his wife by Deed from Johnathan N. Izquierdo and Brandee M. Izquierdo, his wife, dated 8/24/2001 and recorded 9/5/2001 in Record Book 2396, Page 187.

Premises being: 40 Charlestown Court, Littlestown, PA 17340

Tax Parcel No. 57; Map #13

SEIZED and taken into execution as the property of **Johnathan N. Izquierdo & Brandee M. Izquierdo** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-380 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those described 4 tracts of land described lot of ground, with improvements thereon erected, situate in Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO 1

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

TRACT NO 2

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

TRACT NO 3

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

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

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

TRACT NO 4

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

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

Tax Map No: Map: C9-32

BEING KNOWN AS: 788 New Road, Orttanna, PA 17353

TITLE TO SAID PREMISES IS VESTED IN Raymond B. Williams Sr. and Candy S. Williams, husband and wife by

deed from Gerlad H. Deighton, single person, by attorney in fact, Edward G. Puhl, and Harry J. Blaisdell, single person, by his attorney in fact Edward G. Puhl dated 03/31/00 recorded 04/17/00 in Deed Book 2032 Page 136.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/15, 22 & 29

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that on February 3, 2005, Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, incorporating WESTFIELD, LLC, under the provisions of the Business Corporation Law, LLC Law of 1994.

The purpose for which said corporation is formed: The corporation shall have unlimited power to engage in and do any lawful act concerning any and all lawful business for which corporations may be incorporated under the Business Corporation Law of 1988.

The location and post office address of the initial registered office of said corporation is 1235 Abbottstown Pike, Hanover, PA 17331.

Alan M. Cashman, Esq.
141 Broadway, Suite 230
Hanover, PA 17331
(717) 632-9580

4/22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1168 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece or parcel of land, situate, lying and being in the Borough of McSherrystown, County of Adams, and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING for a corner at a point on the Northern edge of North Street at lands now or formerly of Ernest E. Strasbaugh (as shown on the survey referred to below); thence along lands now or formerly of Ernest E. Strasbaugh North 22 degrees West 143.78 feet to a point on the Southern edge of a 16 foot wide public alley; thence along the Southern edge of the 16 foot wide public alley North 68 degrees 17 minutes East 21.56 feet to a steel pin at the corner of lands now or formerly of Francis E. Devine; thence along the last mentioned lands and through the middle of a carport and the center of a partition wall of a double house located on this and the adjacent lot on the East, South 22 degrees East 143.84 feet to a point on the Northern line of North Street; thence along the Northern line of North Street South 68 degrees 27 minutes East 21.56 feet to a nail at the point and place of BEGINNING. CONTAINING 3,101 square feet.

The above description was taken from a survey plan prepared by J.H. Rife, Registered Engineer, dated January 7, 1969, and captioned "Francis E. Devine", and designated thereon as #525 North Street.

BEING the same premises which Robert F. Studzinski, Jr. and Carla J. Studzinski, by Indenture dated July 27, 1999 and recorded March 23, 2000 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 2019, Page 22, granted and conveyed unto Robert F. Studzinski, Jr.

UNDER AND SUBJECT to any and all covenants, conditions, reservations, limitations, restrictions, rights-of-way, objections, easements, agreements, etc., as they appear of record.

Parcel No. (28) 5-98.

SEIZED and taken into execution as the property of **Robert F. Studzinski** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1196 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of June, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in the Borough of Fairfield, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a lietz spike in the centerline of Legislative Route No. 01015 at the corner of Lot No. 3 and at the corner of lands now or formerly of James M. Landis; thence by Lot No. 3, South 25 degrees 02 minutes 35 seconds West, 160 feet, passing through a reference pipe set back 25 feet from the beginning of this course, to a steel rod at the corner of Lot No.3 and the corner of other lands now or formerly of James M. Landis; thence by said other lands of James M. Landis, North 64 degrees 57 minutes 25 seconds West, 105 feet to a steel rod at the corner of said other lands of James M. Landis and the corner of Lot No. 5; thence by said Lot No. 5, North 25 degrees 02 minutes 35 seconds East, 160 feet, passing through a reference pipe set back 25 feet from the end of this course, to a lietz spike set in the centerline of Legislative Route No. 01015 at the corner of Lot No. 5 and the corner of lands now or formerly of James M. Landis; thence by said lands of James M. Landis and running in the centerline of Legislative Route No. 01015, South 64 degrees 57 minutes 25 seconds East, 105 feet to a lietz spike set in the centerline of said Legislative Route No. 01015 at the corner of Lot No. 3 and the corner of said lands now or formerly of James M. Landis, the place of BEGINNING.

The above description was taken from a subdivision plan dated May 16, 1983 prepared by Adams County Surveys, which is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 38 at Page 55, being Lot No. 4 thereon.

BEING THE SAME PREMISES which Jason Lawrence Vinson and Charlotte Ann Vinson, husband and wife, by Deed dated June 24, 1999 and recorded in the Office of the Recorder of Deeds of Adams County on August 17, 1999 in Deed Book Volume 1896, Page 327, granted and conveyed unto Jason Lawrence Vinson.

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

DBV 1896

Page 327

Parcel (11)5-62

SEIZED and taken into execution as the property of **Jason Lawrence Vinson & Charlotte Ann Vinson** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 11, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/22, 29 & 5/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-126 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of June, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or piece of ground situate in Liberty Township, County of Adams, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a railroad spike set in McLaughlin Road T-318 at Lot No. 1 on the hereinafter recited draft; thence by said lot and through an iron pipe set back 25 feet on the line South 24 degrees 53 minutes 25 seconds East 485.50 feet to an iron pipe set; thence continuing by Lot No. 1 and through an iron pipe set back 25 feet from the end of this course South 64 degrees 28 minutes 25 seconds West 230 feet to an existing p.k. nail in the centerline of Bullfrog Road T-321; thence in said Bullfrog Road by a curve to the left the radius of which is 1054.81 feet for an arc distance of 366.38 feet and having a chord bearing a distance of North 36 degrees 43 minutes 23 seconds West 365.54 feet to an existing p.k. nail in the centerline of said Bullfrog Road; thence continuing in said Bullfrog Road North 45 degrees 18 minutes 10 seconds West 128.79 feet to an existing railroad spike in or near the Northern edge of said McLaughlin Road; thence in said McLaughlin Road North 65 degrees 20 minutes 10 seconds East 113.24 feet to a point; thence continuing in said McLaughlin Road North 61 degrees 20 minutes 20 seconds East 153.98 feet to a point; thence continuing in said McLaughlin Road North 64 degrees 29 minutes 55 seconds East 82.78 feet to the place of BEGINNING.

THE above description is being Lot No. 4 on a draft of survey prepared by Boyer Surveys, dated May 6, 1991 and recorded in Adams County Plat Book 58 at Page 82.

TITLE TO SAID PREMISES IS VESTED IN Michael W. Weatherly by Deed from Tommy C. Duty and Patricia Lee Duty, his wife, dated 1/15/2003 and recorded 8/20/2003 in Record Book 3256 Page 115.

Premises being: 2785 Bull Frog Road, Fairfield, PA 17320

Tax Parcel No. 25-D15-35

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 1, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/22, 29 & 5/6

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of Sec. 311 of the Act of Assembly of December 16, 1982, 54 PA C.S.A. 311, that an application for registration of a fictitious name was filed on December 23, 2004, with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the conducting of a business under the fictitious name of LA BELLA ITALIA OF GETTYSBURG with its principal office or place of business at 402 York Street, Gettysburg, PA 17325. The names and addresses of all persons owning or interested in said business are: La Bella Italia of Gettysburg, LLC, of 402 York Street, Gettysburg, PA 17325.

Jonathan Patrono, Esq.
Patrono & Associates, LLC
30 W. Middle Street
Gettysburg, PA 17325

4/22

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of Sec. 311 of the Act of Assembly of December 16, 1982, 54 PA C.S.A. 311, that an application for registration of a fictitious name was filed on December 23, 2004, with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the conducting of a business under the fictitious name of GETT EX with its principal office or place of business at 885 Herrs Ridge Road, Gettysburg, PA 17325. The names and addresses of all persons owning or interested in said business are: Gett EX, LLC, of 885 Herrs Ridge Road, Gettysburg, PA 17325.

Jonathan Patrono, Esq.
Patrono & Associates, LLC
30 W. Middle Street
Gettysburg, PA 17325

4/22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-119 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of June, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or piece of ground situate in Germany Township, County of Adams, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a railroad spike set in Township Road T-442, known as Feeser Road, at corner of land of Muller Construction Company, Inc., designated as Lot No. 3 on the Final Plan referred to below; by said Lot No. 3, and running through an iron pin set back 23.10 feet from the place of beginning, North 71 degrees 30 minutes West 440.07 feet to an iron pin set; thence continuing by said Lot No. 3, North 18 degrees 30 minutes East 108.59 feet to an iron pin set; thence by land designated as Lot No. 4 on the Final Plan referred to below, South 77 degrees 27 minutes 31 seconds East 398.23 feet to an iron pin set; thence by the same, South 71 degrees 30 minutes East 49.26 feet to a railroad spike set in Feeser Road; thence in Feeser Road, South 20 degrees 30 minutes 32 seconds West, 150.03 feet to a railroad spike set at corner of lot designated as Lot No. 3 on the Final Plan referred to below, the place of BEGINNING.

SEIZED and taken into execution as the property of **Todd H. Hess & Charlotte M. Hess a/k/a Charlotte M. Reisinger** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 11, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/22, 29 & 5/6

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 L. GROH a/k/a MARY LOUISE GROH, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administratrix: Kathleen Ballering, N. 71 W. 23549 Homestead Road, Sussex, WI 53089

Attorney: Andrea M. Singley, Esq., 63 West High St., Gettysburg, PA 17325

ESTATE OF CHARLES J. HINKEL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

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

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

ESTATE OF CHARLES J. McMASTER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Nancy J. McMaster, 310 North Third Street, McSherrystown, PA 17344

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

ESTATE OF EARL H. MITCHELL, DEC'D

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

Executrix: Barbara Jo Entwistle, Esq., 25 S. Washington St., Gettysburg, PA 17325

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 S. Washington St., Gettysburg, PA 17325

ESTATE OF ALEXANDER E. SCHAUFELLE, SR., DEC'D

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

Executrix: Karen Marie Bennett, 1939 Blair Court, Bel Air, MD 21015

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

ESTATE OF RALPH SLOAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Thomas A. Buck, 320 Woods Road, Glenside, PA 19038

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

ESTATE OF JOAN K. SPENCER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Howard L. Spencer, 1020 Old Manchester Road, Westminster, MD 21157

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

SECOND PUBLICATION

ESTATE OF DOROTHY W. BEATTY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Richard A. Beatty, Jr., 185 Valley View Drive, Littlestown, PA 17340; Gary C. Beatty, 2023 River Road, Elkton, VA 22827; Doreen Kay Lawver, 8500 Woodfall Road, Baltimore, MD 21236

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

ESTATE OF EVELYN C. COLGAN, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Thomas H. Colgan, 1180 Irishtown Road, New Oxford, PA 17350

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

ESTATE OF CATHERINE M. HARPER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Administratrix: Shirley Ann Staley, 2741 Taneytown Road, Gettysburg, PA 17325

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

ESTATE OF WILLIAM JOHN HINRICHS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Donald W. Hinrichs, 40 Wenschhoff Rd., Fairfield, PA 17320

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

ESTATE OF ANNE STIDGER PICKERING, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executors: James Stidger Pickering, 6726 Revere Avenue, Wauwatosa, WI 53213; David Read Pickering, 9606 Lorain Avenue, Silver Spring, MD 20901

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

THIRD PUBLICATION

ESTATE OF EVELYN LOIS BORKOWSKI, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

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

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

ESTATE OF MADELINE M. DEARDORFF, DEC'D

Late of the Borough of Hanover, York County, Pennsylvania

Executors: Jane Reinaman and James Robert Crouse, c/o Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

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

ESTATE OF ELEANOR P. FORRY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Jean E. Freeman, 193 Primrose Lane, Hanover, PA 17331; Charles S. Freeman, 193 Primrose Lane, Hanover, PA 17331

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

ESTATE OF THOMAS G. SPANGLER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Jeffrey T. Spangler, 1111 Arlington Boulevard #739, Rosslyn, VA 22209-3206-09

Attorney: Arthur J. Becker, Jr., Esq., Arthur J. Becker, Jr., P.C., 544 Carlisle Street, Hanover, PA 17331

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of an Act of the General Assembly, approved December 16, 1982, P.L. 1309, that there has been filed in the Office of the Secretary of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on the 23rd day of March, 2005, a certificate for the conduct of a business in Adams County, Pennsylvania, under the fictitious name, style or designation of "QUARRY CRITTERS," with its principal place of business at 580 Basehoar Road, Littlestown, Pennsylvania 17340. The name(s) and address(es) of the person(s) owning or interested in said business is Julie M. Wysong of 580 Basehoar Road, Littlestown, Pennsylvania 17340.

John James Mooney, III, Esq.
Mooney & Associates
230 York Street
Hanover, PA 17331

4/22

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 05-S-14
Action to Quiet Title

GEORGE A. KEMPER and ANNA J. KEMPER, husband and wife, Plaintiffs

vs.

FRED M. JAMESON and DONNA L. JAMESON, husband and wife, and JOHN DOE, their respective heirs and/or assigns, Defendants

NOTICE

YOU ARE NOTIFIED that the Plaintiffs have commenced an action to quiet title against you by complaint filed to the above docket number on January 4, 2005, which action you are required to defend.

You are required to plead to the said complaint within twenty (20) days after service has been completed by publication, or judgment by default may be entered against you.

This action concerns the premises hereinafter described:

ALL that certain tract of land being, lying and situated in Reading Township, Adams County, Pennsylvania, more particularly bounded and described as follows: Map #2, Parcel 94A, Lot No. M-483 of the Lake Meade Subdivision in Reading Township, Adams County, Pennsylvania, having a property address known as 21 Ewell Drive, East Berlin, PA 17316.

BEING the same which the Tax Claim Bureau for Adams County granted and conveyed unto George A. Kemper and Anna J. Kemper, husband and wife, Plaintiffs herein by deed dated December 29, 1975 and recorded December 29, 1975 in the Office of the Recorder of Deeds in and for Adams County in Record Book 322 at Page 279.

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

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

Court Administrator
Adams County Courthouse
Baltimore Street
Gettysburg, PA 17325
Telephone Number (717) 334-6781

Patrono & Associates, LLC
John J. Murphy III, Esq.
Attorney for Plaintiffs
30 West Middle Street
Gettysburg, PA 17325
(717) 334-2159
PA ID # 91299

4/22

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of Sec. 311 of the Act of Assembly of December 16, 1982, 54 PA C.S.A. 311, that an application for registration of a fictitious name was filed on December 23, 2004, with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the conducting of a business under the fictitious name of TRIPOLI with its principal office or place of business at 325 Rupp Road, Gettysburg, PA 17325. The names and addresses of all persons owning or interested in said business are: Tripoli, LLC, of 325 Rupp Road, Gettysburg, PA 17325.

Jonathan Patrono, Esq.
Patrono & Associates, LLC
30 W. Middle Street
Gettysburg, PA 17325

4/22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-499 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Straban Township, Adams County, Pennsylvania, being more particularly described as (Lot No. 416) on a plan of lots of Lake Heritage Subdivision duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County in Miscellaneous Volume 4 at page 427, and subject to all legal highways, easements, rights of way and restrictions of record.

TITLE TO SAID PREMISES IS VESTED IN George H. Simeone and Jodi F. Simeone, husband and wife by Deed from Fred M. Fowler and Carolyn N. Fowler, husband and wife dated 9/30/98 and recorded 10/8/98 in Record Book 1677, Page 231.

Tax Parcel # 4-26

Premises Being: 416 Heritage Drive, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **George H. Simeone & Jodi F. Simeone** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/22, 29 & 5/6

Adams County Legal Journal

Vol. 46

April 29, 2005

No. 49, pp. 319-326

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This opinion continues to next issue (5/6/2005)

Helping families achieve
their long-range financial goals
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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-113 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land, together with improvements thereon erected, lying and being and situate in the Borough of Abbottstown, Adams County, Pennsylvania, more particularly described as follows:

BEGINNING at a point at High Street at Lot No. 3 now or formerly of George Hoeffers; thence by the same North fourteen and one-fourth (14-1/4) degrees West one hundred eighty-one and five-tenths (181.5) feet to a point at fourteen (14) foot wide alley; thence along said alley North seventy-five and three-fourths (75-3/4) degrees East sixty-six (66) feet to a stone at another fourteen (14) foot wide alley; thence along the last mentioned alley South fourteen and one-fourth (14-1/4) degrees East one hundred eighty-one and five-tenths (181.5) feet to a stone at High Street aforesaid; thence along High Street South seventy-five and three-fourths (75-3/4) degrees to a point, the place of BEGINNING.

IT BEING KNOWN as Lot No. 4 on a plan of lots as laid out by Z. E. Craumer, Surveyor, on January 14, 1928, as the land of Grant Freed.

BEING KNOWN AS: 249 High Street, Abbottstown, PA 17301

PROPERTY ID NO.: 1-3-20

TITLE TO SAID PREMISES IS VESTED IN David R. Kirby by deed from David R. Kirby and Sandra L. Kirby, husband and wife dated 06/23/00 recorded 06/29/00 in Deed Book 2078 Page 20.

SEIZED and taken into execution as the property of David R. Kirby and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance

with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-144 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground situate, lying and being in the Borough of McSherrystown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at Main Street in the Borough of McSherrystown, Adams County and on line of lot now or formerly of Peter P. McSherry; thence West along said Main Street, thirty-three (33) feet six (6) inches, more or less, to eleven (11) feet wide alley now or formerly of Louis E. Schoeufelder; thence North with said alley, one hundred forty-seven (147) feet six (6) inches, more or less, to a point; thence East twenty-one (21) feet six (6) inches to lands now or formerly of Peter P. McSherry; thence South along said lands now or formerly of Peter P. McSherry, one hundred forty-seven (147) feet six (6) inches, more or less, to the aforesaid Main Street, the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Patrick A. Taylor and Michelle L. Taylor, husband and wife by Deed from Stanley R. Taylor, Jr. and Patricia A. Taylor, husband and wife, dated 9/8/1998 and recorded 9/18/1998 in Record Book 1664, Page 312

Premises being: 135 Main Street, McSherrystown, PA 17344

Tax Parcel No. 28002-0112-000

SEIZED and taken into execution as the property of Patrick A. Taylor & Michelle L. Taylor and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/15, 22 & 29

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Amendment of Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on February 14, 2005, for the purpose of obtaining a Certificate of Incorporation of a proposed corporation to be organized under the provisions of the Pennsylvania Business Law of 1988, P.L. 1444, No. 177, as amended. The name of the corporation is LOSS-STAIR CIVIL ENGINEERING, INC., with a registered office of the corporation being 979 Harney Road, Littlestown, PA 17340.

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

4/29

SHIELDS VS. STODART

1. Summary judgment will be granted only in those cases which are free and clear from doubt.
2. In real estate transactions, fraud arises when a seller knowingly makes a misrepresentation, undertakes a concealment calculated to deceive, or commits non-privileged failure to disclose.
3. Unsupported assertions and conclusory accusations cannot create genuine issues of material fact as to the existence of fraud.
4. Regarding the element of materiality, a representation will be deemed material when it is of such character that had it not been made, the transaction would not have been consummated.
5. The Residential Real Estate Transfers Law defines "material defect" as "a problem with a residential real property or any portion of it that would have a significant adverse impact on the value of the property or that involves an unreasonable risk to people on the property."
6. (The Seller) is under no duty to make any specific investigation or inquiry in an effort to complete the disclosure statement.
7. In order to recover for breach of contract, Plaintiff must prove by a preponderance of the evidence (1) the existence of a contract; (2) a breach of the terms of the contract by Defendant; and (3) injury resulting from that breach.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 03-S-360, ANNA SHIELDS VS. WILLIAM D. STODART.

Christopher Restak, Esq., for Plaintiff
Barbara Jo Entwistle, Esq., for Defendant
Kuhn, P.J., July 2, 2004

OPINION PURSUANT TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Before this Court is Defendant's Motion For Summary Judgment. For the reasons set forth herein, said motion is granted.

The case involves a dispute regarding a Seller's Disclosure Statement, signed by Defendant on June 20, 2002, which was included as an addendum to a real estate contract entered into by Plaintiff and Defendant that same day. The factual background is gathered from the pleadings, exhibits, and transcripts of depositions filed in this Court.

FACTUAL AND PROCEDURAL BACKGROUNDS

On June 20, 2002, Plaintiff and Defendant entered into a contract for the purchase and sale of real estate at 45 White Run Road, Gettysburg, Pennsylvania for the amount of \$92,500.00. On June 27,

2002, two weeks prior to settlement, Plaintiff had a whole house inspection performed by Steve Gorman of Mason Dixon Home Inspections, where Plaintiff, Deb Sanders (Plaintiff's realtor), and Defendant were present. During this inspection, Plaintiff and Gorman detected mold by the washer machine, and Gorman told Plaintiff that bleach and water should eliminate the problem. Gorman completed a whole house inspection report, which Plaintiff reviewed prior to settlement. The report indicated, *inter alia*, "Damage to sub flooring in hall way;" "Prior leaks at water conditioner (seller);" "Laundry has prior history of leak in wall (re. seller);" and when referring to the heating system, "System in need of servicing/soot deposit at exhaust."

As a result of Gorman's report, Defendant received a Notification of Inspection Results/Correction Proposals, dated July 2, 2002, which notified him of the following "Substantial Defects," as detected by Plaintiff:

1. Water needs to be bacteriologically potable.
2. Wooden deck needs additional support[.]
3. Pipes lack support in the crawl space[.]
4. TPR pipe missing[.]
5. Heating system in need of service, soot deposit at exhaust.

On July 3, 2002, Defendant agreed to make the above corrections prior to settlement at his expense.

Also, on July 3, 2002, after again visiting the property, Plaintiff notified Sanders that she smelled mold. Consequently, on July 5, 2002, at Plaintiff's initiative, Ross Hartley, inspector from Gettysburg Home Inspections, performed a visual mold inspection, which disclosed mold around the washer machine and near a base-board by the water heater. He advised Plaintiff that the mold could be cleaned by applying a solution of bleach and water and/or by cutting out and replacing the drywall. Plaintiff declined to proceed with any further testing of the mold.

Plaintiff alleges that on July 10, 2002 she had an adverse reaction while visiting the property, in that her lips were dry, her head hurt and her throat swelled. She alleges that she contacted Sanders and expressed her apprehension about following through with the purchase of the property due to her concern that more mold may be present than what was already visible.

Also, on July 10, 2002, the parties executed an Addendum "A," which required Defendant to pay directly to Plaintiff the sum of \$2,500.00 for a carpet allowance. Defendant also purchased a Home Protection Plan for the benefit of Plaintiff in the amount of \$399.00.

Settlement on the property took place on July 12, 2002. Plaintiff made two mortgage payments in August and September of 2002, but made no other payments on the property thereafter. On August 29, 2002, she listed the property for sale for approximately one month. On July 15, 2003, Plaintiff deeded the property back to Irwin Mortgage Corporation in lieu of foreclosure.

On May 27, 2003, Plaintiff filed her First Amended Complaint, alleging fraudulent misrepresentation and breach of contract. By way of background, she avers that shortly after taking possession of the property, she discovered evidence that the roof had leaked, and was continuing to do so, and that interior walls were stained and appeared to support mildew and other biological growth. Plaintiff alleges that Defendant intentionally and purposely failed to disclose information on the Seller's Disclosure Statement concerning the condition of the property that was material to the transaction so that she would not be aware of the true condition of the property. She argues that Defendant's answers to the following questions constitute misrepresentations:

Question 3(c) ROOF: Has the roof ever leaked during your ownership?

Answer: No.

Question 6(a) STRUCTURAL ITEMS: Are you aware of any past or present water leakage in the house or other structure?

Answer: No.

Question 7 ADDITIONS/REMODELS: Have you made any addition, structural changes, or other alterations to the property?

Answer: No.

Question 9(b) PLUMBING SYSTEM: Are you aware of any problems with any of your plumbing fixtures (e.g. including but not limited to: kitchen, laundry, or bathroom fixtures; wet bars; hot water heater; etc.)?

Answer: No.

Question 10(g-part 2) HEATING AND AIRCONDITIONING: Are you aware of any problems with any item in this section?

Answer: No.

Question 16(g) MISCELLANEOUS: Are you aware of any material defects to the property, dwelling, or fixtures which are not disclosed on this form?

Answer: No.

Plaintiff maintains that these responses are misrepresentations because Defendant made structural changes in those areas where significant amounts of mold were discovered; he knew of problems with both the washing machine and the water conditioner; he failed to disclose that walls had been rebuilt to hide severely water-damaged areas of the home; and, a fire inside the heating unit occurred within Defendant's ten-year period of ownership of the home, thereby rendering it unfit for service. She also included as Exhibit F to her complaint a statement from James Grimes of Grimes Flooring, indicating that upon removing the existing carpet, mold was found on the floor below, which was caused from moisture leaking behind the brick facing in the front of the house.

In Count I—Fraudulent Misrepresentation, Plaintiff alleges that Defendant failed to fully disclose known conditions of the property, as required by the Real Estate Seller Disclosure Law (68 Pa.C.S. §7301, *et seq.*) and the Unfair Trade Practices and Consumer Protection Law (“UTPCPL”).¹ She avers that the defects are material in that they have both a significant impact on the value of the property and they pose a significant risk to anyone occupying the property in its current condition. Plaintiff contends that the information on the disclosure form was not of conditions that would have been easily identified as part of a house inspection; rather, the conditions were hidden from view and would have required invasive testing methodologies to reveal and identify. She alleges that these conditions are of the type that Defendant was aware because he attempted to conceal the damaged areas with new construction. Plaintiff avers that she justifiably relied upon the Seller's Disclosure Statement when deciding whether to complete the purchase of the property and

¹ Although Plaintiff does not refer to any specific provisions of the UTPCPL, Defendant concedes that any violation of the Real Estate Seller Disclosure Law is a violation of the UTPCPL. (Def. Brief p. 11).

that her reliance upon the statements directly resulted in and was the proximate cause of her damages.

In Count II—Breach of Contract, Plaintiff alleges that Defendant failed to disclose information that he was “duty bound” to provide to her as part of the real estate transaction. She further avers that Defendant breached his duty “in exercising that degree of care that a reasonable seller would exercise in completing the Seller’s Disclosure Statement.” Plaintiff maintains that her damages are the direct consequence of Defendant’s breach of duty. She requests the Court to award judgment in her favor on both counts for the following amounts:

A.

- i. \$1592.20 representing the costs of original bio-remediation study;
- ii. \$462.10 representing the costs associated with mold test(s);
- iii. \$412.21 representing the costs associated with follow-up mold testing;
- iv. \$2898.69 representing the costs associated with alternative housing (motel);
- v. \$2466.00 representing costs associated with rental of alternative housing;
- vi. \$310.00 representing costs to repair roof and prevent additional leaking;
- vii. \$150.00 representing costs to remove water damaged flooring;
- viii. \$39,912.32 representing estimated costs to remove mold and bio-contaminants;
- ix. \$2,219.20 representing costs associated with missed work due to remediation.
- x. \$125.00 representing costs of mediation; fee paid to York County Realtors Board
- xi. \$95.00 representing costs associated with plumbing repair of leaking pipes
- xii. \$909.20 representing costs paid for alternative water, sewer and utilities at new residence.

B. Award judgment, against [Defendant], and in favor of [Plaintiff], in the amounts specified above, totaling \$51,511.92;

- C. Award judgment against [Defendant], in favor of [Plaintiff], for the costs of suit and reasonable attorneys fees.

On June 20, 2003, Defendant filed his Answer and New Matter, in which he alleges that during the whole house inspection, he disclosed the following information:

- A. He had removed and replaced all the shingles on the roof in 1998 and that he used silicone to seal around the pipes. Shortly after the roof replacement, a dark water spot appeared on the master bathroom ceiling. He then re-sealed the pipe with roof sealer. He never had any subsequent problem but never painted over the dark spot in the bathroom until Plaintiff commented on it to the realtor.
- B. In 1999, [Defendant] repaired an old leak in the wall between the laundry room and bathroom as a result of a leak at the washing machine drain. Defendant replaced the bathtub, all the walls in the bathroom and repaired the floor. Seller corrected the problem at the time. Although he left access panels in the event of any further problem, Defendant never had a problem after 1999.
- C. The bottom of the water heater was rusty. The Water softener brine tank float had previously gone bad and salt and water had escaped. Defendant advised he had replaced the float valve in the tank and had not had any further problems.

On February 20, 2004, Defendant filed his Motion for Summary Judgment. In support of his motion, Defendant filed transcripts of the deposition testimonies of Defendant, Plaintiff, Hartley, Sanders and Jon Murdoch (Defendant's realtor) on February 24, 2004, as well as his brief on April 1, 2004. Plaintiff responded by filing her Motion In Contra To Defendant's Motion For Summary Judgment on March 8, 2004 and brief in support thereof on April 12, 2004.

DISCUSSION

Summary judgment is granted whenever the pleadings, depositions, answers to interrogatories, admissions and affidavits and other materials demonstrate that there is no genuine issue of any material fact as to a necessary element of the cause of action or defense and the moving party is entitled to judgment as a matter of law. Pa. R.C.P. 1035.2; *Blumenstock v. Gibson, et al.*, 811 A.2d 1029, 1033 (Pa.Super. 2002). This Court must resolve all doubts against

Defendant, as the moving party, and examine the record in a light most favorable to Plaintiff, as the non-moving party. See *Ertel v. Patriot News Company*, 674 A.2d 1038, 1041 (Pa. 1996).

“[A] proper grant of summary judgment depends upon an evidentiary record that either (1) shows the material facts are undisputed or (2) contains insufficient evidence of facts to make out a *prima facie* cause of action or defense[.]” Under [Rule 1035.2], “if a defendant is the moving party, he may make the showing necessary to support the entrance of summary judgment by pointing to materials which indicate that the plaintiff is unable to satisfy an element of his cause of action.” Correspondingly, “the non-moving party must adduce sufficient evidence on an issue essential to its case and on which it bears the burden of proof such that a jury could return a verdict favorable to the non-moving party.”

Lewis v. Philadelphia Newspaper Inc., 833 A.2d 185, 190 (Pa.Super. 2003), quoting *Basile v. H&R Block, Inc.*, 777 A.2d 95, 100-101 (Pa.Super. 2001); See *Washington v. Baxtor*, 719 A.2d 733, 737 (Pa. 1998). Thus, Plaintiff’s failure to produce evidence to substantiate any element of her cause of action entitles Defendant to summary judgment as a matter of law. See *Ertel*, 674 A.2d at 1042. Summary judgment will be granted only in those cases, which are free and clear from doubt. *Id.*, citing *Marks v. Tasman*, 589 A.2d 205 (Pa. 1991).

The Real Estate Seller Disclosure Law provides in pertinent part: Section 7303. Disclosure of material facts

Any seller who intends to transfer any interest in real property shall disclose to the buyer any material defects with the property known to the seller by completing all applicable items in a property disclosure statement...

Section 7308. Affirmative duty of seller

The seller is not obligated by this chapter to make any specific investigation or inquiry in an effort to complete the property disclosure statement. In completing the property disclosure statement, the seller shall not make any representations that the seller or the agent for the

seller knows or has reason to know are false, deceptive or misleading and shall not fail to disclose a known material defect.

Section 7309. Nonliability of seller

General rule.—A seller shall not be liable for any error, inaccuracy or omission of any information delivered pursuant to this chapter if:

- (1) the seller had no knowledge of the error, inaccuracy or omission;
- (2) the error, inaccuracy or omission was based on a reasonable belief that a material defect or other matter not disclosed had been corrected;...

Continued to next issue (5/6/2005)

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-120 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the right-of-way line of Charlestown Court at Lot No. 207 as shown on the hereinafter referenced Subdivision Plan; thence running along said Lot No. 207 North seventy-three (73) degrees fifty-five (55) minutes five (05) seconds East, one hundred twenty-four and forty hundredths (124.40) feet to a point at Lot No. 56 as shown on the hereinafter referenced Subdivision Plan; thence running along Lot No. 56 South thirty-one (31) degrees two (02) minutes fifty (50) seconds East, sixty-seven and twenty-eight hundredths (67.28) feet to a point at Lot No. 56 and Lot No. 209 as shown on the hereinafter referenced Subdivision Plan, thence running along Lot No. 209 South seventy-three (73) degrees fifty-five (55) minutes five (05) seconds West, one hundred forty-one and seventy-seven hundredths (141.77) feet to a point on the right-of-way line of Charlestown Court; thence running along said right-of-way line of Charlestown Court North sixteen (16) degrees four (04) minutes fifty-five (55) seconds West, sixty-five and zero hundredths (65.00) feet to a point on the right-of-way line of Charlestown Court at Lot No. 207 the point and place of BEGINNING.

CONTAINING 8651 square feet.

THE above described being Lot No. 208 on the Phase 5 Final Plan for Heritage Hill II, prepared by Martin and Martin, Incorporated, dated October 4, 1999, which said Subdivision Plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 79 at Page 63.

TITLE TO SAID PREMISES IS VESTED IN Johnathan N. Izquierdo and Brandee M. Izquierdo, his wife by Deed from Johnathan N. Izquierdo and Brandee M. Izquierdo, his wife, dated 8/24/2001 and recorded 9/5/2001 in Record Book 2396, Page 187.

Premises being: 40 Charlestown Court, Littlestown, PA 17340

Tax Parcel No. 57; Map #13

SEIZED and taken into execution as the property of **Johnathan N. Izquierdo & Brandee M. Izquierdo** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-126 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of June, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or piece of ground situate in Liberty Township, County of Adams, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a railroad spike set in McLaughlin Road T-318 at Lot No. 1 on the hereinafter recited draft; thence by said lot and through an iron pipe set back 25 feet on the line South 24 degrees 53 minutes 25 seconds East 485.50 feet to an iron pipe set; thence continuing by Lot No. 1 and through an iron pipe set back 25 feet from the end of this course South 64 degrees 28 minutes 25 seconds West 230 feet to an existing p.k. nail in the centerline of Bullfrog Road T-321; thence in said Bullfrog Road by a curve to the left the radius of which is 1054.81 feet for an arc distance of 366.38 feet and having a chord bearing a distance of North 36 degrees 43 minutes 23 seconds West 365.54 feet to an existing p.k. nail in the centerline of said Bullfrog Road; thence continuing in said Bullfrog Road North 45 degrees 18 minutes 10 seconds West 128.79 feet to an existing railroad spike in or near the Northern edge of said McLaughlin Road; thence in said McLaughlin Road North 65 degrees 20 minutes 10 seconds East 113.24 feet to a point; thence continuing in said

McLaughlin Road North 61 degrees 20 minutes 20 seconds East 153.98 feet to a point; thence continuing in said McLaughlin Road North 64 degrees 29 minutes 55 seconds East 82.78 feet to the place of BEGINNING.

THE above description is being Lot No. 4 on a draft of survey prepared by Boyer Surveys, dated May 6, 1991 and recorded in Adams County Plat Book 58 at Page 82.

TITLE TO SAID PREMISES IS VESTED IN Michael W. Weatherly by Deed from Tommy C. Duty and Patricia Lee Duty, his wife, dated 1/15/2003 and recorded 8/20/2003 in Record Book 3256 Page 115.

Premises being: 2785 Bull Frog Road, Fairfield, PA 17320

Tax Parcel No. 25-D15-35

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 1, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/22, 29 & 5/6

FICTITIOUS NAME NOTICE

On March 15, 2005, Crociifissa La Franca, owner, of 14 E. Hanover St., Bonneville, PA 17325, registered the fictitious name GINA'S PLACE OF ITALIAN CUISINE for her restaurant business located at 16 E. Hanover St., Bonneville, PA 17325, pursuant to the Fictitious Name Act, 54 Pa.C.S. §301, et seq.

Walter V. Davis, Esq.
63 West High Street
Gettysburg, PA 17325

4/29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-380 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those described 4 tracts of land described lot of ground, with improvements thereon erected, situate in Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1

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

TRACT NO. 2

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

TRACT NO. 3

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

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

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

TRACT NO. 4

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

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

Tax Map No: Map: C9-32
BEING KNOWN AS: 788 New Road, Orrtanna, PA 17353

TITLE TO SAID PREMISES IS VESTED IN Raymond B. Williams Sr and Candy S. Williams, husband and wife by

deed from Gerlad H. Deighton, single person, by attorney in fact, Edward G. Puhl, and Harry J. Blaisdell, single person, by his attorney in fact Edward G. Puhl dated 03/31/00 recorded 04/17/00 in Deed Book 2032 Page 136.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/15, 22 & 29

CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN that RONALD W. SMITH INVESTMENT COMPANY, INC., a business corporation formed under the laws of the State of Maryland, has, on May 7, 2004, filed an Application for Certificate of Authority to conduct its business in Pennsylvania, in accordance with the provisions of the Associations Code, 15 Pa. C.S. §§101 et seq.

The principal office of the corporation is located at 60 Aileron Court, Westminster, Maryland, 21157. The registered address of the corporation in this Commonwealth is 745 Ridge Road, Gettysburg, Pennsylvania 17325.

The corporation proposes to engage in developing and selling real estate and building and selling homes.

Robert L. McQuaide
Attorney for Ronald W. Smith
Investment Company, Inc.
Suite 204
18 Carlisle Street
Gettysburg, PA 17325

4/29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1168 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece or parcel of land, situate, lying and being in the Borough of McSherrystown, County of Adams, and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING for a corner at a point on the Northern edge of North Street at lands now or formerly of Ernest E. Strasbaugh (as shown on the survey referred to below); thence along lands now or formerly of Ernest E. Strasbaugh North 22 degrees West 143.78 feet to a point on the Southern edge of a 16 foot wide public alley; thence along the Southern edge of the 16 foot wide public alley North 68 degrees 17 minutes East 21.56 feet to a steel pin at the corner of lands now or formerly of Francis E. Devine; thence along the last mentioned lands and through the middle of a carport and the center of a partition wall of a double house located on this and the adjacent lot on the East, South 22 degrees East 143.84 feet to a point on the Northern line of North Street; thence along the Northern line of North Street South 68 degrees 27 minutes East 21.56 feet to a nail at the point and place of BEGINNING. CONTAINING 3,101 square feet.

The above description was taken from a survey plan prepared by J.H. Rife, Registered Engineer, dated January 7, 1969, and captioned "Francis E. Devine", and designated thereon as #525 North Street.

BEING the same premises which Robert F. Studzinski, Jr. and Carla J. Studzinski, by Indenture dated July 27, 1999 and recorded March 23, 2000 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 2019, Page 22, granted and conveyed unto Robert F. Studzinski, Jr.

UNDER AND SUBJECT to any and all covenants, conditions, reservations, restrictions, limitations, rights-of-way, objections, easements, agreements, etc., as they appear of record.

Parcel No. (28) 5-98.

SEIZED and taken into execution as the property of Robert F. Studzinski and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1196 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of June, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in the Borough of Fairfield, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a lietz spike in the centerline of Legislative Route No. 01015 at the corner of Lot No. 3 and at the corner of lands now or formerly of James M. Landis; thence by Lot No. 3, South 25 degrees 02 minutes 35 seconds West, 160 feet, passing through a reference pipe set back 25 feet from the beginning of this course, to a steel rod at the corner of Lot No.3 and the corner of other lands now or formerly of James M. Landis; thence by said other lands of James M. Landis, North 64 degrees 57 minutes 25 seconds West, 105 feet to a steel rod at the corner of said other lands of James M. Landis and the corner of Lot No. 5; thence by said Lot No. 5, North 25 degrees 02 minutes 35 seconds East, 160 feet, passing through a reference pipe set back 25 feet from the end of this course, to a lietz spike set in the centerline of Legislative Route No. 01015 at the corner of Lot No. 5 and the corner of lands now or formerly of James M. Landis; thence by said lands of James M. Landis and running in the centerline of Legislative Route No. 01015, South 64 degrees 57 minutes 25 seconds East, 105 feet to a lietz spike set in the centerline of said Legislative Route No. 01015 at the corner of Lot No. 3 and the corner of said lands now or formerly of James M. Landis, the place of BEGINNING.

The above description was taken from a subdivision plan dated May 16, 1983 prepared by Adams County Surveys, which is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 38 at Page 55, being Lot No. 4 thereon.

BEING THE SAME PREMISES which Jason Lawrence Vinson and Charlotte Ann Vinson, husband and wife, by Deed dated June 24, 1999 and recorded in the Office of the Recorder of Deeds of Adams County on August 17, 1999 in Deed Book Volume 1896, Page 327, granted and conveyed unto Jason Lawrence Vinson.

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

DBV 1896

Page 327

Parcel (11)5-62

SEIZED and taken into execution as the property of Jason Lawrence Vinson & Charlotte Ann Vinson and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 11, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/22, 29 & 5/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-119 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of June, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or piece of ground situate in Germany Township, County of Adams, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a railroad spike set in Township Road T-442, known as Feeser Road, at corner of land of Muller Construction Company, Inc., designated as Lot No. 3 on the Final Plan referred to below; by said Lot No. 3, and running through an iron pin set back 23.10 feet from the place of beginning, North 71 degrees 30 minutes West 440.07 feet to an iron pin set; thence continuing by said Lot No. 3, North 18 degrees 30 minutes East 108.59 feet to an iron pin set; thence by land designated as Lot No. 4 on the Final Plan referred to below, South 77 degrees 27 minutes 31 seconds East 398.23 feet to an iron pin set; thence by the same, South 71 degrees 30 minutes East 49.26 feet to a railroad spike set in Feeser Road; thence in Feeser Road, South 20 degrees 30 minutes 32 seconds West, 150.03 feet to a railroad spike set at corner of lot designated as Lot No. 3 on the Final Plan referred to below, the place of BEGINNING.

SEIZED and taken into execution as the property of **Todd H. Hess & Charlotte M. Hess a/k/a Charlotte M. Reisinger** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 11, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/22, 29 & 5/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-499 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of May, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situate in Straban Township, Adams County, Pennsylvania, being more particularly described as (Lot No. 416) on a plan of lots of Lake Heritage Subdivision duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County in Miscellaneous Volume 4 at page 427, and subject to all legal highways, easements, rights of way and restrictions of record.

TITLE TO SAID PREMISES IS VESTED IN **George H. Simeone and Jodi F. Simeone**, husband and wife by Deed from **Fred M. Fowler and Carolyn N. Fowler**, husband and wife dated 9/30/98 and recorded 10/8/98 in Record Book 1677, Page 231.

Tax Parcel # 4-26

Premises Being: 416 Heritage Drive,
Gettysburg, PA 17325

SEIZED and taken into execution as the property of **George H. Simeone & Jodi F. Simeone** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 20, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/22, 29 & 5/6

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 Monday, May 9, 2005, at 9:00 a.m.

BANKERT—Orphans' Court Action Number OC-15-05. The First and Final Account of **Anthony Glab and Cheryl L. Glab**, Co-Executors of the Last Will and Testament of **Esther E. Bankert**, deceased, late of Hamilton Township, Adams County, Pennsylvania.

HOFF—Orphans' Court Action Number OC-71-04. The First and Final Account of **Roger T. Hoff**, Executor of the Estate of **Rory T. Hoff, Jr. a/k/a Harry Thomas Hoff, Jr.**, late of Reading Township, Adams County, Pennsylvania.

LUQUETTE—Orphans' Court Action Number OC-34-05. The First and Final Account of **Mary J. Kime and Kenneth G. Luquette**, Co-Executors of the Estate of **Helen J. Luquette**, deceased, late of Cumberland Township, Adams County, Pennsylvania.

PALMER—Orphans' Court Action Number OC-35-05. The First and Final Account of **Sterling Financial Trust Company**, Executor of the Last Will and Testament of **Henrietta A. Palmer**, deceased, late of Germany Township, Adams County, Pennsylvania.

Lisa K. Grubbs
Clerk of Courts

4/29 & 5/6

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 DEAN L. CAREY a/k/a DEAN LAVERE CAREY, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Juanita Guise and Philip D. Carey, c/o Richard W. Stevenson, Esq., McNeese Wallace & Nurick, LLC, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108

Attorney: Richard W. Stevenson, Esq., McNeese Wallace & Nurick, LLC, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108

ESTATE OF DORIS M. CAREY a/k/a DORIS MARIE CAREY, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Juanita Guise and Philip D. Carey, c/o Richard W. Stevenson, Esq., McNeese Wallace & Nurick, LLC, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108

Attorney: Richard W. Stevenson, Esq., McNeese Wallace & Nurick, LLC, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108

ESTATE OF NINA RUTH FISCEL, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Nancy Louise Ammons, 1004 Cherrytown Rd., Westminster, MD 21158

ESTATE OF STEWART J. MAHONE, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executor: John B. Billman, c/o Timothy J. Shultis, Esq., 249 York Street, Hanover, PA 17331

Attorney: Timothy J. Shultis, Esq., Miller & Shultis, P.C., 249 York Street, Hanover, PA 17331

ESTATE OF LUTHER W. RITTER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Robert L. Ritter, 75 Locust Drive, Littlestown, PA 17340

Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

ESTATE OF RALPH R. SNYDER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: Lori A. Laughman, 433 Carlisle Street, Hanover, PA 17331; Francis L. Matthews, 1361 Brad Drive, Hanover, PA 17331

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

SECOND PUBLICATION

ESTATE OF MARY L. GROH a/k/a MARY LOUISE GROH, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administratrix: Kathleen Ballering, N. 71 W. 23549 Homestead Road, Sussex, WI 53089

Attorney: Andrea M. Singley, Esq., 63 West High St., Gettysburg, PA 17325

ESTATE OF CHARLES J. HINKEL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

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

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

ESTATE OF CHARLES J. McMASTER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Nancy J. McMaster, 310 N. Third St., McSherrystown, PA 17344

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

ESTATE OF EARL H. MITCHELL, DEC'D

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

Executrix: Barbara Jo Entwistle, Esq., 25 S. Washington St., Gettysburg, PA 17325

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 S. Washington St., Gettysburg, PA 17325

ESTATE OF ALEXANDER E. SCHAUFLELE, SR., DEC'D

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

Executrix: Karen Marie Bennett, 1939 Blair Court, Bel Air, MD 21015

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

ESTATE OF RALPH SLOAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Thomas A. Buck, 320 Woods Road, Glenside, PA 19038

Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

ESTATE OF JOAN K. SPENCER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Howard L. Spencer, 1020 Old Manchester Road, Westminster, MD 21157

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

THIRD PUBLICATION

ESTATE OF DOROTHY W. BEATTY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Richard A. Beatty, Jr., 185 Valley View Drive, Littlestown, PA 17340; Gary C. Beatty, 2023 River Road, Elkton, VA 22827; Doreen Kay Lawver, 8500 Woodfall Road, Baltimore, MD 21236

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

ESTATE OF EVELYN C. COLGAN, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Thomas H. Colgan, 1180 Irishtown Rd., New Oxford, PA 17350

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

ESTATE OF CATHERINE M. HARPER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Administratrix: Shirley Ann Staley, 2741 Taneytown Road, Gettysburg, PA 17325

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

ESTATE OF WILLIAM JOHN HINRICH, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Donald W. Hinrichs, 40 Wenschoff Rd., Fairfield, PA 17320

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

ESTATE OF ANNE STIDGER PICKERING, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executors: James Stidger Pickering, 6726 Revere Avenue, Wauwatosa, WI 53213; David Read Pickering, 9606 Lorain Avenue, Silver Spring, MD 20901

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-131 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of June, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

IT BEING the same tract of land which Xue-Tao Chen and Mung Yee Law, wife and husband, by deed bearing even date herewith and about to be recorded in the Office of the Recorder of Deeds for Adams County, Pennsylvania, granted and conveyed unto William G. Schaeffer, MORTGAGOR HEREIN.

TITLE TO SAID PREMISES IS VESTED IN William G. Schaeffer by Deed from Xue-Tao Chen and Mung Yee Law, wife and husband, dated 4/30/2004 and recorded 5/3/2004 in Record Book 3550, Page 265.

Premises being: 8 Fiddler Drive, New Oxford, PA 17350

Tax Parcel No. 35-1-52 (Unit 4)

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 11, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/29, 5/6 & 13

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-1270 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of June, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an existing railroad spike 2 feet North of the centerline of Cranberry Road (erroneously referred to in previous deeds as Cranberry Valley Road); thence leaving said road, and extending along land now or formerly of John H. Baugher, and passing through an existing pipe set back 25 feet from the beginning of said course, North 08 degrees 14 minutes 10 seconds West, 340.00 feet to an existing pipe; thence North 82 degrees 45 minutes 50 seconds East, 160.00 feet to an existing pipe at a corner of other lands now or formerly of Steven G. Heller; thence extending along land of same, and passing through an existing pipe set back 33.5 feet from the end of said course, and also passing in and through said Cranberry Road (erroneously referred to in previous deeds as Cranberry Valley Road), South 08 degrees 14 minutes 10 seconds East, 340.00 feet to an existing pipe located 10 feet South of the center line of Cranberry Road (erroneously referred to in previous deeds as Cranberry Valley Road); thence extending from said pipe, in and through said road, South 82 degrees 45 minutes 50 seconds West, 160.00 feet to a railroad spike, the first mentioned spike and the place of BEGINNING, CONTAINING 1.249 Acres, more or less.

The above description was taken from a plan of survey of Boyer Surveys, dated November 3, 1994, attached hereto as Exhibit A.

TITLE TO SAID PREMISES IS VESTED IN Jose H. Barranco and Maria F. Romero, as joint tenants with right of survivorship by Deed from William D. Bowser, joined by his wife Tillie N. Bowser and Cynthia G. Bell, single,

dated 6/28/1999 and recorded 6/30/1999, in Record Book 1864, Page 320.

Premises Being: 616 Cranberry Road, Aspers, PA 17304

Tax Parcel No. 40-G5-35A

SEIZED and taken into execution as the property of **Jose Barranco & Maria Romero** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 11, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/29, 5/6 & 13

NOTICE OF FILING OF ARTICLES OF AMENDMENT

NOTICE IS HEREBY GIVEN that BELCO COMMUNITY CREDIT UNION with its registered office located at 403 North 2nd Street, Harrisburg, Pennsylvania 17101 will file Articles of Amendment with the Department of Banking. The purpose of said amendment is to convert from an occupational and/or associational credit union charter to a community credit union charter. Which would expand our current charter to serve people, businesses, and other legal entities who live, work, worship, attend school, and volunteer in the counties of: Adams, Cumberland, Dauphin, Lancaster, Lebanon, Perry, and York, Pennsylvania. All interested persons may file comments in favor of, or in protest of the application in writing, with the Pennsylvania Department of Banking, 333 Market Street, 16th Floor, Harrisburg, Pennsylvania, 17101-2290. All comments must be received by the Department not later than ten (10) business days after the date of publication of this notice.

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