

# Adams County Legal Journal

Vol. 37

August 4, 1995

No. 10, pp. 49-54

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-466 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of September, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Menallen Township, Adams County, Pennsylvania, being Lot No. 1 on a draft of survey hereinafter identified, bounded and described as follows:

BEGINNING at an iron pin at Lot No. 2; thence by said lot South 14 degrees 10 minutes East, 265.09 feet to an iron pin at Lot No. 3; thence by said lot and crossing Stone Hedge Drive South 64 degrees 55 minutes 50 seconds West, 327.56 feet to an iron pin at lands of Robert D. Akers; thence by said lands North 14 degrees 00 minutes 20 seconds West, 50.3 feet to a stone pile; thence continuing by said lands North 2 degrees 38 minutes West 148.60 feet to a stone pile; thence continuing by said

lands North 38 degrees 10 minutes 30 seconds West 94.35 feet to an iron pin at lands of Ralph A. Sheaffer; thence by said lands North 77 degrees 41 minutes East 202.90 feet to an iron pin; thence continuing by said lands North 1 degree 00 minutes 10 seconds West 162.50 feet to a railroad spike at the northerly edge of Pine Ridge Road; thence in and along said Pine Ridge Road South 54 degrees 26 minutes East 139.85 feet to the place of BEGINNING. CONTAINING 2.033 acres.

The above description was taken from a draft of survey dated August 14, 18, 1969, prepared by Gettysburg Engineering Co., Inc.

BEING the same tract of land which Nina Bell, widow, and Vincent F. Bell and Jacob G. Bell, by deed dated January 12, 1990, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 544 at page 484 conveyed to Robert Fern Frock and Delora Kaye Frock, husband and wife, the Defendants herein.

IMPROVED WITH a single family dwelling.

Seized and taken into execution as the property of **Robert Fern Frock and Delora Kaye Frock**, and to be sold by me.

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
July 18, 1995.

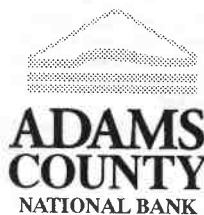
TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 25, 1995, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser 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.

8/4, 11, 18

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



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. 92-S-617 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 11th day of August, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain parcel of land lying and being situate in the Borough of Carroll Valley, Adams County, Pennsylvania, more particularly described as Lot No. 75, in Section R1, bounded and described as follows:

BEGINNING at a point in the center of Fruitwood Trail at corner land of Alfred E. Coffey; thence by land of the said Alfred E. Coffey and running through a pipe located 25 feet from the place of beginning, South 2 degrees 37 minutes 20 seconds West 225 feet to a pipe set on an iron pin; thence by land of Thomas Golatz and by land now or formerly of Chamita, Inc., North 87 degrees 22 minutes 40 seconds West 184.80 feet to a one-inch pipe; thence by land of Barrick and running through a pipe located 27.36 feet from the end of this line, North 26 degrees 37 minutes East 246.28 feet to a point in the center of Fruitwood Trail; thence in the center of Fruitwood Trail South 87 degrees 22 minutes 40 seconds East 84.65 feet to a point in the center of Fruitwood Trail, the place of BEGINNING.

CONTAINING 30,313 square feet or 0.696 acre.

BEING the same property which Wilbert D. Leech and Shirley D. Leech, husband and wife, by deed from Albert F. Wivell & Sons, Inc. dated September 6, 1989, and recorded September 22, 1989, in Adams County Deed Book Volume 534, page 406, in fee simple. IMPROVED WITH DWELLING.

Seized and taken into execution as the property of **Wilbert D. Leech and Shirley D. Leech**, and to be sold by me.

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
June 23, 1995.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 1, 1995, 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.

7/21, 28 & 8/4

## NOTICE

In re: Estate of Helen T. Walker, an incapacitated person (OC-119-94).

NOTICE IS HEREBY GIVEN THAT ADAMS COUNTY NATIONAL BANK, plenary permanent guardian of the above estate, has filed a petition requesting permission to sell the real estate of the incapacitated person above, known as 1265 Old Waynesboro Road, Adams County, Pennsylvania, at public sale; that the Orphans' Court of the Court of Common Pleas of Adams County by decree dated July 21, 1995 has authorized and directed the said Adams County National Bank, as such guardian, to expose said premises to public sale; that said premises will be offered for sale at a public sale conducted by Gertie Murdorf-McDannell, Auctioneer, at the premises at 5:30 p.m. on Thursday, August 17, 1995; and that the conditions of sale will be read immediately prior to sale. If no exceptions are filed to said decree of the Court, or objections made to said sale, and the premises is struck down as sold, a return of public sale will be made and the Court will be asked to approve or confirm the sale after its consummation on Monday, August 21, 1995 at 9:00 a.m. in Courtroom No. 1 of the Adams County Courthouse, Gettysburg, Pennsylvania.

Teeter, Teeter & Teeter  
Attorney for Guardian

7/28, 8/4 & 8/11

## FICTITIOUS NAME NOTICE

John R. Wiley and Jane M. Wiley, Partners, of 218 Carlisle Street, Gettysburg, Pennsylvania, 17325, did file in the Office of the Secretary of the Commonwealth of Pennsylvania, on July 21, 1995, registration of the fictitious name:

## THE OLD APPLEFORD INN

under which they intend to do business at 218 Carlisle Street, Gettysburg, Pennsylvania, 17325, pursuant to the provisions of the Act of Assembly of December 21, 1988, known as the "Fictitious Names Act".

Barley, Snyder, Senft & Cohen  
Attorneys

8/4

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of a Fictitious Name will be filed with the Department of State, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about the 1st of August, 1995, pursuant to the Fictitious Name Act of 1982, as amended, setting forth that Edward Wallen, of 1925 East Berlin Road, New Oxford, Pennsylvania, is an individual engaged in a business, the character of which is the sale of cars and accessories, and that such business will be conducted under the name of 234 AUTO SALES and have a principal office or location at 1925 East Berlin Road, New Oxford, Pennsylvania, 17325.

8/4

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed by THE GETTYSBURG CONSULTANCY, INC. on July 14, 1995, with the Department of State of the Commonwealth of Pennsylvania, in Harrisburg, Pennsylvania, for the purpose of incorporating under the Pennsylvania Business Corporation Law of 1988. (15 Pa. C.S.A. § 1101 et seq.).

Chester G. Schultz, Esquire  
Bulleit, Schultz & Thrasher  
16 Lincoln Square  
Gettysburg, PA 17325

8/4

## NOTICE OF CORPORATE DISSOLUTION

NOTICE IS HEREBY GIVEN that the voluntary dissolution of AMERICAN PRINT GALLERY, INC., a Pennsylvania business corporation with its registered office located at 1 White Oak Trail, Gettysburg, PA 17325, has been approved by the Board of Directors and shareholders of the corporation. Said corporation is now engaged in winding up its affairs so that the existence of the corporation shall cease upon the filing of Articles of Dissolution in the Department of State of the Commonwealth of Pennsylvania.

John W. Phillips, Esq.  
Solicitor

8/4

## LEGAL NOTICE

NOTICE IN THE COURT OF  
COMMON PLEAS OF ADAMS  
COUNTY IN AND FOR THE  
COMMONWEALTH OF  
PENNSYLVANIA

## CIVIL

IN RE: Dismissal of Action for failure to Proceed Under Pa.R.J.A. 1901(c) and Local Rule of Court No. 10(e)

Pursuant to the provisions of Pa.R.J.A. 1901(c) and Local Rule of Court No. 10(e) notice is given hereby that the following cases will be listed by the Adams County Prothonotary for general call before the Adams County Court on Monday, September 18, 1995 at 9:00 a.m. to request the Court to dismiss for failure to proceed unless good cause for continuing the proceedings shall be given on or before that date.

In Re: Appointment of Board of View to Assess Benefit of Sanitary Sewer Construction in Oxford Township, Adams County, Pennsylvania - 85-S-78

Randy J. and Janis A. Miller, individually and as natural parents and guardians of Timothy Ryan Miller vs. Syntex Laboratories, Inc. - 85-S-708

Andrew G. Sterner vs. Herbert H. Sterner, Jr. and Timothy Sterner - 87-S-280

Tyrone Township vs. Harry H. Fox, Jr. and Ann G. Fox - 88-S-419

Curvin R. Sentz vs. William R. Sentz - 88-S-528

Phoenix, Inc. vs. James R. Smith and Brenda L. Smith, t/b/d/a James R. Smith Contractors - 88-S-777

Jason Bange vs. Laurie A. Noel and Steven E. Noel - 88-S-842

Celotex Corp., Jim Walter Corp. & Jim Walter Transportation, Division of Celotex Corp. vs. Aldsworth Co., Inc. - 89-S-263

Old Republic Insurance Co. vs. Herbert M. & Mary Colleen Bedford - 90-S-7

Don B. Kemp, Executor of the Estate of Frankie P. Kemp vs. Richard P. Riley - 90-S-785

Jack S Krafft vs. Timothy S. Bollinger and Cheryl Durham a/k/a Cheryl Davidson - 90-S-823

Sites Realty, Inc. vs. Cecil Stoltz t/d/b/a M & S General Contractor - 90-S-847

Clyde W. Crouse vs. Glenn Lippy and Janet Lippy - 90-S-1028

R. Joe Campbell and Irish K. R. Campbell vs. Kosmos Horse Breeders, Inc. and Ugo Chiola - 91-S-3

H & S Supply vs. LaRay Enterprises, Inc. - 91-S-193

Gettysburg Hospital vs. Lloyd L. Stevens and Ruth Stevens - 91-S-228

Harry Spangler vs. Robert D. Selby and Suzzette Lechene - 91-S-261

Virginia L. Reichart vs. Burnell G. Flickinger - 91-S-299

Milton K. Nicks, Jr. and Barbara A. Nicks vs. Heather S. Hardman and Jeffrey L. Hardman - 91-S-737

Motorists Mutual Insurance Co. vs. Halberco, Inc. and Ralph E. Haberstadt - 91-S-801

John G. Farrington vs. Mobile Services, Inc. - 91-S-833

Kenna Dee Stillwagon and Robert Stillwagon vs. Gettysburg Hospital and Leah Maitland, M.D. - 91-S-967

Wayne Gorman and Suzanne Gorman vs. Richard Brown t/d/b/a Right Way Construction Co. - 91-S-1019

Donald G. Higgins vs. Deborah E. Higgins - 91-S-1033

Centel Cellular Company of Pennsylvania vs. Krystal Cadillac Olds GMC, Inc. - 91-S-1054

Anthony W. Andrew vs. Leslie S. Barnes - 91-S-1063

Galen D. Miller vs. Nationwide Mobile Homes Sales, Inc. - 91-S-1066

Patricia L. Verdis vs. LaRay Enterprises, Inc. - 91-S-1081

Aaron H. Beiler vs. Carrol Reibling - 92-S-8

Dawn M. Wike vs. George E. Wike, Jr. - 92-S-10

First Deposit National Bank vs. Colleen M. Herbert - 92-S-29

Susan A. Sanders vs. Richard R. Rollins, Jr. - 92-S-49

Peoples State Bank vs. Barry Grant - 92-S-53

Nicholas J. Mylo, III vs. Nicholas J. Mylo, IV - 92-S-65

Mid South Building Supply Inc. of PA vs. R.G. Halberstadt, individually and t/d/b/a Halber Company - 92-S-74

Beneficial Mortgage Co. of Pennsylvania vs. John A. Nichols and Carole A. Nichols, husband and wife - 92-S-80

Lake Meade Property Owners vs. Vance W. Phillips, Jr. - 92-S-108

David A. Post and Edward Powers III vs. Michael R. Herbert and Allstate Salvage, Inc. - 92-S-142

Stanley Wolf vs. Donald Swift - 92-S-148

John A. Yost and Evelyn M. Yost vs. Patten Corporation Midatlantic, Inc. - 92-S-152

Joann Rhoades vs. Elwood Riley and Shelby Rodenburg - 92-S-154

Gettysburg National Bank vs. Yolande Posenauer Katz - 92-S-179

John M. Sheets, Jr. vs. William M. Klunk and Jeffrey A. Klunk t/d/b/a The Looking Glass Lounge - 92-S-218

Lorna L. King vs. William W. King - 92-S-233

House 4 U Real Estate vs. Ronald J. Staub and Gloria Staub - 92-S-257

Gettysburg National Bank vs. Darrell A. Hunt - 92-S-271

Daisy Woods (Encinosa) vs. Lon D. Woods - 92-S-350

William L. Mann vs. Tina M. Crowl - 92-S-356

Devonshire Village Condominium Owners Association vs. Charles T. Bradley and Dorothy E. Bradley, husband and wife - 92-S-380

American Aluminum and Insulation Co. Inc. vs. Doug Smith - 92-S-387

Kenny Hostetter vs. Missey Gibbons - 92-S-445

Jody L. Wingerd vs. William D. Thompson - 92-S-446

Lake Heritage Property Owners Association, Inc. vs. Richard H. Grape - 92-S-460

Gettysburg Hospital vs. Hugh E. and Debra A. Redding - 92-S-480

Beshore Mechanical, Inc. vs. Insurance Company of North America - 92-S-482

Jerry E. Lawrence vs. David Courtright, Ann Courtright and Betty Courtright - 92-S-490

Robert Robinson and Esther Robinson vs. Stanley Plank - 92-S-499

Steven E. Clapper vs. Miriam E. Clapper - 92-S-506

Stanley R. Wolf and E. Lavaughne Wolf vs. Kenneth L. Hawbaker, Jr. vs. Larry W. Smith, Deborah, Larry Hartman, Donald Coldsmith and Marshall L. Miller Realty, Inc. - 92-S-507

Patricia Eileen Hartle vs. Steven Edward Hartle - 92-S-510

Cindy Viola Stambaugh n/k/a Cindy Viola Racine vs. Commonwealth of Transportation Bureau of Driver Licensing - 92-S-511

Troy Lynn Carvell vs. Tina M. Carvell - 92-S-514

Hoke Mills, Inc. vs. Howard Tucker and Marilyn Tucker t/d/b/a Hoeward Tucker & Sons - 92-S-536

Samuel R. Giardullo vs. Debra L. Giardullo - 92-S-561

York Imaging Center vs. Joann R. Miller - 92-S-570

First Deposit National Bank vs. Deana L. Olinger a/k/a Deanna L. Olinger-Bennett - 92-S-619

Douglas E. Sites vs. Tammie E. Sites - 92-S-628

Justine E. Shields vs. Gettysburg College - 92-S-633

Dale C. Hoffman vs. Scott Miller - 92-S-634

Times and News Publishing Company, t/d/b/a The Gettysburg Times vs. Country Market Landscaping Services, Inc. - 92-S-652

York Imaging Center vs. Robert A. Peters and Cynthia A. Peters, his wife - 92-S-670

Diane M. Haulsee vs. Kenneth J. Haulsee - 92-S-673

Curvin R. Sentz vs. William R. Sentz - 92-S-697

Gettysburg National Bank vs. Robert Dale Shelton and Deborah Lynne Shelton -92-S-735

Meridian Mortgage Corp., successor by merger to Cumberland Valley Savings, division of Hill Financial vs. Bruce M. Buffington and Mona K. Buffington - 92-S-185

Kristie L. Bard vs. Edwin Dominguez - 92-S-787

First Deposit National Bank vs. Theresa M. Small - 92-S-965

Lamco Safety Products, Inc. vs. Baer Packaging and Fresh Express Mid Atlantic, Inc. - 92-S-1035

Farmers Bank and Trust Company vs. Albert E. Tate - 92-S-1078

Ronald Paul Wagner vs. Susan Frederick Wagner - 92-S-1080

Gettysburg Hospital vs. Melinda S. Wolford a/k/a Melinda S. Shriner - 92-S-1091

Eric M. Zimmer vs. Tracy L. (Weaver) Zimmer - 92-S-1105

Donna L. Moyer, formerly Donna L. Cacioppo vs. Jasper A. Cacioppo - 92-S-1124

Michelle E. Rostad vs. David Ray Rostad, Jr. and James A. Nett, Jr. and Judy E. Nett - 92-S-1139

8/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-397 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of September, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stake at the corner of Lot No. 3 of the hereinafter referred to Plan of Lots and a twenty (20) feet wide driveway; thence along said driveway North fifteen (15) degrees thirty (30) minutes East, fifty (50) feet to a stake at Lot No. 5; thence along said Lot No. 5 South seventy-four (74) degrees thirty (30) minutes East, one hundred fifty-nine and four tenths (159.4) feet through a stake setback thirty-five (35) feet from the bank at low water to a point in the Conewago Creek; thence in and along the said Conewago Creek, South twenty-two (22) degrees forty-five (45) minutes West, fifty and five tenths (50.5) feet to a point in said Conewago Creek at Lot No. 3; thence along said Lot No. 3 North seventy-four (74) degrees thirty (30) minutes West through a stake setback thirty-five (35) feet from the bank at low water one hundred fifty-three and one tenth (153.1) feet to the point and place of BEGIN-

NING. The above-described tract of land is further identified as Lot No. 4, Block No. 1, on a Plan of Lots prepared by George M. Wildasin for Harry A. and Gertie R. Lauchman, dated August 27, 1955.

IT BEING the same premises which Dennis L. Crushong and Debra K. Becker, now married and known as Debra K. Crushong, his wife, by their deed dated December 12, 1990 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 575, Page 735, granted and conveyed unto John L. Becker and Donna L. Becker, his wife.

Seized and taken into execution as the property of **John L. Becker and Donna L. Becker**, and to be sold by me.

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
July 11, 1995.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 25, 1995, 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.

8/4, 11, 18

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that articles of incorporation were filed with the PA Department of State on July 13, 1995 for the purpose of incorporating a proposed business corporation to be organized pursuant to the PA Business Corporation Law of 1988, 15 Pa.C.S. Sec. 1306. The name and address of the proposed corporation is ETW INC., 83 Meade Drive, Gettysburg, PA 17325.

Ricci & Tanef  
Attorneys And Counsellors At Law  
4219 Derry Street  
Harrisburg, PA 17111

8/4

IN THE COURT  
OF COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA  
CIVIL ACTION—LAW  
No. 95-S-452

IN RE: JEB SCOTT HUFFMAN

CHANGE OF NAME

NOTICE IS HEREBY GIVEN that on the 11th day of May, 1995, the Petition of Jeb Scott Huffman was filed in the above-named Court praying for a Decree to change the name of Jeb Scott Huffman to Jeb Scott Anderson.

The Court has fixed the 21st day of August, 1995 at 9:00 o'clock a.m., in Court Room 1, Fourth Floor, as the time and place for the hearing of said Petition, when and where all persons interested may appear and show cause, if any they have, why the prayer of said Petitioner should not be granted.

Andrea S. Anderson, Esquire  
Attorney for Petitioner  
140 East Broadway  
Red Lion, PA 17356  
(717) 246-0594

8/4

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of a fictitious name was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on July 18, 1995, pursuant to the Fictitious Name Act, Act No. 1982-295, setting forth that G. Ronald Albright is the only person owning or interested in a business, the character of which is involved is the manufacturing and sale of concrete products, the name, style and designation under which said business is and will be conducted is HANOVER CONCRETE CO., and the location where said business is and will be located is 2000 Carlisle Pike, Hanover, Pennsylvania 17331.

Stonesifer and Kelley  
Solicitor

8/4

## COMMONWEALTH VS. ROLLISON

1. A sentencing court must carefully review the elements of any foreign offense in terms of the classification of the conduct proscribed, its definition of the offense, and the requirements of culpability and then, after having identified the elements of the foreign offense, should turn to the Pennsylvania Crimes Code for the purpose of determining the equivalent Pennsylvania offense.

2. If the court determines that Defendant's two previous convictions in Maryland for driving or attempting to drive while intoxicated are equivalent offenses to the Pennsylvania offense of driving under the influence of alcohol, he can be sentenced as a third offender.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-500-94, COMMONWEALTH OF PENNSYLVANIA VS. EBBIE MELVIN ROLLISON.

Roy Keefer, Esq., District Attorney  
Tony Miley, Esq., for Defendant

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

Spicer, P.J., March 15, 1995.

Defendant appeals from a sentence imposed March 1, 1995, on a charge of driving under the influence of alcohol, 75 Pa.C.S.A. 3731(a)(1). Defendant appeared January 9, 1995, and pleaded guilty, but reserved the right to argue that it was his first offense. At issue were two previous convictions in Maryland for driving or attempting to drive while intoxicated.

When defendant appeared for sentencing, he relied upon an opinion issued by Maryland's attorney general and argued that the Maryland statute involved a standard of proof less strict than section 3731 (a) (1). If this were true, his Maryland convictions would not serve to enhance defendant's sentence; see *Commonwealth v. Bivens*, \_\_ Pa. Super. \_\_, 651 A.2d 1117 (1994); (Possession of marijuana is not an equivalent offense to possession with intent to deliver).

Maryland's statutory scheme involves three classifications:

- a) driving or attempting to drive while intoxicated;
- b) driving or attempting to drive while under the influence; and
- c) driving or attempting to drive while so far under the influence that a person cannot operate a vehicle safely.

The attorney general opined that the last offense required proof of unsafe operation but that neither of a) nor b) does.

Even reviewing the Maryland scheme cursorily, it is obvious that driving under the influence involves less culpability than driving while

intoxicated. A blood alcohol concentration of .08 is the presumptive level for b), but .13 is required for driving while intoxicated.<sup>1</sup>

This court considered defendant's two convictions as being equivalent offenses and sentenced defendant as a third offender. This appeal has resulted.

Quoting *Commonwealth v. Bolden*, 367 Pa.Super. 333, 338, 339, 532 A.2d 1172, 1177 (1987)j Superior Court has recently said:

...a sentencing court [must] carefully review the elements of the foreign offense in terms of the classification of the conduct proscribed, its definition of the offense, and the requirements of culpability. Accordingly, the court may want to discern whether the crime is *malum in se* or *malum prohibitum*, or whether the crime is inchoate or specific. If it is a specific crime, the court may look to the subject matter sought to be protected by the statute, e.g protection of the person or protection of the property. In doing so, the court should identify the requisite elements of the crime—the *actus reus* and *mens -rea*—which forms the basis of liability.

Having identified these elements of the foreign offense, the court should turn to the Pennsylvania Crimes Code for the purposes of determining the equivalent Pennsylvania offense. An equivalent offense is that which is substantially identical in nature and definition as the out-of-state of federal offense when compared to the Pennsylvania offense.

*Commonwealth v. Whisnant*, 390 Pa.Super. 192, 194, 568 A.2d 259,260 (1990).

Maryland's *actus reus* for driving while intoxicated substantially reflects our own Vehicle Code. The blood alcohol concentration requirement is higher. While Maryland does not require actual proof of unsafe driving, neither does Pennsylvania. *Commonwealth v. Kowalek*, 436 Pa.Super. 361, 647 A.2d 948 (1994) citing *Commonwealth v. Griscavage*, 512 Pa. 540, 517 A.2d 256 (1986). If anything, Maryland's

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<sup>1</sup> Defendant has not mounted an attack on the portion of the Maryland statute proscribing attempts. Even so, it would seem that Pennsylvania's proscription of being in actual physical control of the movement of a vehicle while under the influence is equivalent to Maryland's approach.

standards are stricter. First, the statute uses the term intoxicated. Pennsylvania does not require proof that defendant was drunk or intoxicated. *Commonwealth v. Kowalek*, supra.<sup>2</sup> Secondly, as was previously noted, a .13 blood alcohol level is required.

Our analysis reflects that followed by Superior Court in *Commonwealth v. Whisnant*, supra., where that court found a New Jersey statute to be substantially identical in nature and definition to the Pennsylvania Vehicle Code.

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## FORBES, ET UX. VS. HADLEY HOLDINGS CORPORATION

1. Only counterclaims which are part of or incident to the creation of the mortgage may be properly raised in a foreclosure action.
2. Mortgages are construed according to contract principles.
3. Summary Judgment is appropriate if the terms of the Agreements are clear and no substantial issues of fact prevent the Court from applying the law.
4. If the terms of the Agreements are clear, construction is a matter of law to be determined by the Court; if ambiguous, oral testimony may be received to determine circumstances and the intent of the parties.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 94-S-993, HOMER FORBES AND DIXIE FORBES VS. HADLEY HOLDINGS CORPORATION.

Michael W. Flannelly, Esq., for Plaintiffs  
Walter A. Tilley, III, Esq., for Defendants

### OPINION ON CROSS MOTIONS FOR SUMMARY JUDGMENT

Spicer, P.J., March 20, 1995.

Both parties have moved for summary judgment in this mortgage foreclosure action. Although issues have been discussed as involving the propriety of defendant's counterclaim, under Pa. R.C.P. § 1148, the real dispute involves the correct interpretation of various documents executed by the parties.

Although there is no dispute as to most facts, the record is bare

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<sup>2</sup> Superior Court adopted prior case interpretations of "under the influence", which held the statute does not require that a person be drunk or intoxicated, *Commonwealth v. Horn*, 395 Pa. 585, 150 A.2d 872 (1959). The panel applied *Griscavage*, holding it was unnecessary that the manner of operation be extreme and uncontrolled.

concerning the background of the agreements. To limit factual issues, the court questioned each attorney as to representations made by the other during oral argument. Most, but not all, facts have been stipulated. However, we have not been told who prepared agreements. Defendant represented, during argument, that the total purchase price of real estate subject to plaintiffs' mortgage was based upon development of twenty lots with the real potential of twenty more. This was not stipulated.

There is also the minor matter as to the date of settlement. It is obvious from the record it occurred August 6, 1993, and not August 9, 1993, as recited in plaintiffs' brief.

Defendant purchased 23.85 acres of land in Abbottstown from plaintiff, intending to develop the tract. A subdivision plan had been approved previous to settlement and entailed 54 lots. When settlement occurred, the parties executed: 1) the note and mortgage; 2) an agreement; and 3) an assignment of sewer rights. By their terms, these latter documents survived settlement.

The assignment transferred plaintiffs' rights to eighteen sewer hook-ups or connections as well as their priority with respect to twenty additional such connections. The borough sewer plant lacked sufficient capacity to accommodate all applications and there was, and is, a long waiting list. At the time of settlement, plaintiffs were first in line for twenty hook-ups. One hundred seventy-one applicants followed. Defendant paid \$18,000.00 for existing hook-up rights (18) and defendant's priority with respect to the twenty additional connections.

The agreement provided that plaintiffs would release the lien of their mortgage on payment of \$7,000.00 per lot. Pertinent to our inquiry is the second part of the contract. It provided for a reduction of \$15,000.00, if plaintiffs could not obtain ten additional hook-ups. At the center of our controversy is language in the sentence, "[i]t is understood that the ten or more additional sanitary sewer hook-up connections are separate and in addition to the eighteen sewer hook-up connections which Hadley Holding Corporations [sic] is purchasing from the Forbes contemporaneous with closing on the property."

Nothing was said about the connections on the waiting list.

Subsequently, plaintiffs procured ten connections. However, they exercised priority rights. Defendant now has such rights with respect to ten hook-ups but are subordinate to 171 applicants as to any others.

Plaintiffs contend they have fulfilled their agreement and are



entitled to the full purchase price.

Before considering this argument, we must first decide whether plaintiffs are correct in arguing that defendants have improperly asserted the counterclaim. We hold that the issue has been properly joined in the foreclosure action. Accordingly, we dismiss plaintiffs' motion for summary judgment.

Superior Court has held in several cases, that Rule 1148 must be strictly construed and that only counterclaims which are part of or incident to the creation of the mortgage may be properly raised in a foreclosure action. In *Overly v. Kass*, 382 Pa.Super. 108, 554 A.2d 970 (1989), the court rejected an attempt to litigate a promise to remove junk. In *Chrysler First Business Credit Corp. v. Gourniak*, 411 Pa.Super. 259, 601 A.2d 338 (1992), it disapproved a claim based upon unjust enrichment. On the other hand, it held that breach of a promise to obtain disability insurance as part of a mortgage could be raised. *Meritor Savings Bank v. Barone*, 399 Pa.Super. 213, 582 A.2d 21 (1990).

Mortgages are construed according to contract principles. *Second Federal Savings and Loan Assoc. v. Brennan*, 409 Pa.Super. 581, 598 A.2d 997 (1991). If a contract refers, by necessary implication, to another agreement that agreement is incorporated. *Marshall v. Port Authority of Allegheny County*, 524 Pa. 1, 568 A.2d 931 (1990). The agreement of the parties may consist of several writings. *Valvano v. Galardi*, 363 Pa.Super. 584, 526 A.2d 1216 (1987).

It is obvious that all documents relate to settlement, the purchase price and consequently to the mortgage loan. The agreement specifically refers to both the mortgage and the assignment. Obviously, the agreement was both part of and incident to the creation of the mortgage.

The question now becomes whether summary judgment is appropriate. It is, if the terms of the agreements are clear and no substantial issues of fact prevent the court from applying the law. *Kramer v. Carrabino*, 425 Pa.Super. 222, 624 A.2d 648 (1993). The contracts will be construed as a whole and not in discrete units. Terms will be considered ambiguous if reasonable minds could differ as to the meaning thereof. *O'Brien Energy Systems, Inc. v. American Employers Ins. Co.*, 427 Pa.Super. 456, 629 A.2d 957 (1993). If the terms are clear, construction is a matter of law to be determined by the court. *Halpin v. LaSalle University*, 432 Pa.Super. 483, 639 A.2d 37 (1994). If ambiguous, oral testimony may be received to determine circum-

stances and intent of the parties. *Acme Markets v. Federal Armored Express*, \_\_ Pa.Super. \_\_, 648 A.2d 1218 (1994).

As previously noted, the agreement said nothing about the source of the ten extra hook-ups. It can be argued that plaintiffs were free to obtain them any way they could. Although excluding the eighteen assigned, the agreement did not similarly treat those on the waiting list.

A fundamental problem with this interpretation is that this would mean that this nullifies provisions of the assignment. Defendant bought and paid for priority status on the waiting list. In obtaining the additional connections, plaintiffs exercised rights they no longer owned. It does not seem reasonable to interpret the agreement so as to give plaintiffs the power to deal with rights they sold. On the other hand, the agreement's drafter took the trouble to mention eighteen also assigned, (and paid for), and said nothing about the waiting list.

The obvious interpretation of the language is that the parties meant the ten additional hook-ups to be actual, not potential, rights. Based upon what we know, the most reasonable meaning of the agreement is to exclude the waiting list as the source of the additional connections. However, this is not the only interpretation and there are facts we do not, as of yet, know. This being true, summary judgment is inappropriate.

The attached order is entered.

#### ORDER OF COURT

AND NOW, this 20th day of March, 1995, both motions for summary judgment are refused.

**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 RICHARD E. DILLMAN, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania  
 Executrix: Carolyn E. Dillman, 407 South Washington Street, Gettysburg, PA 17325  
 Attorney: Teeter, Teeter, & Teeter, 108 West Middle Street, Gettysburg, PA 17325

**ESTATE OF FRANCES E. HOSTETTER, a/k/a FRANCES ELIZABETH HOSTETTER, DEC'D**

Late of Union Township, Adams County, Pennsylvania  
 Administrator: Armin H. Hostetter, 100 Speedway Lane, Hanover, Pennsylvania, 17331  
 Attorney: Robert Clofine, Esquire

**ESTATE OF BEATRICE O. PFEFFER, DEC'D**

Late of Straban Township, Adams County, Pennsylvania  
 Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325  
 Attorney: Bullait, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

**ESTATE OF TROY A. ROSENBERY, DEC'D**

Late of Hamiltonban Township, Adams County, Pennsylvania  
 Administrator: Robert M. Rosenberry, 4256 Fairfield Road, Fairfield, PA 17320  
 Attorney: Mark David Frankel, Esquire, 14 W. King Street, P.O. Box 1389, York, PA 17405-1389

**SECOND PUBLICATION**

**ESTATE OF DAISY KETURAH LEONARD a/k/a DAISY K. LEONARD, DEC'D**

Late of Mount Joy Township, Adams County, Pennsylvania  
 Executrix: Connie A. Gulden, 651 White Church Road, Gettysburg, PA 17325  
 Attorney: Michael A. George, Campbell, White & George, 122 Baltimore Street, Gettysburg, PA 17325

**CAROLLINDSAY, a/k/a CAROLYN E. LINDSAY, FORMERLY CAROLYN E. SWEETING, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania  
 Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325  
 Attorney: Bigham & Raffensperger, Esqs., Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

**ESTATE OF RUTH TATE SHETRON, DEC'D**

Late of Huntington Township, Adams County, Pennsylvania  
 Executor: Robert G. Tate, 118 West Middlesex Drive, Carlisle, PA 17013  
 Attorney: Pyle and Entwistle, 33 West Middle Street, Gettysburg, PA 17325

**THIRD PUBLICATION**

**ESTATE OF ROY A. CARBAUGH, DEC'D**

Late of Highland Township, Adams County, Pennsylvania  
 Executrix: Shirley L. Carbaugh, 675 Knoxlyn Road, Gettysburg, PA 17325

Attorney: Swope, Heiser & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF GLADYS V. HOWARD, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania  
 Administratrix: Margaret J. Green, 66 Natural Springs Road, #22, Gettysburg, PA 17325  
 Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF MARY JANE LEAVY, DEC'D**

Late of Conewago Township, Adams County, Pennsylvania  
 Co-Executors: Harold Jones; Mary Jones  
 Attorney: Jared W. Ingersoll, 427 Baltimore Street, Hanover, PA 17331

**SHERIFF'S SALE**

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-554 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of September, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the northern right-of-way line of Sycamore Lane, a 60-foot wide right-of-way, at corner of Lot No. 138 on the subdivision plan hereinafter referred to; thence along the northern right-of-way line of Sycamore Lane,

by a curve to the right having a radius of 501.42 feet, the long chord bearing and distance of which is South 68 degrees 01 minute 32 seconds West, 85.85 feet for an arc distance of 85.95 feet to a point at the intersection of Sycamore Lane and Butternut Lane; thence along the eastern right-of-way line of Butternut Lane, the following three (3) courses and distances: (1) North 56 degrees 54 minutes 28 seconds West, 21.30 feet; (2) North 11 degrees 54 minutes 28 seconds West, 95.08 feet to a point; and (3) by a curve to the left having a radius of 185 feet, the long chord bearing and distance of which is North 20 degrees 02 minutes 02 seconds West, 52.30 feet for an arc distance of 52.48 feet to a point at Lot No. 140 on the subdivision plan hereinafter referred to; thence along Lot No. 140, North 61 degrees 50 minutes 24 seconds East, 65.39 feet to a point at Lot No. 138 on the subdivision plan hereinafter referred to; thence along Lot No. 138, South 26 degrees 53 minutes 06 seconds East, 171.02 feet to a point on the northern right-of-way line of Sycamore Lane, the point and place of BEGINNING. (CONTAINING 13,341 square feet and being Lot No. 139 on plan prepared for Diller's Village, Phase II, by Donald E. Worley, Registered Surveyor, dated April 29, 1987, designated as File No. G-93, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 47 at page 22.)

IT BEING the same tract of land which Joseph A. Myers Real Estate, Inc., a Pennsylvania corporation, by deed dated June 6, 1988, and recorded in the office of the aforesaid Recorder of Deeds in Record Book 501 at page 336, granted and conveyed unto Cynthia R. Tavares, the Defendant herein.

UNDER AND SUBJECT, NEVERTHELESS, to easements and setbacks as set forth in the above-recited deed.

IMPROVED WITH a brick and vinyl siding, single family dwelling with attached garage.

Seized and taken into execution as the property of **Cynthia R. Tavares**, and to be sold by me.

Bernard V. Miller  
 Sheriff

Sheriff's Office, Gettysburg, PA  
 July 14, 1995.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 25, 1995, 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.

IN THE COURT  
OF COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW  
No. 95-185  
Action to Quiet Title

TED A. ROWLAND, Plaintiff

vs.

RALPH J.S. HOFFACKER, JR., LOUISE HOFFACKER, MARY SPALDING, MARGARET BANGE, WILLIAM S. HOFFACKER, JOHN HOFFACKER, and NORMAN FORNWALT, their heirs, executors, administrators and representatives and assigns; and the heirs, executors, administrators, and representatives of the Estate of RALPH J.S. HOFFACKER, deceased and MARGARET B. HOFFACKER, deceased, Defendants

TO: The Heirs, Executors, Administrators and Representatives of the Estates of Ralph J. S. Hoffacker, deceased and Margaret B. Hoffacker, deceased, Defendants.

TAKE NOTICE that on February 23, 1995, Ted A. Rowland filed a Complaint in an Action to Quiet Title against you as Defendants, averring that he is the owner of real property described therein. The Complaint requests the Court to extinguish any possible interest you may have in said real estate. The subject property consists of two tracts of land situate, lying and being in Berwick Township, Adams County, Pennsylvania, bounded and described as follows to wit:

TRACT #1: BEGINNING at a point in the center of State Highway Legislative Route No. 0104, at the Northeastern corner of Lot No. 7 in the plan of lots below identified; thence running in the center of said State Highway, North seventy-three (73) degrees, forty-five (45) minutes East, one hundred (100) feet to a point in the center of the same at the Northwestern corner of Lot No. 5, in said plan; thence by said Lot No. 5 and through a steel pin twenty-five (25) feet from the beginning of this course, South sixteen (16) degrees, fifteen (15) minutes East, two hundred forty and ninety-six hundredths (240.96) feet to an iron pin at the Southwestern corner of Lot No. 5; thence through the original tract now or formerly of Ralph J. S. Hoffacker and wife, South seventy-three (73) degrees, forty-five (45) minutes West, one hundred (100) feet to a steel pin at the Southeastern corner of Lot No. 7 in said plan; thence by said Lot No. 7, North sixteen (16) degrees, fifteen (15) minutes West, two hundred forty and ninety-six hundredths (240.96) feet, running through a steel pin twenty-five (25) feet from the end of this course, to the above described plan of beginning. CONTAINING 0.5532 Acres.

TRACT #2: BEGINNING at a point in the center of State Highway Legislative Route No. 01046, at the Northeastern corner of Lot No. 7 in the Plan of lots below identified; thence running in the center of said State Highway North seventy-three (73) degrees, forty-five (45) minutes East, one hundred (100) feet to

a point in the center of the same at the Northwestern corner of Lot No. 5 in said Plan; thence by said Lot No. 5 and through a steel pin twenty-five (25) feet from the beginning of this course, South sixteen (16) degrees, fifteen (15) minutes East, two hundred forty and ninety-six hundredths (240.96) feet to an iron pin at the Southwestern corner of Lot No. 5; thence through the original tract now or formerly of Ralph J. S. Hoffacker and wife, South seventy-three (73) degrees, forty-five (45) minutes West, one hundred (100) feet to a steel pin at the Southeastern corner of Lot No. 7 in said Plan; thence by said Lot No. 7, North sixteen (16) degrees, fifteen (15) minutes West, two hundred forty and ninety-six hundredths (240.96) feet, running through a steel pin twenty-five (25) feet from the end of this course, to the above described place of BEGINNING. CONTAINING 0.5532 acres.

Said Complaint requests the Court to enter a decree that the Plaintiff, Ted A. Rowland, is the owner in fee simple absolute of the property described herein, and that title to such property now rests in the Plaintiff in fee simple absolute, free and clear of any and all claims whatsoever of the Defendants, and further, an Order declaring the Defendants, their heirs, executors, administrators and assigns are forever barred from asserting any right, lien, title, or interest in the property which is the subject matter of this action.

WHEREFORE, the Court of Common Pleas of Adams County, Pennsylvania, has ordered that service of the Complaint be made on the above Defendants, the heirs, executors, administrators and representatives of the Estates of Ralph J. S. Hoffacker, deceased and Margaret B. Hoffacker, deceased, as well as their heirs, executors, administrators and assigns, by publication once a week for three (3) consecutive weeks in the Adams County Legal Journal and one daily newspaper of general circulation in Adams County, Pennsylvania. Plaintiff will request the Court to enter a final judgment ordering that any possible legal interest the said Defendants might have had in said property be extinguished.

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the foregoing 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 OR KNOW 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  
Gettysburg, PA 17325

Telephone: (717) 334-6781, Ext. 213

7/28, 8/4, 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-147 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 July, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of State Highway running from Route 94 to Route 15; thence in the center of said Highway North seventy-three (73) degrees East, ninety and six tenths (90.6) feet to a point in the center of said Highway; thence leaving said highway and by lands N/F of Mabel Thomas Lehmer, South seven (7) degrees East, one hundred eighty-nine and five tenths (189.5) feet to a post; thence by lands N/F of George and Cora Heller, South seventy-four and three-fourths (74 3/4) degrees West, seventy-four (74) feet to an iron pin; thence by lands N/F of Robert I. Stonesifer, North twelve (12) degrees West, one hundred eighty-nine (189) feet to a point in the center of the aforesaid State Highway, the place of BEGINNING.

Containing fifty-five (55) perches and one hundred fifty-nine (159) square feet.

The above described description was taken from draft of survey prepared by P. S. Orner County Surveyor, on July 27, 1946.

TAX MAP NO.: 1-2; PARCEL 28

Seized and taken into execution as the property of Paul E. Day and Jane L. Day, and to be sold by me.

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
July 17, 1995.

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 October 23, 1995, 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.

7/28, 8/4, 11

**LEGAL NOTICE  
ADAMS COUNTY TAX CLAIM BUREAU**

Pursuant to Court Orders 95-S-403 through 95-S-422, the following real property will be offered for sale September 15, 1995 at 1:00 P.M. E.D.S.T., at the Adams County Courthouse, 111-117 Baltimore Street, 4th floor, Gettysburg, Pennsylvania. The purpose of this sale is to dispose at public sale the following parcels of real estate:

SALE NO.	OWNER(S) OR REPUTED OWNER(S)	COUNTY MAP NO.	PARCEL NO.	SECTION	LOT NO.	ASSESSED VALUE
CARROLL VALLEY BOROUGH						
37	Jualenda M. Boschuite	17	33	A	176	3010
47	Richard F. Foltz, Jr. April D. Foltz	43	7	RD	120	3587
48	Richard F. Foltz, Jr. April D. Foltz	43	14	RD	137	3555
49	E. John Gallagher Lillian L. Gallagher	47	45	R	87	3375
57	Henry J. Luhrman	18	16	A	82CR	3861
70	Henry L. Wolff Mary L. Wolff	19	23	D	205	6265
HAMILTONBAN TOWNSHIP						
158	Mikeal Lee Strang					912
1966 Atlantic Mobile Home						
LATIMORE TOWNSHIP						
173	Hess-Hulse, Inc.	J4	50			4976
LIBERTY TOWNSHIP						
188	Robert A. McMurray, Jr.			0	38	1688
READING TOWNSHIP						
247	Denise Crone					3097
1979 Hillcrest Mobile Home						
STRABAN TOWNSHIP						
262	John F. Bayer Beverly D. Bayer					3969
1982 Homette Mobile Home						
278	William Keeney					1000
281	Alice Latray-Kuhn					1000
299	Tyrone Mobile Home Sales					1000
302	Thomas Williams					1000
1973 Kenworth Mobile Home						

**TERMS OF SALE:** Cash in the form of currency of the United States if the purchase price is \$50.00 or less. For properties selling for more than \$50.00, \$50.00 in the form of currency of the United States and a check or other satisfactory payment of the balance. All properties shall be paid for at the time the property is struck down. The purchaser(s) shall be required to pay, in addition to the bid price, the fee for recording a deed and any applicable transfer taxes due (2% of the assessed value x 2.38).

The above properties were previously advertised for sale in the Adams County Legal Journal, The Gettysburg Times, and The Hanover Evening Sun on July 29, 1994.  
8/4

**ADAMS COUNTY TAX CLAIM SALES  
TAX CLAIM BUREAU—TAX SALES NOTICE**

TO OWNERS OF PROPERTIES DESCRIBED IN THIS NOTICE AND TO ALL PERSONS HAVING LIENS, JUDGMENTS OR MUNICIPAL OR OTHER CLAIMS AGAINST SUCH PROPERTIES:

Notice is hereby given by the Tax Claim Bureau in and for the County of Adams under the Act of 1947, P.L. 1368, as amended, that the Bureau will expose at public sale in the Adams County Courthouse, Fourth Floor, Jury Assembly Room, Baltimore Street, in the Borough of Gettysburg, Pennsylvania at 9:00 A.M. E.D.S.T. on September 15, 1995, or any date to which the sale may be adjourned, re-adjourned or continued, for the purpose of collecting unpaid 1993 and any prior real estate taxes, prior liens, municipal claims, and all costs thereto, the following described set forth.

The sale of the property may, at the option of the Bureau, be stayed if the owner thereof or any lien creditor of the owner, on or before the date of the sale enters into an agreement with the Bureau to pay the taxes, claims, and all costs in installments in the manner provided by said Act, and the agreement be entered into.

There will be no Redemption Period after the date of the sale, but these taxes and costs can be paid up to the date of sale, September 15, 1995.

It is strongly urged that the prospective purchasers have an examination made of the title of any property in which they may be interested. Every reasonable effort has been made to keep the proceedings free from error. However, in every case the Tax Claim Bureau is selling the taxable interest and the property is offered for sale by the Tax Claim Bureau without guarantee or warranty whatsoever.

The property so struck down will be settled for before the next property is offered for sale. Deeds for the premises will be prepared by the Tax Claim Bureau and recorded. Buyer(s) will be required to pay, in addition to their bid, at the time the property is struck down to them,

the basic sum for recording the deed, and the costs of such realty transfer stamps as required (2% of the assessed value x 2.38). The Recorder of Deeds will mail the deeds to the address given by the purchaser.

A property will not be sold if the delinquent taxes and all costs are paid prior to the sale and it is suggested that this be done as soon as possible before the sale, as the earlier this is done, the more saving there will be in the amount of costs, etc.

It is repeated that there is no redemption after the property is sold and all sales will be final. No adjustments will be made after the property is struck down.

**TERMS OF SALE:** In the case of all properties selling for one hundred dollars (\$100.00) or less, cash in the form of currency of the United States must be paid in full at the time the property is struck down. In the case of properties for which more than one hundred dollars (\$100.00) has been bid, the sum of one hundred dollars (\$100.00) cash in the form of currency of the United States must be paid in full when the property is struck down and a check on a bank or other satisfactory payment for the balance must be paid at the same time. If the balance of the purchase price is not paid for any reason (for example, if a check is not paid), the one hundred dollars (\$100.00) cash paid shall be forfeited as liquidated damages.

David K. James, III  
Solicitor, Tax Claim Bureau

Danielle Asper  
Director, Tax Claim Bureau

BOROUGH/ TOWNSHIP	SALE #	NAME	MAP & PARCEL	ASSESSED VALUE	UPSET PRICE
Abbottstown	2	Rickey J. & Sheila Carter	L10-40-111	\$13,230.00	\$1,416.10
Arendtsville	10	Glenn S. & Lynne Schweitzer	006-59-000	\$77,496.00	\$19,161.83
Bendersville	11	David C. Keithley	004-06-000	\$4,420.00	\$604.72
Berwick	13	Frank W. & Kathi L. Beadle, Jr.	L12-57-000	\$13,163.00	\$1,844.13
Berwick	14	Jacob G. & Michele L. Benson	K11-108-000	\$18,081.00	\$1,402.40
Berwick	17	William & Hilda Emig	L12-044-000	\$7,058.00	\$517.00
Berwick	19	Howard D. & Jessie Gill	L10-40-315 - 1988 Skyline	\$14,515.00	\$1,372.00
Berwick	20	Bryan Griffith	L10-40-273	\$13,230.00	\$1,161.17
Berwick	22	Richard W. & Virginia B. Hicks	L10-40-427	\$11,491.00	\$1,584.78
Berwick	23	Joseph A. & Wanda J. Lawrence	L11-78A-000	\$133,717.00	\$13,660.76
Berwick	24	Albert Lee & Vondalee Luckenbaugh	L12-94-000	\$36,461.00	\$2,943.99
Berwick	25	Joseph A. & Loreta P.J. Miller	L10-40-268	\$6,615.00	\$1,003.42
Berwick	26	Curtis R. McAbee & Linda Little	L10-40-247 - 1979 Dupont	\$3,097.00	\$342.96
Berwick	27	Vernon Leroy & Patricia Null	K11-93-000	\$130,453.00	\$7,574.65
Berwick	28	Vernon L. & Patricia C. Null	L10-27A-000	\$12,177.00	\$781.04
Berwick	30	Denton E. & Tiffany E. Richter	L10-40-214	\$9,261.00	\$804.91
Berwick	31	Earl W. & Judith E. Schreiber	L11-64A-000	\$8,559.00	\$820.42
Berwick	32	Philip & Norma J. Sheely	L10-54-000	\$76,237.00	\$7,949.53
Berwick	33	Daniel J. Shinnars	L10-40-249	\$10,131.00	\$860.16
Berwick	34	Gary L. Smith	L11-91-000	\$18,119.00	\$1,140.37
Berwick	35	Kevin A. & Penny Strausbaugh	L10-40-225 - 1986 Commodore	\$3,402.00	\$322.51
Berwick	36	Gary L. & Sandra L. Viands	L10-40-203	\$3,097.00	\$328.55
Bonneauville	42	Gerald L. Pfaff, Jr.	002-05-000	\$58,125.00	\$5,758.63
Bonneauville	43	Gary L. & Virginia L. Reichart	008-80-000	\$158,400.00	\$24,315.88
Bonneauville	44	John R. & Deborah E. Sanders	008-62-000	\$42,602.00	\$5,602.19
Bonneauville	45	David F. Weishaar	009-29-000	\$37,936.00	\$4,252.24
Butler	46	Robert W. & Rebecca E. Butler, Jr.	F07-09-000	\$28,060.00	\$1,838.34
Butler	47	Larry E. Crum	E07-039-001	\$250.00	\$125.77
Butler	49	Donald E. & Pamela Flickinger	F09-070-000	\$40,609.00	\$3,076.64
Butler	50	George E. & Carol Gorse	E08-026B-000	\$68,805.00	\$7,439.88
Butler	51	Barbara Graham	F10-038-00D - 983 Redman	\$4,914.00	\$589.74
Butler	52	Blaine Harding	F10-038-036	\$1,000.00	\$155.21
Butler	53	Steve & Connie Hildebride	F10-038-029 - 1977 Mark IV	\$1,105.00	\$501.65
Butler	55	John Houck	G08-050-001 - 1970 New Moon	\$2,500.00	\$376.50
Butler	56	Scott A. & Teresa Hufnagle	F10-038-023 - 1986 Rosebrook	\$6,615.00	\$1,087.86
Butler	57	David & Debbie Kauffman	F09-039-001 - 1968 Swiss Chalet	\$1,000.00	\$205.38
Butler	58	David C. Koontz, Jr.	F10-038-034 - 1990 Fleetwood	\$13,230.00	\$1,380.02
Butler	59	Candace Kuhn	F08-087-001 - 1980 Mobile Home	\$3,308.00	\$413.99
Butler	61	Norman K. & Willetta D. Lady	E07-057-000	\$64,939.00	\$7,022.46
Butler	62	LSI Financial Group	F10-038-041 - 1989 Forest Park	\$11,907.00	\$1,799.29
Butler	64	Ronald & Judith Myers	F10-038-048 - 1989 Fleetwood	\$11,227.00	\$1,295.94
Butler	65	Paul & Virginia Norton	F10-038-058 - 1989 Colony Mobile	\$11,907.00	\$1,299.15
Butler	66	Donald L. & Gayle L. Patterson	H08-014A-000	\$31,207.00	\$6,095.40
Butler	68	Ervin L. Rindinger	E08-081-000	\$88,360.00	\$7,873.44
Butler	69	Michael W. & Nancy J. Rinehart	F09-013-000	\$19,344.00	\$1,916.62
Butler	70	Gary L. & Lisa K. Robey, Jr.	E08-045-000	\$38,616.00	\$3,507.65
Butler	71	Howard C. & Margaret V. Shreve	F08-060-000	\$2,222.00	\$340.71
Butler	72	Kenneth W. & Lisa D. Shultz	F08-056-000	\$12,981.00	\$1,413.24
Butler	73	George & Rose Miller	F10-038-13A	\$13,215.00	\$1,972.76
Butler	74	Gail Potent	F10-038-028	\$1,000.00	\$319.01
Conewago	75	Terry Lee & Rosalind Brendle	K13-023-000	\$29,052.00	\$3,991.50
Conewago	77	Bradley D. Rohrbaugh	K14-116A-000	\$22,264.00	\$3,072.13
Conewago	79	Cynthia R. Tavares	009-243-000	\$46,769.00	\$6,155.14
Conewago	80	Robert H. Topper	L15-024B-000	\$28,686.00	\$2,606.49
Cumberland	86	Duane D. Eckert	F14-023-000	\$45,944.00	\$7,816.29
Cumberland	90	John & Antoinette F. Koscinski	F12-051A-000	\$49,983.00	\$3,290.00

BOROUGH/ TOWNSHIP	SALE #	NAME	MAP & PARCEL	ASSESSED VALUE	UPSET PRICE
Cumberland	93	Trevor L. & Elaine M. McClymont	W02-100-000	\$51,324.00	\$4,869.93
Cumberland	94	Nationwide Homes	Map # - 1976 Liberty	\$0.00	\$140.23
Cumberland	97	Joseph Ray, Et Al	E12-082-033	\$1,000.00	\$192.63
Cumberland	98	Michael P. & Suzette S. Redding	F11-130-000	\$86,751.00	\$7,864.63
Cumberland	105	Thomas Verdier, Et Al	E12-082-305 - 1982 Homette	\$3,969.00	\$500.77
East Berlin	110	Carole S. Roberson	004-116-000	\$48,300.00	\$4,931.49
East Berlin	111	Carole S. Roberson, Et Al	004-225-000	\$53,448.00	\$5,454.40
Fairfield	112	Richard Sterling Keckler, Et Al	005-047-000	\$28,312.00	\$3,330.73
Franklin	113	Randy M. Aldridge	C12-011A-000 - 1961 Gilbraiter	\$14,624.00	\$1,306.25
Franklin	115	Cathy O. Bean	C10-097D-000	\$13,284.00	\$2,966.10
Franklin	116	Leroy A. & Rose B. Bolton	D12-019-000	\$28,150.00	\$4,783.00
Franklin	119	E. Warren Davis	C10-142-000	\$9,487.00	\$891.04
Franklin	120	Howard R. & Janie L. Dorsey	D12-040-000 - 1989 Imperial	\$16,740.00	\$4,455.75
Franklin	121	Francis G. Ewart & Betty J. Roberts	B09-209-000	\$35,045.00	\$4,907.03
Franklin	122	Dan R. Forsythe	C10-039A-000	\$7,357.00	\$1,224.17
Franklin	123	Carl E. Frantz, Jr.	C10-202-000	\$17,328.00	\$316.97
Franklin	124	George E. & Carol Gorse	C09-045-000	\$65,206.00	\$6,837.16
Franklin	127	Eugene R. & Barbara L. Hahn	C11-029A-000	\$9,209.00	\$486.07
Franklin	129	Robert T. Hunter	B11-040-000	\$30,067.00	\$2,989.97
Franklin	130	Timothy E. & Rose E. Kane	B08-018-000	\$27,811.00	\$4,015.41
Franklin	133	Eldridge Moses	D10-088-000	\$36,996.00	\$2,057.64
Franklin	134	Jon P. & Judith A. Murdoch	C10-048F-000	\$36,759.00	\$3,646.76
Franklin	136	Rose B. Nathan	D12-033-000	\$27,514.00	\$6,327.67
Franklin	137	William Painter	B08-013-060	\$2,930.00	\$395.30
Franklin	138	M. Susan Poole	D10-089-000	\$45,629.00	\$2,456.25
Franklin	143	Robert M. & Antoinette Riordan	C09-030-000	\$12,014.00	\$1,919.02
Franklin	144	Betty J. Robinson, Et Al	B09-170-000	\$5,767.00	\$733.82
Franklin	145	Anthony Roser	C11-004-001	\$1,000.00	\$157.88
Franklin	146	Daniel H. Runkle, Et Al	C10-054-000	\$16,424.00	\$2,408.85
Franklin	148	F. Landon Snivley-Brown & B. Kay Brown	E11-002A-000	\$42,199.00	\$5,699.57
Franklin	150	Robert Stover	E11-019-000	\$56,972.00	\$3,850.64
Franklin	151	Charles W. & Alver Strausbaugh	B09-038G-000	\$5,788.00	\$727.52
Franklin	152	Fred L. & Estella M. Swayzer	C11-047-000	\$4,450.00	\$516.25
Franklin	153	Thomas J. & Maxine M. Tenney	D12-007-000	\$70,538.00	\$12,745.73
Franklin	154	Daniel C. & Susan A. Wherley	D12-017-000	\$21,465.00	\$291.22
Freedom	156	Daniel B. & Julia F. Fisher	D16-064-000	\$5,426.00	\$389.22
Freedom	157	Daniel B. & Julia F. Fisher	D16-063-000	\$35,259.00	\$285.88
Freedom	161	Bonnie J. Keckler	E17-033-000	\$21,538.00	\$4,089.18
Germany	163	Michael J. & Sharon Breighner	J18-021-000	\$31,094.00	\$3,551.08
Germany	166	Robert G. & Catherine M. Glass	I18-029D-000	\$18,429.00	\$2,503.63
Germany	167	Thomas L. Greiber	I16-013-000	\$42,244.00	\$4,440.76
Germany	168	Gary P. Koontz	I17-011A-000	\$66,478.00	\$6,885.74
Germany	169	Mary E. Martin	I17-006A-000	\$29,336.00	\$3,286.64
Germany	170	Charles E. & Judith Anne Stambaugh, Jr.	H18-062-000	\$41,060.00	\$4,572.28
Germany	171	Herbert H. Sterner	J17-103-000	\$14,331.00	\$1,140.37
Germany	173	Nancy W. Wilson A/K/A Nancy W. Rendo	I18-085-000	\$20,298.00	\$2,280.16
Gettysburg	174	Michael P. Bull	007-035-000	\$21,560.00	\$3,688.25
Gettysburg	177	George E. & Carol Gorse	004-169-000	\$40,800.00	\$5,541.46
Gettysburg	178	Sharon Johnson	010-227-000	\$8,519.00	\$998.93
Gettysburg	179	William H. & Cindy R. Jones	010-346-000	\$13,297.00	\$2,641.49
Gettysburg	181	John & Antoinette F. Koscinski	007-300-000	\$92,666.00	\$7,250.16
Gettysburg	182	John & Antoinette F. Koscinski	006-011-000	\$26,823.00	\$2,360.88
Gettysburg	183	John & Antoinette F. Koscinski	006-012-000	\$26,238.00	\$1,492.39
Gettysburg	184	Renee J. Koscinski	006-020-000	\$33,597.00	\$1,870.47
Gettysburg	186	Calvin L. & Esther C. Lovett	010-242-000	\$24,519.00	\$1,401.29
Gettysburg	194	Eddie R. Wagaman	007-102-000	\$31,848.00	\$5,875.46
Gettysburg	198	Patricia Sarah Williams	010-228-000	\$8,120.00	\$1,545.78
Hamilton	200	Jack & Carol Elizabeth Forbes	L09-040-000	\$60,835.00	\$7,897.56
Hamilton	201	Jack & Carol E. Forbes	L10-001-000	\$109,000.00	\$13,898.75
Hamilton	204	John B. & Eleanor H. Ness	K11-012-000	\$144,045.00	\$7,707.00
Hamilton	206	John T. & Ruth Spicer	J10-073-000	\$3,573.00	\$458.25
Hamilton	207	Herbert H. Sterner, Et Al	J10-013-000	\$15,815.00	\$1,585.46
Hamilton	208	Jennifer A. Stokes	K09-034-000	\$21,377.00	\$2,085.62
Hamiltonban	212	Connie F. Baker	B16-095-000	\$20,990.00	\$3,083.38
Hamiltonban	213	Cheryl L. Bear, A/K/A Cheryl L. Barlup	A12-010-000	\$13,109.00	\$986.65
Hamiltonban	214	Thomas A. & Henrietta M. Brown	C14-030-000	\$15,527.00	\$1,761.38
Hamiltonban	215	Arthur Ken Hamrick, Et Al	C15-002-000	\$26,882.00	\$3,011.39
Hamiltonban	216	Nancy L. & Kyle Gene Hatcher	C12-053-000	\$33,452.00	\$385.45
Hamiltonban	219	Ronald D. Kauffman	A12-006-000	\$19,217.00	\$976.47
Hamiltonban	221	John M. & Catherine C. Mort	A17-052-000	\$158,858.00	\$17,131.43
Hamiltonban	222	George W. & Mary A. Nicholas	B16-061A-000	\$1,601.00	\$472.60
Hamiltonban	223	George W. & Mary A. Nicholas	B16-114-000	\$36,123.00	\$5,045.87

BOROUGH/ TOWNSHIP	SALE #	NAME	MAP & PARCEL	ASSESSED VALUE	UPSET PRICE
Hamiltonban	224	George W. & Mary A. Nicholas	B16-061-000	\$37,237.00	\$5,632.23
Hamiltonban	225	Charles E. & Rebecca J. Nolan	A17-028-000	\$31,165.00	\$4,498.74
Hamiltonban	226	Eprain Ramos	B15-018-001	\$1,000.00	\$392.97
Hamiltonban	228	Robert E. Sanders	C15-084A-000	\$41,023.00	\$2,283.31
Hamiltonban	229	Robert C. & Susan Strausbaugh	A15-001A-000	\$11,111.00	\$1,826.58
Highland	234	Rondale A. & Karen S. Trostle	E12-121-000	\$29,710.00	\$2,800.24
Huntington	235	Harry H. & Ann G. Fox, Jr.	H04-012-000	\$61,740.00	\$735.13
Huntington	236	Kai A. Hermansen	J06-001A-000	\$30,034.00	\$3,737.30
Huntington	237	Kristian J. & Marie Hermansen	J06-041-000	\$29,722.00	\$3,648.76
Huntington	238	Knud A. Hermansen & Sons	I05-009-000	\$11,111.00	\$1,467.24
Huntington	239	Knud A. Hermansen & Sons	I06-015-000	\$5,119.00	\$764.89
Huntington	240	Knud A. Herrnansen & Sons	J06-015-000	\$85,858.00	\$10,228.87
Huntington	243	Sharon A. Shaffer	I05-045-000	\$18,330.00	\$1,700.20
Huntington	248	David L. Weidner	G02-013-004	\$1,000.00	\$180.59
Latimore	249	Robert E. & Justine O. Beil	I03-050-000	\$71,747.00	\$6,608.39
Latimore	250	Kevin E. Border	I02-003-000	\$32,045.00	\$1,506.98
Latimore	252	Paul E. & Jane L. Day	I02-028-000	\$26,813.00	\$3,192.51
Latimore	253	Ray G. & Evelyn E. Faircloth	J05-028C-000	\$9,922.00	\$1,025.22
Latimore	255	High-Vista Estates, Inc.	J03-032A-000	\$4,627.00	\$542.01
Latimore	256	Thomas B. & Linda E. Kernan	J04-037-000	\$56,310.00	\$5,209.79
Latimore	257	Lawrence C. Kropp	K04-006A-000	\$15,341.00	\$1,502.59
Latimore	260	Mark T. & Maria A. Mandeville	I01-032-000	\$30,688.00	\$2,877.53
Latimore	261	Charles E. McGinty	I02-070-001 - 1982 Poloron Mobile	\$4,631.00	\$463.75
Latimore	262	Raymond F. Tracey	I02-070-003	\$7,938.00	\$811.07
Latimore	263	Gwendolyn N. Debona	006-048-000	\$3,499.00	\$247.63
Latimore	264	Sandra Lee Shade	006-015-000	\$41,252.00	\$6,817.42
Latimore	265	Dawn M. Woodcock, Et Al	009-007-000	\$27,485.00	\$1,677.57
Liberty	267	Phillip G. Burgess	000-062-000	\$313.00	\$149.48
Liberty	268	Phillip G. & Leslie D.A. Burgess	000-114-000	\$277.00	\$150.28
Liberty	269	Roy Walter-Crum, Sr., Et Al	D17-025A-000	\$25,603.00	\$2,580.82
Liberty	270	Lee H. Davis	B18-007-000	\$21,042.00	\$2,304.11
Liberty	271	John E. Fahey	000-083-000	\$1,688.00	\$236.67
Liberty	273	Richard L. & Deborah Gladhill	A18-044-000	\$41,966.00	\$4,487.95
Liberty	275	Samuel R. & Virginia Harbaugh	B17-086-000	\$67,552.00	\$7,155.14
Liberty	276	Doris L. Hardman	B18-011-000	\$15,108.00	\$1,573.32
Liberty	277	Doris L. Hardman	B18-013-000	\$12,704.00	\$2,190.32
Liberty	279	James A. Larmer, Et Al	QQ0-038-000	\$3,375.00	\$479.74
Liberty	280	Margaret V. & Clyde J. Marsh	B18-001A-000	\$38,527.00	\$4,107.74
Liberty	281	Kendell E. & Janet L. Moore	QQ0-053-000	\$6,047.00	\$671.99
Liberty	286	George M. & Lucille Reistetter	000-005-000	\$1,688.00	\$304.54
Liberty	288	Marsha E. Schmidt	000-003-000	\$1,705.00	\$282.66
Liberty	289	William Robert Sheldon, Et Al	000-064-000	\$1,950.00	\$267.98
Liberty	290	William Robert Sheldon, Et Al	000-061-000	\$2,418.00	\$307.46
Liberty	291	Charles A. Sites, Jr.	AA0-150-000	\$336.00	\$137.94
Liberty	295	Capt. Richard A. & Anne R. Teel	AA0-096-000	\$1,673.00	\$185.44
Liberty	296	Scott L. Wilson, Et Al	000-030-000	\$1,850.00	\$213.83
Littlestown	299	Antoniono G. & Renee Borromeo	008-018-000	\$39,838.00	\$4,674.34
Littlestown	304	Larry W. & Ivy D. Griffie	008-020-000	\$22,923.00	\$1,383.81
Littlestown	305	Hulse Family Properties, Inc., Et Al	008-085-000	\$37,986.00	\$6,906.13
Littlestown	306	Littlestown Activity Ctr. Foundation	009-071-000	\$395,340.00	\$32,795.96
Littlestown	308	Ronald L. & Barbara J. Ogburn	005-052-000	\$25,341.00	\$2,986.73
Littlestown	311	Eugene B. Stout, Jr.	008-358-000	\$33,623.00	\$3,262.47
Littlestown	312	Eugene B. Stout, Jr.	011-047-000	\$45,913.00	\$4,413.96
Littlestown	313	Victor A. Trone, Et Al	007-121-000	\$41,071.00	\$3,294.50
Littlestown	314	Eddie R. Sheri B. Wagaman	008-255-000	\$45,900.00	\$8,172.62
McSherrystown	316	Dennis H. Eltz	005-297-000	\$19,160.00	\$1,634.07
Menallen	318	Richard G. & Doris H. Beamer	D05-013-000	\$39,890.00	\$3,869.84
Menallen	319	John Shafer Bremerman, Jr.	E06-001P-000	\$15,846.00	\$2,422.63
Menallen	324	Tom & Kathy Harris	E07-033-003 - 1979 Sycran	\$3,097.00	\$431.09
Menallen	325	George W. & Annie E. Haws	F05-086-000	\$37,485.00	\$5,787.56
Menallen	327	Rita Hoy	F04-028-001	\$1,000.00	\$215.13
Menallen	331	Miguel A. & Ramonita Rivera	F05-087-000	\$17,356.00	\$1,636.63
Menallen	333	Frank D. & Tina Marie Scott, Jr.	B05-056-000	\$22,619.00	\$2,099.81
Menallen	334	Jack D. Showers	F04-019A-000	\$16,692.00	\$1,868.22
Menallen	336	Michael W. & Cynthia S. Smith	F05-096-000	\$40,981.00	\$4,171.49
Menallen	337	Jacob F. Stoltzfus	B05-051-000	\$11,992.00	\$2,682.44
Menallen	339	Richard F. Thomas, Jr.	D05-028-001 - 1974 Derose	\$1,000.00	\$451.62
Menallen	342	Edward L. & Treva E. Yeatman, Jr.	E05-033H-000	\$26,982.00	\$3,787.39
Mt. Joy	343	Glade K. & Victoria L. Alwine	H15-004-000	\$32,580.00	\$2,999.27
Mt. Joy	344	Glade K. & Victoria L. Alwine	H15-004C-000	\$13,534.00	\$1,241.65
Mt. Joy	345	Eugene D. & Joan L. Bair	H17-027-001	\$3,097.00	\$217.60
Mt. Joy	346	Linda L. Bloom, Et Al	G15-054-000	\$4,000.00	\$682.70



BOROUGH/ TOWNSHIP	SALE #	NAME	MAP & PARCEL	ASSESSED VALUE	UPSET PRICE
Mt. Joy	352	Ronald E. & Peggy J. Guise	007-0118-000	\$36,693.00	\$5,180.24
Mt. Joy	354	Gilbert & Mary C. Higgs	G14-0011-002	\$1,000.00	\$379.44
Mt. Joy	360	Harold L. & Barbara E. Spicer	H17-010-000	\$22,773.00	\$2,934.03
Mt. Joy	361	George C. & Doris Stoots	H16-061-000	\$41,716.00	\$6,159.97
Mt. Joy	362	West Edge II, Inc., c/o Harry Pappas	H17-020-000	\$71,274.00	\$7,829.56
Mt. Joy	363	Martha A. Wilson	H18-029-000	\$67,608.00	\$6,304.68
Mt. Pleasant	365	Dean E. & Pamela A. Bange	J14-075-000	\$38,448.00	\$3,108.62
Mt. Pleasant	366	Willie Barnes	J11-052-053 - 1987 Commodore	\$9,261.00	\$1,646.29
Mt. Pleasant	367	Danny Beard, Et Al	J11-052-063 - 1985 Commodore	\$6,615.00	\$1,015.23
Mt. Pleasant	368	Russell L. & Sandra M. Bevans	J14-110-000	\$39,835.00	\$3,416.72
Mt. Pleasant	371	Mark A. Daniels	H14-032-038 - 1992 Redman	\$12,852.00	\$215.66
Mt. Pleasant	372	Sharon Fox	J12-061-020 - 1986 Liberty	\$9,072.00	\$894.67
Mt. Pleasant	377	Hulse Family Properties, Inc.	I11-052-000	\$13,208.00	\$2,188.39
Mt. Pleasant	378	Leo T. Laughman, Jr.	J12-061-070 - 1985 Liberty	\$6,615.00	\$964.23
Mt. Pleasant	380	Robert Martin	J11-064-000	\$12,507.00	\$1,056.04
Mt. Pleasant	383	Jimmie Osborne	002-014-000	\$5,153.00	\$689.72
Mt. Pleasant	384	Kathleen M. Parsley, A/K/A Carnes, Et Al	I12-025-000	\$16,932.00	\$2,618.43
Mt. Pleasant	385	Elaine Picard, Et Al	J11-052-049 - Derose	\$11,907.00	\$1,154.04
Mt. Pleasant	386	Florence T. Antonich, Et Al	H14-032-046 - 1992 Redman	\$12,852.00	\$1,591.45
Mt. Pleasant	388	Charles D. Runshaw	J12-061-062	\$5,954.00	\$617.13
Mt. Pleasant	389	Thomas A. Russell, III	J12-061-145	\$14,364.00	\$1,584.77
Mt. Pleasant	390	Roger & Jane Smith	J12-061-060 - 1986 Liberty	\$6,615.00	\$1,127.39
Mt. Pleasant	391	Michael R. & Brenda Sneideringer	I12-026-000	\$35,685.00	\$3,275.46
Mt. Pleasant	392	Marlin R. & Rhonda L. Wagner	H13-029-001 - 1989 Skyline	\$10,206.00	\$934.04
Mt. Pleasant	394	Edward L. Wright, Et Al	005-121-000	\$52,811.00	\$2,396.22
Mt. Pleasant	396	James & Mary Zinn	J11-052-070 - 1974 Buddy	\$1,000.00	\$171.99
New Oxford	397	Roy L. & Sandra L. Brock	005-172-000	\$18,882.00	\$1,939.59
New Oxford	401	Daniel P. & Michele C. Ridge	007-080-000	\$34,535.00	\$4,014.82
New Oxford	404	Richard L. & Tammy Strausbaugh	007-078-000	\$32,145.00	\$3,525.86
New Oxford	405	York Development Associates	004-128-000	\$10,126.00	\$1,543.67
Oxford	407	Robert L. & Doris M. Allen	K12-122-000	\$110,000.00	\$7,915.87
Oxford	408	Robert L. & Doris M. Allen	K12-127-000	\$25,620.00	\$387.45
Oxford	410	Michael A. & Jennifer L. Cool	009-048-000	\$30,609.00	\$3,969.78
Oxford	411	William E. & Lisa Rae Earle	009-039-000	\$29,098.00	\$4,921.35
Oxford	412	Ellen I. Flickinger	008-194-000	\$36,840.00	\$3,016.66
Oxford	420	Carole M. Peters, A/K/A Carole M. Huffman	009-057-000	\$30,005.00	\$3,587.31
Oxford	422	Patrick J. & Sara A. Rudolf	K12-055-000	\$41,500.00	\$868.25
Oxford	423	Stephen & Cathleen D. Siegel	K12-044-000	\$20,687.00	\$1,588.82
Reading	427	Ash-Mel, Inc., (Hampton Condo Land)	J08-120-000	\$116,600.00	\$13,936.85
Reading	428	Ash-Mel, Inc., (30 Hampton Dr.)	J08-120-001	\$29,618.00	\$3,524.53
Reading	429	Ash-Mel, Inc., (32 Hampton Dr.)	J08-120-002	\$29,618.00	\$3,524.53
Reading	430	Ash-Mel, Inc., (34 Hampton Dr.)	J08-120-003	\$29,618.00	\$3,524.53
Reading	431	Ash-Mel, Inc., (36 Hampton Dr.)	J08-120-004	\$29,618.00	\$3,524.53
Reading	433	Guy E. Barnes, Et Al	L07-043-000	\$13,683.00	\$1,356.52
Reading	434	John L. & Donna L. Becker	L08-036-000	\$21,694.00	\$1,273.44
Reading	435	Gerald D. & Rita M. Becoski	002-110-000	\$47,818.00	\$721.83
Reading	438	Charles Brashgars	L07-005-017 - 1988 Brigadier	\$12,096.00	\$1,172.21
Reading	439	Ronald E. Copenhaver	L08-019-000	\$14,099.00	\$1,934.57
Reading	440	James R. Couster, Jr., Et Al	L07-023C-000	\$52,110.00	\$5,996.50
Reading	444	Melanie J. Dissinger	002-019-000	\$40,091.00	\$3,011.82
Reading	449	Keith A. & Jacqueli Gladfeiter	013-105-000	\$34,130.00	\$4,434.97
Reading	450	Richard Grace, Jr.	J08-045-107	\$3,097.00	\$365.03
Reading	451	Hamilton Homes, Inc.	002-010-000	\$38,469.00	\$211.25
Reading	452	Hamilton Homes, Inc.	002-031-000	\$34,522.00	\$3,213.69
Reading	453	Hamilton Homes, Inc.	002-132-000	\$2,250.00	\$209.13
Reading	454	Sherry Henry	002-006-000	\$28,229.00	\$6,322.35
Reading	456	Paul W. & Wendy Hoffman	L08-146-000	\$33,350.00	\$4,281.51
Reading	458	Jackie L. & Joanna E. Hurd	K08-122-000	\$40,805.00	\$5,212.28
Reading	461	Richard L. Krill	J08-107-000	\$9,675.00	\$997.00
Reading	462	Charles M. & Belinda L. Miller	001-038-000	\$21,194.00	\$1,604.53
Reading	464	Edward J. McClelland	J08-021-001	\$250.00	\$6,327.36
Reading	465	Robert K. Powers	L06-017-000	\$7,086.00	\$752.77
Reading	466	Barry R. & Susan E. Rauhauser	J08-120B-000	\$30,991.00	\$4,239.27
Reading	467	Steven Reese	J08-045-108	\$13,230.00	\$1,285.45
Reading	468	Curtis & Joyce Rice	L07-005-051	\$18,144.00	\$1,599.94
Reading	469	Kevin & Tammy Schoolcraft	J08-045-119	\$13,608.00	\$2,061.80
Reading	471	Andrew Sentz, Et Al	L07-005-033	\$8,732.00	\$1,058.43
Reading	475	Barry L. Stevens	L08-039-000	\$9,350.00	\$1,522.23
Reading	477	Ronald W. Sullivan	J09-070F-000	\$29,450.00	\$2,765.78
Straban	481	Genevieve & Alton Aldridge	Map # - On sales lot - 1975 Skyline	\$0.00	\$132.14
Straban	483	Dusan & Kathleen M. Bratic	G12-107-000	\$158,797.00	\$16,076.98

BOROUGH/ TOWNSHIP	SALE #	NAME	MAP & PARCEL/LOT #	ASSESSED VALUE	UPSET PRICE
Straban	484	Laura S. Cephus, A/K/A Laura A. McKean	Gas-124-111 - 1974 Schultz	\$1,000.00	\$75.88
Straban	492	George E. Grimes	G12-124-109 - 1977 Lagrande	\$1,894.00	\$263.51
Straban	494	Betty Jo Hall	G10-016B-005	\$13,608.00	\$166.86
Straban	496	Susan Alvarado	G12-124-074 - 1974 Hauser	\$5,699.00	\$896.36
Straban	498	Joseph M. Jenkins	032-007-000	\$45,128.00	\$5,642.52
Straban	500	William Keeney, Et Al	G12-124-092 - 1970 General	\$1,000.00	\$194.66
Straban	501	Annette E. Kennedy	G13-066-000	\$31,505.00	\$4,462.93
Straban	503	Lake Heritage Utilities, Inc.	004-125-000	\$8,320.00	\$634.33
Straban	504	James & Mary Jane Laughman	G12-124-004	\$1,000.00	\$146.08
Straban	505	Kevin Lawver, Et Al	H10-017-132 - 1983 Jay	\$4,914.00	\$592.74
Straban	506	Dale & Elise Labba Lease	G12-124-006 - 1973 Parkwood	\$1,000.00	\$304.71
Straban	509	Fred Llauget	H10-017-145 - 1987 Skyline	\$9,261.00	\$168.91
Straban	510	Michelle & Michael E. Magara	G12-124-086 - 1988 Fleetwood	\$10,887.00	\$1,468.58
Straban	511	Juan & Linda Miranda	G12-124-076 - 1972 Skyline	\$4,631.00	\$564.30
Straban	515	Daniel & June Olinger	G12-124-126 - 1989 Derosé	\$11,397.00	\$1,039.83
Straban	516	Michael D. & Deborah A. Pearce	001-080-000	\$7,392.00	\$556.67
Straban	518	Phillip S. & Marie G. Plank	H09-006-000	\$36,964.00	\$3,610.82
Straban	519	Linda K. Reams	001-068-000	\$62,848.00	\$2,930.63
Straban	520	Roxann Rogers	H12-026-000	\$25,861.00	\$540.49
Straban	522	Ronald B. & Lorna K. Rutters	I09-032-000	\$47,541.00	\$5,971.34
Straban	523	Modern Financial Plans & Services	H10-017-131	\$6,351.00	\$136.11
Straban	524	Edward G. Sanders	H11-079-000	\$17,119.00	\$2,549.73
Straban	527	Frederick M. & Faye M. Shealer	G09-040-000	\$6,027.00	\$1,245.22
Straban	528	Frederick M. Shealer	G12-010-000	\$25,922.00	\$5,922.97
Straban	529	Frederick M. Shealer	G12-039G-000	\$22,786.00	\$4,474.43
Straban	531	Dorothy Shipley	G12-124-054 - 1973 Zimmer	\$1,000.00	\$260.28
Straban	533	Willie J. Smith	G12-124-037 - 1983 Commodore	\$5,292.00	\$618.61
Straban	535	Darlene Sylvester	G12-124-053 - 1971 Newport	\$1,000.00	\$187.66
Straban	536	Jere W. Taughinbaugh	H10-061-000	\$7,164.00	\$836.71
Straban	537	Jere W. & Sus E. Taughinbaugh	H10-062-000	\$3,000.00	\$431.23
Straban	538	Edward E. Thomas, Et Al	G12-124-120 - 1981 Liberty	\$3,742.00	\$558.77
Straban	540	Orville & Lois Wagaman	G12-124-009 - 1970 Coburn MH	\$1,000.00	\$308.26
Straban	541	David A. Weaver	G12-124-059 - 1970 Buddy MH	\$1,000.00	\$171.68
Straban	542	West Edge, Inc.	G12-049A-000	\$281,700.00	\$28,414.95
Straban	543	West Edge, Inc.	G12-054-000	\$19,602.00	\$1,731.68
Straban	544	Brenda Zents	Map - / 1970 Consort MH	\$0.00	\$112.62
Tyrone	545	Woodrow W. Betts	002-054-000	\$29,502.00	\$539.91
Tyrone	548	David L. Bosserman	I07-030B-000	\$24,991.00	\$3,942.01
Tyrone	549	Thomas G. Carbaugh	I09-014-001	\$2,144.00	\$156.11
Tyrone	550	Robert F. & Barbara A. Chinnick	H07-074-000	\$58,706.00	\$6,134.35
Tyrone	551	Robert F. & Barbara A. Chinnick	H07-086-000	\$5,391.00	\$671.59
Tyrone	554	Fred R. & Nora J. Bly	I08-011-000	\$12,328.00	\$1,257.84
Tyrone	556	David M. & Yvonne E. Kime	H07-082-000	\$22,483.00	\$3,638.98
Tyrone	560	A. Ellen & John C. Smith	I07-034A-000	\$458.00	\$154.20
Tyrone	562	Willie J. Smith, Et Al	H06-111-000	\$4,905.00	\$671.05
Tyrone	563	Lloyd L. & Ruth M. Stevens	001-042-000	\$65,347.00	\$7,347.55
Union	566	Steven D. & Marilyn R. Barrick	J15-037-000	\$36,388.00	\$5,744.32
Union	567	James R. Crouse	K16-039-000	\$44,184.00	\$4,673.62
Union	569	David A. Prueitt, Et Al	J17-068-000	\$40,509.00	\$4,299.37
York Springs	571	Thomas B. & Linda E. Kernan	002-007-000	\$22,736.00	\$2,479.66
Carroll Valley	573	Wayne N. & Irene M. Anders	029-185-000/B-202	\$3,000.00	\$474.99
Carroll Valley	574	Louise M. Boothe	022-119-000/WA-271	\$3,544.00	\$490.64
Carroll Valley	575	Walter S. Bradley, Charles H., Jr., & Stella	043-071-000/RD-53	\$3,375.00	\$382.00
Carroll Valley	576	B. T. Custom Homes, Et Al	041-116-000/RH-5	\$38,857.00	\$4,626.60
Carroll Valley	577	Frank B. & Shirley E. Cahn, II	035-080-000/B-55CR	\$2,920.00	\$356.26
Carroll Valley	578	Charnita, Inc.	047-051-000/R-33	\$1,688.00	\$323.78
Carroll Valley	579	Jack V. & Karen A. Cramer	017-209-000/WA-315	\$3,390.00	\$294.39
Carroll Valley	580	John T. & Marianna L. Cranford	047-097-000/R-44	\$3,375.00	\$1,064.27
Carroll Valley	581	Helen A. Craven, Et Al	018-074-000/C-13	\$6,684.00	\$807.77
Carroll Valley	582	Eagle II Enterprises	035-097-000/B-30CR	\$4,500.00	\$895.09
Carroll Valley	585	Martin E. & Cleo J. Gibson	041-047-000/RI-201	\$4,219.00	\$615.45
Carroll Valley	587	Alfred B. & L. Ellen Goodson	041-029-000/RI-138	\$685.00	\$191.00
Carroll Valley	588	Kenneth L. & Anna S. Hardy	047-092-000/R-26	\$3,978.00	\$314.50
Carroll Valley	589	Kenneth L. & Anna S. Hardy	022-097-000/WA-220	\$3,472.00	\$289.01
Carroll Valley	590	Alan Andrew & Lori Sco Hefner	004-022-000/K-327	\$4,320.00	\$474.69
Carroll Valley	591	Thomas W. Helmke	046-111-000/RC-105	\$5,546.00	\$829.35
Carroll Valley	592	Anne Dillon Hurley	030-029-000/B-71	\$400.00	\$112.34
Carroll Valley	593	Joseph T. & Dorothy M. Jones	030-091-000/B-10CR	\$2,385.00	\$583.53
Carroll Valley	594	Joseph T. & Dorothy M. Jones	030-090-000/B-50CR	\$3,105.00	\$695.92
Carroll Valley	596	Charles J. & Doris Mae Lee	047-015-000/R-56	\$4,350.00	\$675.62
Carroll Valley	597	Chester M. & Kathy M. Long	035-086-000/B-62CR	\$3,030.00	\$478.42

BOROUGH/ TOWNSHIP	SALE #	NAME	MAP & PARCEL/LOT #	ASSESSED VALUE	UPSET PRICE
Carroll Valley	598	Justine C. Hobson, A/K/A Lower	030-037-000/B-126	\$400.00	\$153.72
Carroll Valley	601	Ricky L. & Patricia A. Miller	008-009-000/H-38	\$34,506.00	\$3,735.86
Carroll Valley	602	Kendall E. Moore	025-076-000/D-93/94	\$1,083.00	\$253.99
Carroll Valley	603	Kendall E. & Janet L. Moore	024-021-000/A-17CR	\$3,000.00	\$474.99
Carroll Valley	604	Kendall E. & Janet L. Moore	025-111-000/D-41	\$592.00	\$197.47
Carroll Valley	605	Kendall E. & Janet L. Moore	045-094-000/R-57	\$6,764.00	\$908.79
Carroll Valley	606	Jeanne Sauerwein Myers	035-067-000/B-66CR	\$4,531.00	\$582.07
Carroll Valley	607	John B. McClellan	019-063-000/D-32	\$1,375.00	\$275.66
Carroll Valley	608	Daniel J. & Mary B. McConeghy	045-035-000/RA-61	\$3,810.00	\$318.26
Carroll Valley	609	William L. McKean, Et Al	025-110-000/D-51	\$900.00	\$166.52
Carroll Valley	610	William L. McKean, Et Al	025-109-000/D-52	\$900.00	\$166.52
Carroll Valley	611	Nicholas D. & Christin Panicho	019-054-000/D-109	\$888.00	\$295.90
Carroll Valley	612	JMPL Investments, Et Al	007-019-000/K-237	\$4,253.00	\$631.38
Carroll Valley	613	Polk County Campus Isothermal	023-059-000/WA-278	\$4,238.00	\$563.39
Carroll Valley	615	John C. & Lorena A. Schaffner	034-052-000/E-19	\$586.00	\$196.73
Carroll Valley	616	John C. & Lorena A. Schaffner, A/K/A Clyde Schaffner	034-054-000/E-20	\$36,227.00	\$4,304.44
Carroll Valley	617	Charles M. & Clar Schwartzbeck	043-097-000/RD-66	\$450.00	\$181.09
Carroll Valley	618	William W. & Dolores C. Sedr	018-049-000/C-23	\$750.00	\$245.64
Carroll Valley	619	Cheryl J. Shew	029-158-000/B-148	\$42,543.00	\$6,871.47
Carroll Valley	621	Donald M. & Sandra J. Smith	034-160-000/P-157	\$3,375.00	\$293.52
Carroll Valley	622	Donald M. & Sandra J. Smith	029-016-000/WA-454	\$500.00	\$130.04
Carroll Valley	623	Glenn A. & Shirley A. Smith	012-012-000/H-23	\$3,000.00	\$341.32
Carroll Valley	624	William D. Stem, Jr. & Diane M. Lorenz	040-029-000/RI-157	\$58,144.00	\$4,563.61
Carroll Valley	625	Ray E. & Dora E. Turner	026-008-000/D-60	\$900.00	\$200.81
Carroll Valley	626	Edward Ray Wachter	035-113-000/B-14CR	\$45,232.00	\$7,202.64
Carroll Valley	627	Edward Ray Wachter	035-090-000/B-37CR	\$3,212.00	\$636.73
Carroll Valley	628	Philip M. Wallen	025-033-000/D-159	\$1,009.00	\$326.51
Carroll Valley	629	Philip M. Wallen	038-029-000/P-61	\$3,510.00	\$833.25
Carroll Valley	630	Philip M. Wallen	034-151-000/P-132	\$3,375.00	\$760.63
Carroll Valley	631	Mary J. Welter	044-033-000/R-75	\$3,375.00	\$161.08
Carroll Valley	632	Mary J. Welter	047-033-000/RB-54	\$3,375.00	\$161.08
Carroll Valley	633	Mary J. Welter	047-014-000/R-55	\$582.00	\$106.06
Carroll Valley	634	J. Stanley & Katherine Werking	028-116-000/W-310	\$3,375.00	\$518.18



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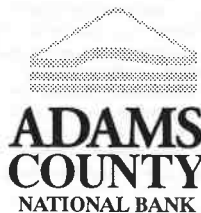
## IN THIS ISSUE

COMMONWEALTH VS. ZAMBONI

HEISER VS. YEAGER, ET AL.

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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.



Member FDIC

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

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## NOTICE

In re: Estate of Helen T. Walker, an incapacitated person (OC-119-94).

NOTICE IS HEREBY GIVEN THAT ADAMS COUNTY NATIONAL BANK, plenary permanent guardian of the above estate, has filed a petition requesting permission to sell the real estate of the incapacitated person above, known as 1265 Old Waynesboro Road, Adams County, Pennsylvania, at public sale; that the Orphans' Court of the Court of Common Pleas of Adams County by decree dated July 21, 1995 has authorized and directed the said Adams County National Bank, as such guardian, to expose said premises to public sale; that said premises will be offered for sale at a public sale conducted by Gertie Murdorf-McDannell, Auctioneer, at the premises at 5:30 p.m. on Thursday, August 17, 1995; and that the conditions of sale will be read immediately prior to sale. If no exceptions are filed to said decree of the Court, or objections made to said sale, and the premises is struck down as sold, a return of public sale will be made and the Court will be asked to approve or confirm the sale after its consummation on Monday, August 21, 1995 at 9:00 a.m. in Courtroom No. 1 of the Adams County Courthouse, Gettysburg, Pennsylvania.

Teeter, Teeter & Teeter  
Attorney for Guardian

7/28, 8/4 & 8/11

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-554 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of September, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the northern right-of-way line of Sycamore Lane, a 60-foot wide right-of-way, at corner of Lot No. 138 on the subdivision plan hereinafter referred to; thence along the northern right-of-way line of Sycamore Lane, by a curve to the right having a radius of 501.42 feet, the long chord bearing and distance of which is South 68 degrees 01 minute 32 seconds West, 85.85 feet for an arc distance of 85.95 feet to a point at

the intersection of Sycamore Lane and Butternut Lane; thence along the eastern right-of-way line of Butternut Lane, the following three (3) courses and distances: (1) North 56 degrees 54 minutes 28 seconds West, 21.30 feet; (2) North 11 degrees 54 minutes 28 seconds West, 95.08 feet to a point; and (3) by a curve to the left having a radius of 185 feet, the long chord bearing and distance of which is North 20 degrees 02 minutes 02 seconds West, 52.30 feet for an arc distance of 52.48 feet to a point at Lot No. 140 on the subdivision plan hereinafter referred to; thence along Lot No. 140, North 61 degrees 50 minutes 24 seconds East, 65.39 feet to a point at Lot No. 138 on the subdivision plan hereinafter referred to; thence along Lot No. 138, South 26 degrees 53 minutes 06 seconds East, 171.02 feet to a point on the northern right-of-way line of Sycamore Lane, the point and place of BEGINNING. (CONTAINING 13,341 square feet and being Lot No. 139 on plan prepared for Diller's Village, Phase II, by Donald E. Worley, Registered Surveyor, dated April 29, 1987, designated as File No. G-93, which said subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 47 at page 22.)

IT BEING the same tract of land which Joseph A. Myers Real Estate, Inc., a Pennsylvania corporation, by deed dated June 6, 1988, and recorded in the office of the aforesaid Recorder of Deeds in Record Book 501 at page 336, granted and conveyed unto Cynthia R. Tavares, the Defendant herein.

UNDER AND SUBJECT, NEVERTHELESS, to easements and setbacks as set forth in the above-recited deed.

IMPROVED WITH a brick and vinyl siding, single family dwelling with attached garage.

Seized and taken into execution as the property of **Cynthia R. Tavares**, and to be sold by me.

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
July 14, 1995.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 25, 1995, 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.

7/28, 8/4, 11

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Name Act, 54 Pa. C.S.A. §§301, et seq., that an Application to conduct business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of TIME LINE PHOTOS was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, in Harrisburg, Pennsylvania, on June 16, 1995. The business is located at 777 Baltimore Street, Old Gettysburg Village, Shop #13, Gettysburg, Adams County, Pennsylvania. The name and address of the person who is party to the registration is Thomas J. Winter, Jr.

John R. White  
Campbell, White & George  
122 Baltimore Street  
Gettysburg, PA 17325  
Attorneys for Applicant

8/11

## INCORPORATION NOTICE

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

The name of the corporation is S & S CANDLE CRAFTER, INC.

Swope, Heiser & McQuaide  
104 Baltimore Street  
Gettysburg, PA 17325

8/11

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-167 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Carroll Valley Borough, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a large spike in the center of Cypress Trail; thence in said center line South 78 degrees 41 minutes 40 seconds West, 660.00 feet to a steel rod; thence North 55 degrees 55 minutes 30 seconds West, 31.47 feet to a steel rod at land now or formerly of Roy Coppock; thence by same North 71 degrees 29 minutes 30 seconds East, 410.97 feet to an existing steel rod; thence by same North 26 degrees 53 minutes 30 seconds East 487.12 feet to a pipe in Miney Branch Creek; thence in said creek and by land now or formerly of James Tully, South 66 degrees 24 minutes 55 seconds East, 263.85 feet to an existing pipe; thence continuing by same North 58 degrees 48 minutes 40 seconds East, 202.65 feet to an existing pipe at corner of Tract No. 1 on hereinafter referred to survey; thence through said creek and running by other land now or formerly of Donald McLaughlin South 26 degrees 44 minutes 00 seconds West, 705.81 feet to a pipe at land now or formerly of J. Smith (Lot RI 92); thence by same and running through a pipe set 25 feet from the terminus of this course, North 10 degrees 57 minutes 40 seconds West, 181.15 feet to a large spike in the center line of Cypress Trail, the point and place of BEGINNING. CONTAINING 4.694 Acres and being a consolidation of 6 tracts.

The above description was taken from a survey prepared by Adams County Surveyors, for Donald McLaughlin, dated Oct. 12, 1987, and bearing drawing No. B-482.

It being the same tract of land which G. Donald McLaughlin and Virginia J. McLaughlin, husband and wife, by their deed dated the 28th day of July, 1988, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 496 at page 36, sold and conveyed unto Barry W. Reecher and Peggy M. Reecher, husband and wife, the Mortgageors herein.

Seized and taken into execution as the property of **Barry W. Reecher and Peggy M. Reecher** and to be sold by me.

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
August 2, 1995.

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 October 16,

1995, 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.

8/11, 18, 25

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-397 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of September, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stake at the corner of Lot No. 3 of the hereinafter referred to Plan of Lots and a twenty (20) feet wide driveway; thence along said driveway North fifteen (15) degrees thirty (30) minutes East, fifty (50) feet to a stake at Lot No. 5; thence along said Lot No. 5 South seventy-four (74) degrees thirty (30) minutes East, one hundred fifty-nine and four tenths (159.4) feet through a stake setback thirty-five (35) feet from the bank at low water to a point in the Conewago Creek; thence in and along the said Conewago Creek, South twenty-two (22) degrees forty-five (45) minutes West, fifty and five tenths (50.5) feet to a point in said Conewago Creek at Lot No. 3; thence along said Lot No. 3 North seventy-four (74) degrees thirty (30) minutes West through a stake setback thirty-five (35) feet from the bank at low water one hundred fifty-three and one tenth (153.1) feet to the point and place of BEGINNING. The above-described tract of land is further identified as Lot No. 4, Block No. 1, on a Plan of Lots prepared by George M. Wildasin for Harry A. and Gertie R. Lauchman, dated August 27, 1955.

IT BEING the same premises which Dennis L. Crushong and Debra K. Becker, now married and known as Debra K. Crushong, his wife, by their deed dated December 12, 1990 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 575, Page 735, granted and conveyed unto John L. Becker and Donna L. Becker, his wife.

Seized and taken into execution as the property of **John L. Becker and Donna L. Becker**, and to be sold by me.

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
July 11, 1995.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 25, 1995, 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.

8/4, 11, 18

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, with respect to a corporation which has been incorporated under the Business Corporation Law of 1988. The name of the corporation is SALYERS TELECOMMUNICATIONS CONSULTANTS, INC.

Wendy Weikal-Beauchat, Esquire  
31 South Washington Street  
Gettysburg, Pennsylvania 17325

8/11

## LEGAL NOTICE

NOTICE IN THE COURT OF  
COMMON PLEAS OF ADAMS  
COUNTY IN AND FOR THE  
COMMONWEALTH OF  
PENNSYLVANIA

IN RE: Dismissal of Actions for failure to proceed under PA R.J.A. 1901 and Adams County Rules of Court No. 10.

Pursuant to the provisions of PA R.J.A. 1901 and Adams County Rules of Court No. 10 Notice is given hereby that the following case will be listed by the Adams County Clerk of Courts for general call before the Adams County Court on Monday, September 18, 1995, at 9:00 a.m. to request the Court to dismiss for failure to proceed, unless good cause for continuing the proceeding shall be given on or before that date:

CC-554-91 Jody Allen McLaughlin  
Peggy J. Breighner  
Clerk of Courts

8/11

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-466 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of September, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Menallen Township, Adams County, Pennsylvania, being Lot No. 1 on a draft of survey hereinafter identified, bounded and described as follows:

BEGINNING at an iron pin at Lot No. 2; thence by said lot South 14 degrees 10 minutes East, 265.09 feet to an iron pin at Lot No. 3; thence by said lot and crossing Stone Hedge Drive South 64 degrees 55 minutes 50 seconds West, 327.56 feet to an iron pin at lands of Robert D. Akers; thence by said lands North 14 degrees 00 minutes 20 seconds West, 50.3 feet to a stone pile; thence continuing by said lands North 2 degrees 38 minutes West 148.60 feet to a stone pile; thence continuing by said lands North 38 degrees 10 minutes 30 seconds West 94.35 feet to an iron pin at lands of Ralph A. Sheaffer; thence by said lands North 77 degrees 41 minutes East 202.90 feet to an iron pin; thence continuing by said lands North 1 degree 00 minutes 10 seconds West 162.50 feet to a railroad spike at the northerly edge of Pine Ridge Road; thence in and along said Pine Ridge Road South 54 degrees 26 minutes East 139.85 feet to the place of BEGINNING. CONTAINING 2.033 acres.

The above description was taken from a draft of survey dated August 14, 18, 1969, prepared by Gettysburg Engineering Co., Inc.

BEING the same tract of land which Nina Bell, widow, and Vincent F. Bell and Jacob G. Bell, by deed dated January 12, 1990, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 544 at page 484 conveyed to Robert Fern Frock and Delora Kaye Frock, husband and wife, the Defendants herein.

IMPROVED WITH a single family dwelling.

Seized and taken into execution as the property of **Robert Fern Frock and Delora Kaye Frock**, and to be sold by me.

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
July 18, 1995.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 25, 1995, 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.

8/4, 11, 18



## COMMONWEALTH VS. ZAMBONI

With respect to the validity of a parolee's consent to a warrantless search contained in his parole, Superior Court has suggested that his limited rights under the fourth amendment requires something less than a search warrant but at least evidence implicating illegal activity and review by someone other than the persons conducting the search.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-438-94, COMMONWEALTH OF PENNSYLVANIA VS. BRYON ZAMBONI.

Roy Keefer, Esq., District Attorney  
Anthony Miley, Esq., for Defendant

### OPINION ON MOTION FOR RECONSIDERATION

Spicer, P. J., March 27, 1995.

On October 5, 1994, this court declined to suppress evidence seized as a result of a warrantless search conducted by state parole agents. As the adjudication indicated, the agents went to a residence owned by defendant's mother. After being admitted by her, the agents proceeded to defendant's bedroom and arrested him for a parole violation. The bedroom was searched, with the agents finding two 9 mm bullets.

This court's previous adjudication was premised on the validity of consent to such searches contained in defendant's parole. Since the decision, Superior Court has specifically addressed the issue, Commonwealth v. Walter \_\_Pa.Super.\_\_(1995), requiring a closer look at the facts.

First, the adjudication focused only on defendant's request to suppress a firearm found in the trunk of a white Cadillac parked in a parking lot at the location. In reviewing the suppression application, it is obvious defendant sought to suppress bullets discovered in defendant's bedroom.

Reviewing facts further, it is obvious that entry into the residence was consensual. Defendant's mother, who owned and occupied the building, admitted the agents and directed them to defendant's bedroom.

Although defendant's body is not the fruit of an illegal search, information gained may be. Commonwealth v. Gibson, 536 Pa. 123, 638 A.2d 203 (1994). It seems fairly clear that the bedroom was searched to find keys, not weapons. The agents had no information

from defendant's ex-girlfriend about the bedroom. Corroboration of the informant's tip, therefore, cannot be said to develop probable cause. The bullets must be suppressed.

However, we still have defendant's presence, his statements that he used the Cadillac to go to school, his later admissions that a gun was in the car and the presence of the automobile in the parking lot.

The girlfriend's statements concerning defendant's possession of the gun and his use of the car were very specific and timely. She told the agents that defendant had the firearm on the morning of the search. She described where and in what container defendant kept the gun. She said defendant kept the gun in the trunk of the white Cadillac.

Superior Court suggested, in *Commonwealth v. Walter*, supra., that a parolee's limited rights under the fourth amendment require something less than a search warrant. That court suggested that a threshold level of evidence implicating illegal activity and review by someone other than the persons conducting the search would be required. (Footnote 3)

The information given to the agents prior to their undertaking the visit and search certainly should meet such a threshold. Although our previous discussion concerned corroboration of a tip, it was meant only to show that probable cause existed, even had the agents acted on the basis of an anonymous tip. Actually, we really deal with specific information given by a named informant. It is our opinion that probable cause existed for search of the vehicle even before defendant was discovered on the premises.

The agents received approval from their supervisor.

Defendant may be correct in his argument that Superior Court has required procedural and substantive safeguards to be expressly built into consents. Some of the language is sweeping enough for this interpretation. It is obvious that the agents proceeded on appellate language describing safeguards, not on department procedure. However, in the absence of a specific holding to this effect, we decline to accept defendant's argument.

Under the circumstances, we deem it imprudent to reverse our previous decision except to grant suppression of the bullets found in defendant's bedroom.

The attached order is entered.

## ORDER OF COURT

AND NOW, this 27th day of March, 1995, the motion for reconsideration is granted to the extent that bullets discovered in defendant's bedroom are suppressed. Otherwise, it is refused.

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### HEISER VS. YEAGER, ET AL.

1. The Pennsylvania Supreme Court has the right to establish procedure relating to signing and verifying pleadings and has done so through the Rules of Civil Procedure.

2. The Supreme Court had the authority to suspend absolutely Section 8355 of the Judicial Code, 42 Pa.C.S. Section 8355, by adding Subsection c to Pa.R.C.P. 1023.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 94-S-1110, HENRY O. HEISER, III VS. MICHAEL H. YEAGER, ROSEMARY A. MCDERMOTT AND JARED W. INGERSOLL.

Henry O. Heiser, III, Esq., for Plaintiff

Robert J. Brown, Esq., for Defendant Yeager

Timothy J. McMahon, Esq., for Defendant McDermott

James G. Nealon, III, Esq., for Defendant Ingersoll

### OPINION ON PRELIMINARY OBJECTIONS

Spicer, P.J., March 27, 1995.

Plaintiff, who is a practicing lawyer, filed his multiple count complaint December 27, 1994, alleging, inter alia, that he instituted a foreclosure action on June 26, 1991, against Jesus Is Lord Ministries International, Inc. (JIL). Thereafter, numerous pleadings, petitions and motions were filed by each party. Pertinent to the action presently before us for decision was a petition to disqualify plaintiff and his law firm because of a conflict of interest. This petition was filed by Rosemary McDermott, Esquire, and verified by JIL's agent, Michael Yeager. The petition was denied July 11, 1992.

JIL, acting through Ms. McDermott and Jared Ingersoll, Esquire, then joined Mr. Heiser as an additional defendant. The complaint filed by them was also verified by Yeager.

On August 22, 1994, after jury selection, all matters between Mr. Heiser's client and JIL was settled. The settlement, however, expressly did not affect the litigation between JIL and Mr. Heiser.

On October 30, 1994, the complaint against Mr. Heiser was with-

drawn on Ms. McDermott's praecipe.

Defendants have filed demurrers to Counts II, IV and VI, all of which are based on 42 Pa. C.S.A. § 8355. That section reads:

Every pleading, motion and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name and his address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion or other paper and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certification by him that he has read the pleading, motion or paper; that, to the best of his knowledge, information and belief, it is well-grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not interposed in bad faith or for any improper purpose, such as to harass another, to maliciously injure another or to cause unnecessary delay or increase in the cost of litigation. If a pleading, motion or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other paper is signed in violation of this section, the court shall award to the successful party costs and reasonable attorney fees and may, in addition, impose a civil penalty which shall not exceed \$10,000. Such costs, fees and civil penalty shall be in addition to any other judgment awarded to the successful party and shall be imposed upon the person who signed the pleading, motion or other paper, or a represented party, or both. This section is in addition to and shall not be construed to limit any other remedies or sanctions provided by law.

Our Supreme Court amended Pa. R.C.P. 1023 by adding subsection c on March 11, 1991, effective July 1, 1991. The new subsection reads:

(c) Section 8355 of the Judicial Code, 42 Pa.C.S. §

8355 is suspended absolutely, in accordance with the provisions of the Constitution of 1968, Article V, Section 10(c).

The clear language of the rule supports defendants' position that no cause of action lies against them based on the statute.

Undaunted, plaintiff retorts that the Supreme Court may not, through exercise of constitutional powers to establish procedure, abrogate substantive rights. See: *Laudenberger v. Port Authority of Allegheny County*, 496 Pa. 52, 436 A.2d 147 (1981).

We hasten to state we are not called upon to interpret Rule 1023(c). If that were the case, we might decide that subsection (c) should not be construed to abrogate substantive provisions of the statute. *Shapiro v. Magazener*, 418 Pa. 278, 210 A.2d 890 (1965).

Instead, we are asked to determine if Supreme Court was empowered to suspend § 8355 absolutely.<sup>1</sup> In doing so, we will take care to limit our consideration to the statute in question<sup>2</sup> and leave broader questions of policy to others.

Prefatory to considering statutory language, we observe that all actions complained about were taken after the effective date of Rule 1023(c). Thus, there can be no argument that Supreme Court abrogated rights that had accrued.

Secondly, it is obvious the legislature has said: "This is the way we want things done and this is what will happen if it isn't." Most of the section is blatantly procedural. Supreme Court obviously has the right to establish procedure relating to signing and verifying pleadings, and has done so through the Rules of Civil Procedure. This being so, sanctions in the latter part of the section became meaningless. If Rule 1023(c) voids procedural provisions, nothing remains in the legislation which could form a basis for a "violation of this section". If, on the other hand, we construe 1023(c) as ineffective to void penalties, we have the anomalous situation where a party complying with a Rule of

---

<sup>1</sup> Plaintiff reminds us that Purdons' editors commented that the section was suspended "insofar as it applies to practice and procedure in actions governed by the Rules of Civil Procedure". The inference we are asked to draw is that substantive penalties are not affected.

<sup>2</sup> During President Kennedy's presidency, Pierre Salinger, who was often described, in the media, as plucky, was asked why he did not participate in a 50 mile hike. His response was to the effect "I may be plucky, but I'm not stupid".

Civil Procedure might find himself or herself exposed to sanctions contained in the legislation.

Provisions in the legislation inextricably intertwine penalties and procedure. One cannot survive without the other. We see no reason to engage in an exhaustive comparison of the procedural provisions of the section with those of the Rules. In our opinion, Supreme Court manifestly had the authority to do what it did.

Accordingly, the attached order is entered.

#### ORDER OF COURT

AND NOW, this 27th day of March, 1995, demurrers to Counts II, IV and VI are sustained and those counts are dismissed. Defendants may file answer to remaining allegations within twenty (20) days.

## 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 DENNIS E. HOFF, DEC'D**  
Late of the Borough of Littlestown, Adams County, Pennsylvania  
Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325  
Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

**ESTATE OF MARK LARUE REYNOLDS, DEC'D**  
Late of Berwick Township, Adams County, Pennsylvania  
Executrix: Arlene C. Lapore, Vice President, Dauphin Deposit Bank, 2055 S. Queen St., P.O. Box 1544, York, PA 17405  
Attorney: G. Steven McKonly, Attorney, 119 Baltimore Street, Hanover, PA 17331

**ESTATE OF FRED C. RILEY, JR., DEC'D**  
Late of Cumberland Township, Adams County, Pennsylvania  
Executrix: Gladys Herring Riley, 10 Cunningham Road, Gettysburg, PA 17325  
Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

**ESTATE OF GARY E. TROXELL, DEC'D**  
Late of the Borough of Gettysburg, Adams County, Pennsylvania  
Administrator: Gary E. Troxell, 142 Sunny Dr., Ashland, VA 23005

## SECOND PUBLICATION

**ESTATE OF RICHARD E. DILLMAN, DEC'D**  
Late of the Borough of Gettysburg, Adams County, Pennsylvania  
Executrix: Carolyn E. Dillman, 407 South Washington Street, Gettysburg, PA 17325  
Attorney: Teeter, Teeter, & Teeter, 108 West Middle Street, Gettysburg, PA 17325

**ESTATE OF FRANCES E. HOSTETTER, a/k/a FRANCES ELIZABETH HOSTETTER, DEC'D**  
Late of Union Township, Adams County, Pennsylvania  
Administrator: Armin H. Hostetter, 100 Speedway Lane, Hanover, Pennsylvania, 17331  
Attorney: Robert Clofine, Esquire

**ESTATE OF BEATRICE O. PFEFFER, DEC'D**  
Late of Straban Township, Adams County, Pennsylvania  
Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325  
Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

**ESTATE OF TROY A. ROSENBERY, DEC'D**  
Late of Hamiltonban Township, Adams County, Pennsylvania  
Administrator: Robert M. Rosenberry, 4256 Fairfield Road, Fairfield, PA 17320  
Attorney: Mark David Frankel, Esquire, 14 W. King Street, P.O. Box 1389, York, PA 17405-1389

## THIRD PUBLICATION

**ESTATE OF DAISY KETURAH LEONARD a/k/a DAISY K. LEONARD, DEC'D**  
Late of Mount Joy Township, Adams County, Pennsylvania  
Executrix: Connie A. Gulden, 651 White Church Road, Gettysburg, PA 17325  
Attorney: Michael A. George, Campbell, White & George, 122 Baltimore Street, Gettysburg, PA 17325

**CAROL LINDSAY, a/k/a CAROLYN E. LINDSAY, FORMERLY CAROLYN E. SWEETING, DEC'D**  
Late of the Borough of Gettysburg, Adams County, Pennsylvania  
Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325  
Attorney: Bigham & Raffensperger, Esqs., Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

**ESTATE OF RUTH TATE SHETRON, DEC'D**  
Late of Huntington Township, Adams County, Pennsylvania  
Executor: Robert G. Tate, 118 West Middlesex Drive, Carlisle, PA 17013  
Attorney: Pyle and Entwistle, 33 West Middle Street, Gettysburg, PA 17325

## INCORPORATION NOTICE

**NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the PA Department of State on July 13, 1995 for the purpose of incorporating a proposed business corporation to be organized pursuant to the PA Business Corporation Law of 1988, 15 Pa.C.S. Sec. 1306. The name and address of the proposed corporation is ETW ENTERPRISES INC., 83 Meade Drive, Gettysburg, PA 17325.**

Ricci & Taneff  
Attorneys and Counsellors at Law  
4219 Derry Street  
Harrisburg, PA 17111

8/11

## 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, August 21, 1995, at 9:00 a.m.**

**HENNESSY**—Orphans' Court Action Number OC-75-95. The First and Final Account of Phyllis Mary Hanson Hennessy, Executrix of the Last Will and Testament of Thomas B. Hennessy, deceased, late of Cumberland Township, Adams County, Pennsylvania.

**SHULTZ**—Orphans' Court Action Number OC-77-95. The First and Final Account of Joan McDannell, Executrix of the Estate of Gladys M. Shultz, deceased, late of Franklin Township, Adams County, Pennsylvania.

**KEEFAUVER**—Orphans' Court Action Number OC-78-95. The First and Final Account of Kenneth E. Keefeauver, Executor of the Estate of Mae E. Keefeauver, deceased, late of Butler Township, Adams County, Pennsylvania.

**HERSHEY**—Orphans' Court Action Number OC-79-95. The First and Final Account of Jack B. Hershey and Anna Jean Myers, Executors of the Last Will and Testament of Grace Anna Hershey, deceased, late of Latimore Township, Adams County, Pennsylvania.

**SCOTT**—Orphans' Court Action Number OC-84-95. The First and Final Account of Adams County National Bank, Executor of the Estate of Caroline R. Scott, deceased, late of Mount Joy Township, Adams County, Pennsylvania.

**TILTON**—Orphans' Court Action Number OC-85-95. The First and Final Account of Margaret B. Walmer and William T. Tilton, Co-Executors of the Estate of Elizabeth C. Tilton, deceased, late of Menallen Township, Adams County, Pennsylvania.

**HAGARMAN**—Orphans' Court Action Number OC-86-95. The First and Final Account of Ronald J. Hagarman, H. Richard Hagarman and G. Thomas Hagarman, Executors of the Estate of A. DeSales Hagarman a/k/a Agnes DeSales Hagarman, deceased, late of Conewago Township, Adams County, Pennsylvania.

**LONG**—Orphans' Court Action Number OC-88-95. The First and Final Account of Adams County National Bank, Executor of the Last Will and Testament of Marie Catharine Long, a/k/a Marie C. Long, deceased, late of the Borough of Bonneauville, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

8/11, 18

IN THE COURT  
OF COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW  
No. 95-185

Action to Quiet Title

TED A. ROWLAND, Plaintiff

vs.

RALPH J.S. HOFFACKER, JR., LOUISE HOFFACKER, MARY SPALDING, MARGARET BANGE, WILLIAM S. HOFFACKER, JOHN HOFFACKER, and NORMAN FORNWALT, their heirs, executors, administrators and representatives and assigns; and the heirs, executors, administrators, and representatives of the Estate of RALPH J.S. HOFFACKER, deceased and MARGARET B. HOFFACKER, deceased, Defendants

TO: The Heirs, Executors, Administrators and Representatives of the Estates of Ralph J. S. Hoffacker, deceased and Margaret B. Hoffacker, deceased, Defendants.

TAKE NOTICE that on February 23, 1995, Ted A. Rowland filed a Complaint in an Action to Quiet Title against you as Defendants, averring that he is the owner of real property described therein. The Complaint requests the Court to extinguish any possible interest you may have in said real estate. The subject property consists of two tracts of land situate, lying and being in Berwick Township, Adams County, Pennsylvania, bounded and described as follows to wit:

TRACT #1: BEGINNING at a point in the center of State Highway Legislative Route No. 0104, at the Northeastern corner of Lot No. 7 in the plan of lots below identified; thence running in the center of said State Highway, North seventy-three (73) degrees, forty-five (45) minutes East, one hundred (100) feet to a point in the center of the same at the Northwestern corner of Lot No. 5, in said plan; thence by said Lot No. 5 and through a steel pin twenty-five (25) feet from the beginning of this course, South sixteen (16) degrees, fifteen (15) minutes East, two hundred forty and ninety-six hundredths (240.96) feet to an iron pin at the Southwestern corner of Lot No. 5; thence through the original tract now or formerly of Ralph J. S. Hoffacker and wife, South seventy-three (73) degrees, forty-five (45) minutes West, one hundred (100) feet to a steel pin at the Southeastern corner of Lot No. 7 in said plan; thence by said Lot No. 7, North sixteen (16) degrees, fifteen (15) minutes West, two hundred forty and ninety-six hundredths (240.96) feet, running through a steel pin twenty-five (25) feet from the end of this course, to the above described plan of beginning. CONTAINING 0.5532 Acres.

TRACT #2: BEGINNING at a point in the center of State Highway Legislative Route No. 01046, at the Northeastern corner of Lot No. 7 in the Plan of lots below identified; thence running in the center of said State Highway North seventy-three (73) degrees, forty-five (45) minutes East, one hundred (100) feet to

a point in the center of the same at the Northwestern corner of Lot No. 5 in said Plan; thence by said Lot No. 5 and through a steel pin twenty-five (25) feet from the beginning of this course, South sixteen (16) degrees, fifteen (15) minutes East, two hundred forty and ninety-six hundredths (240.96) feet to an iron pin at the Southwestern corner of Lot No. 5; thence through the original tract now or formerly of Ralph J. S. Hoffacker and wife, South seventy-three (73) degrees, forty-five (45) minutes West, one hundred (100) feet to a steel pin at the Southeastern corner of Lot No. 7 in said Plan; thence by said Lot No. 7, North sixteen (16) degrees, fifteen (15) minutes West, two hundred forty and ninety-six hundredths (240.96) feet, running through a steel pin twenty-five (25) feet from the end of this course, to the above described place of BEGINNING. CONTAINING 0.5532 acres.

Said Complaint requests the Court to enter a decree that the Plaintiff, Ted A. Rowland, is the owner in fee simple absolute of the property described herein, and that title to such property now rests in the Plaintiff in fee simple absolute, free and clear of any and all claims whatsoever of the Defendants, and further, an Order declaring the Defendants, their heirs, executors, administrators and assigns are forever barred from asserting any right, lien, title, or interest in the property which is the subject matter of this action.

WHEREFORE, the Court of Common Pleas of Adams County, Pennsylvania, has ordered that service of the Complaint be made on the above Defendants, the heirs, executors, administrators and representatives of the Estates of Ralph J. S. Hoffacker, deceased and Margaret B. Hoffacker, deceased, as well as their heirs, executors, administrators and assigns, by publication once a week for three (3) consecutive weeks in the Adams County Legal Journal and one daily newspaper of general circulation in Adams County, Pennsylvania. Plaintiff will request the Court to enter a final judgment ordering that any possible legal interest the said Defendants might have had in said property be extinguished.

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the foregoing 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 OR KNOW 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  
Gettysburg, PA 17325  
Telephone: (717) 334-6781, Ext. 213  
7/28, 8/4, 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-147 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 July, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of State Highway running from Route 94 to Route 15; thence in the center of said Highway North seventy-three (73) degrees East, ninety and six tenths (90.6) feet to a point in the center of said Highway; thence leaving said highway and by lands N/F of Mabel Thomas Lehmer, South seven (7) degrees East, one hundred eighty-nine and five tenths (189.5) feet to a post; thence by lands N/F of George and Cora Heller, South seventy-four and three-fourths (74 3/4) degrees West, seventy-four (74) feet to an iron pin; thence by lands N/F of Robert I. Stonesifer, North twelve (12) degrees West, one hundred eighty-nine (189) feet to a point in the center of the aforesaid State Highway, the place of BEGINNING.

Containing fifty-five (55) perches and one hundred fifty-nine (159) square feet.

The above described description was taken from draft of survey prepared by P. S. Orner County Surveyor, on July 27, 1994.

TAX MAP NO.: 1-2; PARCEL 28

Seized and taken into execution as the property of **Paul E. Day and Jane L. Day**, and to be sold by me.

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
July 17, 1995.

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 October 23, 1995, 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.

7/28, 8/4, 11



# Adams County Legal Journal

ol. 37

August 18, 1995

No. 12, pp. 61-66

## ATTENTION!

### The PA CLE Board is pleased to announce:

**Effective September 1, 1995**, attendance/teaching fees will be reduced from the current \$5.00 to \$2.50 per credit hour. This will *not* be retroactive. The \$5.00 fee still applies to all courses taken and hours earned BEFORE September 1, 1995. Please remember that the \$2.50 fee is also required for each half hour increment.

#### Example:

5.00 hours attendance = 5.00 hours credit = \$12.50 fee

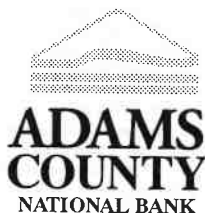
4.75 hours attendance = 4.50 hours credit = \$12.50 fee

4.50 hours attendance = 4.50 hours credit = \$12.50 fee

4.25 hours attendance = 4.00 hours credit = \$10.00 fee

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Strong.  
Rooted Upon Traditional Values.  
Dedicated to Quality.  
Customer Service.  
Dependable.  
Branching Into The Future.  
Our Commitment Is You.



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. 95-S-167 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Carroll Valley Borough, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a large spike in the center of Cypress Trail; thence in said center line South 78 degrees 41 minutes 40 seconds West, 660.00 feet to a steel rod; thence North 55 degrees 55 minutes 30 seconds West, 31.47 feet to a steel rod at land now or formerly of Roy Coppock; thence by same North 71 degrees 29 minutes 30 seconds East, 410.97 feet to an existing steel rod; thence by same North 26 degrees 53 minutes 30 seconds East 487.12 feet to a pipe in Miney Branch Creek; thence in said creek and by land now or formerly of James Tulley, South 66 degrees 24 minutes 55 seconds East, 263.85 feet to an existing pipe; thence continuing by same North 58 degrees 48 minutes 40 seconds East, 202.65 feet to an existing pipe at corner of Tract No. 1 on hereinafter referred to survey; thence through said creek and running by other land now or formerly of Donald McLaughlin South 26 degrees 44 minutes 00 seconds West, 705.81 feet to a pipe at land now or formerly of J. Smith (Lot RI 92); thence by same and running through a pipe set 25 feet from the terminus of this course, North 10 degrees 57 minutes 40 seconds West, 181.15 feet to a large spike in the center line of Cypress Trail, the point and place of BEGINNING. CONTAINING 4.694 Acres and being a consolidation of 6 tracts.

The above description was taken from a survey prepared by Adams County Surveyors, for Donald McLaughlin, dated Oct. 12, 1987, and bearing drawing No. B-482.

It being the same tract of land which G. Donald McLaughlin and Virginia J. McLaughlin, husband and wife, by their deed dated the 28th day of July, 1988, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 496 at page 36, sold and conveyed unto Barry W. Reecher and Peggy M. Reecher, husband and wife, the Mortgagors herein.

Seized and taken into execution as the property of **Barry W. Reecher and Peggy M. Reecher** and to be sold by me,

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
August 2, 1995.

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 October 16, 1995, 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.

8/11, 18, 25

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-397 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of September, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stake at the corner of Lot No. 3 of the hereinafter referred to Plan of Lots and a twenty (20) feet wide driveway; thence along said driveway North fifteen (15) degrees thirty (30) minutes East, fifty (50) feet to a stake at Lot No. 5; thence along said Lot No. 5 South seventy-four (74) degrees thirty (30) minutes East, one hundred fifty-nine and four tenths (159.4) feet through a stake setback thirty-five (35) feet from the bank at low water to a point in the Conewago Creek; thence in and along the said Conewago Creek, South twenty-two (22) degrees forty-five (45) minutes West, fifty and five tenths (50.5) feet to a point in said Conewago Creek at Lot No. 3; thence along said Lot No. 3 North seventy-four (74) degrees thirty (30) minutes West through a stake setback thirty-five (35)

feet from the bank at low water one hundred fifty-three and one tenth (153.1) feet to the point and place of BEGINNING. The above-described tract of land is further identified as Lot No. 4, Block No. 1, on a Plan of Lots prepared by George M. Wildasin for Harry A. and Gertie R. Lauchman, dated August 27, 1955.

IT BEING the same premises which Dennis L. Crushong and Debra K. Becker, now, married and known as Debra K. Crushong, his wife, by their deed dated December 12, 1990 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 575, Page 735, granted and conveyed unto John L. Becker and Donna L. Becker, his wife.

Seized and taken into execution as the property of **John L. Becker and Donna L. Becker**, and to be sold by me.

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
July 11, 1995.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 25, 1995, 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.

8/4, 11, 18

TAYLOR VS. KEMPER NATIONAL  
INSURANCE COMPANY, INC.

1. The statute providing a remedy for bad faith on the part of insurers (42 Pa.C.S.A. §8371) authorizes both additional recovery when there has been only one action and an independent right to recover when there may have been a prior law suit.

2. To recover against an insurance company under a claim of bad faith, the Plaintiff must show that the Defendant did not have a reasonable basis for denying benefits under the policy and that Defendant knew or recklessly disregarded its lack of reasonable basis in denying the claim.

3. The principle of judicial economy dictates that whenever possible all claims between the parties should be settled in one proceeding.

4. Where Plaintiff claims bad faith on the part of an insurer he should, at least, aver with particularity facts upon which bad faith rests.

5. Where Plaintiff sought production of the adjuster's notes and reports in an action for bad faith on the part of an insurer, the Court would direct Defendant to file sealed documents with the Prothonotary not to be opened without prior approval of the Court or agreement of the parties.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 92-S-1024, HENRY L. TAYLOR d/b/a HENRY TAYLOR, TRUCKING AND STORAGE SERVICES VS. KEMPER NATIONAL INSURANCE COMPANY, INC.

Matthew R. Battersby, Esq., for Plaintiff

Bruce W. McLaughlin, Esq., for Plaintiff

Christopher C. Conner, Esq., for Defendant

OPINION ON MOTION FOR PROTECTIVE ORDER

Spicer, P.J., March 30, 1995.

Lumbermens Mutual Casualty Company (defendant)<sup>1</sup> moves for a protective order, claiming that plaintiff's planned deposition of defendant's adjuster exceeds the permissive scope of Pa. R.C.P. 4003.3.

Plaintiff seeks recovery under an insurance policy issued by defendant for losses incurred when potato starch got wet. Plaintiff, as its name implies, engages in trucking and storing. Because there was no room in its warehouse, plaintiff apparently stored starch, owned by a customer, outside. It is alleged that wind blew protective covering from the stored goods, allowing exposure to rain and sleet.

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<sup>1</sup> Despite the caption, Lumbermens is the real defendant in this case.

It would seem defendant initially denied coverage on the grounds that the starch was being stored, not transported. Later, defendant acknowledged general coverage, but declined payment, citing exclusions for dampness and plaintiff's neglect.

A cursory examination of the policy indicates looming factual issues. Defendant has moved for summary judgment, and it is yet to be seen whether questions of causation and neglect can be addressed through that motion. While it is necessary to consider what plaintiff has alleged in order to consider the present request for relief from discovery, we certainly do not intend to prejudge the merits of the motion for summary judgment.

Plaintiff seeks both contractual relief and that granted by 42 Pa. C.S.A. § 8371. That section reads:

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

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

Several questions arise from the wording of the statute. One, whether authorized relief requires jury determination, need not be considered. The second, whether the legislature intended to create additional remedies or an independent cause of action arises from arguments, especially those made by defendant. Defendant, although alleging in its answer that a bad faith action is not independent, now argues that Rule 4003.3 permits inquiry into opinions and mental impressions only when there has been a prior action.<sup>2</sup> For reasons we will presently develop, this court holds that the legislation authorizes both additional recovery, when there has been only one action, and an independent right to recover when there may have been a prior lawsuit.

Superior Court has commented that emerging jurisprudence treats §8371 as creating a separate and inde-

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<sup>2</sup> With results favorable to plaintiff, of course.

pendent cause of action. However, it has not decided the point. *Romano v. Nationwide Mutual Fire Ins. Co.*, 435 Pa.Super. 545, 646 A.2d 1228 (1994).

Superior Court has also said:

We recognize that there is no common law remedy in Pennsylvania for bad faith on the part of insurers. *D'Ambrosio v. Pennsylvania National Mutual Casualty Insurance Company*, 494 Pa. 501, 507, 431 A.2d 966, 970 (1981); *Romano v. Nationwide Mutual Fire Ins. Co.*, \_\_\_ Pa.Super. \_\_\_, \_\_\_, 646 A.2d 1228, 1232 (1994). However, the Pennsylvania Legislature has created a statutory remedy in 42 Pa. C.S.A. § 8371 which became effective on July 1, 1990. The statute provides that:

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

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

42 Pa. C.S.A. § 8371. In the insurance context, the term bad faith has acquired a particular meaning:

*Insurance.* "Bad faith" on part of insurer is any frivolous or unfounded refusal to pay proceeds of a policy; it is not necessary that such refusal be fraudulent. For purposes of an action against an insurer for failure to pay a claim, such conduct imports a dishonest purpose and means a breach of a known duty (*i.e.* good faith and fair dealing), through some motive of self-interest or ill will; mere negligence or bad judgment is not bad faith. *Black's Law Dictionary* 139 (6th ed. 1990) (Citations omitted).

(Citations omitted). Further, bad faith must be proven by clear and convincing evidence and not merely insinu-

ated. (Citations omitted). Finally, to recover under a claim of bad faith, the plaintiff must show that the defendant did not have a reasonable basis for denying benefits under the policy and that defendant knew or recklessly disregarded its lack of reasonable basis in denying the claim. (Citations omitted).

*Terletsky v. Prud. Prop. & Cas. Ins. Co.*, \_\_\_ Pa.Super. \_\_\_, 649 A.2d 680, 688 (1994).

This discussion becomes pertinent when we turn our attention to the Rule. It provides:

Subject to the provisions of Rules 4003.4 and 4003.5, a party may obtain discovery of any matter discoverable under Rule 4003.1 even though prepared in anticipation of litigation or trial by or for another party or by or for that other party's representative, including his attorney, consultant, surety, indemnitor, insurer or agent. The discovery shall not include disclosure of the mental impressions of a party's attorney or his conclusions, opinions, memoranda, notes or summaries, legal research or legal theories. With respect to the representative of a party other than the party's attorney, discovery shall not include a disclosure of his mental impressions, conclusions or opinions respecting the value or merit of a claim or defense or respecting strategy or tactics.

#### Rule 4003.3

There would appear to be at least two situations in which §8371 may apply. The first involves what we may call excessive verdicts. If an insurance company fails to settle a tort claim for policy limits, an insured may have an action under this section. The second is when a carrier forces an insured to incur expenses to recover what rightfully should have been paid. See *Romano*, supra.

The first situation invariably will involve two separate lawsuits. Almost as invariably, the second will involve only one. An example of the latter is *Yohe v. Nationwide Mutual Life Insurance Company*, 7 D&C 4th 300 (C.P. York, 1990), wherein a carrier interposed a defense of arson to a fire claim. An analogous situation is present, sub judice.

Despite language in *Yohe*, we find that applicability of Rule 4003.3 to the second type of cases cannot be easily decided by simply distinguishing between causes of action. The rules indicate considerable expansion of discovery rights, but at the same time, concern for potential abuse. We do not believe protection is automatically rendered inapplicable when plaintiff pleads a count based on the statute. If this were the case, limits contained in the rule would be as chimerical and ephemeral as a May fly's plans for tomorrow.

In fact, an argument can be made that plain language in the rule forbids inquiry into all mental impressions or opinions, at least in the case sub judice. There is nothing in the language to indicate that distinctions should be made or drawn based upon the particular count being considered. To this extent, defendant's argument, that a prior action is necessary, finds some support. Even then, the need for cautious application is suggested. The following comment appears:

For example, suit is brought against an insurance carrier for unreasonable refusal to settle, resulting in a judgment against the insured in an amount in excess of the insurance coverage. Here discovery and inspection should be permitted in camera where required to weed out protected material.

Rule 4003.3

We do not need to adopt such a limited construction, however. We accept the principle of judicial economy advocated in *Yohe*, supra. Whenever possible, all claims between the parties should be settled in one proceeding. When this occurs, as plaintiff is attempting to do in this case, some allowances must be made. However, Plaintiff must do more than insinuate bad faith to be allowed unrestricted access to the type of material sought here.

Superior Court has indicated that plaintiff's burden in this area compares to that of fraud. We think plaintiff should, at least, aver with particularity facts upon which bad faith rests. Bland averments that the carrier acted in bad faith will not lower the drawbridge or open the door.

Plaintiff previously sought the production of the adjuster's notes and reports. By order entered January 30, 1995, we denied access, without explanation. Since defendant interprets the order as

dispositive of the issue presently presented, explanation is required. The order was entered after the court conferred with plaintiff's counsel and being advised that plaintiff intended to pursue depositions and did not object to a denial of his request for production of documents.

In retrospect, it would seem the better course is to order defendant to produce the documents, subject to safeguards. What the adjuster might say during depositions would not seem particularly relevant. It is what he reported to defendant that would be pertinent. If he said, for example, that there was clear liability and the advice was ignored, bad faith could be established, but only if plaintiff prevails in its contract case. There can be no bad faith in ignoring bad advice or denying an invalid claim.

Plaintiff does not seek anything that will aid it in pursuing the count based upon the policy. We, therefore, adopt an approach similar to that taken in *Willis v. Pennsylvania Millers Mutual Insurance Company, Inc.*, 14 D&C 3d 705 (1980), where fraud was alleged. There, ruling was postponed until trial to see if evidence might support a demand for exemplary damages. This procedure would also seem to be more in keeping with the commentary to the rule, *supra*.

We will vacate our order of January 30, 1995, and direct defendant to file documents with the Prothonotary. The documents shall be sealed and not opened without prior approval of the court, or agreement of the parties. If, in the future, we determine plaintiff is entitled to the information, it will be available.

We close by commenting that two cases cited, *Pile v. Nationwide Mutual Insurance Company*, 35 Somerset Legal Journal 326 (1978) and *Nedrow v. Pennsylvania National Mutual Casualty Insurance Company*, 41 Somerset Legal Journal 127 (1981) are excessive verdicts cases and are not helpful in deciding the issue before us.

The attached order is entered.

#### ORDER OF COURT

AND NOW this 30th day of March, 1995, plaintiff is prohibited from deposing Paul Dieckman. However, defendant is directed to file Mr. Dieckman's unredacted reports with the Prothonotary within twenty (20) days. The reports shall be sealed, with access granted only by authority of the Court of agreement of the parties.



## ESTATE NOTICES

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

## FIRST PUBLICATION

## ESTATE OF ANNA G. DEARDORFF, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania  
Executors: William K. Grove, P.O. Box 324, Boiling Springs, PA 17007; Dale E. Deardorff, 216 East Lincoln Avenue, Gettysburg, PA 17325  
Attorney: Teeter, Teeter, & Teeter, 108 West Middle Street, Gettysburg, PA 17325

## ESTATE OF GERVAISE H. ECK, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania  
Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325  
Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

## ESTATE OF JULIUS W. MALINOSKY, DEC'D

Late of Straban Township, Adams County, Pennsylvania  
Executor: Keith A. Malinosky, 704 Sandbank Road, Mount Holly Springs, PA 17065  
Attorney: David K. James, Esq., 234 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF WILLIAM S. MYERS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania  
Executrix: Mary Grace Dennis, 3628 Carlisle Road, Aspers, PA 17324  
Attorney: Walton V. Davis, Esquire, 31 S. Washington Street, Gettysburg, PA 17325

## SECOND PUBLICATION

## ESTATE OF DENNIS E. HOFF, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania  
Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325  
Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

## ESTATE OF MARK LARUE REYNOLDS, DEC'D

Late of Berwick Township, Adams County, Pennsylvania  
Executrix: Arlene C. Lapore, Vice President, Dauphin Deposit Bank, 2055 S. Queen St., P.O. Box 1544, York, PA 17405  
Attorney: G. Steven McKonry, Attorney, 119 Baltimore Street, Hanover, PA 17331

## ESTATE OF FRED C. RILEY, JR., DEC'D

Late of Cumberland Township, Adams County, Pennsylvania  
Executrix: Gladys Herring Riley, 10 Cunningham Road, Gettysburg, PA 17325  
Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

## ESTATE OF GARY E. TROXELL, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania  
Administrator: Gary E. Troxell, 142 Sunny Dr., Ashland, VA 23005

## THIRD PUBLICATION

## ESTATE OF RICHARD E. DILLMAN, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania  
Executrix: Carolyn E. Dillman, 407 South Washington Street, Gettysburg, PA 17325  
Attorney: Teeter, Teeter, & Teeter, 108 West Middle Street, Gettysburg, PA 17325

## ESTATE OF FRANCES E. HOSTETTER, a/k/a FRANCES ELIZABETH HOSTETTER, DEC'D

Late of Union Township, Adams County, Pennsylvania  
Administrator: Armin H. Hostetter, 100 Speedway Lane, Hanover, Pennsylvania, 17331  
Attorney: Robert Clofine, Esquire

## ESTATE OF BEATRICE O. PFEFFER, DEC'D

Late of Straban Township, Adams County, Pennsylvania  
Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325  
Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

## ESTATE OF TROY A. ROSENBERY, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania  
Administrator: Robert M. Rosenberry, 4256 Fairfield Road, Fairfield, PA 17320  
Attorney: Mark David Frankel, Esquire, 14 W. King Street, P.O. Box 1389, York, PA 17405-1389

## 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, August 21, 1995, at 9:00 a.m.

**HENNESSY**—Orphans' Court Action Number OC-75-95. The First and Final Account of Phyllis Mary Hanson Hennessy, Executrix of the Last Will and Testament of Thomas B. Hennessy, deceased, late of Cumberland Township, Adams County, Pennsylvania.

**SHULTZ**—Orphans' Court Action Number OC-77-95. The First and Final Account of Joan McDannell, Executrix of the Estate of Gladys M. Shultz, deceased, late of Franklin Township, Adams County, Pennsylvania.

**KEEFAUVER**—Orphans' Court Action Number OC-78-95. The First and Final Account of Kenneth E. Keefauver, Executor of the Estate of Mae E. Keefauver, deceased, late of Butler Township, Adams County, Pennsylvania.

**HERSHEY**—Orphans' Court Action Number OC-79-95. The First and Final Account of Jack B. Hershey and Anna Jean Myers, Executors of the Last Will and Testament of Grace Anna Hershey, deceased, late of Latimore Township, Adams County, Pennsylvania.

**SCOTT**—Orphans' Court Action Number OC-84-95. The First and Final Account of Adams County National Bank, Executor of the Estate of Caroline R. Scott, deceased, late of Mount Joy Township, Adams County, Pennsylvania.

**TILTON**—Orphans' Court Action Number OC-85-95. The First and Final Account of Margaret B. Walmer and William T. Tilton, Co-Executors of the Estate of Elizabeth C. Tilton, deceased, late of Menallen Township, Adams County, Pennsylvania.

**HAGARMAN**—Orphans' Court Action Number OC-86-95. The First and Final Account of Ronald J. Hagarman, H. Richard Hagarman and G. Thomas Hagarman, Executors of the Estate of A. DeSales Hagarman a/k/a Agnes DeSales Hagarman, deceased, late of Conewago Township, Adams County, Pennsylvania.

**LONG**—Orphans' Court Action Number OC-88-95. The First and Final Account of Adams County National Bank, Executor of the Last Will and Testament of Marie Catharine Long, a/k/a Marie C. Long, deceased, late of the Borough of Bonneauville, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-466 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of September, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Menallen Township, Adams County, Pennsylvania, being Lot No. 1 on a draft of survey hereinafter identified, bounded and described as follows:

BEGINNING at an iron pin at Lot No. 2; thence by said lot South 14 degrees 10 minutes East, 265.09 feet to an iron pin at Lot No. 3; thence, by said lot and crossing Stone Hedge Drive South 64 degrees 55 minutes 50 seconds West, 327.56 feet to an iron pin at lands of Robert D. Akers; thence by said lands North 14 degrees 00 minutes 20 seconds West, 50.3 feet to a stone pile; thence continuing by said lands North 2 degrees 38 minutes West 148.60 feet to a stone pile; thence continuing by said lands North 38 degrees 10 minutes 30 seconds West 94.35 feet to an iron pin at lands of Ralph A. Sheaffer; thence by said lands North 77 degrees 41 minutes East 202.90 feet to an iron pin; thence continuing by said lands North 1 degree 00 minutes 10 seconds West 162.50 feet to a railroad spike at the northerly edge of Pine Ridge Road; thence in and along said Pine Ridge Road South 54 degrees 26 minutes East 139.85 feet to the place of BEGINNING. CONTAINING 2.033 acres.

The above description was taken from a draft of survey dated August 14, 18, 1969, prepared by Gettysburg Engineering Co., Inc.

BEING the same tract of land which Nina Bell, widow, and Vincent F. Bell and Jacob G. Bell, by deed dated January 12, 1990, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 544 at page 484 conveyed to Robert Fern Frock and Delora Kaye Frock, husband and wife, the Defendants herein.

IMPROVED WITH a single family dwelling.

Seized and taken into execution as the property of **Robert Fern Frock and Delora Kaye Frock**, and to be sold by me.

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
July 18, 1995.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 25, 1995, 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.

8/4, 11, 18

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of a Fictitious Name was filed with the Department of State, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on July 21, 1995, pursuant to the Fictitious Name Act of 1982, as amended, setting forth that Stuart J. Sites, of 10 Grasshopper Lane, Fairfield, Pennsylvania, is an individual engaged in a business, the character of which is telephone and electrical installation, repair and wiring, and that such business will be conducted under the name of SMALL JOBS BY STU and have a principal office or located at 10 Grasshopper Lane, Fairfield, PA 17325.

8/18

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State, Commonwealth of Pennsylvania, on or about July 21, 1995, for the purpose of obtaining a Certificate of Incorporation of a proposed business corporation under the Pennsylvania Corporation Law of 1988, 15 Pa.C.S. 1306, as amended.

The name of the Corporation is VIL-LAGE BOOK AND TABLE, INC., and its registered address is 29 West Main Street, Fairfield, Pennsylvania 17320, and the purpose or purposes for which the corporation is organized are: To engage in and do any lawful act concerning any or all lawful business for which corporations may be incorporated under the Pennsylvania Business Corporation Law.

Donald B. Swope  
Solicitor

8/18

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that on June 29, 1995 a certificate was filed under the Fictitious Name Act approved December 16, 1982, in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that Raymond H. Wilt, 1754 Carlisle Pike, Hanover, PA 17331 is the only person owning or interested in a business, the character of which is complete retail of motorcycle and motorcycle parts including inventory and repair of new and used motorcycles and related recreational vehicles and that the name, style and designation under which said business is and will be conducted is RAY WILT HONDA-YAMAHA-SUZUKI and the location where said business is and will be located is 1754 Carlisle Pike, Hanover, PA 17331.

Alan M. Cashman, Esquire

8/18

# Adams County Legal Journal

Vol. 37

August 25, 1995

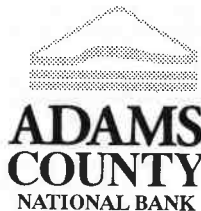
No. 13, pp. 67-72

## ANNOUNCEMENT OF CONTINUING LEGAL EDUCATION PROGRAMS

1. *Divorcing the Elderly*. August 30—8:45 a.m.  
Room 207B, Adams County Courthouse—5 C.L.E. credits in substantive law and 1 C.L.E. credit in ethics. Registration through P.B.I.
2. *Preuptial Agreements*. August 31—1:00 p.m.  
Room 207B, Adams County Courthouse—3 C.L.E. in substantive law and .5 C.L.E. credit in ethics. Registration through P.B.I.
3. *Driving Under the Influence*. October 6—1:00 p.m.  
Room 307, Adams County Courthouse—4 C.L.E. credits in substantive law. Registration through P.B.I.

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-167 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Carroll Valley Borough, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a large spike in the center of Cypress Trail; thence in said center line South 78 degrees 41 minutes 40 seconds West, 660.00 feet to a steel rod; thence North 55 degrees 55 minutes 30 seconds West, 31.47 feet to a steel rod at land now or formerly of Roy Coppock; thence by same North 71 degrees 29 minutes 30 seconds East, 410.97 feet to an existing steel rod; thence by same North 26 degrees 53 minutes 30 seconds East 487.12 feet to a pipe in Miney Branch Creek; thence in said creek and by land now or formerly of James Tulley, South 66 degrees 24 minutes 55 seconds East, 263.85 feet to an existing pipe; thence continuing by same North 58 degrees 48 minutes 40 seconds East, 202.65 feet to an existing pipe at corner of Tract No. 1 on hereinafter referred to survey; thence through said creek and running by other land now or formerly of Donald McLaughlin South 26 degrees 44 minutes 00 seconds West, 705.81 feet to a pipe at land now or formerly of J. Smith (Lot RI 92); thence by same and running through a pipe set 25 feet from the terminus of this course, North 10 degrees 57 minutes 40 seconds West, 181.15 feet to a large spike in the center line of Cypress Trail, the point and place of BEGINNING. CONTAINING 4.694 Acres and being a consolidation of 6 tracts.

The above description was taken from a survey prepared by Adams County Surveyors, for Donald McLaughlin, dated Oct. 12, 1987, and bearing drawing No. B-482.

It being the same tract of land which G. Donald McLaughlin and Virginia J. McLaughlin, husband and wife, by their deed dated the 28th day of July, 1988, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 496 at page 36, sold and conveyed unto Barry W. Reeher and Peggy M. Reeher, husband and wife, the Mortgagors herein.

Seized and taken into execution as the property of **Barry W. Reeher and Peggy M. Reeher** and to be sold by me.

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
August 2, 1995.

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 October 16, 1995, 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.

8/11, 18, 25

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for GREENHOLT ENTERPRISES, INCORPORATED, were filed under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

Thomas E. Miller, Esquire  
Miller & Shultis  
Solicitor

8/25

## 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 August 1, 1995.

The name of the corporation is GETTYSBURG WARRIOR ATHLETIC BOOSTER CLUB, INC.

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

Robert E. Campbell  
Campbell, White & George  
122 Baltimore Street  
Gettysburg, PA 17325  
Attorneys for the Corporation

8/25

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 93-S-990 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land known and numbered as 110 Pine Court, Abbottstown, Berwick Township, Adams County, PA; also known as Tax Map L-10, Parcel 54; Deed Book: 559, Page 90.

Seized and taken into execution as the property of **Philip A. Sheely and Norma J. Sheely** and to be sold by me.

Bernard V. Miller  
Sheriff

Sheriff's Office, Gettysburg, PA  
March 28, 1995.

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 October 16, 1995, 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.

8/25, 9/1 & 8

SEILS VS. GETTYSBURG AREA  
INDUSTRIAL DEVELOPMENT AUTHORITY, ET AL.

1. A landowner has no duty to subsequent purchasers for its negligent conduct.
2. The theory of absolute liability for abnormally dangerous activities requires that the land of another must be harmed.
3. Denying a cause of action for liability under a claim for private nuisance against a predecessor in contamination cases has been the general rule.
4. A public nuisance differs from a private nuisance and involves an unreasonable interference with a right common to the general public.
5. To have standing to maintain an action for a public nuisance the complained of activity must have affected the public in general and not merely one particular person and, if the general public has been affected, the harm suffered by the Plaintiffs must be different from that suffered by the general public.
6. The lower courts are divided as to whether the Pennsylvania Hazardous Sites Clean-up Act provides a right of private action and in the absence of an appellate court ruling, at this stage of the proceeding this Court will adopt the view taken by those courts granting a private cause of action.
7. There are no limitations under the response provisions of the Pennsylvania Hazardous Sites Clean-up Act that would narrow the scope of liability to exclude alleged violators simply because they are no longer engaged in action which constitutes a violation.
8. Declaratory relief is specifically available where one is seeking a statutory remedy.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 94-S-35, CARL A. SEILS AND DEBORAH R. SEILS VS. GETTYSBURG AREA INDUSTRIAL DEVELOPMENT AUTHORITY, KNOUSE FOODS COOPERATIVE, INC., M.F.P. ENTERPRISES, INC. AND PET, INCORPORATED.

G. Bryan Salzmann, Esq., for Plaintiffs  
Charles E. Gutshall, Esq., for Defendant  
Bernard A. Labuskes, Jr., Esq., for Defendant GAIDA and Knouse Foods Cooperative, Inc.

OPINION ON PRELIMINARY OBJECTIONS FILED BY  
DEFENDANT, PET, INC., TO PLAINTIFFS'  
AMENDED COMPLAINT

Kuhn, J., April 5, 1995.

On June 10, 1994, Plaintiffs, Carl A. Seils and Deborah R. Seils, filed an Amended Complaint containing six counts.<sup>1</sup> Therein they

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<sup>1</sup> The counts are for Negligence (I), Strict Liability (II), Nuisance (III), Declaratory Judgment (IV), Declaration Judgment Under Pennsylvania Hazardous Sites Clean-up Act (HSCA) (V), and in Equity (VI).

allege that throughout the 1970's and early 1980's Defendant, Pet, Inc., illegally disposed of waste materials from its food processing operation on land which it then owned along Orchard Lane (T.R. 541) in Menallen and Butler Township and which is now owned by Plaintiffs. (Para. 6, 8). The land was sold by Pet to Defendant, M.F.P. Enterprises, Inc., on July 24, 1981, and to Defendant, Gettysburg Area Industrial Development Authority on February 10, 1984 (Para. 9, 10). We surmise from a deed (Exhibit A) attached to the Amended Complaint that GAIDA sold this parcel to Crestmont Orchards, Inc. on April 21, 1984, who, in turn, sold it to Plaintiffs on June 16, 1988 (Para. 7).

Plaintiffs claim that in the Spring of 1992, they were advised by a former employee of M.F.P. of the possible existence of an undisclosed waste disposal area on their land (Para. 12). That summer when they began to subdivide the parcel, the Director of Planning Services for the Adams County Office of Planning and Development advised the Menallen Township Supervisors of the possible existence of a former waste disposal operation on a portion of the parcel being subdivided (Para. 14). As a result of this information, the supervisors required that disclosure of the presence of a possible waste site be noted on Plaintiff's subdivision plan (Para. 15).

Plaintiffs aver that the waste material deposited at the site by Pet included organic materials, pesticides, herbicides, fertilizers, food processing wastes, associated chemicals and waste products, petroleum products and heavy metals (Para. 18). They aver that the ground water is contaminated (Para. 19) and that they will incur expenses for clean up, monitoring and diminution in property value.

Pet filed preliminary objections in the form of a demurrer, a motion to strike, and for a more specific pleading. The latter two objections were only incidentally pursued in Pet's brief and at argument court, and can be dealt with quickly.

In its motion to strike, Pet requests that Paragraph 23 of the Amended Complaint be stricken. That paragraph reads:

23. Defendants Pet, M.F.P., Knouse and GAIDA had knowledge of or should have known of the presence of the disposal area on the Site, and fraudulently and/or negligently misrepresented the site to former owners of the site and to Plaintiffs.

Pet challenges the allegation of fraud because Plaintiffs do not set forth the averments of fraud with particularity. Pa. R.C.P. 1019(b). A motion to strike is used when a pleading lacks conformity to law or rule of court, or because of scandalous or impertinent matter. *Jones v. Strausbaugh Orchards*, 33 Ad. Co. L.J. 111, 112 (1990); Pa. R.C.P. 1028(a)(2). Pet's motion is well taken for two reasons. First, the pleading does fail to comply with Rule 1019(b) which requires

. . . that although it is impossible to establish precise standards as to the degree of particularity required under this rule, two conditions must be met to fulfill the requirement: (1) the pleadings must adequately explain the nature of the claim to the opposing party so as to permit the preparation of a defense, and (2) they must be sufficient to convince the court that the averments are not merely subterfuge. *Martin v. Lancaster Battery Co., Inc.*, 530 Pa.11, 18, 606 A.2d 444, 448 (1992). See also *Sevin v. Kelshaw*, 417 Pa. Super. 1, 7, 611 A.2d 1232, 1235 (1992).

An averment of fraud, standing alone does not satisfy the rule. Second, the averment of fraud and negligent misrepresentation is impertinent. Plaintiffs have not set forth a count based upon either legal theory.

In its motion for more specific pleading, Pet contends that Paragraph 30(a)-(e) is conclusory and does not set forth with specificity and clarity the averments of negligence. In light of the Court's decision to sustain the demurrer to Count 1, this issue is moot.

With respect to a demurrer, the law is well settled. A demurrer admits all well pleaded and material facts set forth in a complaint as well as all inferences reasonably deducible therefrom. It does not admit conclusions of law but does test the legal sufficiency of the pleadings. Therefore, the demurrer will only be sustained where the law says with certainty that the plaintiff has failed to state a cause of action for which relief can be granted. *Eckell v. Wilson*, 409 Pa. Super. 132, 135, 597 A.2d 696, 698 (1991), *Alloc. den.* 607 A.2d 253 (1992); *Pawlowski v. Smorto*, 403 Pa. Super. 71, 74, 588 A.2d 36, 38 (1991).

In Count 1, Plaintiffs allege that Pet was negligent in disposing of the waste material and as an owner of the property when the disposal was made, it owed a duty of care to subsequent purchasers of the property to prevent the release of hazardous substances. Pet's demurrer focuses on its contention that Pennsylvania law recognizes no such duty. We agree.

The basic elements necessary to state a cause of action for negligence include 1) a duty or obligation, recognized by the law, requiring the actor to conform to a certain standard of conduct for the protection of others against unreasonable risks, 2) a failure on his part to conform to the standard required, 3) a reasonably close causal connection between the conduct and the result, and 4) actual loss or damage resulting to the interests of others. *Morena v. South Hills Health System*, 501 Pa. 634, 642, 462 A.2d 680, 694 (1983) n. 5; *Fennell v. Nationwide Mutual Fire Insurance Company*, 412 Pa. Super. 534, 539, 603 A.2d 1064, 1066 (1992), Alloc. den. 617 A.2d 1274 (1992). The crux of Pet's position is that a landowner has no duty to subsequent purchasers for its negligent conduct citing *Hoffman v. Sun Pipe Line Company*, 394 Pa. Super. 109, 575 A.2d 122 (1990) and *Wellesley Hills Realty Trust v. Mobil Oil Corp.*, 747 F. Supp. 93 (D. Mass. 1990). Plaintiff has cited no authority to the contrary.

*Hoffman* is not precisely on point but certainly expresses the highest Pennsylvania authority on the issue now presented. There in 1982 Sun's underground gas pipeline was ruptured by a third party causing a substantial quantity of gasoline to leak into the ground. Neighboring property, subsequently purchased by the Hoffmans, was affected. Sun was sued on a theory of negligence on the basis that Sun had a duty to protect subsequent purchasers of the affected real estate because it could have foreseen that such buyers could be injured by the contamination. Superior Court refused to adopt such a duty. The Court could find no authority which imposed upon a tortfeasor a duty not only to the owner of the property when the contamination occurred as a result of the tortfeasor's negligence but also to subsequent purchasers. 575 A.2d at 125.

Superior Court recognized that a duty, in any given situation, is predicated upon the relationship existing between the parties at the relevant time and where the parties are strangers the scope of the



duty is limited to those risks reasonably foreseeable to the actor under the circumstances. 575 A.2d at 125-6. The Court did not question the foreseeability that contamination might affect future purchasers but it was not prepared to extend liability that far. Policy considerations in an evolving society constantly redefine duty but it appears that for policy reasons the Court would not extend liability for negligence to include subsequent purchasers.

Wellesley was much more on point. There it was alleged that Mobil negligently allowed oil and hazardous materials to contaminate property it owned. In January, 1987, Mobil sold the real estate to Alexander, who subsequently sold the land to the plaintiff. The District Court concluded that Mobil owed no duty to plaintiff as a subsequent purchaser.

Plaintiff argues that Pennsylvania law recognizes a seller's duty to notify a subsequent purchaser of latent defects which would create an unreasonable risk of harm to the purchaser. Both Hoffman and Wellesley acknowledge that such protection is available, however, the legal theory involved is one of misrepresentation or breach of contract and not negligence. Furthermore, Pet did not sell the premises to Plaintiffs.

Therefore, Pet's demurrer to Count I will be sustained.

In Count II, Plaintiffs allege that Pet's ownership, maintenance, use, handling and disposal of the waste products constituted an abnormally dangerous condition or activity which imposes liability upon Pet under a theory of strict liability. Again, Pet's objection focuses on whether a predecessor in title should be held liable to a subsequent purchaser for creating harm based upon the former conducting an abnormally dangerous activity upon the subject land.

The concept of absolute liability for injury caused by an abnormally dangerous activity arose from the English case of *Rylands v. Fletcher*, L.R. 3 H.L. 330 (1868). The rule that developed in that case was incorporated into Restatement Torts §519 which, in turn, was adopted in Pennsylvania by *Haddon v. Lotito*, 399 Pa. 521, 161 A.2d 160 (1960). Section 519 provided that

(O)ne who carries on an ultrahazardous activity is liable to another whose person, land or chattels the actor should recognize as likely to be harmed by unpreventable miscarriage of the activity for harm resulting thereto

from that which makes the activity ultrahazardous, although the utmost care is exercised to prevent harm.

Subsequently, the Rylands rule was slightly modified in Restatement (Second) Torts §519 and adopted in *Albig v. Municipal Authority of Westmoreland County*, 348 Pa. Super. 505, 502 A.2d 658 (1985). The revised section provides:

(1) One who carries on an abnormally dangerous activity is subject to liability for harm to the person, land or chattels of another resulting for the activity although he has exercised the utmost care to prevent the harm.

(2) This strict liability is limited to the kind of harm, the possibility of which makes the activity abnormally dangerous.

For purposes of preliminary objections Pet concedes that the alleged disposal of the waste products constituted an abnormally dangerous activity. Pet argues, however, that the rule announced in *Rylands* and continued through the Restatement requires that the harm be to the person, land or chattels of another. Therefore, disposal upon its own land which only contaminates that land causes no harm to the land of another. This view was accepted in *Wellesley*, *supra*.

Plaintiffs point to *T & E Industries, Inc. v. Safety Light Corp.*, 123 N.J. 37, 587 A.2d 1249 (1991) for a contrary holding.<sup>2</sup> There the Supreme Court of New Jersey held that an owner of a radium-contaminated property can hold a distant predecessor in title responsible for the contamination strictly liable for damages. The Court reasoned that the abnormally dangerous activity doctrine emphasized both the dangerousness and **inappropriateness** of the activity and reflects a two-fold policy that the person conducting a dangerous activity is in a better position to administer the risk by passing it on to the public and is the party financially benefiting from the activity. The Court believed that the financial risk bearing policy for the doctrine is just as valid a protection for subsequent purchases as for neighboring land owners.

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<sup>2</sup>The court in *Hanlan Group, Inc. v. International Minerals & Chemical Corp.*, 759 F. Supp. 925 (D. Me. 1990) refused to dismiss a contamination case on a theory of strict liability citing *T & E Industries, Inc.* The court noted that it had found no case to the contrary.

## 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 ELMER F. KING, DEC'D**  
Late of Conewago Township, Adams County, Pennsylvania  
Administratrix: Lenora King Holland, 10823-D Amherst Avenue, Wheaton, MD 20902  
Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF GEORGE J. REBERT, DEC'D**  
Late of the Borough of Littlestown, Adams County, Pennsylvania  
Executor: John A. Rebert, 2124 Twin Brooks Drive, York, PA 17404  
Attorney: Pyle and Entwistle, 33 West Middle Street, Gettysburg, PA 17325

**ESTATE OF FAY H. REEDER, DEC'D**  
Late of the Borough of Arendtsville, Adams County, Pennsylvania  
Executrix: Linda Ranaldi, 24 Christian Drive, Avon, CT 06001  
Attorney: Chester G. Schultz, Esquire, Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

**ESTATE OF ROGER W. SMITH, JR., DEC'D**  
Late of Huntington Township, Adams County, Pennsylvania  
Administratrix: Melissa A. Smith, 1228 Gun Club Road, York Springs, PA 17372  
Attorney: John C. Zepp, III, Esquire, P.O. Box 204, York Springs, PA 17372

## SECOND PUBLICATION

**ESTATE OF ANNA G. DEARDORFF, DEC'D**  
Late of the Borough of Gettysburg, Adams County, Pennsylvania  
Executors: William K. Grove, P.O. Box 324, Boiling Springs, PA 17007; Dale E. Deardorff, 216 East Lincoln Avenue, Gettysburg, PA 17325  
Attorney: Teeter, Teeter, & Teeter, 108 West Middle Street, Gettysburg, PA 17325

**ESTATE OF GERVAISE H. ECK, DEC'D**  
Late of the Borough of Arendtsville, Adams County, Pennsylvania  
Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325

Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

**ESTATE OF JULIUS W. MALINOSKY, DEC'D**

Late of Straban Township, Adams County, Pennsylvania  
Executor: Keith A. Malinosky, 704 Sandbank Road, Mount Holly Springs, PA 17065

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

**ESTATE OF WILLIAM S. MYERS, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania  
Executrix: Mary Grace Dennis, 3628 Carlisle Road, Aspers, PA 17324

Attorney: Walton V. Davis, Esquire, 31 S. Washington Street, Gettysburg, PA 17325

## THIRD PUBLICATION

**ESTATE OF DENNIS E. HOFF, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania  
Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325

Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

**ESTATE OF MARK LARUE REYNOLDS, DEC'D**

Late of Berwick Township, Adams County, Pennsylvania  
Executrix: Arlene C. Lapore, Vice President, Dauphin Deposit Bank, 2055 S. Queen St., P.O. Box 1544, York, PA 17405

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

**ESTATE OF FRED C. RILEY, JR., DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania  
Executrix: Gladys Herring Riley, 10 Cunningham Road, Gettysburg, PA 17325

Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

**ESTATE OF GARY E. TROXELL, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania  
Administrator: Gary E. Troxell, 142 Sunny Dr., Ashland, VA 23005

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

NO. 95-S-484

NOTICE OF ACTION IN MORTGAGE FORECLOSURE

FEDERAL NATIONAL MORTGAGE ASSOCIATION, Plaintiff vs. PATRICK S. DIETZ and SUSAN F. DIETZ, Defendants.

TO: PATRICK S. DIETZ whose last known address is 7 Pine Road, Apt. 204, Mt. Holly, PA 17065 and SUSAN F. DIETZ, whose last known address is 1515 Coon Road, Aspers, PA 17304:

YOU ARE HEREBY NOTIFIED that Plaintiff, FEDERAL NATIONAL MORTGAGE ASSOCIATION, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Adams County, docketed to No. 95-S-484, wherein Plaintiff seeks to foreclose its mortgage secured on your property located, 1515 Coon Road, Aspers, PA 17304, whereupon your property would be sold by the Sheriff of Adams County.

## NOTICE

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

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

Court Administrator  
Adams County Courthouse  
Gettysburg, PA 17325  
Tele: (717) 334-6781, Ext. 213

Thomas I. Puleo  
Attorney for Plaintiff  
321 Blue Bell West  
653 Skippack Pike  
Blue Bell, PA 19422

8/25

