

Adams County Legal Journal

Vol. 39

September 5, 1997

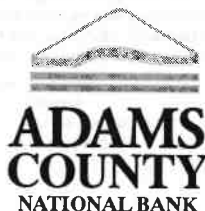
No. 15, pp. 81-84

ANNOUNCEMENT OF CONTINUING LEGAL EDUCATION PROGRAMS

1. *Tough Problems in Estate Planning.*
Wednesday, September 17, 1997—9:00 a.m.—5:00 p.m.
Room 307, Adams County Courthouse
Substantive Law—5 credits. Ethics—1 credit.
2. *A Practical Approach to Pennsylvania Mechanics' Liens.*
Friday, September 26, 1997—9:00 a.m.—12:30 p.m.
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Substantive Law—5 credits. Ethics—1 credit.
4. *Estate Planning for Subsequent Marriages.*
Tuesday, November 25, 1997—9:00 a.m.—1:30 p.m.
Room 307, Adams County Courthouse
Substantive Law—4 credits.

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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices. Published every Friday by Adams County Bar Association, Donald G. Oyer, Esq., Editor and Business Manager.

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-568 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of October, 1997, 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 Cumberland Township, Adams County, Pennsylvania bounded and described as follows:

BEGINNING at a point in the center line of Plank Road at the Southwestern corner of Lot No. 4 land now or formerly of E. Eugene Palmer; thence by said Lot No. 4 South 44 degrees, 50 minutes, 45 seconds East 743.00 feet to a point on line of Lot No. 5, land now or formerly of LeRoy W. Bish; thence by said Lot No. 5 South 45 degrees, 09 minutes, 15 seconds West 586.42 feet to a point at corner of Lot No. 2 other land now or formerly of LeRoy Bish; thence by said Lot No. 2 North 44 degrees, 50 minutes, 45 seconds West 743.60 feet to a point in the center line of Plank Road aforesaid; thence in said center line of Plank Road North 45 degrees, 09 minutes, 15 seconds East 461.20 feet to a steel nail and washer; thence continuing in same North 45 degrees, 26 minutes, 08 seconds East 125.22 feet to a point, the place of beginning. CONTAINING 10.009 acres.

The above description was taken from a draft of survey by Boyer-Price Surveys, Inc. dated August 8, 1974 designating the above as Lot No. 3 in a development known as "Black Horse Farms."

TITLE TO SAID PREMISES IS VESTED IN Randolph Neil Smith and Cynthia J. Smith, husband and wife by Deed from James E. Widner and Matilda V. Widner, husband and wife dated 6/30/89 recorded 7/3/89 in Deed Book 527 page 69 and re-recorded 7/3/92 in Deed Book 633 page 774.

SEIZED and taken into execution as the property of **Randolph Neil Smith and Cynthia J. Smith** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
August 4, 1997.

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 27, 1997, and distribution will be made in ac-

cordance 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.

8/22, 29 & 9/5

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on August 18, 1997, pursuant to the Fictitious Name Act, setting forth that Glenn Sitterly is the only person interested in a business, the character of which is the buying and selling (wholesale and retail) of antiques, collectibles and decorative objects, and that the designation under which the business is and will be conducted is GETTYSBURG ANTIQUE CONNECTION and that the location where said business is and will be conducted is 312 Baltimore Street, Gettysburg, PA 17325.

Gary E. Hartman, Esq.
Solicitor

9/5

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of Sec. 311 of the Act of Assembly of December 16, 1982, 54 PA C.S.A. 311, that an application for registration of a fictitious name was filed on August 1, 1997 with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the conducting of a business under the fictitious name of MIRAHO FUNDING SPECIALISTS with its principal office or place of business at 175 North Hickory Lane, New Oxford, PA 17350. The name and address of all persons owning or interested in said business is Michael R. Hoffacker, 175 North Hickory Lane, New Oxford PA 17350.

Alan Kim Patrono
Attorney At Law
30 W. Middle Street, Suite 1
Gettysburg, PA 17325

9/5

MCLAUGHLIN VS. WALLS

1. All parties need not sign a verification and one party may verify the allegations in a complaint.
2. It is the duty of the Court to construe the meaning of any contract attached as an exhibit and upon which a cause of action is based and if the Court construes the contract in a manner inconsistent with the pleading, the terms of the contract shall prevail.
3. While no particular words are required, no act or event will be considered a condition precedent unless it clearly appears to have been the intention of the parties to subject performance to the condition.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 96-S-551, MATTHEW G. MCLAUGHLIN AND SHERRY MCLAUGHLIN VS. THOMAS L. WALLS, SR. AND DOROTHEE WALLS.

Chester G. Shultz, Esq., for Plaintiffs
Arthur J. Becker, Jr., Esq., for Defendants

OPINION ON PRELIMINARY OBJECTIONS

Spicer, P.J., October 29, 1996.

Plaintiffs' amended complaint, filed August 8, 1996, contains two counts upon which relief is sought. In the first, plaintiffs seek \$20,666.00 they say is owing under a contract between the parties. Count II involves a claim for storage in the amount of \$6,000.00.

The amended complaint alleges that the parties entered into a written agreement in May, 1994. A copy of the handwritten contract is attached to the pleading. According to allegations, plaintiff Matthew G. McLaughlin agreed to acquire, repair and deliver automobiles to defendant for resale. According to plaintiffs, defendants were obligated to pay costs of repair plus \$500.00 per vehicle when they resold that vehicle.

Plaintiffs also allege they own two tracts of land, known as 1746 and 1764 York Road, Gettysburg, Pennsylvania. They leased the former tract to defendants for the purpose of operating a used car and used auto parts business. The amended complaint alleges that defendants began storing vehicles, without permission, on 1764 York Road, in June, 1995. Plaintiffs seek reasonable storage value, which they set at \$25.00 per month per vehicle, for each of the twenty vehicles placed and kept on their land.

Defendants have filed preliminary objections in the form of demurrers to both counts. They initially also sought dismissal because of a defective verification, but have not argued that objection. It is easily disposed of, even if not waived. All parties need not sign a verification.

One party may verify the allegations in a complaint. 4 Pennsylvania Standard Practice §21:26.

In ruling on a demurrer, we are mindful that we must accept as true all well pleaded facts and give plaintiffs the benefit of all reasonable inferences deducible therefrom. *Lumax Industries, Inc. v. Aultman*, 543 Pa. 38, 669 A.2d 893 (1995). However, it is the duty of the court to construe the meaning of any contract, attached as an exhibit and upon which a cause of action is based. The court is not bound by construction by plaintiffs. If the court construes the contract in a manner inconsistent with the pleading, the terms of the contract shall prevail. 4 Pennsylvania Standard Practice § 21:68. In interpreting the contract, the court's goal is to ascertain the intention of the parties as expressed within the four corners of the agreement. In the absence of ambiguity, fraud or mistake, contractual language is determinative. *Musko v. Musko*, 447 Pa. Super. 150, 668 A.2d 561 (1995) alloc gr 676 A.2d 1200 (1995).

In the case before us, each party reads the contract differently. Plaintiffs contends that they were entitled to their money when the defendants resold the vehicles and that risk of non payment is borne by defendants. The Walls, on the other hand, argue that their obligation is contingent on performance (payment) by the ultimate purchaser.

A condition precedent is a condition which must occur before a duty to perform a contract arises. In determining whether performance is contingent upon an act or event, normal rules of construction are utilized. No particular words are required, but no act or event will be considered a condition precedent unless it clearly appears to have been the intention of the parties to subject performance to the condition. *Acme Markets, Inc. v. Federal Armored Express, Inc.*, 437 Pa. Super. 41, 648 A.2d 1218 (1994).

In the agreement, Mr. McLaughlin is referred to both as Matt McLaughlin and as Matt. In pertinent part, the agreement contains the following:

Car Sold Down payments must be turn (sic) over to Matt at time
 of sell (sic), Then half of payments till investment +
 \$500.00 is paid

There are other provisions which concern defaults by customers, warranties, risk of non performance and repossession, which may become pertinent in the future, but which are not necessary for decision at this moment. However, it appears that risk of non-payment by a customer is shared, unless it involves warranties made by defendants.

It is clear that the parties expressly agreed to a payment scheme which is not addressed by the amended complaint. Plaintiffs do not

seek down payments and one half of payments made by customers; they seek the entire amount to which they ultimately may be entitled. Thus, we must agree with defendants that the amended complaint is fatally flawed. Plaintiffs must allege more than a transaction of sale. They must aver the amount of down payment and subsequent payments by a customer. If they lack required knowledge, they may consider requesting an accounting.

With respect to Count II, however, defendants' attack is in the form of a speaking demurrer. They have argued facts not on the record, which should be raised in an answer and possibly new matter. We will not direct an answer to that count, however, until plaintiffs have a chance to file a second amended complaint.

The attached order is entered.

ORDER

AND NOW, this 29th day of October, 1996, the demurrer to Count I is sustained. All other objections are dismissed.

Plaintiffs may file a second amended complaint within twenty days of this order. Defendants shall not be required to file any answer until plaintiffs had filed the second amended complaint, or have filed notice that they do not intend to file such an amendment. In this case, defendants must file an answer to Count II within twenty days of the filing of such notice.

COMMONWEALTH VS. SIEBOR

The period mandated by Pa. R. Crim P. 1100 (c) (1) commences on the date of filing the second complaint where the charges in the first complaint have been dismissed at a preliminary hearing for failure to state a prima facie case and when there has been no improper effort by the Commonwealth to circumvent the Rule.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-129-96, COMMONWEALTH VS. JOSEPH KEVIN SIEBOR, SR.

Michael A. George, Esq., District Attorney
Jeffery M. Cook, Esq., for Defendant

MEMORANDUM OPINION

Kuhn, J., October 30, 1996.

On September 11, 1996, Defendant filed a Supplemental Omnibus Pretrial Motion wherein Defendant raises two issues.

First, Defendant argues that retrial is barred by Pa. R.Crim.P.1100. Stipulated facts are that Defendant was initially charged on June 22,

1995. Defendant did not post bail but he was serving an unrelated sentence at the time in the Adams County Prison. A preliminary hearing was held November 14, 1995, at which time the charges were dismissed for lack of prima facie case. Defendant remained incarcerated through at least the filing of the second complaint.

The identical charges were then refiled on December 1, 1995. By Order dated October 7, 1996, the undersigned found that Rule 1100 had not been violated when using the second complaint as a starting point. Defendant was incarcerated from the date of his arrest on February 3, 1996, until trial on July 31, 1996. Although not expressly set forth therein we determined that Defendant had been tried within 168 days after December 1, 1995, after excluding periods attributable to Defendant's request for a continuance. Because trial was commenced in a timely manner it was not necessary to determine whether the period December 1, 1995, through February 3, 1996 (64 days) should also have been excluded pursuant to Pa. R.Crim.P. 1100(c)(1).

Defendant now wishes to have the period June 22, 1995, to December 1, 1995 (160 days) included in the calculations for Rule 1100 purposes.

This issue has been decided by *Commonwealth v. Genovese*, 493 Pa. 65, 425 A.2d 367 (1981). There our Supreme Court held that the period mandated by Rule 1100 commences on the date of filing of the second complaint where the charges in the first complaint have been dismissed at a preliminary hearing for failure to state a prima facie case and when there has been no improper effort by the Commonwealth to circumvent the Rule. There has been no evidence presented in the instant case of improper conduct by the Commonwealth.

Second, Defendant argues that he should not be required to face a retrial. On August 1, 1996, the jury found Defendant not guilty of criminal conspiracy but could not reach a verdict with respect to the charge of criminal attempt - escape... Commonwealth intends to re-try Defendant on the latter charge. Defendant's motion mentions constitutional violations which we interpret to mean double jeopardy issues. Defendant's position is meritless. *Commonwealth v. McCane*, 517 Pa. 489, 539 A.2d 340 (1988); *Commonwealth v. Smith*, 426 Pa. Super. 31, 626 A.2d 178 (1993), *Alloc. den.* 642 A.2d 487 (1994).

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 30th day of October, 1996, Defendant's Supplemental Omnibus Pretrial Motions filed September 11, 1996, are dismissed.

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 RAYMOND E. HAMILTON, DEC'D

Late of New Oxford, Adams County, Pennsylvania

Executrices: Ruth E. Crabbs & Lucy Alice Kennedy, c/o 202 Broadway, Hanover, PA 17331

Attorney: Muriel Anne Crabbs, Esq., 202 Broadway, Hanover, PA 17331

ESTATE OF HARRY I. KNOX, a/k/a HENRY ISAAC KNOX, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

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

Attorney: Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF LOUISE C. MCLAUGHLIN, k/a BESSIE LOUISE MCLAUGHLIN, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Mark A. McLaughlin, 10 Janet Trail, Carrol Valley, PA 17320; Margie L. Calimer, R.D.2, Box 4075, Felton, PA 17322

Attorney: Robert L. McQuaide, D. Lloyd Reichard, II, 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CATHARINE J. SNYDER, DEC'D

Late of New Oxford, Adams County, Pennsylvania

Executors: John C. Snyder, Jr., James Rhodes, c/o 202 Broadway, Hanover, PA 17331

Attorney: Muriel Anne Crabbs, Esq., 202 Broadway, Hanover, PA 17331

ESTATE OF ANNA M. YEAGER, DEC'D

Late of Straban Township (formerly of Wellsville, PA), Adams County, Pennsylvania

Executors: C. David Redding, 1199 Table Rock Road, Gettysburg, PA 17325; Robert Dunkleberger, 151 Shughart Road, Carlisle, PA 17013

Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF CATHERINE PRETE CLARK, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administratrix: Frances Carol Clark, c/o Todd A. Dorsett, 130 West Main Street, Waynesboro, PA 17268

Attorney: Todd A. Dorsett, 130 West Main Street, Waynesboro, PA 17268

ESTATE OF ALBERT E. GAFFNEY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Frieda Ehrhart, Hanover Station, 1157 Eichelberger Street, Hanover, PA 17331

Attorney: Douglas H. Gent, Esquire

ESTATE OF ROBERT CRAIG ORNER, DEC'D

Late of Frederick County, Maryland

Administrator: Douglas D. Orner, P. O. Box 561, Emmitsburg, MD 21727

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

ESTATE OF LUTHER M. WETZEL, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Administrator d.b.n.c.t.a.: Paul Wendell Wetzel, Box 55, Aspers, PA 17304

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-468 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of October, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following tract of land.

SITUATE, lying and being in Union Township, Adams County, Pennsylvania, bounded, limited and described as follows, to wit:

BEGINNING for a point at Lots No. 8 and 10 as shown on the hereinafter referenced Final Subdivision Plan; thence along and with said Lot No. 10, North sixty-one (61) degrees thirty-four (34) minutes thirty-eight (38) seconds West, one hundred and twenty-six hundredths (100.26) feet to a point on the Easterly side of Meadowview Drive; thence along and with said Easterly side of Meadowview Drive, North twenty-eight (28) degrees twenty-five (25) minutes twenty-two (22) seconds East, one hundred twenty-seven (127.00) feet to a point; thence by a curve to the right, the radius of which is thirteen (13.00) feet, an arc distance of twenty and forty two hundredths (20.42) feet and a chord bearing and distance of North seventy-three (73) degrees twenty-five (25) minutes twenty-two (22) seconds East, eighteen and thirty-eight hundredths (18.38) feet to a point on the Southerly side of Basehoar School Road; thence along and with said Basehoar School Road, South sixty-one (61) degrees thirty-four (34) minutes thirty-eight (38) seconds East, eighty-seven and twenty-six hundredths (87.26) feet to a point at Lot No. 8 aforesaid; thence along and with said Lot No. 8, South twenty-eight (28) degrees twenty-five (25) minutes twenty-two (22) seconds West, one hundred forty (140.00) feet to a point in common with Lots No. 8 and 10, the point and place of beginning.

CONTAINING 14,000 square feet or 0.321 acres.

THE above description is taken from a Final Subdivision Plan, Phase I, Meadowview Estates, dated 3/21/89, as recorded in Plat Book 54, at Page 75, and known thereon as Lot No. 9.

TAX PARCEL NUMBER: 301-1

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Bruce A. Blevins and Diane E. Blevins, husband and wife by Deed from Modern Builders Jr., Inc., a Pa. Corp. dated 8/30/93 recorded 9/2/93 in Record Book 774 Page 334.

SEIZED and taken into execution as the property of **Bruce A. Blevins and Diane E. Blevins** and to be sold by me
Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
June 24, 1997.

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 27, 1997, 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.

8/22, 29 & 9/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-557 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of September, 1997, 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 or parcel of land, with the improvement thereon erected, situate in Conewago Township, Adams County, Pennsylvania, and is more particularly described as follows, to wit:

BEGINNING at a corner at a point on the northwestern edge of a sixty (60) foot right-of-way for Seneca Drive at the southwestern corner of Lot No. 70 as shown on the hereinafter referred to Subdivision Plan, thence along said last mentioned northwestern edge of a sixty (60) foot right-of-way for Seneca Drive by a curve to the left having a radius of five hundred five and zero hundredths (505.00) feet the long chord of which is South sixty (60) degrees, forty-three (43) minutes, forty-four (44) seconds West, seventy-five and zero hundredths (75.00) feet an arc distance of seventy-five and seven hundredths (75.07) feet to a point at Lot No. 72 as shown on the hereinafter referred to Subdivision Plan, thence along said last mentioned Lot No. 72, North thirty-three (33) degrees, thirty-one (31) minutes, forty-seven (47) seconds West, one hundred thirty-seven and eight hundredths (137.08) feet to a point at Future Phase Three as shown on the hereinafter referred to Subdivision Plan, thence alongside last mentioned Future Phase Three, within a forty (40) foot Met Ed right-of-way, North seventy-three (73) degrees, six (6) minutes, fifteen (15) seconds East, ninety-six and six hundredths (96.06) feet to a point at Lot No. 70 as shown on the hereinafter referred to Subdivision Plan, thence along said last mentioned Lot No. 70, South twenty-five (25) degrees, zero (0) minutes, forty-five (45) seconds East, one hundred sixteen and forty-four hundredths (116.44) feet to a point on the northwestern edge of a sixty (60) foot right-of-way for Seneca Drive as shown on the hereinafter referred to Subdivision Plan, being the point and place of BEGINNING. CONTAINING 10,593 square feet.

The above description was taken from a plan of lots entitled "Final Plan Phase One - Indian Ridge," prepared by Worley Surveying, dated May 20, 1993 and revised June 15, 1993, File No. C-1287, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plat Book 63, Page 81 and designated thereon as Lot No. 71.

BEING the same premises which J C P Inc., by Deed Dated November 9, 1994 and recorded in the Office of the Recorder of Deeds for Adams County, Pennsylvania on December 5, 1994, Record Book 973, Page 214, granted and conveyed unto Nancy L. Stottliemyer and Mildred M. Herring, (Mildred M. Herring now deceased), Defendant herein. This is a two story single family dwelling residence.

SEIZED and taken into execution as the property of **Nancy L. Stottliemyer, a/k/a Nancy L. Stottliemyer** and to be sold by me

Bernard V. Miller
Sheriff
Sheriff's Office, Gettysburg, PA
August 11, 1997.

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 10, 1997, 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.

8/22, 29 & 9/5

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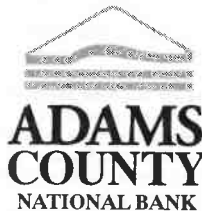
No. 16, pp. 85-88

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Substantive Law—4 credits.

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-320 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of October, 1997, 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 situate in Hamilton Township, Adams County, Pennsylvania, bounded and limited as follows:

BEGINNING at a point on the public road leading to Abbottstown and land now or formerly of John Stock; thence along said Stock's land South seventeen and one-half (17 1/2) degrees East, thirty-two and six tenths (32.6) perches to a point; thence along the same South sixty-seven and one-fourth (67 1/4) degrees West, fifty-four and ninety-two one hundredths (54.92) perches to a point; thence along the same South nineteen and one-half (19 1/2) degrees East, eighty-four and two tenths (84.2) perches to a point; thence South sixty-eight (68) degrees West, forty-two (42) perches to a point; thence along lands now or formerly of Peter Miller and John Decker North twenty-three (23) degrees West, thirty-eight and ninety-two one hundredths (38.92) perches to a limestone; thence along land now or formerly of John Decker South sixty-eight and one-half (68 1/2) degrees West, fifty-three (53) perches to a point in the center of the Hanover and Carlisle Turnpike; thence along the center of said Turnpike North twenty-one and one-half (21 1/2) degrees West, eighty-one and ninety-three one hundredths (81.93) perches to said public road leading to Abbottstown; thence along the center of said public road North sixty-eight and one-half (68 1/2) degrees East, fifty-two (52) perches to a stone in the center of said road; thence further along the center of said public road North sixty-nine and one-half (69 1/2) degrees East, one hundred three and four tenths (103.4) perches to the place of **BEGINNING**. CONTAINING seventy-two (72) acres and four and one half (4 1/2) perches, more or less.

IT BEING the same tract of land which Maurice J. Roche, and Mary A. Roche, his wife, by deed dated June 10, 1987, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 459, page 500, granted and conveyed unto Jeffery A. Roche a/k/a Jeffery A. Roche and

Mary Kay Roche, his wife, Grantors herein.

The above tract LESS, HOWEVER, the following two (2) smaller tracts of land; (1) A .459 Acre tract of land which Maurice D. Roche and Lelia L. Roche, his wife, by their deed dated May 6, 1961, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, Deed Book 232, page 326, granted and conveyed unto Charles H. Roche and Ethel Mae Roche, his wife; and (2) A .459 Acre tract of land which Maurice D. Roche and Lelia L. Roche, his wife, by their Deed dated May 6, 1961, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 232, page 328, granted and conveyed unto Ralph E. Hankey and Mary Agnes Hankey, his wife.

SEIZED and taken into execution as the property of **Jeffrey Allan Roche and Mary Kay Roche** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
August 27, 1997.

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 November 10, 1997, 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.

9/12, 19, 26

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, September 22, 1997, at 9:00 o'clock a.m.

FIDLER—Orphans' Court Action Number OC-81-97. The First and Final Account of Dorothy E. Fidler, Executrix of the Last Will and Testament of Mary A. Fidler a/k/a Mary Ann Fidler, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

HELLER—Orphans' Court Action Number OC-82-97. The First and Final Account of Edward R. Heller and Phillip W. Heller, Co-Executors of the Estate of Robert M. Heller, deceased, late of Tyrone Township, Adams County, Pennsylvania.

HLUBB—Orphans' Court Action Number OC-84-97. The First and Final Account of Adams County National Bank, Executor of the Estate of Pauline B. Hlubb, deceased, late of Straban Township, Adams County, Pennsylvania.

MARTIN—Orphans' Court Action Number OC-64-94. The First and Final Account of Robert N. Martin, Jr., Executor of the Estate of Hoye B. Martin a/k/a Hoy B. Martin, deceased, late of Liberty Township, Adams County, Pennsylvania.

ROHRBAUGH—Orphans' Court Action Number OC-89-97. The Second and Final Account of Donald W. Rohrbaugh and Clyde A. Rohrbaugh, Administrators d.b.n.c.t.a. of the Estate of Paul M. Rohrbaugh, deceased, late of Gettysburg Borough, Adams County, Pennsylvania.

LAMBERSON—Orphans' Court Action Number OC-90-97. The First and Final Account of Carson C. Lamberson, Executor of the Estate of Vernon F. Lamberson, deceased, late of Hamilton Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

9/12, 19

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for 2769 CORPORATION were filed with the Department of State of the Commonwealth of Pennsylvania on August 18, 1997, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Rudisill, Guthrie, Nonemaker,
Guthrie & Yingst
Solicitor

9/12

COMMONWEALTH VS. STINE

1. When reviewing the sufficiency of the evidence, the Court must determine whether, viewing the evidence in the light most favorable to the Commonwealth as verdict winner and drawing all proper inferences favorable to the Commonwealth, the trier of fact could have determined that all the elements of the crime have been established beyond a reasonable doubt.

2. The facts and circumstances established by the Commonwealth need not be absolutely incompatible with the Defendant's innocence, but the question of any doubt is for the jury unless the evidence be so weak and inconclusive that as a matter of law no probability of fact can be drawn from the combined circumstances.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-176-95, COMMONWEALTH VS. JOHN DAVID STINE.

Martha J. Duvall, Esq., Assistant District Attorney
Jeffery M. Cook, Esq., for Defendant

OPINION ON DEFENDANT'S MOTION FOR JUDGMENT OF ACQUITTAL OR A NEW TRIAL

Kuhn, J., October 30, 1996.

On October 17, 1995, a jury found Defendant guilty of violations of 35 P.S. §780-113(a)(16) and (32). Sentencing occurred on November 28, 1995. On December 1, 1995, Defendant filed a Post Verdict Motion wherein he raised three issues: (1) that there was insufficient evidence that Defendant knowingly possessed a controlled substance or drug paraphernalia, (2) that possession of the cocaine residue was a de minimus infraction, and (3) that certain evidence should have been suppressed at trial. Argument was delayed until June 25, 1996, to allow for production of the trial transcript.

The following evidence was produced at trial. On September 23, 1994, Kenneth Hassinger of the Pennsylvania State Police, Region III Strike Force, and Detective Kevin Wilson of the Gettysburg Borough Police Department were conducting a surveillance of Zerfing Alley, especially in an area behind Hamilton Tavern in the Borough of Gettysburg in response to citizen complaints of illegal drug activity in that area. During their surveillance the officers noticed 2-3 persons suspiciously stepping in and out of the shadows as cars approached near a two car garage on the north side of the alley. As the officers drove up the alley from the west several individuals ran along a walkway heading toward Chambersburg Street which is north of and parallel to the alley.

Meanwhile Larry Runk of the Gettysburg Borough Police Department had been summoned to the area and situated himself where the aforementioned walkway exists onto Chambersburg Street. When the

individuals ran Trooper Hassinger yelled for them to stop. Officer Runk heard that command and within several seconds Defendant and another male exited the walkway.

Officer Runk conducted a pat down of Defendant and removed a piece of a glass tube from the front pocket of Defendant's flannel shirt. Officer Runk then traversed the walkway and on a window ledge near the aforementioned garage he discovered another piece of glass tubing which fit perfectly within the first piece discovered in Defendant's shirt. The glass tubing contained cocaine residue. Trooper Hassinger testified that glass tubing of this nature can be used for smoking or cooking cocaine.

Defendant first contends that the evidence was insufficient to prove that he knowingly possessed the cocaine residue or the glass tubing. As stated in *Commonwealth v. Johnson*, 448 Pa. Super. 42, 46-7, 670 A.2d 666, 668-9 (1996), when reviewing the sufficiency of the evidence the court must determine whether

viewing the evidence in the light most favorable to the Commonwealth as verdict winner and drawing all proper inferences favorable to the Commonwealth, the trier of fact could have determined that all the elements of the crime have been established beyond a reasonable doubt...It is within the province of the fact finder to determine the weight to be accorded each witnesses' testimony and to believe all, part, or none of the evidence introduced at trial...

The facts and circumstances established by the Commonwealth "need not be absolutely incompatible with [the] defendant's innocence, but the question of any doubt is for the jury unless the evidence 'be so weak and inconclusive that as a matter of law no probability of fact can be drawn from the combined circumstances.'"

(citations omitted).

It is also well known that circumstantial evidence alone can constitute sufficient evidence to support a conviction. *Commonwealth v. Rucci*, 543 Pa. 261, 275, 670 A.2d 1129, 1136 (1996).

Applying the standards set forth above it is clear that the evidence was sufficient to establish possession for the following reasons: (1) Defendant was found with a piece of glass tubing in his shirt pocket, (2) Defendant exited a walkway within seconds after police chased several males in that direction, (3) a second piece of glass tubing was found in the area from which Defendant had just traveled, (4) the two broken

pieces of glass tubing fit together, and (5) the area where the second piece was found was known by police to have high volume of illegal drug activity. The clear inference was that Defendant was one of the men in the alley. When police approached he placed a portion of the glass tubing on the window sill and the other portion in his pocket and ran toward Chambersburg Street. This is sufficient evidence to establish possession.

Second Defendant argues that the charges should have been dismissed as de minimus violations of the law. The Legislature has recognized that there is criminal conduct, so trifling in nature, that does not deserve criminal sanction. Therefore, Section 312 of the Crimes Code, 18 Pa. C.S.A. §312, was enacted to allow the court to dismiss certain prosecution. Although this Court has, on occasion, utilized §312 the circumstances of this case do not warrant such treatment. Defendant's possession of drug paraphernalia and cocaine residue in an area of heavy drug activity where Defendant was obviously trying to elude the police cannot be considered de minimus as that term is used in §312.¹

Finally, at trial after the Commonwealth rested, Defendant's counsel moved to suppress evidence obtained by Officer Runk during the pat-down of Defendant. The search, now argues Defendant, was not justified under the principles set forth in *Commonwealth v. Marconi*, 408 Pa. Super. 601, 597 A.2d 616 (1991), Alloc. den. 611 A.2d 711 (1992). The Commonwealth objected to the timeliness of the request.

With regard to the timeliness of suppression motions the rules provide,

Rule 323. Suppression of Evidence

(a) The defendant or his attorney may make a motion to the court to suppress any evidence alleged to have been obtained in violation of the defendant's rights.

(b) Unless the opportunity did not previously exist, or the interests of justice otherwise require, such motion shall be made only after a case has been returned to court and shall be contained in the omnibus pre-trial motion set forth in Rule 306. If timely motion is not made thereunder, the issue of suppression of such evidence shall be deemed to be waived.

¹ The undersigned has recently presided over two trials involving Defendant where after consuming alcohol he has assaulted or attempted to assault others. This and other court contact with Defendant gives the impression that he has a substance abuse problem that needs to be addressed.

Generally, omnibus motions are to be filed within 30 days after arraignment. Pa. R.Crim.P. 307.

Defendant's counsel attempted to excuse the late motion by saying

"What I would say that he didn't testify in the same fashion at the preliminary hearing and today he made it clear that he knew it was not a weapon, that he thought it was a pipe . . . (T. 64).

This reasoning would not justify a motion to suppress at the conclusion of the Commonwealth's case. *Commonwealth v. Barnyak*, 432 Pa. Super. 483, 639 A.2d 40 (1994), *Alloc. den.* 652 A.2d 1319 (1994). No transcript has been produced that Officer Runk testified differently at the preliminary hearing. Furthermore, and critically, Defendant never attempted to cross examine the officer on the issue. We consider this issue to have been waived.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 30th day of October, 1996, for the reasons set forth in the attached Opinion Defendant's Motion for judgment of acquittal or a new trial is denied.

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 CALVIN H. BOBO, DEC'D
Late of the Borough of York Springs, Adams County, Pennsylvania
Executrices: Eula E. Borrer, 2258 Brougher Lane, York, PA 17404; D. Laurene Tate, 1653 Baltimore Pike, RD#1, Dillsburg, PA 17019
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

SECOND PUBLICATION

ESTATE OF RAYMONDE E. HAMILTON, DEC'D
Late of New Oxford, Adams County, Pennsylvania
Executrices: Ruth E. Crabbs & Lucy Alice Kennedy, c/o 202 Broadway, Hanover, PA 17331
Attorney: Muriel Anne Crabbs, Esq., 202 Broadway, Hanover, PA 17331

ESTATE OF HARRY I. KNOX, a/k/a HENRY ISAAC KNOX, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executor: Adams County National Bank, P. O. Box 4566, Gettysburg, PA 17325
Attorney: Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF LOUISE C. MCLAUGHLIN, a/k/a BESSIE LOUISE MCLAUGHLIN, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Executors: Mark A. McLaughlin, 10 Janet Trail, Carroll Valley, PA 17320; Margie L. Calimer, R.D.2, Box 4075, Felton, PA 17322
Attorney: Robert L. McQuaide, D. Lloyd Reichard, II, 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CATHARINE J. SNYDER, DEC'D
Late of New Oxford, Adams County, Pennsylvania
Executors: John C. Snyder, Jr., James Rhodes, c/o 202 Broadway, Hanover, PA 17331
Attorney: Muriel Anne Crabbs, Esq., 202 Broadway, Hanover, PA 17331

ESTATE OF ANNA M. YEAGER, DEC'D
Late of Straban Township (formerly of Wellsville, PA), Adams County, Pennsylvania
Executors: C. David Redding, 1199 Table Rock Road, Gettysburg, PA 17325; Robert Dunkleberger, 151 Shughart Road, Carlisle, PA 17013
Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF CATHERINE PRETE CLARK, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Administratrix: Frances Carol Clark, c/o Todd A. Dorsett, 130 West Main Street, Waynesboro, PA 17268
Attorney: Todd A. Dorsett, 130 West Main Street, Waynesboro, PA 17268

ESTATE OF ALBERT E. GAFFNEY, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executrix: Frieda Ehrhart, Hanover Station, 1157 Eichelberger Street, Hanover, PA 17331
Attorney: Douglas H. Gent, Esquire

ESTATE OF ROBERT CRAIG ORNER, DEC'D
Late of Frederick County, Maryland
Administrator: Douglas D. Orner, P. O. Box 561, Emmitsburg, MD 21727
Attorney: Swope, Heiser & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF LUTHER M. WETZEL, DEC'D
Late of Franklin Township, Adams County, Pennsylvania
Administrator d.b.n.c.t.a.: Paul Wendell Wetzel, Box 55, Aspers, PA 17304
Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

EXHIBIT "B"

CHARMAINE M. HOOD, Plaintiff,
vs.

LAKE MEADE PROPERTY OWNERS ASSOCIATION, INC., LAKE MEADE, INC., LAKE MEADE MUNICIPAL AUTHORITY, INC. and ROBERT H. UNGER AND NORMA M. UNGER, Defendants.

NO. 97-S-777

NOTICE OF PUBLICATION

TO: Lake Meade Property Owners Associates, Inc., Lake Meade, Inc., Lake Meade Municipal Authority, Inc. and Robert H. Unger and Norma M. Unger:

9/12

TAKE NOTICE that on the 15th day of August, 1997, CHARMAINE M. HOOD filed a Complaint against the above named Defendants in an Action to Quiet Title docketed to No. 97-S-777, with reference to numerous tracts of land situate in Reading Township, Adams County, Pennsylvania, bounded and described as follows:

Parcel "1"

BEING Tract No. 1 of the same premises which Marguerite A. Shughart, widow, by deed of May 11, 1990 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 555 at page 15, granted and conveyed unto Harry P. McKean, Grantor herein.

THE COMPLAINT requests the Court enter an Order forever barring and enjoining all real property owners in the Lake Meade Property Owners Association, Inc. and Lake Meade Municipal Authority, Inc. from asserting any right, lien, title or interest in the aforesaid property on the grounds that the residence is within the ten (10) foot setback and the utility easement as set forth in the deed restrictions.

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take prompt 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.

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

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

County Referral Officer
Adams County Court House
Gettysburg, Pennsylvania, 17325
Telephone: (717) 334-6781

Mooney & Associates

Adams County Legal Journal

Vol. 39

September 19, 1997

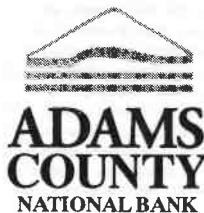
No. 17, pp. 89-94

ANNOUNCEMENT OF CONTINUING LEGAL EDUCATION PROGRAMS

1. *A Practical Approach to Pennsylvania Mechanics' Liens.*
Friday, September 26, 1997—9:00 a.m.—12:30 p.m.
Room 307, Adams County Courthouse
Substantive Law—2.5 credits. Ethics—.5 credit.
2. *Consumer Law for the Non-Specialist.*
Thursday, October 30, 1997—9:00 a.m.—12:30 p.m.
Adams County Cooperative Extension Office
1135 Chambersburg Road, Gettysburg, PA
Substantive Law—3 credits. Ethics—0 credit.
3. *Direct and Cross Examination in the Civil Case.*
Thursday, October 30, 1997—9:00 a.m.—5:00 p.m.
Room 307, Adams County Courthouse
Substantive Law—5 credits. Ethics—1 credit.
4. *Estate Planning for Subsequent Marriages.*
Tuesday, November 25, 1997—9:00 a.m.—1:30 p.m.
Room 307, Adams County Courthouse
Substantive Law—4 credits.

Registration through P.B.I. 800-932-4637

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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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Business Office - 112 Baltimore Street, Gettysburg, PA 17325. Telephone: (717) 334-1193

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-320 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of October, 1997, 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 landsituate in Hamilton Township, Adams County, Pennsylvania, bounded and limited as follows:

BEGINNING at a point on the public road leading to Abbottstown and land now or formerly of John Stock; thence along said Stock's land South seventeen and one-half (17 1/2) degrees East, thirty-two and six tenths (32.6) perches to a point; thence along the same South sixty-seven and one-fourth (67 1/4) degrees West, fifty-four and ninety-two one hundredths (54.92) perches to a point; thence along the same South nineteen and one-half (19 1/2) degrees East, eighty-four and two tenths (84.2) perches to a point; thence South sixty-eight (68) degrees West, forty-two (42) perches to a point; thence along lands now or formerly of Peter Miller and John Decker North twenty-three (23) degrees West, thirty-eight and ninety-two one hundredths (38.92) perches to a limestone; thence along land now or formerly of John Decker South sixty-eight and one-half (68 1/2) degrees West, fifty-three (53) perches to a point in the center of the Hanover and Carlisle Turnpike; thence along the center of said Turnpike North twenty-one and one-half (21 1/2) degrees West, eighty-one and ninety-three one hundredths (81.93) perches to said public road leading to Abbottstown; thence along the center of said public road North sixty-eight and one-half (68 1/2) degrees East, fifty-two (52) perches to a stone in the center of said road; thence further along the center of said public road North sixty-nine and one-half (69 1/2) degrees East, one hundred three and four tenths (103.4) perches to the place of BEGINNING. CONTAINING seventy-two (72) acres and four and one half (4 1/2) perches, more or less.

IT BEING the same tract of land which Maurice J. Roche, and Mary A. Roche, his wife, by deed dated June 10, 1987, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 459, page 500, granted and conveyed unto Jeffrey A. Roche a/k/a Jeffrey A. Roche and

Mary Kay Roche, his wife, Grantors herein.

The above tract LESS, HOWEVER, the following two (2) smaller tracts of land; (1) A .459 Acre tract of land which Maurice D. Roche and Lelia L. Roche, his wife, by their deed dated May 6, 1961, and recorded in the office of the Recorder of Deeds in and for Adams County, Pennsylvania, Deed Book 232, page 326, granted and conveyed unto Charles H. Roche and Ethel Mae Roche, his wife; and (2) A .459 Acre tract of land which Maurice D. Roche and Lelia L. Roche, his wife, by their Deed dated May 6, 1961, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 232, page 328, granted and conveyed unto Ralph E. Hankey and Mary Agnes Hankey, his wife.

SEIZED and taken into execution as the property of **Jeffrey Allan Roche and Mary Kay Roche** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
August 27, 1997.

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 November 10, 1997, 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.

9/12, 19, 26

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, September 22, 1997, at 9:00 o'clock a.m.

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LAMBERSON—Orphans' Court Action Number OC-90-97. The First and Final Account of Carson C. Lamberson, Executor of the Estate of Vernon F. Lamberson, deceased, late of Hamilton Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

9/12, 19

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN of the filing of Articles of Incorporation stating the following: The name of the corporation is METAL FAB, INC. The corporation has been incorporated under the provisions of the Business Corporation Law of 1988.

Rudisill, Guthrie, Nonemaker,
Guthrie & Yingst
Solicitor

9/19

J. F. WAYBRANT & SONS, INC. VS. MOUNT JOY
TOWNSHIP ZONING HEARING BOARD

1. Exact terminology is not required in zoning cases and courts will treat the matter for what it really is, notwithstanding the terminology used.
2. One must state the grounds upon which he is filing a land use appeal, meaning, an allegation of fact or facts that form the basis for the claim.
3. Section 11003-A of the Pennsylvania Municipalities Planning Code is clear in its mandate that the Appellant must concisely set forth the grounds upon which he relies and thus more is required than just notice of an appeal.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 96-S-228, J. F. WAYBRANT & SONS, INC. VS. MOUNT JOY TOWNSHIP ZONING HEARING BOARD.

Paula J. Leicht, Esq., for Appellant
Catherine J. Gault, Esq., for Appellee
Scott Kelley Esq. and Joseph Erb, Esq., for Gettysburg
Hanover Concrete
Gary E. Hartman, Esq., for Valley Quarries, Inc.

OPINION ON MOTIONS TO QUASH
AND/OR DISMISS LAND USE APPEAL

Kuhn, J., October 31, 1996.

Procedural History

On November 21, 1995, Valley Quarries, Inc. filed an application for special exception with the Mt. Joy Township Zoning Hearing Board in order to construct a ready mix concrete plant on real estate identified as Adams County Tax Map G-14, Parcel 62A. A hearing was held by the Board on January 4, 1996, after which the Board granted the application. The written decision of the Board was not dated until February 16, 1996.

On March 15, 1996, J. F. Waybrant & Sons, Inc., hereinafter "JFW," appealed the Board's decision. JFW alleged that it owned a tract of land fronting on Pa. Route 97 and adjoining the parcel subject to the zoning application. In its Notice of Appeal JFW averred that (1) it should have, but did not, receive notice of the zoning hearing, (2) the board failed to issue findings of fact and reasons supporting its approval of the special exception, (3) the board abused its discretion in granting the application, and (4) it was denied due process.

On April 3, 1996, Jack and Betty Waybrant, hereinafter "Waybrants," filed a Petition for Joinder under Pa. R.C.P. 2229(a) and (e)(1) claiming they were the fee simple owners of the land adjoining the Valley Quarry real estate and that JFW was their tenant.

Motions to quash and/or dismiss JFW's appeal were filed by Gettysburg Concrete Company, Inc. and Hanover Concrete Company on April 16, 1996, and by Valley Quarries, Inc. on April 24, 1996. They contended that JFW had no standing to appeal. A hearing on these motions was held on May 20, 1996. Per Opinion and Order dated September 19, 1996, the undersigned ruled that JFW was not entitled to notice of the zoning hearing under provisions of the township zoning ordinance and §908 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10908(1) and did not have standing to file an appeal.

When the Waybrants filed their Petition for Joinder they alleged, in paragraph 2 thereof, that they

share the same and/or similar interest with J. F. Waybrant & Sons, Inc. as tenant and may assert such right to relief jointly, severally, separately, or in the alternative, and that such relief arises out of the same occurrence, namely the grant of a special exception for the erection of a redi-mix concrete plant. Jack F. and Betty Waybrant, along with J. F. Waybrant & Sons, Inc., share a common question of law or fact as the special exception granted by the Mount Joy Township Zoning Hearing Board detrimentally affects the rights of both parties in a similar or same fashion. Pa. R.C.P. 2229(a).

The parties appeared before the undersigned on October 21, 1996, for the purpose of addressing whether the Waybrants should be permitted to act as appellants.

Factual Background

It is clear that the Waybrants are the fee simple owners of the property adjacent to the Valley Quarry real estate. It is likewise clear that notice of the hearing before the zoning board was not sent to the Waybrants.

Discussion

There is no question that the Waybrants were entitled to but did not receive notice of the zoning hearing as required by 53 P.S. §10908(1). That section provides,

§10908. Hearings

The board shall conduct hearings and make decisions in accordance with the following requirements:

(1) Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other

persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance . . . In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.

Section 110-10 of the zoning provisions of Mount Joy Township Code provides that notice of a hearing shall include notice to owners of record of property abutting or within 100 feet of the subject property.

Ordinarily, such neglect on the part of the zoning hearing board to provide notice would entitle Waybrants to remand before the zoning board if they appealed the board's decision in a timely fashion. Here, the landowners filed a Petition for Joinder on April 3, 1996. There is no contention that the Waybrants did not file an appeal in a timely manner after learning of the board's decision.

The question then becomes whether the Waybrants can become individual appellants by means of a petition for joinder. The MPC clearly provides that within 30 days following an appeal the owner may intervene as of course by filing a notice of intervention. All other intervention is to be governed by the Rules of Civil Procedure, Pa. R.C.P. 2326 et seq. 53 P.S. §1104-A. Instead the landowners subjudice seek joinder under Pa. R.C.P. 2226 et seq. There is no express authority set forth under the MCP for such joinder. In fact, 53 P.S. §11001-A entitled "Land use appeals" state that "The procedures set forth in this article shall constitute the exclusive mode for securing review of any decision rendered pursuant to Article IX or deemed to have been made under this act." (emphasis added). Without attempting to promote procedure over substance we observe that there is an important difference between joinder and intervention. Joinder would allow the Waybrants to raise and litigate all issues directly affecting them including lack of notice. The intervenor, however, takes the litigation as he finds it and his claim or defense must be subordinated to and in recognition of the propriety of the action filed by the appellant. *Sell v. Douglas Township Zoning Hearing Board*, 149 Pa. Comlth. Ct. 425, 430, 613 A.2d 162, 164 (1992).

As noted, the Court has already ruled that the corporation has no standing. If the Waybrants are considered intervenors their petition must also be dismissed because their status in the case will rise and fall with that of the corporation. "An intervenor with claims that are not in subordination to the issues raised by the appellant has the option of filing a separate appeal." *Id.* note 6.

Here, Waybrants did not attempt to file a separate appeal and then seek consolidation of the appeals but rather filed a petition for joinder. The Court must determine the effect, if any, of such a filing.

Pa. R.C.P. 2229 provides,

(a) Persons may join as plaintiffs who assert any right to relief jointly, severally, separately or in the alternative, in respect of or arising out of the same transaction, occurrence, or series of transaction or occurrences if any common question of law or fact affecting the rights to relief of all such persons will arise in the action.

...

(e) In an action to adjudicate title or an interest in real or personal property

(1) persons whose claims are not adverse to each other may join as plaintiffs;

... (emphasis added).

“Actions” which are subject to these rules “means any civil action or proceeding at law or in equity brought in or appealed to any court of record which is subject to these rules.” Pa. R.C.P. 2226. We have found no case, rule or statute which states that this rule is not applicable to zoning appeals. On the contrary, there may be some basis for concluding that permissive joinder of plaintiffs is sanctioned.¹ It has been said that,

Joinder of parties is a procedural tool by which multiple persons having an interest in, or a claim with respect to, the subject matter of the litigation or the event upon which the litigation is based are brought together as parties in one action so that their rights and claims may be settled at one time. Being procedural in nature the rules governing joinder do not deal with substantive questions of law involving the rights or obligations of the parties.

The purpose of joinder of parties is to:

(1) achieve a just and speedy administration of justice by avoiding multiplicity of actions;

¹We are not prepared to rule that the term “plaintiff” or used in these rules does not include an “appellant” or “petitioner” as well.

...

(4) conserve judicial resources.

Standard Pa. Prac. 2nd §14:136.

Each of these purposes and goals could be achieved by allowing joinder in zoning cases. Furthermore, joinder does not appear to violate the provisions of 53 P.S. §11001-A regarding the exclusive mode for securing review of a zoning decision if proper procedure has otherwise been followed. A contrary approach would result in the potential multiplicity of appeals and requests for consolidation. The joinder rules achieve the same result without the need for separate appeals. While the court conceptually accepts joinder in this case we do so solely under Rule 2229(a) and reject subsection (e) as a valid basis to permit the Waybrants' joinder.

Waybrants argue that their intent in filing the Petition For Joinder was for the purpose of effectuating an appeal and to individually assert their rights as adjoining property owners. We accept that argument. Our approach is consistent with the liberal construction to be given to the rules where defects in procedure do not affect the substantive rights of the parties. Pa. R.C.P. 126. See also *Root v. City of Erie Zoning Board of Appeals*, 180 Pa. Super. 38, 118 A.2d 297 (1955) wherein the court wrote,

Exact terminology is not required in zoning cases. Courts will treat the matter for what it really is, notwithstanding the terminology used.

180 Pa. Super. at 41, 118 A.2d at 299.

Having so ruled we now turn to the actual document filed by the Waybrants. Their petition simply states that they seek to join this matter as appellants because they are the fee owners of the property leased to the corporation. They claim to share the same and/or similar interest as their corporate tenant. We note that a land use appeal must "concisely set forth the grounds on which the appellant relies." 53 P.S. §11003-A. Our Commonwealth Court has made it quite clear that one must state the grounds upon which he is filing a land use appeal meaning "an allegation of fact or facts that form the basis for the claim." *Perin v. Board of Supervisors of Washington Township*, 128 Pa. Comlth. Ct. 313, 318, 563 A.2d 576, 579 (1989). In fact, *Perin* ruled that attempts to supplement the notice of appeal with factual allegations filed well after the appeal period are properly disregarded.

Waybrants contend they are raising the same issues as JFW and that they are not required to specifically incorporate the grounds set forth in JFW's appeal beyond the language quoted from Paragraph 2 of the

Petition, set forth above. They argue that all other parties were therefore well aware of the basis for their appeal. Furthermore, they suggest that grounds need not be set forth until they are granted leave to join the appeal.

As might be expected, the Court has found no authority on the issue. We believe, however, that where the joinder rules do not prescribe the procedure to be used one must revert to statutory requirements.

A close reading of Paragraph 2 of Waybrants' Petition reveals nothing more substantive than mere recitation of the language in Pa. R.C.P. 2229(a). We believe more is required. We are mindful that the MPC sets forth the "exclusive method" for appeals. We have allowed Waybrants some leeway in that regard. Nevertheless, §11003-A is clear in its mandate that the appellant must concisely set forth the grounds upon which he relies. Thus, more is required than just notice of an appeal. Here, Waybrants did not expressly plead that they were incorporating by reference the grounds set forth in JFW's appeal. As noted, they simply recited Rule 2229(a) verbatim and said, as owners, they share the same interest as the tenant.

Both JFW and the Waybrants were represented by the same counsel. Waybrants could have easily and concisely set forth their grounds for the appeal if they intended the petition to act as an appeal. They could have expressly incorporated JFW's appeal by reference. We are constrained to conclude that Waybrants have failed to follow the requirements of §11003-A and, having preserved no issues, the appeal must be dismissed.

We realize that this result is harsh. However, there are interests of other parties involved here as well. Waybrants have cited no precedent for the procedure they have employed.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 31st day of October, 1996, in accordance with the attached Opinion the Petition for Joinder filed by Jack and Betty Waybrant is dismissed.

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 out delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF LLOYD T. BORTNER, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executors: Lloyd T. Bortner, Jr., 25 Woodcrest Circle, Littlestown, PA 17340; Susan E. Rosensteel, 879 Herr's Ridge Road, Gettysburg, PA 17325

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

ESTATE OF JOHN W. MOSER, SR. a/k/a JOHN W. MOSER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Dixie M. Vivaldi, 98 Walker Avenue, Gettysburg, PA 17325

Attorney: Audrey E. Woloshin

STATE OF ERSA F. SIX, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Roger L. Stair, 1086 Sell Station Road, Littlestown, PA 17340

Attorney: Donald W. Dorr, Esquire, 126 Carlisle Street, Hanover, PA 17331

ESTATE OF MARIAN S. SMITH, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Leslie Ann Deardorff, 366 Carrolls Tract Road, Fairfield, PA 17320

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

ESTATE OF JOSEPH P. STAUB, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Thomas J. Staub, 403 Delone Avenue, McSherrystown, PA 17344; Joseph A. Staub, 627 Cricket Lane, McSherrystown, PA 17344

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

SECOND PUBLICATION

ESTATE OF CALVIN H. BOBO, DEC'D

Late of the Borough of York Springs, Adams County, Pennsylvania

Executrices: Eula E. Borrer, 2258 Brougher Lane, York, PA 17404; D. Laurene Tate, 1653 Baltimore Pike, RD#1, Dillsburg, PA 17019

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

THIRD PUBLICATION

ESTATE OF RAYMOND E. HAMILTON, DEC'D

Late of New Oxford, Adams County, Pennsylvania

Executrices: Ruth E. Crabbs & Lucy Alice Kennedy, c/o 202 Broadway, Hanover, PA 17331

Attorney: Muriel Anne Crabbs, Esq., 202 Broadway, Hanover, PA 17331

ESTATE OF HARRY I. KNOX, a/k/a HENRY ISAAC KNOX, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

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

Attorney: Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF LOUISE C. MCLAUGHLIN, a/k/a BESSIE LOUISE MCLAUGHLIN, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Mark A. McLaughlin, 10 Janet Trail, Carroll Valley, PA 17320; Margie L. Calimer, R.D.2, Box 4075, Felton, PA 17322

Attorney: Robert L. McQuaide, D. Lloyd Reichard, II, 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CATHARINE J. SNYDER, DEC'D

Late of New Oxford, Adams County, Pennsylvania

Executors: John C. Snyder, Jr., James Rhodes, c/o 202 Broadway, Hanover, PA 17331

Attorney: Muriel Anne Crabbs, Esq., 202 Broadway, Hanover, PA 17331

ESTATE OF ANNA M. YEAGER, DEC'D

Late of Straban Township (formerly of Wellsville, PA), Adams County, Pennsylvania

Executors: C. David Redding, 1199 Table Rock Road, Gettysburg, PA 17325; Robert Dunkleberger, 151 Shughart Road, Carlisle, PA 17013

Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that on August 14, 1997 Articles of Incorporation of a corporation known as INTERNATIONAL VIDEO, INC. have been filed with the Department of State, Harrisburg, Pennsylvania, for the purpose of obtaining a certificate of incorporation of a proposed business corporation under the provisions of the Act of Assembly of the Commonwealth of Pennsylvania, known as the "Business Corporation Law" approved December 21, 1988, P.L. 1444, its amendments and supplements.

The purpose for which said corporation is formed are that: The corporation shall have unlimited power to engage in and do any lawful act concerning any and all lawful business for which corporations may be incorporated under the Act of December 21, 1988, P.L. 1444, its amendments and supplements, under the provisions of which said Act this corporation is incorporated.

The location and post office address of the initial registered office of said corporation is 6335 York Road, New Oxford, PA 17350.

9/19

INCORPORATION NOTICE

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

9/19

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on or about March 14, 1997, for the incorporation of ALLOWAY MEADOWS PROPERTY OWNERS ASSOCIATION, INC., under the Pennsylvania Business Corporation Law of 1988. The corporation shall provide maintenance of the common areas of use and easements of Alloway Meadows, together with any other activity not otherwise prohibited. The initial registered office of the corporation is 30 South Queen Street, Littlestown, PA 17340.

Gary E. Hartman, Esq.
Hartman & Yannetti
Solicitor

9/19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-704 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 24th day of October, 1997, 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 Union Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of Legislative Route 01029 (Bollinger Road) at corner of land now or formerly of O. Strickler; thence by said land of O. Strickler, and passing through a steel pin set back 42.80 feet from the last mentioned point, South 22 degrees 29 minutes 48 seconds West, 529.29 feet to a steel pin at corner of other land now or formerly of Robert E. Glass, North 78 degrees 55 minutes 43 seconds West, 305.94 feet to a steel pin; thence by the same, and passing through a steel pin set back 27.4 feet from the next mentioned point, North 03 degrees 39 minutes 06 seconds West, 256.86 feet to a point in the center of Legislative Route 01029 aforesaid; thence in said center of Legislative Route 01029, North 71 degrees 28 minutes 39 seconds East, 547.48 feet to a point the place of BEGINNING. CONTAINING 3.3820 acres.

BEING the same which Lawrence V. Young, United States Bankruptcy Trustee, for Ivan E. Arentz, Jr., and Brenda S. Arentz, by deed dated October 26, 1987, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 471 at page 1033, sold and conveyed to Gerald W. Davis and Laura L. Davis, his wife, the Defendants herein.

IMPROVED WITH a bi-level, single-family dwelling with attached two-car garage.

SEIZED and taken into execution as the property of **Gerald W. Davis and Laura L. Davis** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
September 4, 1997.

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 November 17, 1997, 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.

9/19, 26 & 10/3

Adams County Legal Journal

Vol. 39

September 26, 1997

No. 18, pp. 95-98

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-712 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 1997, 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 tract of land situate, lying and being in the Borough of East Berlin, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a spike on the Eastern side of Abbottstown Street, said spike being 3.75 feet East of the face of the Eastern curb and at land now or formerly of Edna M. Jacobs; thence by said Jacobs land and running 1.8 feet from the front corner of the house to 1 foot at the rear corner of the house South 65 degrees 57 minutes East 247.0 feet to a spike at the West side of Stoner Alley; thence by the Western side of Stoner Alley South 28 degrees 38 minutes West, 77.5 feet to a

spike on the North side of Locust Street; thence on the North side of Locust Street North 62 degrees 15 minutes West, 72 feet to a spike at land now or formerly of Wayne M. Neil and wife; thence by said land North 29 degrees 13 minutes East, 45.14 feet to an iron pin; thence by the same North 65 degrees 58 minutes West, 173.0 feet to a spike, being approximately 4 feet East of the East curb face on the East side of Abbottstown Street; thence by said Street North 23 degrees 58 minutes East 27.5 feet to a spike, the place of BEGINNING.

CONTAINING 0.234 Acres.

THIS description was taken from a draft of survey made December 8, 1975, by Geo. M. Wildasin, Professional Engineer.

TAX PARCEL #4-224

TITLE TO SAID PREMISES IS VESTED IN John C. Schlaline and Diane L. Schlaline, his wife by Deed from Glenn B. Nickey and Carolyn J. Nickey, husband and wife dated 12/18/87, recorded 12/21/87, in Record Book 476, Page 24.

SEIZED and taken into execution as the property of **John C. Schlaline and Diane L. Schlaline** and to be sold by me
Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
September 16, 1997.

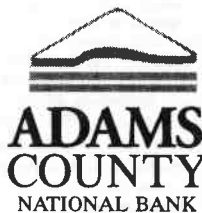
TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 8, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser 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.

9/26 & 10/3,10

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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. 97-S-320 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of October, 1997, 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 situate in Hamilton Township, Adams County, Pennsylvania, bounded and limited as follows:

BEGINNING at a point on the public road leading to Abbottstown and land now or formerly of John Stock; thence along said Stock's land South seventeen and one-half (17 1/2) degrees East, thirty-two and six tenths (32.6) perches to a point; thence along the same South sixty-seven and one-fourth (67 1/4) degrees West, fifty-four and ninety-two one hundredths (54.92) perches to a point; thence along the same South nineteen and one-half (19 1/2) degrees East, eighty-four and two tenths (84.2) perches to a point; thence South sixty-eight (68) degrees West, forty-two (42) perches to a point; thence along lands now or formerly of Peter Miller and John Decker North twenty-three (23) degrees West, thirty-eight and ninety-two one hundredths (38.92) perches to a limestone; thence along land now or formerly of John Decker South sixty-eight and one-half (68 1/2) degrees West, fifty-three (53) perches to a point in the center of the Hanover and Carlisle Turnpike; thence along the center of said Turnpike North twenty-one and one-half (21 1/2) degrees West, eighty-one and ninety-three one hundredths (81.93) perches to said public road leading to Abbottstown; thence along the center of said public road North sixty-eight and one-half (68 1/2) degrees East, fifty-two (52) perches to a stone in the center of said road; thence further along the center of said public road North sixty-nine and one-half (69 1/2) degrees East, one hundred three and four tenths (103.4) perches to the place of BEGINNING. CONTAINING seventy-two (72) acres and four and one half (4 1/2) perches, more or less.

IT BEING the same tract of land which Maurice J. Roche, and Mary A. Roche, his wife, by deed dated June 10, 1987, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 459, page 500, granted and conveyed unto Jeffery A. Roche a/k/a Jeffery A. Roche and

Mary Kay Roche, his wife, Grantors herein.

The above tract LESS, HOWEVER, the following two (2) smaller tracts of land; (1) A .459 Acre tract of land which Maurice D. Roche and Lelia L. Roche, his wife, by their deed dated May 6, 1961, and recorded in the office of the Recorder of Deeds in and for Adams County, Pennsylvania, Deed Book 232, page 326, granted and conveyed unto Charles H. Roche and Ethel Mae Roche, his wife; and (2) A .459 Acre tract of land which Maurice D. Roche and Lelia L. Roche, his wife, by their Deed dated May 6, 1961, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 232, page 328, granted and conveyed unto Ralph E. Hankey and Mary Agnes Hankey, his wife.

SEIZED and taken into execution as the property of **Jeffrey Allan Roche and Mary Kay Roche** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
August 27, 1997.

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 November 10, 1997, 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.

9/12, 19, 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-641 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 1997, 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 the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a post along the South side of an alley at corner of land now or formerly of Arch Reed; thence by the South side of said alley North 89 1/2 degrees East, 242.5 feet to an iron pin at the Southwest corner of the intersection of said alley and a 20 foot public alley; thence along the West side of the said last mentioned public alley South 24 1/2 degrees East, 61 feet to an iron pin along the West side of said last mentioned 20 foot public alley; thence along the West side of land now or formerly of Romayne Blocher South 3 degrees West, 329.5 feet to an iron pin at land now or formerly of Arch Reed; thence by land now or formerly of Arch Reed North 89 1/2 degrees West, 275 feet to an iron pin; thence by land now or formerly of Arch Reed North 3 degrees East, 386 feet to a post, the place of BEGINNING.

CONTAINING 2 acres, 66 perches and 14 square feet.

THE above description was taken from a draft of survey made August 27, 1947 by P. S. Orner, Registered Surveyor.

BEING Tax Parcel #1-2.

TITLE TO SAID PREMISES IS VESTED IN William L. Cullison, Jr. and Tammy L. Cullison, his wife, by Deed from Wilmer R. Shreve, Sr. and Louise A. Shreve, his wife, dated 7/14/95 recorded 7/17/95 in Record Book 1055 page 145.

SEIZED and taken into execution as the property of **WILLIAM L. CULLISON, JR. AND TAMMY L. CULLISON** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
September 16, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 8, 1997, 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.

9/26 & 10/3, 10

ROSENBERY, ADMINISTRATOR VS.
DOMINGUEZ, ET AL.

When a non-moving party must adduce sufficient evidence on an issue essential to his case and on which he bears the burden of proof such that a jury could return a verdict in his favor and he fails to do so, there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 95-S-745, ROBERT M. ROSENBERY, ADMINISTRATOR OF THE ESTATE OF TROY A. ROSENBERY, DECEASED VS. CARMELO DOMINGUEZ, JR., DENNY H. MCCULLOUGH AND GARY SPENCER MCCULLOUGH.

Mark David Frankel, Esq., for Plaintiff
Scott A. Freeland, Esq., for Defendant Dominguez
Jeffrey B. Rettig, Esq., for Defendant McCullough

OPINION ON MOTION FOR SUMMARY JUDGMENT
FILED BY DEFENDANT, CARMELO DOMINGUEZ JR.

Kuhn, November 1, 1996.

This case arises out of a fatal vehicular accident. The Complaint alleges that at about 6:13 p.m. on December 12, 1994, Decedent, Troy A. Rosenberry, was operating a 1984 Toyota pickup truck northbound on U.S. Rt. 15. The pickup truck was owned by Defendant, Carmelo Dominguez, Jr. At the same time a tractor-trailer unit operated by Defendant, Gary Spencer McCullough, and owned by Defendant, Denny H. McCullough, was traveling southbound on the same highway. It is alleged that the Toyota went off the east berm of the roadway, came back across the northbound lanes, rolled, crossed the median strip, entered the southbound lane, was struck by the McCullough vehicle, pushed back into the median strip and landed on top of Decedent who had been ejected from the vehicle.

Plaintiff's allegation of negligence against Dominguez was stated as follows:

18. Defendant Carmelo Dominguez, Jr. negligently permitted Decedent to use his 1984 Toyota pickup truck which was in dangerous condition. Said dangerous condition consisted of, but was not limited to, the following:

- a) Being in worn and rusted condition;
- b) Having a faulty steering mechanism;

- c) Having rusted, inferior, defective, or damaged front axle and/or tie rod(s) which could cause the operator of said vehicle to lose control over the steering and direction of the vehicle.

McCulloughs in New Matter averred Decedent's negligence and cross claimed against Dominguez. The latter, in turn, cross claimed against the McCulloughs.

During discovery expert reports were exchanged. By report dated October 4, 1995, Plaintiff's expert, Steven W. Rickard, noted that U.S. Rt. 15 is a four lane highway with the two northbound and two southbound lanes being divided by a grass median 20 feet wide. Each lane is 12 feet wide. Berms are 8 feet wide asphalt strips. At the site of the accident the roadway is straight with each operator having visibility of at least 1000 feet. The posted speed limit is 55 m.p.h. At the time of the accident it was dark but the road surface was dry and there were no adverse weather conditions. The speed of Decedent's vehicle is unknown. Evidence revealed that "for unknown reasons" Decedent's vehicle left the roadway and traveled along the east berm for 172 feet, it re-entered the northbound lanes leaving yaw marks of 109 feet, it rolled over before entering the grass median, Decedent was ejected, and the vehicle traveled 90 feet from rollover to impact with the McCullough vehicle. The entire initial Rickard report focused on McCullough's alleged negligence.

In a subsequent report dated July 10, 1996, Rickard focused on Dominguez' alleged negligence. He reported that a modified (meaning body lift, suspension lift and/or oversized tires) Toyota pickup experiences two problems affecting handling and steering, specifically, steering linking misadjustment and the continued use of the stock short drag link. He states that the

"effect of these two problems will result in the driver needing to continually correct for 'drift.' Failure to recognize this need or being unfamiliar with the technique may require the inexperienced operator to drift off the main traveled portion of the roadway and 'over-correct' in an attempt to bring the vehicle back onto the roadway. (emphasis added).

Mr. Rickard then rendered the following opinion.

Within the bounds of reasonable scientific and engineering certainty, as well as my education, background and experience; it is my professional opinion that the owner of

the vehicle that Todd [sic] A. Rosenberry was permitted to operate failed to:

1. Provide proper instruction and guidance to an operator unfamiliar with the handling characteristics of a vehicle that had modifications. These modifications, as evident in the photographs taken of the vehicle at the accident site, adversely affected the handling, steering and braking capabilities of the vehicle the deceased was operating.

McCullough's expert is James C. Druecker, P.E., who in a report dated June 24, 1996, states,

There is no evidence as to the cause of the loss-of-control of the pickup that Mr. Rosenberry was operating, leaving driver error as the probable and likely cause.

On July 9, 1996, Dominguez filed his Motion For Summary Judgment.

Pa. Rule C.P. 1035.2(2) allows a court to enter summary judgment

if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

Therefore, when a non-moving party must adduce sufficient evidence on an issue essential to his case and on which he bears the burden of proof such that a jury could return a verdict in his favor and he fails to do so there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Ertel v. Patriot-News Company*, ___ Pa. ___, ___, 674 A.2d 1038, 1042 (1996).

In this case Plaintiff has the burden of establishing Dominguez' negligence and that his negligence was a substantial factor in causing the accident. There is no information to establish negligence in the record before the court except what appears in the pleadings and the experts' reports.

As noted above, Plaintiff has alleged Dominguez' negligence as permitting Decedent to operate the vehicle in a dangerous condition. He alleges the rusted condition of the vehicle but his expert does not link the accident to that factor. He alleges a defective front axle or tie rod but his expert does not link the accident to that factor either. Mr. Rickard did generally discuss steering difficulties which may result

from modified Toyota pickups. However, the record does not reveal what modifications were made to this vehicle or that those modifications did, in fact, affect the steering of this vehicle. More importantly, he alleges Dominguez' fault in not properly instructing an "operator unfamiliar" with the handling characteristics of a vehicle with modifications. Plaintiff's complaint does not allege that Dominguez' negligence was in failing to instruct but rather in permitting Decedent to drive a vehicle with certain alleged defects. Furthermore, there is nothing in the record to suggest that Decedent was "unfamiliar" with these steering characteristics.

The issues before the Court involving the cause of this accident are beyond the knowledge and experience of the average person and will require expert testimony. From the record presented it is just as likely that Decedent momentarily fell asleep and lost control as that defects in steering caused the accident.

One must recall that Mr. Rickard's first report stated that Decedent's vehicle left the roadway "for unknown reasons." His second report said that drivers of Toyota trucks with the modifications mentioned must "continually" correct for "drift." There is no evidence that the vehicle drifted before this accident or that Decedent had to make any adjustment. His second report also stated that failing to recognize the need to adjust for the drift or "being unfamiliar with the technique may require" inexperienced operators to run off the road. The word "may" does not reflect the degree of certainty required of an expert to establish causation.

Although this accident had tragic results and even though Plaintiff's theory may, in fact, be correct, it involves no more than speculation at this point and would be insufficient to submit to a jury.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 1st day of November, 1996, the Motion for Summary Judgment filed by Defendant, Carmelo Dominguez, Jr., is granted and he is dismissed from this case.

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Registrar 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. 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 PEGGY N. FIORELLO, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executor: Robert E. Pate
Attorney: Robert Clofine, Esquire, One West Marketway, York, PA, 17401-1231

ESTATE OF RUTH MARIE RIPKA, DEC'D
Late of Germany Township, Adams County, Pennsylvania
Executrices: Phyllis D. Waltz; Barbara M. Comitz; Joan A. Golaszewski; and Janet C. Cantler
Attorney: Douglas H. Gent, Esquire, Hanover Station, 1157 Eichelberger Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF LLOYD T. BORTNER, DEC'D
Late of Union Township, Adams County, Pennsylvania
Executors: Lloyd T. Bortner, Jr., 25 Woodcrest Circle, Littlestown, PA 17340; Susan E. Rosensteel, 879 Herr's Ridge Road, Gettysburg, PA 17325
Attorney: James T. Yingst, Esquire, Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF JOHN W. MOSER, SR. a/k/a JOHN W. MOSER, DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania
Executrix: Dixie M. Vivaldi, 98 Walker Avenue, Gettysburg, PA 17325
Attorney: Audrey E. Woloshin

ESTATE OF ERSA F. SIX, DEC'D
Late of the Borough of Littlestown, Adams County, Pennsylvania
Executor: Roger L. Stair, 1086 Sell Station Road, Littlestown, PA 17340
Attorney: Donald W. Dorr, Esquire, 126 Carlisle Street, Hanover, PA 17331

ESTATE OF MARIAN S. SMITH, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Executrix: Leslie Ann Deardorff, 366 Carrolls Tract Road, Fairfield, PA 17320
Attorney: John C. Zepp, III, Esquire, P. O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF JOSEPH P. STAUB, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
Executors: Thomas J. Staub, 403 Delone Avenue, McSherrystown, PA 17344; Joseph A. Staub, 627 Cricket Lane, McSherrystown, PA 17344
Attorney: Keith R. Nonemaker, Esquire, Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF CALVIN H. BOBO, DEC'D
Late of the Borough of York Springs, Adams County, Pennsylvania
Executrices: Eula E. Borrer, 2258 Brougher Lane, York, PA 17404; D. Laurene Tate, 1653 Baltimore Pike, RD#1, Dillsburg, PA 17019
Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-732 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of November, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a PK nail located in the center line of Legislative Route 01006, said PK nail also located North 5 degrees 7 minutes 48 seconds East, 185 feet from a railroad spike in the center of the intersection of Legislative Route 01006 and Legislative Route 01007; thence by land now or formerly of Philip D. Fazenbaker and wife and running through an iron pin located 30 feet from the beginning of this line, South 83 degrees 7 minutes 48 seconds West, 253.48 feet to an iron pin; thence by same North 22 degrees 27 minutes 28 seconds West, 108.41 feet to an iron pin; thence by same and running through an iron pin located 30 feet from the end of this line, North 59 degrees 7 minutes 48 seconds East, 368.53 feet to a PK nail located in the center of the aforementioned Legislative Route 01006; thence along the center line of said Legislative Route 01006, South 5 degrees 7 minutes 48 seconds West, 260 feet to a PK nail, the place of BEGINNING. CONTAINING 1.194 acres.

THE above description was taken from a subdivision plan prepared by Kenneth C. Quigley, dated March 16, 1976.

TAX PARCEL #F-10-20

SEIZED and taken into execution as the property of **Thomas W. Alberts and Barbara A. Alberts** and to be sold by me
Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
September 12, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 8, 1997, 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.

9/26 & 10/3, 10

FICTITIOUS NAME

NOTICE IS HEREBY GIVEN that Application for Registration of Fictitious Name was filed under the Fictitious Name Act of 1982-295 (54 PA. C.S. Sec. 311) in the Office of the Secretary of the Commonwealth of Pennsylvania on August 11, 1997 for THE ELK HORN INN, 101 South Main Street, P.O. Box 395, Bendersville, PA 17306.

Daniel F. Wolfson, Esquire
Wolfson & Associates, P.C.
Solicitor

9/26

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State, Commonwealth of Pennsylvania in Harrisburg, Pennsylvania on the 4th day of April, 1997 for the purpose of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the Business Corporation Law of the Commonwealth of Pennsylvania, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is MAY BELLE, INC. The location and post office address of its initial registered office is 101 South Main Street., P.O. Box 395, Bendersville, PA 17306.

The purpose or purposes for which the said corporation is organized is to have unlimited power to engage in and to do any lawful act concerning any or all lawful business for which corporations may be incorporated under the Pennsylvania Business Corporation Law, the law under which this corporation is incorporated.

Wolfson & Associates, P.C.
267 East Market Street
York, PA 17403

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-704 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 24th day of October, 1997, 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 Union Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of Legislative Route 01029 (Bollinger Road) at corner of land now or formerly of O. Strickler; thence by said land of O. Stricker, and passing through a steel pin set back 42.80 feet from the last mentioned point, South 22 degrees 29 minutes 48 seconds West, 529.29 feet to a steel pin at corner of other land now or formerly of Robert E. Glass, North 78 degrees 55 minutes 43 seconds West, 305.94 feet to a steel pin; thence by the same, and passing through a steel pin set back 27.4 feet from the next mentioned point, North 03 degrees 39 minutes 06 seconds West, 256.86 feet to a point in the center of Legislative Route 01029 aforesaid; thence in said center of Legislative Route 01029, North 71 degrees 28 minutes 39 seconds East, 547.48 feet to a point the place of BEGINNING. CONTAINING 3.3820 acres.

BEING the same which Lawrence V. Young, United States Bankruptcy Trustee, for Ivan E. Arentz, Jr., and Brenda S. Arentz, by deed dated October 26, 1987, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 471 at page 1033, sold and conveyed to Gerald W. Davis and Laura L. Davis, his wife, the Defendants herein.

IMPROVED WITH a bi-level, single-family dwelling with attached two-car garage.

SEIZED and taken into execution as the property of **Gerald W. Davis and Laura L. Davis** and to be sold by me
Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
September 4, 1997.

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 November 17, 1997, 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.

9/19, 26 & 10/3

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-218 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of November, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate on the eastern side of Hillcrest Drive, in Butler Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a steel pin on the East side of Hillcrest Drive at lands now or formerly of Bernard F. Smith, Lot No. 4, as more particularly established on the subdivision plan hereinafter referred to; thence by lands of Bernard F. Smith, Lot No. 4, North 83 degrees 36 minutes 20 seconds East, 114.81 feet to a steel pin in or near the center of a stream; thence in and along said stream and by other lands now or formerly of Clair F. Ditzler and Marie R. Ditzler, South 27 degrees 16 minutes 5 seconds East, 100.89 feet to the center line of the top of a manhole cover at lands now or formerly of Ronald D. Godlove and Mary Ruth Godlove, Lot No. 6; thence by lands of Ronald D. Godlove and Mary Ruth Godlove, Lot No. 6, South 81 degrees 25 minutes 45 seconds West, 150.87 feet to a steel pin on the east side of Hillcrest Drive; thence along the east side of Hillcrest Drive, North 6 degrees 23 minutes 40 seconds West, 100 feet to a steel pin on the east side of Hillcrest Drive at lands now or formerly of Bernard F. Smith, Lot No. 4, the place of BEGINNING. CONTAINING 12,949 square feet.

THE foregoing description was taken from a draft of survey prepared by Richard W. Boyer, Professional Land Surveyor, dated September 29, 1987, as recorded in Adams County Plat Book 49 at page 71; reapproved on 10/14/92, recorded in Plat Book 61 at page 56, and identified thereon as Lot No. 5

KNOWN AS 10 HILLCREST DRIVE, BIGLERVILLE, PA.

BEING THE SAME PREMISES WHICH Terry L. Williams et al by deed dated December 22, 1995 and recorded in Adams County Deed Book 1130 Page 184 granted and conveyed unto Benjamin C. Lewis and Suzanne E. Lewis.

TO BE SOLD AS THE PROPERTY OF BENJAMIN C. LEWIS AND SUZANNE E. LEWIS UNDER ADAMS COUNTY JUDGEMENT NO. 97-S-218.

Parcel: 07-3-177

SEIZED and taken into execution as the property of **Benjamin C. Lewis and Suzanne E. Lewis** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
September 15, 1997.

TO ALL PARTIES IN INTEREST AND

CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 1, 1997, 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.

9/19, 26 & 10/3

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 July 11, 1997, for the purpose of obtaining a Certificate of Incorporation of a business corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is D & H MOTORS, INC.

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

D & H Motors, Inc.
2130 York Road
Gettysburg, PA 17325

9/26

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN, in compliance with Section 1971 of the Business Corporation Law of Pennsylvania, as amended, that TYRONE VILLAGE, INC., a Pennsylvania corporation having its registered office at 450 Spangler Road, New Oxford, Pennsylvania 17350, has filed Articles of Dissolution with the Department of State of the Commonwealth of Pennsylvania that its affairs are being wound up and its corporate existence will be terminated upon the issuance of a Certificate of Dissolution by the Department of State of the Commonwealth of Pennsylvania.

Rudisill, Guthrie, Nonemak
Guthrie & Ying
Solicitor

9/26