

# Adams County Legal Journal

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-767 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE two tracts of land situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

### TRACT NO. 1 (157 North Stratton Street)

BEGINNING at an iron pin on the East side of North Stratton Street at its intersection with a public alley adjoining lot now or formerly of B.W. Hummer, now of Adams Electric Cooperative, Inc., on the South; thence along said public alley, South 83° East, 160 feet, more or less, to an iron pin at another public alley in the rear; thence along said latter public alley, North 07° East, 18 feet to a point at corner of lot now or formerly of Verne Arndt; thence along said Arndt lot North 83° West, running through the center of a party wall in a double house on the Arndt lot and the lot hereby conveyed, 160 feet, more or less, to the East side of North Stratton Street; thence along said street, South 07° West, 18 feet to an iron pin at the place of BEGINNING.

### TRACT NO. 2 (159 North Stratton Street)

BEGINNING at a point on the Eastern side or property line of North Stratton Street, on line or at corner of lot now or formerly of Viola D. Weygandt; thence running through the center of the party wall standing on the line between the lot hereby conveyed and said Weygandt lot, South 83° East, 160 feet, more or less, to a point on the Western side of a public alley in the rear; thence by the Western side of said rear alley, North 7° East, 18 feet to an iron pin at corner of lot now or formerly of Emma Sharpe; thence by said last mentioned lot, North 83° West; 160 feet, more or less, to an iron pin on the Eastern side of property line of said North Stratton Street; thence by the Eastern side or property line of said street, South 7° degrees West, 18 feet to the above described place of BEGINNING.

HAVING THEREON ERECTED A DWELLING HOUSE KNOWN AS: 157 and 159 North Stratton Street, Gettysburg, PA 17325

BEING THE SAME PREMISES WHICH Cleameth H. Stull, by Deed dated 3/24/00 and recorded 3/27/00 in Adams County Deed Book 2019, Page 275, granted and conveyed unto Charles L. Duppins and Joan L. Duppins.

BEING IN EXECUTION AS THE PROPERTY OF CHARLES L. DUPPINS and JOAN L. DUPPINS UNDER ADAMS COUNTY JUDGMENT NO. 07-S-767

MAP & PARCEL 16-7-134 AND 16-7-134.01

SEIZED and taken into execution as the property of **Charles L. Duppins & Joan L. Duppins** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/5, 12 & 19

## LEGAL NOTICE

NOTICE IS HEREBY GIVEN that Stephen R. Maitland, Esq., intends to apply in open Court for admission to the Bar of Adams County on the 15th day of November, 2007, and that he intends to practice law as an attorney at 511 Russell Tavern Road, Gettysburg, Adams County, Pennsylvania.

9/28, 10/5 & 12

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on September 10, 2007, for the purpose of obtaining a Certificate of Incorporation organized under the provisions of the Pennsylvania Business Corporation Law, approved December 21, 1988, P.L. 1444, as amended. The name of the corporation is DYNAMIC COACHING SYSTEMS, INC. The purpose or purposes for which the corporation is incorporated is that the corporation shall have unlimited power to engage in and do any lawful act concerning any or all lawful business for which corporations may be incorporated under said Business Corporation Law.

Pyle and Entwistle  
Attorneys for the Corporation

10/5

## CERTIFICATE OF ORGANIZATION

NOTICE IS HEREBY GIVEN that a Certificate of Organization - Domestic Limited Liability Company was filed with the Commonwealth of Pennsylvania, Department of State, in Harrisburg, Pennsylvania, on August 27, 2007, under the provisions of the Pennsylvania Limited Liability Company Law of 1994 as amended.

The name of the Limited Liability Company is EAGLE GOLF PROMOTIONS, LLC.

Eagle Golf Promotions, LLC has as its purpose the engaging in all lawful business for which limited liability companies may be organized.

Becker & Strausbaugh, P.C.  
Scott J. Strausbaugh, Esq.  
Attorney for Eagle Golf Promotions, LLC  
10/5

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-682 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of October, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for the Northwest corner hereof at a railroad spike found near the center of Township Road T-588 (Ground Oak Church Road) at corner of land now or formerly of Samuel J. Bricker; thence by said land of Bricker, South 64 degrees 55 minutes 39 seconds East, 140.70 feet to a concrete monument set at an iron pipe found at the Northeast corner hereof, which pipe is located at the Northwest corner of land now or formerly of Robbie Lynn Barrick; thence by said land of Barrick, by land now or formerly of Katherine A. Riley and running through an iron pipe found 146.94 feet from the end of this course, South 18 degrees 12 minutes 20 seconds West, 325.81 feet to a steel pin set at the Northeast corner of Lot No. 2 on the plan of lots heretobelow identified; thence by said Lot No. 2 and running through a steel pin set 25.00 feet from the end of this course, North 64 degrees 54 minutes 24 seconds West, 179.76 feet to a railroad spike set in or near the center of aforementioned Township Road T-588; thence in said road, North 25 degrees 05 minutes 36 seconds East, 323.40 feet to the above-described place of BEGINNING. CONTAINING 1.190 Acres.

TITLE TO SAID PREMISES IS VESTED IN Clifford B. King, Jr. and Jennifer L. King, husband and wife, as tenants of an estate by the entireties, by Deed from Jennifer L. Hayes, now Jennifer L. King and Clifford B. King, Jr., her husband, dated 06/20/2004, recorded 06/30/2004, in Deed Book 3624, page 81.

Premises being: 75 Ground Oak Church Road, Gardners, PA 17324

Tax Parcel No. 01-22-G05-0014-B0-0000

SEIZED and taken into execution as the property of **Clifford B. King, Jr. & Jennifer L. King** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 16, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

9/21, 28 & 10/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-660 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of October, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an iron pin at the intersection of Fourth Street and a public alley; thence by said Fourth Street South 3-1/2 degrees West, 120 feet to an iron pin; thence by land now or formerly of Joe Boyer, South 86-1/2 degrees East, 35 feet to a stake; thence by land now or formerly of C.H. Musselman, North 64 degrees West to an iron pin 161.7 feet; thence by land now or formerly of the Adams County Packing Co., North 69.7 feet North 3-1/2 degrees East to an iron pin; thence by a public alley, South 87-3/4 degrees East, 155 feet to the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Frank Alvarado and Kimberly Alvarado, husband and wife, as tenants

by an estate by the entireties, by Deed from Jeanne L. Motter and Kenneth I. Bream, Co-Executors of the Estate of Fred W. Bream, dated 07/30/2001, recorded 08/09/2001, in Deed Book 2368, page 106.

Premises being: 101 4th Street, Biglerville, PA 17307

Tax Parcel No. 05-06-0001

SEIZED and taken into execution as the property of **Frank Alvarado & Kimberly Alvarado a/k/a Kimberly K. Alvarado** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 16, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

9/21, 28 & 10/5

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on September 13, 2007, for the purposes of obtaining a Certificate of Incorporation of a Pennsylvania nonprofit corporation to be organized under the provisions of the Pennsylvania Nonprofit Corporation Law of 1988.

The name of the corporation is BUTCHER BLOCK MEAT MARKET, INC. The purpose of the corporation is the operation of a meat and seafood market.

Puhl, Eastman & Thrasher  
Attorneys

10/5

## COMMONWEALTH VS. BOB

1. When raising a PCRA claim of ineffective counsel, the law presumes that counsel is effective and the burden of proving otherwise rests with the petitioner by a preponderance of the evidence.

2. In order to establish a claim of ineffective assistance of counsel, the petitioner must prove that (1) the underlying claim has substantive merit; (2) that counsel did not have a reasonable basis for his or her actions or failure to act; and (3) that the petitioner suffered prejudice as a result of counsel's deficient performance.

3. The courts do not employ a hindsight evaluation of the record in determining whether counsel acted reasonably. Instead, counsel will be deemed to be effective so long as the course chosen had some reasonable basis designed to effectuate the client's interests.

4. One is entitled to PCRA relief if ineffective assistance of counsel caused him to enter an involuntary plea. Whether the plea is voluntary under those circumstances is dependent upon counsel's advice being within the range of competence demanded of attorneys in criminal cases.

5. The burden is upon the petitioner by a preponderance of the evidence to identify acts or omissions made by counsel that cannot be considered the result of reasonable professional judgment. An attorney's judgment must be reviewed from counsel's perspective at the time and should not be second-guessed if it falls within the realm of professional reasonableness. A chosen strategy will not be found to have lacked a reasonable basis unless it is proven that an alternative not chosen offered a potential for success substantially greater than the course actually pursued.

6. A single criminal episode exists where a number of charges are logically and/or temporally related and share common issues of law and fact.

7. A determination of whether offenses are based on the same criminal episode cannot be made by merely cataloguing simple factual similarities or differences between the various offenses with which the defendant was charged.

8. A former prosecution in one county will not bar a subsequent prosecution in another county where they are not based on the same criminal episode.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, Nos. CR-833-2004, CR-255-2005, CR-256-2005, CR-257-2005, CR-258-2005, COMMONWEALTH VS. GARY MAURICE BOB.

Brian Sinnett, Esq., Asst. District Attorney, for Commonwealth

Thomas Nell, Esq., for Defendant

Kuhn, P.J., October 3, 2006

### OPINION PURSUANT TO DEFENDANT'S PCRA PETITION

Before the Court for disposition is Defendant's Petition for Post-Conviction Relief (PCRA) filed May 12, 2006. For reasons set forth herein, the Petition is denied.

## FACTUAL AND PROCEDURAL BACKGROUND

Defendant was charged with a series of burglaries which allegedly occurred in Adams County and York County between April 29, 2004 and May 26, 2004.

On August 4, 2004, a criminal complaint was filed by the Pennsylvania State Police against Defendant in Adams County (CP-01-CR-833-2004) charging him with five counts of burglary and one count of criminal attempt for events that transpired on May 23, 2004 in Adams County.<sup>1</sup>

On October 23, 2004, a criminal complaint was filed by Hanover Borough Police Department against Defendant in York County (CP-67-CR-5020-2004) charging him with a series of burglaries and related charges for events that transpired from April 29, 2004 through May 26, 2004 in Hanover, Pennsylvania.<sup>2</sup> On March 17, 2005, a jury trial was conducted in York County with the jury returning a not guilty verdict on all counts.

On December 8, 2004, a criminal complaint was filed by Penn Township Police Department against Defendant in York County (CP-67-CR-5895-2004) charging him with a burglary and related charges for an event that transpired on May 20, 2004 at the home of Thomas and Diane Ernst, 608 Norwood Avenue, Hanover, Pennsylvania when he was allegedly accompanied by Richard Hatfield. Defendant subsequently filed a criminal Rule 110 motion, on the basis of double

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<sup>1</sup>Defendant was charged with the following counts in the criminal information:  
Count (1) Burglary – of the residence of Kathleen Luckenbaugh and Audrey Luckenbaugh at 4650 York Road, New Oxford, Pennsylvania.  
Count (2) Criminal attempt – an attempt to commit burglary of the residence of Michael Hertz at 4649 York Road, New Oxford, Pennsylvania.  
Count (3) Burglary – of Hyson’s Auto Sales at 1705 B Hanover Pike, Littlestown, Pennsylvania.  
Count (4) Burglary – of Breighner’s Tire and Auto at 1705 Hanover Pike, Littlestown, Pennsylvania.  
Count (5) Burglary – of Staub’s Garage at 25 Locust Street in the Borough of Bonneauville, Pennsylvania.  
Count (6) Burglary – of Klein’s Auto Salvage at 3640 York Road, New Oxford, Pennsylvania.

On each occasion, Defendant was accompanied by Richard Hatfield.

<sup>2</sup>Defendant allegedly was accompanied by Richard Hatfield in burglarizing the residences of Judith Raffel at 11 Meade Avenue, Roxanne Bream at 221 Meade Avenue, Brian Heltebridle at 315 Second Avenue, Carolyn Tomas at 319 Second Avenue, and Anita, Greg, Jeffrey, and Anthony Livelsberger at 220 Meade Avenue.

jeopardy, to dismiss the charges against him in No. 5895. On April 27, 2005, the motion was granted by the Honorable John H. Chronister of York County.<sup>3</sup>

On February 23, 2005, criminal complaints were filed by Officer Reichert of the Eastern Adams Regional Police Department against Defendant in Adams County charging him with theft from a motor vehicle in CR-255-2005 during the overnight of May 19-20, 2004<sup>4</sup> and a series of burglaries on May 23, 2004 in which he was accompanied by Richard Hatfield in CR-256-2005,<sup>5</sup> CR-257-2005,<sup>6</sup> and CR-258-2005.<sup>7</sup>

On May 16, 2005, Adams County cases Nos. 833, 255, 256, 257, and 258 were consolidated for purposes of trial.

On August 8, 2005, Defendant appeared before the undersigned and entered pleas of guilty to the following charges:

Case: CP-01-CR-833-2004

- Count (1) Burglary – 18 Pa. C.S.A. § 3502(a)
- Count (2) Criminal attempt to commit burglary –  
18 Pa. C.S.A. § 901(a)
- Count (3) Burglary - 18 Pa. C.S.A. § 3502(a)
- Count (4) Burglary - 18 Pa. C.S.A. § 3502(a)
- Count (5) Burglary - 18 Pa. C.S.A. § 3502(a)
- Count (6) Burglary - 18 Pa. C.S.A. § 3502(a)

Case: CP-01-CR-255-2005

- Count (1) Theft from a motor vehicle –  
18 Pa. C.S.A. § 3934(a)

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<sup>3</sup> Judge Chronister's Order is not specific but can easily be interpreted as concluding that the York County District Attorney should have included the charges at No. 5895 with the charges at No. 5020 for trial on March 17, 2005 because they all involved alleged burglaries that Defendant committed in the Borough of Hanover with Richard Hatfield between April 29, 2004 and May 26, 2004.

<sup>4</sup> Defendant was charged with the following count in the criminal information:  
Count (1) Theft from a motor vehicle – belonging to Brandye Berryhill at 1205 Peters Street, New Oxford, Pennsylvania.

<sup>5</sup> Involving the residence of Jeanne Brady and David Smith, Jr. at 4918 York Road, New Oxford, Pennsylvania.

<sup>6</sup> Involving the residence of Anthony and Rebecca Smith at 107 South Water Street, New Oxford, Pennsylvania.

<sup>7</sup> Involving the residence of Loretta Wentz at 79 Heritage Court, New Oxford, Pennsylvania.

Case: CP-01-CR-256-2005

Count (1) Burglary - 18 Pa. C.S.A. § 3502(a)

Count (2) Criminal conspiracy to commit burglary –  
18 Pa. C.S.A. § 903(a)(1)

Case: CP-01-CR-257-2005

Count (1) Burglary – 18 Pa. C.S.A. § 3502(a)

Count (2) Criminal conspiracy to commit burglary –  
18 Pa. C.S.A. § 903(a)(1)

Case: CP-01-CR-258-2005

Count (1) Burglary – 18 Pa. C.S.A. § 3502(a)

Count (2) Criminal conspiracy to commit burglary –  
18 Pa. C.S.A. § 903(a)(1)

Sentences in each case were entered pursuant to a plea agreement.

On May 12, 2006, Defendant filed a PCRA Petition<sup>8</sup> wherein he alleges that he entered an involuntary plea because his counsel provided ineffective assistance by not filing a motion to dismiss his Adams County charges based on double jeopardy grounds. A conference was held on May 26, 2006 where it was determined that prior to scheduling a hearing on counsel's effectiveness, the Court would determine whether there is legal merit to Defendant's claim, assuming Defendant's allegations to be true. Briefs in support of and in opposition to the Petition were subsequently filed by both parties.<sup>9</sup>

#### DISCUSSION

To be eligible for PCRA relief, the petitioner must plead and prove that his conviction and sentence resulted from one of the enumerated factors. Here, Defendant claims he is entitled to relief because of ineffective assistance of counsel which, in the circumstances of this particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place. 42 Pa. C.S.A. § 9543(a)(2)(ii). When raising a PCRA claim of ineffective counsel, the law presumes that counsel is effective and the burden of proving otherwise rests with the petitioner by a preponderance of the evidence. In order to establish a claim of

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<sup>8</sup> Defendant filed a PCRA Petition *pro se* on February 14, 2006. Defendant filed the present PCRA Petition through his attorney, Thomas R. Nell, Esquire.

<sup>9</sup> Defendant filed its brief on June 26, 2006 and the Commonwealth filed its brief on July 12, 2006.

ineffective assistance of counsel, the petitioner must prove that (1) the underlying claim has substantive merit; (2) that counsel did not have a reasonable basis for his or her actions or failure to act; and (3) that the petitioner suffered prejudice as a result of counsel's deficient performance. *Commonwealth v. Zook*, 887 A.2d 1218, 1229 (Pa. 2005). The courts do not employ a hindsight evaluation of the record in determining whether counsel acted reasonably. Instead, counsel will be deemed to be effective so long as the course chosen had some reasonable basis designed to effectuate the client's interests. *Id.*

One is entitled to PCRA relief if ineffective assistance of counsel caused him to enter an involuntary plea. Whether the plea is voluntary under those circumstances is dependent upon counsel's advice being within the range of competence demanded of attorneys in criminal cases. *Commonwealth v. Johnson*, 868 A.2d 1278, 1281 (Pa. Super. 2005). The burden is upon the petitioner by a preponderance of the evidence to identify acts or omissions made by counsel that cannot be considered the result of reasonable professional judgment. Thus, counsel's performance is based on what was reasonable under the circumstances. An attorney's judgment must be reviewed from counsel's perspective at the time and should not be second-guessed if it falls within the realm of professional reasonableness. *Commonwealth v. McClellan*, 887 A.2d 291, 300 (Pa. Super. 2005). A chosen strategy will not be found to have lacked a reasonable basis unless it is proven that an alternative not chosen offered a potential for success substantially greater than the course actually pursued. *Commonwealth v. Williams*, 899 A.2d 1060, 1064 (Pa. 2006).

A former prosecution will only bar a subsequent prosecution if (1) the former prosecution resulted in an acquittal or in a conviction; (2) the subsequent prosecution is based on the same criminal conduct or arose from the same criminal episode as the former prosecution; (3) the prosecutor was aware of the subsequent charges before the commencement of the trials on the former charges; and (4) the subsequent and former charges occurred within the same judicial district.<sup>10</sup> 18 Pa. C.S.A. § 110(1)(ii). By requiring compulsory joinder of all charges arising from the same criminal episode, a defendant need

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<sup>10</sup> Prior to 2002, the fourth requirement of 18 C.S.A. § 110(1)(ii) stated "all charges were within the jurisdiction of a single court." However, in 2002, the General Assembly amended § 110(1)(ii) to read in its present form. "This new language

(Footnote 10 continued to next page)

only once “run the gauntlet” and confront the “awesome resources of the state.” *Commonwealth v. Hude*, 458 A.2d 177, 180 (Pa. 1983).

A “single criminal episode”<sup>11</sup> exists “where a number of charges are logically<sup>12</sup> and/or temporally related and share common issues of law and fact.” *Hude*, 458 A.2d at 183. The term “single criminal episode” should not be interpreted “from a hypertechanical and rigid perspective which defeats the purpose for which it was created.” *Id.* However, this interpretation should be balanced against allowing defendants a “volume discount” on multiple crimes. *Nolan*, 855 A.2d at 839.

Moreover, a determination of whether offenses are based on the same criminal episode cannot be made “by merely cataloguing simple factual similarities or differences between the various offenses with which the defendant was charged.” *Id.* In addition, the purpose and rationale of 18 Pa. C.S.A. § 110 must also be considered. Section 110 was designed to serve two distinct policy considerations: (1) to protect an individual accused of crimes from governmental harassment by being forced to undergo successive trials for offenses arising from the same criminal episode and (2) to ensure judicial economy without unduly burdening the judicial process by repetitious litigation. *Hude*, 458 A.2d at 180.

A former prosecution in one county will not bar a subsequent prosecution in another county when they are not based on the same criminal episode. In *Commonwealth v. Hockenbury*, 701 A.2d 1334, 1336 (Pa. 1997), the defendant was charged with receiving stolen

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(Footnote 10 continued from previous page)

requires that a case must originate in the same judicial district and be further-prosecuted, based upon events from the same criminal episode, in the same judicial district.” *Commonwealth v. Nolan*, 885 A.2d 834, 839 (Pa. 2004).

In *Nolan*, the Pennsylvania Supreme Court found that the defendant would not have met the fourth requirement of the amended § 110(1)(ii) because he was charged with crimes in Lackawanna County and Luzerne County, two counties not in the same judicial district. *Id.*

<sup>11</sup> This Court notes that caselaw appears to be using the terms “same criminal episode” and “single criminal episode” interchangeably. To ensure for proper citation, this Court will cite the term as it is stated in the cited authority.

<sup>12</sup> To determine if charges are logically related, the court must be aware “that a mere de minimis duplication of factual and legal issues is insufficient to establish a logical relationship between the offenses. Rather what is required is a substantial duplication of issues of law and fact. *Commonwealth v. Hockenbury*, 701 A.2d 1334, 1337 (Pa. 1997).



property in Lycoming County on April 14, 1992 and was also charged with receiving stolen jewelry in Dauphin County on August 26, 1992. On January 5, 1993, the defendant entered a guilty plea to the charge in Dauphin County. *Id.* On January 12, 1993, the defendant filed a motion to dismiss the Lycoming County charge, arguing that charge constituted a second prosecution for the same offense charged in Dauphin County. *Id.* The court held that 18 Pa. C.S.A. § 110(1)(ii) did not bar the Lycoming County prosecution because the two prosecutions were not based on the “same criminal episode.” *Id.* at 1337. In support, the court reasoned that the two prosecutions were not linked by time or location and involved entirely different property possessed in different counties.<sup>13</sup> *Id.* at 1337.

In this case, the issue is whether Defendant’s claim that his counsel provided ineffective assistance by not filing a motion to dismiss on double jeopardy grounds in Adams County has substantive merit. Defendant argues that his claim has merit because it fulfills the requirements of 18 Pa. C.S.A. § 110(1)(ii).<sup>14</sup> The Commonwealth counters that Defendant’s claim lacks merit because the charges against him in Adams County and York County do not involve the same criminal episode and did not occur within the same judicial district.<sup>15</sup>

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<sup>13</sup> Although not cited as a basis for its reasoning, the two prosecutions involved different victims in each county as well. *Id.* at 1336.

<sup>14</sup> Specifically, Defendant contends that the first and third requirements of 18 Pa. C.S.A. § 110(1)(ii) have been clearly met. Defendant argues that pursuant to *Commonwealth v. McPhail*, 692 A.2d 139 (Pa. 1997), all courts of common pleas have state wide jurisdiction in cases arising under the crimes code. Defendant also maintains that all of the Adams County cases occurred within the time period of April 29, 2004 and May 26, 2004, as the alleged burglaries in York County. Since York County dismissed other charges against Defendant on double jeopardy grounds, he argues that Adams County should follow the York County precedent and dismiss the charges against him.

Moreover, while the Commonwealth may argue that failure to move for consolidation waived any issue regarding double jeopardy, Defendant contends that he would not have taken a plea if his plea attorney had filed a motion to dismiss based on double jeopardy grounds and had not informed him that his only option was to take a plea and that he could argue the double jeopardy issue later.

<sup>15</sup> Specifically, the Commonwealth argues that Defendant’s conduct shows that he committed different crimes in different counties and that it was the result of separate and distinct criminal episodes. Furthermore, the Commonwealth asserts that Defendant was accused of different charges in each county for stealing different items from the various properties and that he committed crimes against different victims in each county that were not logically related. Consequently, the

(Footnote 15 continued to next page)

Because the Commonwealth conceded that the first and third parts of the § 110(1)(ii) analysis are not at issue, Commonwealth's brief, at 2., our analysis will pertain only to whether the charges against Defendant in Adams County and York County involve the same criminal episode and occurred within the same judicial district.

Here, Defendant was charged with numerous offenses related to his alleged burglaries against several victims in York County in No. 5020 and was found not guilty on all counts by a jury on March 17, 2005. On April 27, Judge Chronister granted Defendant a dismissal of the charges at No. 5895 on double jeopardy grounds because the requirements of 18 Pa. C.S.A. 110(1)(ii) were met in light of the not guilty verdict in No. 5020 and because of the lack of any other independent evidence to the contrary from the Commonwealth. However, Judge Chronister's ruling is not dispositive of the issue before this Court because in No. 5895 he was addressing a burglary in Hanover, York County, which occurred during the same time as the other Hanover burglaries in No. 5020.

In No. 5020, Defendant was charged with burglary and related charges involving five York County residences from April 29, 2004 to May 26, 2004. In No. 833, Defendant was charged with five counts of burglary and related charges involving a residence and several automobile stores within Adams County on May 23, 2004. Moreover, Defendant was charged with theft from a motor vehicle on May 19-20, 2004 in No. 255 and burglary and related offenses on May 23, 2004 in Nos. 255, 256, 257, and 258 within Adams County.

Clearly, York County No. 5020 and the Adams County cases involve Defendant committing separate crimes against different victims in different counties even though they may have been committed within the same general time frame. Therefore, Defendant's

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*(Footnote 15 continued from previous page)*

Commonwealth contends that the charges against Defendant should not be considered a single criminal episode because the charges are not logically or temporally related and the issues of law and fact are not substantially the same for each charge.

Furthermore, because Defendant was charged in separate and distinct criminal episodes within each judicial district, the Commonwealth argues that Defendant cannot rely on *Commonwealth v. McPhail*, a case whose holding was limited to cases involving a single criminal episode.

Lastly, the Commonwealth argues that Defendant never raised the double jeopardy issue before the Court and voluntarily pled guilty to the charges in Adams County after a thorough colloquy by the Court.

alleged crimes in Adams County and York County do not share common issues of fact and do not appear to be logically related.

Like the defendant in *Hockenbury* who was charged with receiving stolen property in two different counties, Defendant is charged with committing several crimes associated with a series of burglaries in Adams County and York County. Similarly, both defendants had different charges brought against them in each county for stealing different property, which had no relation to the charges filed in the other county. Furthermore, the crimes allegedly committed by both defendants involved different victims in each county. Consequently, just as the two prosecutions in *Hockenbury* were found not to be based on the same criminal episode, the prosecutions in Adams County and York County in this case were not based on the same criminal episode. Crimes committed in these two counties resemble what the court in *Nolan*, 855 A.2d at 840 referred to as a criminal enterprise rather than a criminal episode.

Moreover, when considering the purpose and rationale of 18 Pa. C.S.A. § 110 in determining whether the charges against Defendant in Adams County and York County involve the same criminal episode, this Court finds that because the charges against him in Adams County and York County were not logically related to each other and involved different facts, there is no fear of governmental harassment for him to undergo successive trials for offenses arising from the same criminal episode and no concern to ensure judicial economy.

Thus, for all of the reasons stated, the requirement that the York County prosecution and the Adams County prosecutions be based on the “same criminal episode” pursuant to 18 Pa. C.S.A. § 110(1)(ii) is not met here.

Next, this Court finds that the charges against Defendant did not occur within the same judicial district. The legislative change to § 110 enacted in 2002 which changed the requirement that the crimes occur within the jurisdiction of a single court to the requirement that they occur in the same judicial district is significant and dispositive. As laid out in the criminal complaints and criminal informations, Defendant was charged separately in Adams County and York County for the crimes allegedly committed in each judicial district. Just like the court in *Nolan* which found that the defendant would not

have satisfied the fourth requirement of the amended § 110(1)(ii) because he was charged with crimes committed in two separate judicial districts, Defendant does not satisfy the fourth requirement because he was charged separately with crimes committed in two separate judicial districts. Therefore, Defendant's contention that all crimes charged occurred within the same judicial district cannot stand.<sup>16</sup>

Defendant does not meet the second and fourth requirements of 18 Pa. C.S.A. § 110(1)(ii). Consequently, Defendant's claim that his counsel provided ineffective assistance by not filing a motion to dismiss on double jeopardy grounds does not have substantive merit and his PCRA Petition is therefore, denied.

Accordingly, the attached order is entered.

#### ORDER

AND NOW, this 3rd day of October, 2006, Defendant's Petition for Post-Conviction Relief is denied.

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<sup>16</sup> Defendant's reference to *McPhail* in support of his argument is not persuasive because the holding is limited to cases with charges arising from the same criminal episode (a situation we are not facing in this case) and because it was decided before 18 Pa. C.S.A. § 110(1)(ii) was amended in 2002.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-648 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of October, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Straban Township, Adams County, Pennsylvania, having an address of 2080 Old Harrisburg Road, bounded and described as follows:

BEGINNING at a point in the center of State Highway Route 15 leading from Gettysburg to Harrisburg at land now or formerly of Irvin W. Grace; thence along same North 58 degrees West 225 feet to an iron pin; thence along same North 32 degrees East 90 feet to an iron pin; thence along other land of Paul H. Metz, et ux South 58 degrees East 225 feet to a point in center of said State Highway; thence along line of center of State Highway South 32 degrees West 90 feet to a point, the place of BEGINNING.

IT BEING the same which Lillian V. Swope, widow, by her attorney-in-fact, Connie R. Snyder, by deed dated August 27, 2003, and recorded August 28, 2003 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 3270 at page 166, sold and conveyed unto Alan E. Cheese.

Premises Being: 2080 Old Harrisburg Road, Gettysburg, PA 17325

Parcel Number: 38-G10-0033-000

TITLE TO SAID PREMISES IS VESTED IN William Riordan, Jr., single person, dated 09/15/2005 and recorded 09/16/2005 in Book 4128 and Page 292.

SEIZED and taken into execution as the property of **William Riordan, Jr. a/k/a William J. Riordan, Jr.** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 16, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

9/21, 28 & 10/5

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-740 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of October, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE FOLLOWING described tract of land situate, lying and being in the Borough of New Oxford, Adams County, Pennsylvania bounded and described as follows, to wit:

BEGINNING for a point on the Northern edge of West High Street at Lot No. 2 of the hereinafter referenced subdivision plan; thence along said Northern edge of West High Street South seventy-seven (77) degrees zero (00) minutes zero (00) seconds West eighteen and ninety-eight one-hundredths (18.98) feet to a point at Lot No. 4 of said plan; thence along same and through the center of a dividing wall North thirteen (13) degrees zero (00) minutes zero (00) seconds West one hundred thirty-one (131) feet to a point on the Southern edge of a twelve (12) feet wide private alley; thence along same North seventy-seven (77) degrees zero (00) minutes zero (00) seconds East twenty and seventy-four one-hundredths (20.74) feet to a point at Lot No. 2 of said plan; thence along same the following three (3) courses and distances: (1) South thirteen (13) degrees zero (00) minutes zero (00) seconds East ninety-four and sixty-seven one-hundredths (94.67) feet to a post; thence (2) South eleven (11) degrees ten (10) minutes nineteen (19) seconds West four and twenty-nine one-hundredths (4.29) feet to a point at the corner of the building; thence (3) through the center of a dividing wall South thirteen (13) degrees zero (00) minutes zero (00) seconds East thirty-two and forty-two one-hundredths (32.42) feet to a point on the Northern edge of West High Street, the point and place of BEGINNING. BEING KNOWN and identified as Lot No. 3 on a Plan by Boyer Surveys. Said Plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plan Book 38, Page 71.

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

Parcel Identification No: 34-004-0098A-000

Premises: 110 West High Street, New Oxford, PA 17350, New Oxford Borough, Adams County, Pennsylvania

TITLE TO SAID PREMISES IS VESTED IN Mario Ferreyra, by Deed from Cottage Products Partnership, a

Pennsylvania Corporation, dated 01/27/2006, recorded 01/31/2006, in Deed Book 4298, page 326.

SEIZED and taken into execution as the property of **Mario Ferreyra** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 16, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

9/21, 28 & 10/5

IN THE COURT  
OF COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA  
CIVIL ACTION—LAW  
NO. 07-S-964

IN RE: PETITION FOR THE CHANGE OF NAME FOR MARILYN ELIZABETH KLEIN TO BE KNOWN AS MARILYN ELIZABETH FITZGERALD

## NOTICE

NOTICE IS HEREBY GIVEN that on the 7th day of August, 2007, the Petition of Marilyn Elizabeth Klein was filed in the above-named Court, requesting an Order to Change her Name from Marilyn Elizabeth Klein to Marilyn Elizabeth Fitzgerald.

The Court has fixed the 17th day of October, 2007, at 9:00 A.M. in Courtroom 2 of the Adams County Courthouse, Gettysburg, Pennsylvania, as the time and place for the hearing on said Petition. All interested parties may appear and show cause, if any, as to why the request of the Petitioner should not be granted.

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

10/5

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-728 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of land situate, lying, and being in Littlestown Borough, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING at a point on the right of way line of Constitution Court and Lot No. 34 as shown on the hereinafter referred subdivision plan; thence along Lot No. 34, North 48 degrees, 22 minutes, 00 seconds East, 125 feet to a point at Lot No. 3 and Lot No. 31 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 30, South 41 degrees, 38 minutes, 00 seconds East, 65 feet to a point at Lot No. 29 and Lot No. 36 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 36, South 48 degrees, 22 minutes, 00 seconds West 125.00 feet to a point on the right of way line of Constitution Court, North 41 degrees, 38 minutes, 00 seconds West, 65.00 feet to the point and place of BEGINNING. CONTAINING 8,125.00 square feet or 0.19 acre.

The above referenced lot being designated as Lot No. 35 on the Final Subdivision Plan of "Heritage Hill - Phase 1" prepared by James R. Holley, Registered Professional Surveyor, dated July 31, 1992, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 61 at Page 84.

Deed from Cassie Wamsley, single person, and Stanley E. Kohlhepp, Sr. and Victoria Kohlhepp, husband and wife as set forth in Deed Book 4556, Page 67 dated 08/31/2006 and recorded 09/05/2006, Adams County Records, Commonwealth of Pennsylvania.

Being Known As: 20 Constitution Court, Littlestown, PA 17340

Property ID No.: 11-153

TITLE TO SAID PREMISES IS VESTED IN Joanne M. Seeley, married individual, by Deed from Cassie Wamsley, single person, and Stanley E. Kohlhepp, Sr., and Vickie Kohlhepp, husband and wife dated 8/31/06 recorded 9/5/06 in Deed Book 4556 Page 67.

SEIZED and taken into execution as the property of **Joanne M. Seeley & Shane E. Seeley** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/5, 12 & 19

## 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 Tuesday, October 9, 2007, at 9:00 a.m.

**SELLERS**—Orphans' Court Action Number OC-94-07. The First and Final Account of Thomas Ferrence, Executor of the Estate of Martha M. Sellers, deceased, late of Oxford Township, Adams County, Pennsylvania.

**McMASTER**—Orphans' Court Action Number OC-102-07. The First and Final Account of Janet Rinehart, Executor of the Estate of Loretta Agnes McMaster, deceased, late of the Borough of Abbotstown, Adams County, Pennsylvania.

**KLINE**—Orphans' Court Action Number OC-100-07. The First and Interim Account of LeRoy D. Kline Jr., Administrator of the Estate of Harvey W. Kline, deceased, late of Adams County, Pennsylvania.

**KLINE**—Orphans' Court Action Number OC-101-07. The First and Interim Account of LeRoy D. Kline Jr. and Ray E. Bange, Executors of the Estate of Marie C. Kline, deceased, late of Adams County, Pennsylvania.

**WOLF**—Orphans' Court Action Number OC-72-07. The First and Final Report of PNC Bank, N.A., formerly Gettysburg National Bank, Guardian of the Estate of Christopher C. Wolf.

Kelly A. Lawver  
Clerk of Courts

9/28 & 10/5

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-802 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in the Borough of Abbotstown, Adams County, Pennsylvania, containing 10,473 square feet, being designated as Lot No. 2 as shown on a plan of lots known as Abbots Manor, recorded in Plat Book 69 at page 95, having an address of 22 Abbots Drive, more fully bounded and described as follows, to wit:

BEGINNING at a point on the Northerly right of way line of Abbots Manor, at a corner of Lot No. 3 of said plan; thence extending along the said right of way line of Abbots Manor on a line curving to the left having a radius of 225 feet, an arc distance of 13 feet with a chord bearing South 72 degrees 07 minutes 50 seconds West 13 feet to a point; thence continuing along arc said right of way line South 70 degrees 28 minutes 30 seconds West 72 feet, to a corner of Lot No. 1 on said plan; thence extending along the said Lot No. 1 North 15 degrees 39 minutes 50 seconds West 130.07 feet to a point; thence South 89 degrees 40 minutes 20 seconds East 22.31 feet to a point; thence North 70 degrees 28 minutes 30 seconds East 63.53 feet to a point at a corner of Lot No. 3 on said plan; thence extending along the said Lot No. 3 South 15 degrees 39 minutes 50 seconds West 122.86 feet to the point and place of BEGINNING.

Tax Parcel No: 1-3-104

Premises Being: 22 Abbots Drive, Abbotstown, PA 17301

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

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/5, 12 & 19

**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 ROBERT LEWIS HARBAUGH, DEC'D**

Late of York, York County, Pennsylvania  
Shirley Ciuck, 460 Hoffacker Road, Littlestown, PA 17340

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

**ESTATE OF ELIZABETH W. HULL, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Kenneth P. Hull, Jr., 540 Cornell Avenue, Swarthmore, PA 19081; Elizabeth H. Holloway, 240 Confederate Drive, Gettysburg, PA 17325

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

**ESTATE OF LINDY L. SHANOLTZ, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Virginia M. Shanoltz, 125 Barlow Road, Gettysburg, PA 17325

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 66 West Middle Street, Gettysburg, PA 17325

**ESTATE OF PHYLLIS J. SMITH, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Administrator: Charles R. Smith, 5353 Columbia Pike #202, Arlington, VA 22204

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

**SECOND PUBLICATION**

**ESTATE OF ANDREW JOHN BAUERLINE, DEC'D**

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Gloria R. Bauerline, 3565 Hanover Road, Gettysburg, PA 17325

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

**ESTATE OF ETHEL L. MIKESSELL, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executors: Edward M. Mikesell, 684 Basehoar Rd., Littlestown, PA 17340; Raymond D. Mikesell, 169 W. King Street, Littlestown, PA 17340

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

**ESTATE OF GEORGE C. WILT, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executors: M & T Bank and Harriet W. Hahn, c/o 48 South Duke Street, York, PA 17401

Attorney: Bruce C. Bankenstein, Esq., 48 South Duke Street, York, PA 17401

**THIRD PUBLICATION**

**ESTATE OF JAMES W. BEITLER, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executor: James C. Beitler, 13 Winter Drive, Gettysburg, PA 17325

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

**ESTATE OF ROSARIA D. BOOZ, DEC'D**

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Charlene J. Durany, 81 Reba Drive, New Oxford, PA 17350

Attorney: David C. Smith, Esq., 754 Edgegrove Road, Hanover, PA 17331

**ESTATE OF PHYLLIS G. CULP, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executors: Jeffrey R. Culp, 178 Norway Lane, Lebanon, PA 17042; James A. Culp, 1624 Clover Lane, York, PA 17403; Karen M. Holtzworth, 103 Hanover Street, Gettysburg, PA 17325

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

**ESTATE OF KATHERINE P. DUBBS, DEC'D**

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Vicki E. Hartlaub, 680 Hanover Pike, Littlestown, PA 17340

Attorney: David C. Smith, Esq., 754 Edgegrove Road, Hanover, PA 17331

**ESTATE OF PHILIP O. NETH, DEC'D**

Late of Mt. Joy Township, Adams County, Pennsylvania

Administrators c.t.a.: Barbara R. Neth, 85 Meade Drive, Gettysburg, PA 17325; Jerry R. Neth, 845 Chapel Road, Gettysburg, PA 17325

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

**ESTATE OF BENJAMIN STROUD, DEC'D**

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Pamela D. Stroud, 5 North Pine Street, Gettysburg, PA 17325

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

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-697 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of October, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the centerline of an existing 12 foot wide gravel driveway (private) leading to Stoney Point Road (S.R. 1007) which point is North 80 degrees 19 minutes 00 seconds West 93.12 feet from an existing steel rod at the Northwestern corner of land now or formerly of Robert Swearman; thence running by other land now or formerly of Thomas R. Benton and Judy F. Benton and through a reference steel rod setback 17 feet from the start of this course South 4 degrees 6 minutes 00 seconds East, 219.69 feet to a pipe; thence by land of the same South 85 degrees 54 minutes 00 seconds West 200 feet to a copper weld rod; thence by the same and through a reference steel rod setback 21 feet from the end of this course North 4 degrees 8 minutes 00 seconds West 283.25 feet to a point in the centerline of the existing 12 foot gravel driveway (private); thence running in the centerline of the existing 12 foot gravel driveway (private) South 76 degrees 28 minutes 10 seconds East 209.86 feet to a point in the centerline of said gravel driveway; the point and place of BEGINNING.

Being the same premises which Ten Grand, Inc., by deed dated 11/4/2003 and recorded 11/20/2003 in Adams County in Book 3388 on Page 59 then granted and conveyed to Matthew G. Boeckel in fee.

Parcel Identification No: 36-K07-0010B-000

Premises: 564 Stoney Point Road, East Berlin, PA 17316, Reading Township, Adams County, Pennsylvania

TITLE TO SAID PREMISES IS VESTED IN Matthew G. Boeckel, by Deed from Ten Grand, Inc., a Pennsylvania Corporation, dated 11/04/2003, recorded 11/20/2003, in Deed Book 3388, page 59.

SEIZED and taken into execution as the property of **Matthew G. Boeckel** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

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

schedule of distribution will be filed by the Sheriff in his office on November 16, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

9/21, 28 & 10/5

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-318 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of October, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a P.K. nail North of the center line of Township Road T-440, known as Pin Oak Drive, at corner of lands now or formerly of the Grantors herein; thence by same and through a water valve set back 14.8 feet from the beginning reference point, North 44 degrees 23 minutes 00 seconds West, 135 feet to a steel rod at corner of lands now or formerly of the Grantors herein; thence continuing by same, North 46 degrees 17 minutes 40 seconds East, 90 feet to an existing steel rod in concrete at corner of lands now or formerly of Lisa Walter, designated as Lot No. F on the hereinafter mentioned survey; thence continuing along said same lands, South 44 degrees 23 minutes 00 seconds East, 135 feet to a lietz spike set 4 feet North of the center line of Township Road T-440, known as Pin Oak Drive; thence continuing along the Northern edge of Township Road T-440, known as Pin Oak Drive, South 46 degrees 17 minutes 40 seconds West, 90 feet to a P.K. nail North of the center line of Township Road T-440, known as Pin Oak Drive, at corner of lands now or formerly of the Grantors herein, the place of BEGINNING. CONTAINING 12,150 square feet.

THE above description was taken from a draft of survey prepared by Adams County Surveyors, dated March 24, 1989, the subject lot herein described being designated as Lot G on said survey.

BEING a portion of a larger tract of land which John H. Barkley and Rebecca

L. Barkley, his wife, by their deed dated June 28, 1958, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 222 at page 7, sold and conveyed unto Paul J. Walter and Betty Jane Walter, husband and wife, the Grantors herein.

Property Being: 17 Pin Oak Drive

TITLE TO SAID PREMISES IS VESTED IN Paul J. Walter, Jr. and Doris M. Walter, H/W dated 06/01/1989 and recorded 06/02/1989 in Book 524 and page 379.

Parcel Number: 06-006-0009B-000

SEIZED and taken into execution as the property of **Paul J. Walter, Jr. & Doris M. Walter** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 16, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

9/21, 28 & 10/5



# Adams County Legal Journal

Vol. 49

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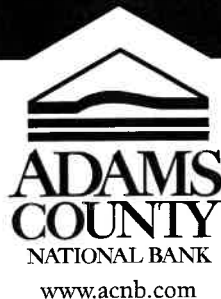
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## IN THIS ISSUE

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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. 07-S-802 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in the Borough of Abbotstown, Adams County, Pennsylvania, containing 10,473 square feet, being designated as Lot No. 2 as shown on a plan of lots known as Abbots Manor, recorded in Plat Book 69 at page 95, having an address of 22 Abbots Drive, more fully bounded and described as follows, to wit:

BEGINNING at a point on the Northerly right of way line of Abbots Manor, at a corner of Lot No. 3 of said plan; thence extending along the said right of way line of Abbots Manor on a line curving to the left having a radius of 225 feet, an arc distance of 13 feet with a chord bearing South 72 degrees 07 minutes 50 seconds West 13 feet to a point; thence continuing along arc said right of way line South 70 degrees 28 minutes 30 seconds West 72 feet, to a corner of Lot No. 1 on said plan; thence extending along the said Lot No. 1 North 15 degrees 39 minutes 50 seconds West 130.07 feet to a point; thence South 89 degrees 40 minutes 20 seconds East 22.31 feet to a point; thence North 70 degrees 28 minutes 30 seconds East 63.53 feet to a point at a corner of Lot No. 3 on said plan; thence extending along the said Lot No. 3 South 15 degrees 39 minutes 50 seconds West 122.86 feet to the point and place of BEGINNING.

Tax Parcel No: 1-3-104

Premises Being: 22 Abbots Drive, Abbotstown, PA 17301

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

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 21, 2007, and distribution will be made in accordance with said schedule, unless

exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/5, 12 & 19

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-728 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of land situate, lying, and being in Littletown Borough, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING at a point on the right of way line of Constitution Court and Lot No. 34 as shown on the hereinafter referred subdivision plan; thence along Lot No. 34, North 48 degrees, 22 minutes, 00 seconds East, 125 feet to a point at Lot No. 3 and Lot No. 31 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 30, South 41 degrees, 38 minutes, 00 seconds East, 65 feet to a point at Lot No. 29 and Lot No. 36 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 36, South 48 degrees, 22 minutes, 00 seconds West 125.00 feet to a point on the right of way line of Constitution Court, North 41 degrees, 38 minutes, 00 seconds West, 65.00 feet to the point and place of BEGINNING. CONTAINING 8,125.00 square feet or 0.19 acre.

THE above referenced lot being designated as Lot No. 35 on the Final Subdivision Plan of "Heritage Hill - Phase 1" prepared by James R. Holley, Registered Professional Surveyor, dated July 31, 1992, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 61 at Page 34.

Deed from Cassie Wamsley, single person, and Stanley E. Kohlhepp, Sr. and Victoria Kohlhepp, husband and wife as set forth in Deed Book 4556, Page 67 dated 08/31/2006 and recorded 09/05/2006, Adams County Records, Commonwealth of Pennsylvania.

Being Known As: 20 Constitution Court, Littlestown, PA 17340

Property ID No.: 11-153

TITLE TO SAID PREMISES IS VESTED IN Joanne M. Seeley, married individual, by Deed from Cassie Wamsley, single person, and Stanley E. Kohlhepp, Sr., and Vickie Kohlhepp, husband and wife dated 8/31/06 recorded 9/5/06 in Deed Book 4556 Page 67.

SEIZED and taken into execution as the property of **Joanne M. Seeley & Shane E. Seeley** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/5, 12 & 19

## LEGAL NOTICE

NOTICE IS HEREBY GIVEN that Stephen R. Maitland, Esq., intends to apply in open Court for admission to the Bar of Adams County on the 15th day of November, 2007, and that he intends to practice law as an attorney at 511 Russell Tavern Road, Gettysburg, Adams County, Pennsylvania.

9/28, 10/5 & 12

## WOOD VS. WOOD

1. The marriage of the parties generally is consideration for a prenuptial agreement.
2. Pennsylvania law implies that marital property is defined how the parties wish it to be defined in their own agreement. Therefore, the definitions of "Marital Property" and "Separate Property" as defined by the Agreement are sufficient.
3. If an agreement provides full disclosure has been made, a presumption of full disclosure arises.
4. Disclosure need not be exact as long as it is full and fair.
5. The elements needed to prove fraudulent misrepresentation are (1) a representation; (2) which is material to the transaction at hand; (3) made falsely, with knowledge of its falsity or recklessness as to whether it is true or false; (4) with intent of misleading another into relying on it; (5) justifiable reliance on the misrepresentation; and (6) resulting injury proximately caused by the reliance.
6. There is a rebuttable presumption of full and fair disclosure if the agreement specifically so states and the burdens of proof are on the party trying to overturn the agreement; to show by clear and convincing evidence there was not full and fair disclosure.
7. Wife's belief that the wedding would not have taken place had she not signed the agreement immediately does not rise to the level of apprehension described in the definitions of duress.
8. A party who has reasonable opportunity to consult with counsel before entering a contract cannot later invalidate by claiming duress.
9. The Court will not invalidate a contract on the basis of a party not seeking independent counsel.
10. Absent material misrepresentation or fraud a reviewing court is prohibited from inquiring into whether the parties had attained informed understandings of the rights they were surrendering, when determining the enforcement of marriage settlement agreements.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 05-S-321, HUGH E. WOOD VS. NANCY G. WOOD (SMART).

Rosemary McDermott, for Plaintiff  
Timothy J. Shultis, Esq., for Defendant  
Bigham, J., October 5, 2006

### OPINION

#### STATEMENT OF FACTS

Hugh Wood (hereinafter "Husband") and Nancy Wood (hereinafter "Wife") had lived together since 1982. They became engaged in 1986 and between 1986 and 1990 discussed the issue of pre-marital agreements. They were subsequently married in 1990. Wife was provided a copy of the Pre-marital Agreement on February 8 or 9 of 1990. Attached to said agreement was a listing of the separate

property of both Husband and Wife. Husband told Wife to take it to her attorney for review. She called one attorney but could not get an appointment and did not try to contact another attorney. The parties executed the agreement on February 10, 1990 and were married on February 19, 1990. The parties moved to Fairfield, Pennsylvania in 1990. Husband retired in 1993 at the age of 45/46.

Throughout the marriage Husband and Wife kept their assets separate from each other. Husband used his salary to pay the mortgage as well as utilities and miscellaneous items for the house and other items for his leisure. Wife used her earnings to pay for her own necessities as well as groceries, dry cleaning and a cleaning person for the house. All property was titled to Husband. Husband and Wife lived together until January 31, 2005. The parties lived separate and apart at the marital residence from January 31, 2005 until February 19, 2005 when Wife vacated the home. On February 15 or 16, 2005, Wife was given a copy of the Property Settlement and Agreement of Separation and this document was executed on February 18, 2005.

Husband filed a divorce complaint on March 21, 2005 pursuant to Section 3301(c) of the Divorce Code. On May 6, 2005, Wife filed a Petition to Overturn Premarital Agreement, Property Settlement and Agreement of Separation. On June 8, 2005, Husband filed a response to Petition to Overturn Premarital Agreement, Property Settlement and Agreement of Separation. On June 13, 2005, Husband filed a Memorandum Opposing Petition to Overturn Agreements. A Pre-Trial Conference was held on June 13, 2005 at which time, this Court ordered the parties to complete discovery.

On June 24, 2005, Wife issued Husband a set of interrogatories which included a discovery request for information regarding the Husband's assets. On July 13, 2005, Husband filed a Motion for Protective Order to prevent the discovery of Husband's financial worth. Husband filed a brief supporting the Motion for Protective Order on August 10, 2005. On August 18, 2005, Wife filed a Brief in Opposition to the Motion for Protective Order. On September 8, 2005 this Court ordered Plaintiff's Motion for a Protective Order to limit discovery of Husband's financial worth be overruled because Husband failed to demonstrate good cause for the motion to be granted.

On November 21, 2005 Wife was served with answers to interrogatories. On December 22, 2005, Wife filed a petition to compel

answers to interrogatories and for sanctions pursuant to Pa. R.C.P. 4019 (a)(1)(i). On January 17, 2006, Husband filed a response to the petition to compel as well as preliminary objections. The Court established a deadline for sharing eight boxes of financial records of the parties for discovery purposes.

On April 19, 2006, Husband filed a Motion for Summary Judgment claiming Wife had failed to produce evidence of any facts essential to supporting her request to overturn the two said agreements. Wife filed a Response to Motion for Summary Judgment on May 6, 2006 and on May 26, 2006 Husband filed a Memorandum in Support of Summary Judgment. A Brief in Opposition to the Motion for Summary Judgment was filed on June 12, 2006. On June 26, 2006, the Court entered an Order denying the motion for summary judgment and scheduled a hearing to present facts. On July 5, 2006, Husband filed a petition for a rule to show cause for a jury trial and on August 14, 2006 the Court denied the request. On August 21, 2006, a trial was scheduled for August 23, 2006. The trial began on the scheduled day with testimony from former Sheriff, Raymond Newman, as well as testimony of Nancy Wood. Husband's motion for verdict at the close of Wife's case was denied and trial was continued to September 12, 2006. The trial on September 12, 2006 consisted of the testimony of Hugh Wood as well as some rebuttal by Nancy Wood.

### ISSUES

The question before this Court is whether or not the Pre-marital Agreement as well as the Property Settlement and Agreement of Separation should be upheld or overturned as void?

Regarding the Pre-marital Agreement, Wife is claiming there is continuing fraud and misrepresentation in the agreement; that there was not full and fair disclosure of the parties' assets at the time the agreement was signed; and that it was signed by her under duress. Regarding the Property Settlement and Agreement of Separation, Wife is claiming that she signed that agreement under duress and that the agreement did not conform to the pre-marital agreement. Wife is asking the Court to find both agreements void.

The Court will address the foregoing issues in order.

## DISCUSSION

### PRE-MARITAL AGREEMENT

At the outset, Wife argues that the Pre-marital Agreement (hereinafter “Agreement”) should be void because there was no legal consideration given. The Court disagrees. *Stand. Pa. Practice 2d*, §126:924 (2001) states, “The marriage of the parties generally is consideration for a prenuptial agreement...” Therefore, the Court finds there was legal consideration given for the agreement, the marriage itself.

#### Fraud and Misrepresentation

Wife argues that the Agreement is void because there is continuing fraud and misrepresentation in the agreement in that it defines “Separate Property” what could be considered “Marital Property” under Pennsylvania Law. This argument is unfounded. Under Pennsylvania Law, “Marital Property” is defined as “all property acquired by either party during the marriage, including the increase in value, prior to the date of final separation, of any nonmarital property acquired...except:... (2) Property excluded by a valid agreement of the parties entered into before, during, or after the marriage.” 23 Pa.C.S.A. § 3501(a). In essence, Pennsylvania Law implies that marital property is defined how the parties wish it to be defined in their own agreement. Therefore, the definitions of “Marital Property” and “Separate Property” as defined by the Agreement are sufficient.

#### Full and Fair Disclosure

Wife’s next argument is that full and fair disclosure of Husband’s financial worth was not made in the Agreement and therefore believes the Agreement is void. Wife claims that because Husband failed to list his retirement plan, some of his stocks, and actual values on his list of personal property, he failed to fully and fairly disclose all of his assets. She also argues that she did not have time to investigate the nature of Husband’s assets.

Husband argues that there was full and fair disclosure in the agreement because the Agreement states there was full and fair disclosure of his assets. To support his arguments, Husband cites to *Simeone v. Simeone*, 581 A.2d 162 (Pa. 1990), and *In re Hillegass*, 244 A.2d 672 (Pa. 1968).

Courts recognize that these agreements are not entered into with the parties dealing at arms length; therefore the courts must make

sure there has been full and fair disclosure of the financial positions of the parties. *Simeone* at 167. “If an agreement provides full disclosure has been made, a presumption of full disclosure arises. If a spouse attempts to rebut this presumption through an assertion of fraud or misrepresentation then this presumption can be rebutted if it is proven by clear and convincing evidence.” *Id* citing *Hillegass*, at 676-677. Disclosure need not be exact as long as it is full and fair. *Id* citing *Kaufmann Estate*, 171 A.2d 48, 51 n.8 (Pa. 1961).

The Supreme Court in *Porreco v. Porreco*, 811 A.2d 566, 570-571 (Pa. 2002) outlined the elements needed to prove fraudulent misrepresentation and required all to be proven by clear and convincing evidence to warrant voiding a contract. The elements are “(1) a representation; (2) which is material to the transaction at hand; (3) made falsely, with knowledge of its falsity or recklessness as to whether it is true or false; (4) with intent of misleading another into relying on it; (5) justifiable reliance on the misrepresentation; and (6) resulting injury proximately caused by the reliance.” *Id* at 570, citing *Bortz v. Noon* 729 A.2d 555, 560 (Pa. 1999).

Upon the Court’s application of these elements, not all have been proven against the facts of this case to warrant voiding the Pre-marital Agreement. A representation was made, the listing of personal property, which was material to the transaction, because the listing was a requirement of the agreement. There was also justifiable reliance on the misrepresentation because her fiancé was making the representation. However, Wife has failed to show the representation was made falsely with any kind of knowledge or recklessness on the part of Husband. Wife has also failed to show that Husband had any intent to mislead Wife into relying on the falsity. Furthermore, Wife has not demonstrated to the Court that she signed the Agreement based on her reliance on the truthfulness of Husband’s listing of personal property.

The Agreement states, “[e]ach of the parties is fully and completely informed of the financial status of the other. The disclosures are set forth in the attachments to this Agreement and each has had an opportunity to verify this information.” (Pre-Marital Agreement ¶ 15, § e). In *Hillegass* the Court stated there is a rebuttable presumption of full and fair disclosure if the agreement specifically so states and the burdens of proof are on the party trying to overturn the

agreement; to show by clear and convincing evidence there was not full and fair disclosure. 244 A.2d at 675. Without proving all of the elements by clear and convincing evidence, the Court cannot find there was fraudulent misrepresentation on the part of Husband.

Wife has failed to meet her burden of proof of clear and convincing evidence that full and fair disclosure was not made. Therefore, the Court will not void the agreement based on this argument.

#### Duress

Wife's next argument is that she signed the Pre-marital Agreement under duress. Wife claims that she was under duress because she was not given the agreement until February 8 or 9 of 1990 and the wedding was to take place February 19, 1990. She also claims this did not give her enough time to seek counsel to go over the agreement with her and that she did not fully understand the agreement before signing it.

Husband argues that Wife's definition of duress (the marriage would not have happened had she not signed the agreement) does not meet the requirements of the definition of duress. Husband cites to the agreement itself with regard to Wife's argument on opportunity to seek counsel as well as Wife's argument she did not fully understand the agreement.

The definition of duress according to *Black's Law Dictionary* is "[a]ny unlawful threat or coercion used by a person to induce another to act (or to refrain from acting) in a manner he or she otherwise would not (or would)." 504 (6th ed. 1990). The Court in *Adams v. Adams*, 848 A.2d 991,993 (Pa. Super. 2004), citing *Strickland v. University of Scranton*, 700 A.2d 979, 986 (Pa. Super. 2997) defined duress as "that degree of restraint or danger, either actually inflicted or threatened and impending which is sufficient in severity or apprehension to overcome the mind of a person of ordinary firmness."

Wife's belief that the wedding would not have taken place had she not signed the agreement immediately does not rise to the level of apprehension described in the foregoing definitions of duress. The Court held in *Simeone*, that wife could not claim duress when she was given the prenuptial agreement the night before her wedding, because the couple had engaged in conversations regarding contents of the agreement, and wife had acknowledged she was entering into the prenuptial agreement prior to the wedding. The wife in that case



also participated in discussions of the prenuptial agreement and changes were made to the agreement in her favor at the request of wife before the eve of the wedding. Wife also expressed no reluctance about signing agreement. 581 A.2d at 167.

The *Simeone* case is completely comparable to the case at hand. In our case, the agreement was given to Wife ten or eleven days prior to the wedding. There were no elaborate wedding plans as they had no guests and no reception. The wedding took only one month to plan. The parties had discussed the pre-marital agreement for years before wedding. Wife knew Husband would not marry without having a pre-marital agreement. Wife and husband worked on the agreement together with wife documenting everything. Changes were made at her request to the writing. Husband also testified that he would not have been opposed to postponing the wedding for Wife to seek legal counsel.

Next, Wife argues she did not have an opportunity to seek legal counsel before signing the Agreement and therefore the Agreement is void.

“A party who has reasonable opportunity to consult with counsel before entering a contract cannot later invalidate it by claiming duress.” *Adams* at 994, citing *Degenhardt v. Dillon Co.*, 669 A.2d 946, 950 (Pa. 1996). Agreements will be upheld even if a party does not consult with independent legal counsel. *Simeone* at 166. Wife had sufficient opportunity to consult with counsel concerning the Agreement. Husband and Wife discussed the Agreement for years before the Agreement was signed. Therefore, Wife had more than sufficient time to consult with her own counsel had she chosen to do so.

The parties acknowledged in the Agreement per paragraph 10, “The Wife has had the opportunity to be represented by counsel and has, for reasons of her own, elected not to seek such representation even though encouraged to do so by the Husband.” In *Simeone*, the Court held that “To impose a *per se* requirement that parties entering a prenuptial agreement must obtain independent legal counsel would be contrary to traditional principles of contract law, and would constitute a paternalistic and unwarranted interference with the parties freedom to enter contracts.” 581 A.2d at 166. Therefore the Court will not invalidate a contract on the basis of a party not seeking independent counsel.

Wife also argues she did not fully understand the Agreement when she signed it.

Husband argues that all provisions of the Agreement were fully and satisfactorily explained. Husband cites to the Agreement itself in support of this argument. “The parties acknowledge they are entering into this Agreement freely and voluntarily... that all of the provisions hereof as well as all questions pertinent hereto have been fully and satisfactorily explained to them.” (Pre-marital Agreement ¶ 10). Husband also points out that wife was a secretary for years and is now an executive assistant and therefore holds the level of intelligence necessary to enter into and fully understand a contract. The Court agrees with Husband.

Contracts will be binding without regard to whether the terms were read and fully understood and whether the agreement was reasonable or a good bargain. *Simeone* at 165. In *Colonna v. Colonna*, 791 A.2d 353, 357 (Pa. Super. 2001) the court determined that a “[A]bsent material misrepresentation or fraud a reviewing court is prohibited from inquiring into ‘whether [the] parties had attained informed understandings of the rights they were surrendering [.]’ when determining the enforcement of marriage settlement agreements.” Therefore, Wife’s argument that she had no understanding of the Agreement is without merit.

For the reasons set forth above, the Court finds the Pre-marital Agreement between Husband and Wife a valid and enforceable contract.

#### PROPERTY SETTLEMENT AND AGREEMENT OF SEPARATION

Wife argues the Property Settlement and Agreement of Separation (hereinafter “Property Agreement”) is void because it was signed by her under duress. Wife also claims the Property Agreement does not conform to the Agreement because she was not assigned the marital property she was entitled to under the Agreement.

Husband argues the Property Agreement is not void because Wife was not under duress when she signed it. Husband also claims that both agreements conform to one another and that Wife was given what she was entitled to in accordance with said Agreements. The Court will address these issues in order.

### Duress

The Court has already addressed this issue as per the Pre-Marital Agreement (Agreement) but will examine the issue here as it relates to the Property Agreement. The Court relies on the same definitions of duress and any other case law that may pertain to this particular agreement.

Wife claims she was under duress when she signed the Property Agreement because she was given the document February 15 or 16, 2006 and was told to sign it immediately. According to the facts, Husband and Wife had been living separate and apart within the marital residence from January 31, 2005 until February 19, 2005 when Wife vacated the property. Wife asserts she was required by Husband to provide a list of personal property for her to take pending Husband's approval or rejection. Wife alleges that Husband put pressure on her to sign the agreement by making continuous threatening statements such as "Don't screw me on this, or I will come and get you and you will be sorry" (Petition to Overturn ¶ 13). However, Wife remained in the home. On February 15, 2005, Wife sought the help of the Adams County Sheriff's Office but was told they do not get involved in domestic issues but would come to the house when she was moving. Still, Wife remained in the home. There is no record of Husband having any prior history of threats or violence against Wife. The Court finds it hard to believe that Wife was under such extreme apprehension and stress, which she claims rose to the level of duress, and yet she could wait two to three days to sign the Agreement and then wait another day to move from the marital home.

Husband argues Wife could not have been under duress when signing the Agreement because when Wife signed the Agreement the notary made remarks about their separation being on good terms. Husband testified that Wife agreed with the notary. Husband testified that after signing the Agreement at the notary, they proceeded to have lunch and shop at Radio Shack. These actions do not match up to the actions of someone suffering fear or apprehension of another. Wife states that she did not show her fear outwardly but was filled with anxiety inwardly. It is not viable for Husband or a third party (here the notary) to have known Wife was feeling threatened and/or anxious and unreasonable to expect such knowledge. Therefore, the Court does not find duress, when by all accounts and appearances there was no apprehension.

The Property Agreement will therefore not be overturned on this argument.

#### Conformity

Wife is also arguing the Property Agreement does not conform to the original agreement because she has not received the marital property she was entitled to under the Pre-marital Agreement.

Husband argues the two Agreements do conform to one another and therefore the Agreement should be upheld. The Court agrees with Husband.

There has been no showing that the two Agreements do not conform to each other. By their very nature they do. Both Agreements state that the parties will retain their individual separate property. This is not a conflict of agreements or terms or clauses. Therefore, the Property Settlement and Agreement of Separation is a valid and enforceable contract.

However, it does appear that Wife did not receive what she should have per the Pre-marital Agreement and although this may be a reflection of the combination of Agreements (including the addendum attached) and the letter written to Husband by Wife because the Pre-marital Agreement is being upheld she is entitled to said property. Therefore, the Court will direct that Husband has thirty days from today's date to deliver to Wife the items she claims, or if she agrees, the monetary value of said item. If Husband does not comply, Wife may petition the Court for Special Relief/Enforcement.

Accordingly, the attached Order is entered.

#### ORDER

AND NOW, this 5th day of October 2006, in accordance with the accompanying opinion, IT IS ORDERED THAT the Pre-Marital Agreement and Property Settlement and Agreement of Separation are valid and enforceable contracts. The Court directs that Plaintiff has thirty days from today's date to deliver to Defendant the items she claims, or if she agrees, the monetary value of said items. If Plaintiff does not comply, Defendant may petition the Court for Special Relief/Enforcement.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-767 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE two tracts of land situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1 (157 North Stratton Street)

BEGINNING at an iron pin on the East side of North Stratton Street at its intersection with a public alley adjoining lot now or formerly of B.W. Hummer, now of Adams Electric Cooperative, Inc., on the South; thence along said public alley, South 83° East, 160 feet, more or less, to an iron pin at another public alley in the rear; thence along said latter public alley, North 07° East, 18 feet to a point at corner of lot now or formerly of Verne Arndt; thence along said Arndt lot North 83° West, running through the center of a party wall in a double house on the Arndt lot and the lot hereby conveyed, 160 feet, more or less, to the East side of North Stratton Street; thence along said street, South 07° West, 18 feet to an iron pin at the place of BEGINNING.

TRACT NO. 2 (159 North Stratton Street)

BEGINNING at a point on the Eastern side or property line of North Stratton Street, on line or at corner of lot now or formerly of Viola D. Weygandt; thence running through the center of the party wall standing on the line between the lot hereby conveyed and said Weygandt lot, South 83° East, 160 feet, more or less, to a point on the Western side of a public alley in the rear; thence by the Western side of said rear alley, North 7° East, 18 feet to an iron pin at corner of lot now or formerly of Emma Sharpe; thence by said last mentioned lot, North 83° West, 160 feet, more or less, to an iron pin on the Eastern side of property line of said North Stratton Street; thence by the Eastern side or property line of said street, South 7° degrees West, 18 feet to the above described place of BEGINNING.

HAVING THEREON ERECTED A DWELLING HOUSE KNOWN AS: 157 and 159 North Stratton Street, Gettysburg, PA 17325

BEING THE SAME PREMISES WHICH Cleameth H. Stull, by Deed dated 3/24/00 and recorded 3/27/00 in Adams County Deed Book 2019, Page 275, granted and conveyed unto Charles L. Duppins and Joan L. Duppins.

SEIZED IN EXECUTION AS THE PROPERTY OF CHARLES L. DUPPINS and JOAN L. DUPPINS UNDER ADAMS COUNTY JUDGMENT NO. 07-S-767

MAP & PARCEL 16-7-134 AND 16-7-134.01

SEIZED and taken into execution as the property of **Charles L. Duppins & Joan L. Duppins** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-750 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or piece of ground situate in Mount Joy Township, County of Adams, Commonwealth of Pennsylvania, being known as Lot #1 in a plan of lots of John D. Clapsaddle, prepared by Draft and Survey by Wilbur V. Redding, R.S., dated May 24, 1955, more particularly bounded and described as follows:

BEGINNING at a spike in the center line of the Township Road leading to the Gettysburg to Littlestown Road at corner of lands of Cletus Sanders; thence by land of Sanders North 47 degrees West, 200 feet to an iron pin at other lands now or formerly of Frank H. Fissel, Jr. and Helen M. Fissel; thence by same North 36 degrees 34 minutes East, 150 feet to an iron pin at corner of Lot #2 on the above mentioned plan; thence by Lot #2 South 47 degrees 42 minutes East, 223.3 feet to a spike in the center line of the Township Road leading to the Gettysburg to Littlestown Road; thence along said center line South 45 degrees West, 150 feet to the iron pin, the place of BEGINNING. CONTAINING 115 Perches.

TITLE TO SAID PREMISES IS VESTED IN Timothy E. Wilson, Sr. and Heather Marie Wilson, husband and wife, as tenants by the entirety, by Deed from Reta N. Warner, widow, by her appointed guardians and Pamela S. Chiara and Russell E. Warner, dated 08/29/2006, recorded 08/31/2006, in Deed Book 4552, page 105.

Premises being: 1845 Highland Avenue Road, Gettysburg, PA 17325

Tax Parcel No. 30-614-0055-000

SEIZED and taken into execution as the property of **Timothy E. Wilson a/k/a Timothy E. Wilson, Sr. & Heather Marie Wilson** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on September 4, 2007, for the purpose of obtaining a Certificate of Incorporation of a proposed corporation to be organized under the provisions of Pennsylvania Business Law of 1988, P.L. 1444, No. 177, as amended. The name of the corporation is **QUEEN STREET CREAMERY & RESTAURANT, INC.**, with a registered office of the corporation being 290 Krug Road, Littlestown, PA 17340.

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

10/12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-313 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in the Borough of Abbottstown, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point at a thirty (30) foot dedicated right-of-way line of Country Club Road and Lot No. 4 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 40, South seventy-eight (78) degrees ten (10) minutes nine (09) seconds West one hundred eighteen and eight hundredths (118.08) feet to a point at a twenty (20) feet drainage easement; thence along the twenty (20) feet drainage easement North nine (09) degrees forty-one (41) minutes eighteen (18) seconds West, eighty-nine and forty-one hundredths (89.41) feet to a point as Lot No. 6 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 6 North eighty (80) degrees eighteen (18) minutes forty-two (42) seconds East, one hundred eighteen (118.00) feet to a point at a thirty (30) foot dedicated right-of-way line of Country Club Road; thence further along the dedicated right-of-way line of Country Club Road, South nine (09) degrees forty-one (41) minutes eighteen (18) seconds East, eighty-five (85.00) feet to the point and place of BEGINNING.

Known as Lot No. 5 on a subdivision plan of Country Club Estates as recorded in the Adams County Recorder of Deeds Office in Plat Book 63, page 44.

TITLE TO SAID PREMISES IS VESTED IN Lawrence Shoul, married man, by Deed from Lawrence Shoul & Terri Shoul, husband and wife, dated 01/20/2006, recorded 01/24/2006 in Book 4292 Page 271.

Premises being: 257 Country Club Road, Abbottstown, PA 17301

Tax Parcel No. (1)4-85

SEIZED and taken into execution as the property of Lawrence Shoul a/k/a Lawrence Scott Shoul and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 21, 2007, and distribution will be made in accordance with said schedule, unless

exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-839 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at the corner of lot now or formerly of Harry Oyler, known as Lot No. 2; thence along Hanover Street East 35 feet, more or less, to lot now or formerly of Fissel; thence along said Fissel lot North 180 feet, more or less, to an alley; thence along said alley West 35 feet, more or less, to said Lot No. 2; thence along the same South 180 feet, more or less, to the place of BEGINNING.

Map #16-8-113

Improvements: Residential dwelling

Premises Being Known As: 124 Hanover Street, Gettysburg, PA 17325

SEIZED and taken into execution as the property of Victoria Singleton and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 30, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Fictitious Name Act, Act 1982-295, approved December 16, 1982, as amended, that on September 25, 2007, an Application for Registration of the fictitious name of TRUE FRIENDS HANDMADE JEWELRY was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania. The principal place of business of the said business is 279 Longstreet Dr., Gettysburg, PA 17325.

Chester G. Schultz, Esq.  
145 Baltimore Street  
Gettysburg, PA 17325

10/12

NOTICE

The Adams County Tax Claim Bureau hereby gives notice that it presented a Consolidated Return of Sales to the Court of Common Pleas of Adams County, Pennsylvania on October 3, 2007, of sales of real estate for delinquent taxes made September 28, 2007. The Court confirmed said Return Nisi on October 3, 2007. Objections or exceptions thereto may be filed by any owner or lien creditor within Thirty (30) days from the date of the Return; otherwise the Return will be confirmed absolutely.

Adams County Tax Claim Bureau  
By: Danielle Asper, Director

10/12

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 9-12-07 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 CHAD A. MESSINGER, INC. The purpose for which the corporation has been organized is: The corporation shall have unlimited power to engage in and do any law act concerning any or all lawful business for which corporations may be organized under the Pennsylvania Business Corporation Law.

CHAD A. MESSINGER, INC.  
1165 Fox Run Terrace  
Hanover, PA 17331

10/12

## ESTATE NOTICES

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

## FIRST PUBLICATION

ESTATE OF KENNETH L. CRAWFORD  
a/k/a KENNETH LEE CRAWFORD,  
DEC'D

Late of Abbotstown Borough, Adams  
County, Pennsylvania

Executor: David M. Crawford, 6146  
Acom Dr., Spring Grove, PA 17362

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

ESTATE OF SARAH ANNE LAGES,  
DEC'D

Late of the Borough of Bonneauville,  
Adams County, Pennsylvania

Executrix: Mary Jane Nagle, c/o  
E. Steve O'Donnell, Esq., 141  
Broadway, Suite 230, Hanover, PA  
17331

Attorney: E. Steve O'Donnell, Esq.,  
141 Broadway, Suite 230, Hanover,  
PA 17331

ESTATE OF LOUISE V. LENTZ, DEC'D

Late of Reading Township, Adams  
County, Pennsylvania

Executor: Stanley E. Lentz, 30 Halleck  
Dr., East Berlin, PA 17316

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

ESTATE OF HOWARD G. SHOEMAKER,  
DEC'D

Late of Cumberland Township, Adams  
County, Pennsylvania

Executrix: Clarice F. Shoemaker, 60  
Spruce Dr., Gettysburg, PA 17325

Attorney: Phillips & Phillips, 101 W.  
Middle St., Gettysburg, PA 17325

ESTATE OF CAROLINE STERRETT,  
DEC'D

Late of the Borough of Arendtsville,  
Adams County, Pennsylvania

Executor: William N. Sterrett, Jr., 1332  
Ridgeview Circle, Downingtown, PA  
19335

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

## SECOND PUBLICATION

ESTATE OF ROBERT LEWIS HAR-  
BAUGH, DEC'D

Late of York, York County, Pennsylvania  
Shirley Cluck, 460 Hoffacker Road,  
Littlestown, PA 17340

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

ESTATE OF ELIZABETH W. HULL,  
DEC'D

Late of Cumberland Township, Adams  
County, Pennsylvania

Executors: Kenneth P. Hull, Jr., 540  
Cornell Avenue, Swarthmore, PA  
19081; Elizabeth H. Holloway, 240  
Confederate Drive, Gettysburg, PA  
17325

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

ESTATE OF LINDY L. SHANOLTZ,  
DEC'D

Late of Cumberland Township, Adams  
County, Pennsylvania

Executrix: Virginia M. Shanoltz, 125  
Barlow Road, Gettysburg, PA 17325

Attorney: Barbara Jo Entwistle, Esq.,  
Pyle and Entwistle, 66 West Middle  
Street, Gettysburg, PA 17325

ESTATE OF PHYLLIS J. SMITH, DEC'D

Late of Oxford Township, Adams  
County, Pennsylvania

Administrator: Charles R. Smith, 5353  
Columbia Pike #202, Arlington, VA  
22204

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

## THIRD PUBLICATION

ESTATE OF ANDREW JOHN BAUER-  
LINE, DEC'D

Late of Mt. Pleasant Township, Adams  
County, Pennsylvania

Executrix: Gloria R. Bauerline, 3565  
Hanover Road, Gettysburg, PA  
17325

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

ESTATE OF ETHEL L. MIKESSELL,  
DEC'D

Late of the Borough of Littlestown,  
Adams County, Pennsylvania

Executors: Edward M. Mikesell, 684  
Basehoar Rd., Littlestown, PA  
17340; Raymond D. Mikesell, 169  
W. King Street, Littlestown, PA  
17340

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

ESTATE OF GEORGE C. WILT, DEC'D

Late of Oxford Township, Adams  
County, Pennsylvania

Executors: M & T Bank and Harriet W.  
Hahn, c/o 48 South Duke Street,  
York, PA 17401

Attorney: Bruce C. Bankenstein, Esq.,  
48 South Duke Street, York, PA  
17401

**SHERIFF'S SALE**

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-807 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land located in Reading Township, Adams County, Pennsylvania, shown as Tract No. 2 on the final subdivision plan prepared for Edward C. Wallen, Sr. dated December 29, 1998, and about to be recorded in the Adams County, Pennsylvania, Recorder of Deeds Office and shown as Lot No. 2 on said plan, more particularly bounded and described as follows:

BEGINNING at a steel pin set located at the Eastern corner of Lot No. 1 as shown on said plan; thence along Lot No. 1 South 40 degrees 19 minutes 42 seconds West 160.00 feet to a steel pin set located at lands now or formerly of Gene H. Shenberger; thence by said lands of Shenberger South 49 degrees 40 minutes 18 seconds West 306.54 feet to an existing iron pipe at lands now or formerly of David W. Diehl; thence by lands of David W. Diehl North 22 degrees 54 minutes 02 seconds East 167.70 feet to an existing iron pipe at other lands of the grantors herein; thence by same North 49 degrees 40 minutes 18 seconds West 256.31 feet to a steel pin set, the point and place of BEGINNING. CONTAINING 1.034 acres.

TOGETHER WITH THE right to use the stone driveway as it is extended across Lot No. 1 as shown on the aforesaid subdivision plan. The rights and responsibilities related to the use and maintenance of the driveway as between owners of Lots 1 and 2 are set forth in a Declaration of Right-of-Way and Responsibilities previously recorded in the aforesaid Recorder of Deeds Office.

BEING known as Parcel Identification Number J7-69.

BEING the same premises which Edward C. Wallen, Sr. and Darlene Wallen, husband and wife, by deed dated April 22, 1999 and recorded June 09, 1999 in Adams County in Deed Book Volume 1849, Page 20, granted and conveyed unto Edward C. Wallen, Jr. and Lori Sue Wallen, husband and wife. Edward C. Wallen, Jr. died 9/30/01, thereby vesting fee simple title into Lori Sue Wallen, Grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Trevor C. Reck, a single man, by Deed from Lori Sue Wallen, widow, dated 10/28/2005, recorded 11/10/2005, in Deed Book 4204, page 289.

Premises being: 22 Miller Road, New Oxford, PA 17350

SEIZED and taken into execution as the property of **Trevor Reck** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW  
NO. 07-S-979  
Action to Quiet Title

MARK E. WEAVER, SR. and MAUREEN S. WEAVER, husband and wife, Plaintiffs  
vs.

HARRY VIENER and FANNIE M. VIENER, husband and wife, their respective heirs, executors, administrators, successors and assigns, and JOHN P. DEHAAS and PATSY A. DEHAAS, husband and wife, Defendants

Date of Notice: October 3, 2007

To: Harry Viener and Fannie M. Viener, husband and wife, their respective heirs, executors, administrators, successors and assigns;

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Court Administrator  
Adams County Courthouse  
Gettysburg, Pennsylvania 17325  
Telephone Number: 717-337-9846  
Toll Free: 1-888-337-9846

10/12

**SHERIFF'S SALE**

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-840 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at the corner of lot now or formerly of Harry Oyler, known as Lot No. 2; thence along Hanover Street East 35 feet, more or less, to lot now or formerly of Fissel; thence along said Fissel lot North 180 feet, more or less, to an alley; thence along said alley West 35 feet, more or less, to said Lot No. 2; thence along the same South 180 feet, more or less, to the place of BEGINNING.

Map #16-8-113

Improvements: Residential dwelling

Premises Being Known As: 124 Hanover Street, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Victoria Singleton** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 30, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26



# *Adams County* Legal Journal

Vol. 49

October 19, 2007

No. 22, pp. 143-151

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COMMONWEALTH VS. DUCKWORTH

Serving individuals, businesses and organizations in our shared communities for 150 years is definitely something to celebrate.

*Celebrating 150 years!*  
1857-2007



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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. 07-S-802 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in the Borough of Abbottstown, Adams County, Pennsylvania, containing 10,473 square feet, being designated as Lot No. 2 as shown on a plan of lots known as Abbotts Manor, recorded in Plat Book 69 at page 95, having an address of 22 Abbotts Drive, more fully bounded and described as follows, to wit:

BEGINNING at a point on the Northerly right of way line of Abbotts Manor, at a corner of Lot No. 3 of said plan; thence extending along the said right of way line of Abbotts Manor on a line curving to the left having a radius of 225 feet, an arc distance of 13 feet with a chord bearing South 72 degrees 07 minutes 50 seconds West 13 feet to a point; thence continuing along arc said right of way line South 70 degrees 28 minutes 30 seconds West 72 feet, to a corner of Lot No. 1 on said plan; thence extending along the said Lot No. 1 North 15 degrees 39 minutes 50 seconds West 130.07 feet to a point; thence South 89 degrees 40 minutes 20 seconds East 22.31 feet to a point; thence North 70 degrees 28 minutes 30 seconds East 63.53 feet to a point at a corner of Lot No. 3 on said plan; thence extending along the said Lot No. 3 South 15 degrees 39 minutes 50 seconds West 122.86 feet to the point and place of BEGINNING.

Tax Parcel No: 1-3-104

Premises Being: 22 Abbotts Drive, Abbottstown, PA 17301

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

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 21, 2007, and distribution will be made in accordance with said schedule, unless

exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/5, 12 & 19

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-728 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of land situate, lying, and being in Littlestown Borough, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING at a point on the right of way line of Constitution Court and Lot No. 34 as shown on the hereinafter referred subdivision plan; thence along Lot No. 34, North 48 degrees, 22 minutes, 00 seconds East, 125 feet to a point at Lot No. 3 and Lot No. 31 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 30, South 41 degrees, 38 minutes, 00 seconds East, 65 feet to a point at Lot No. 29 and Lot No. 36 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 36, South 48 degrees, 22 minutes, 00 seconds West 125.00 feet to a point on the right of way line of Constitution Court, North 41 degrees, 38 minutes, 00 seconds West, 65.00 feet to the point and place of BEGINNING. CONTAINING 8,125.00 square feet or 0.19 acre.

THE above referenced lot being designated as Lot No. 35 on the Final Subdivision Plan of "Heritage Hill - Phase 1" prepared by James R. Holley, Registered Professional Surveyor, dated July 31, 1992, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 61 at Page 34.

Deed from Cassie Wamsley, single person, and Stanley E. Kohlhepp, Sr. and Victoria Kohlhepp, husband and wife as set forth in Deed Book 4556, Page 67 dated 08/31/2006 and recorded 09/05/2006, Adams County Records, Commonwealth of Pennsylvania.

Being Known As: 20 Constitution Court, Littlestown, PA 17340

Property ID No.: 11-153

TITLE TO SAID PREMISES IS VESTED IN Joanne M. Seeley, married individual, by Deed from Cassie Wamsley, single person, and Stanley E. Kohlhepp, Sr., and Vickie Kohlhepp, husband and wife dated 8/31/06 recorded 9/5/06 in Deed Book 4556 Page 67.

SEIZED and taken into execution as the property of **Joanne M. Seeley & Shane E. Seeley** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/5, 12 & 19

## NOTICE

NOTICE IS HEREBY GIVEN that David R. Erhard, Esquire, intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 15th day of November, 2007, and that he intends to continue practicing law as an Associate in the law firm of Steve Rice, P.C., County of Adams, 18 Carlisle Street, Gettysburg, Pennsylvania.

10/19, 26 & 11/2

## COMMONWEALTH VS. DUCKWORTH

1. Section 8953 of the Municipal Police Jurisdiction Act (MPJA) authorizes extra jurisdictional detention where the detaining officer is on duty, outside his or her jurisdiction for a routine or customary reason including responding to an exigent circumstance, develops probable cause to believe an offense has been committed, and limits out-of-jurisdiction activities to maintaining the status quo, including detaining the suspect, until officers from the appropriate jurisdiction arrive.

2. The MPJA statute should be liberally construed to effectuate its purposes, one of which is to provide police officers with authority to make arrests outside of their primary jurisdictions in limited situations.

3. An officer leaving his jurisdiction to obtain a refreshment was, nevertheless, on routine patrol for purposes of the MPJA.

4. In a number of cases, the Superior Court has found that suppression is an appropriate remedy where a government agent acts beyond his jurisdictional authority. A predominant theme in this line of cases is that the lack of jurisdiction was subject matter rather than territorial.

5. Suppression is an excessive remedy where a municipal officer may have committed a technical violation of the MPJA. Where an officer otherwise had a legal basis to conduct the stop, suppression of evidence was an inappropriate remedy for a technical violation of the MPJA.

6. Suppression of evidence for a violation of the MPJA may, or may not be, the appropriate remedy depending upon all of the circumstances of the case including the intrusiveness of the police conduct, the extent of deviation from the letter and spirit of the act, and the prejudice to the accused.

7. The rule of exclusion is only properly employed where the objection goes to the question of the reliability of the challenged evidence or reflects intolerable government conduct which is widespread and cannot otherwise be controlled.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CP-01-CR-440-2006, COMMONWEALTH OF PENNSYLVANIA VS. DREW C. DUCKWORTH.

Brian R. Sinnett, Esq., Assistant District Attorney, for Commonwealth  
Roy A. Keefer, Esq., for Defendant

George, J., October 5, 2006

### OPINION

The Defendant, Drew C. Duckworth (“Duckworth”), seeks suppression of all evidence derived from a vehicle stop arguing that the arresting officer exceeded his statutory authority by acting as a municipal police officer outside of his primary jurisdiction. The parties present this issue to the Court on the following stipulated record:

On March 19, 2006, Officer Briggs, a police officer employed by Cumberland Township Police Department was on duty and in a marked patrol vehicle. At approximately

3:00 a.m., Officer Briggs traveled into Gettysburg Borough to meet Gettysburg Borough Officer Harvey for a meal at the Lincoln Diner, a restaurant located in Gettysburg Borough.<sup>1</sup> Officer Briggs arrived at the diner prior to Officer Harvey and, while waiting for Officer Harvey, sat stationary in his vehicle near the public alley, Railroad Street. Railroad Street is a one-way street heading in a westerly direction in Gettysburg Borough. While sitting in his vehicle, Officer Briggs observed Duckworth's vehicle traveling east, the wrong way, on Railroad Street until the vehicle turned into the parking area of the Lincoln Diner. Officer Briggs observed no other traffic violations or other erratic or unsafe driving. As a result of his observations, at 3:08 a.m. Officer Briggs pulled his patrol vehicle behind Duckworth's parked vehicle and activated his overhead lights. Thereafter, Officer Briggs approached the driver. Upon interacting with Duckworth, Briggs smelled alcoholic beverages emitting from his person and ascertained from Duckworth that he had been drinking. While Duckworth was in the custody of Officer Briggs, Officer Harvey arrived on the scene. Despite a lack of any request by Officer Harvey for Officer Briggs to stop or detain Duckworth, Officer Briggs requested Duckworth to exit the vehicle and thereafter conducted field sobriety tests while Officer Harvey conducted a records check on Duckworth. Based upon the information Officer Briggs provided to Officer Harvey, Officer Harvey arrested Duckworth at 3:24 a.m.

The Municipal Police Jurisdiction Act (MPJA), 42 Pa. Cons. Stat. § 8951 et seq, defines a municipal police officer's extra-territorial jurisdiction to the extent relevant as follows:

- a. General Rule - - Any duly employed municipal police officer who is within this Commonwealth, but beyond the territorial limits of his primary jurisdiction, shall have the power and authority to enforce the laws of this Commonwealth or

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<sup>1</sup>This Court takes judicial notice that Gettysburg Borough is an adjoining municipality to Cumberland Township and is surrounded by Cumberland Township on three sides.

otherwise perform the functions of that office as if enforcing those laws or performing those functions within the territorial limits of his primary jurisdiction in the following cases:

\*\*\*\* (5) Where the officer is on official business and views an offense, or has probable cause to believe that an offense has been committed, and makes a reasonable effort to identify himself as a police officer and which offense is a felony, misdemeanor, breach of the peace or other act which presents an immediate, clear and present danger to persons or property.

42 Pa. C.S. § 8953.

The Supreme Court has interpreted this section to authorize an extra jurisdictional detention “where the detaining officer is on-duty, outside his or her jurisdiction for a routine or customary reason including responding to an exigent circumstance, develops probable cause to believe an offense has been committed, and limits out-of-jurisdiction activities to maintaining the status quo, including detaining the suspect, until officers from the appropriate jurisdiction arrive.” *Commonwealth v. Lehman*, 870 A.2d 818 (Pa. 2005). This rule reflects the Supreme Court’s recognition that “the statute should be liberally construed to effectuate its purposes, one of which ‘is to provide police officers with authority to make arrests outside of their primary jurisdictions in limited situations.’” *Commonwealth v. Merchant*, 595 A.2d 1135 (Pa. 1991) (quoting *Commonwealth v. Ebersole*, 492 A.2d. 436 (Pa.Super. 1985)).

At the time Officer Briggs made his observations, although on duty in Cumberland Township, he was in Gettysburg Borough for purposes of having a meal with a colleague from that jurisdiction. Although the record is silent on the subject, it is fair to infer that locations available for a meal at 3:30 a.m. were limited. There is no indication that Officer Briggs was engaged in an extra-territorial fishing expedition or attempting to expand his sphere of authority in Gettysburg Borough without being subject to that municipality’s control. Under these circumstances, I conclude that Officer Briggs was in Gettysburg Borough for a routine or customary reason as envisioned by the MPJA.

This conclusion is in accord with appellate authority which has recognized that an officer leaving his jurisdiction to obtain a refreshment was, nevertheless, on routine patrol for purposes of the MPJA.

See *Commonwealth v. Pratti*, 608 A.2d 488 (Pa. 1992). As recognized by the *Pratti* Court, the fact that the occurrence to which Officer Briggs responded was outside of his jurisdiction does not vanish his duty to assist if needed; nor does it alter the fact that he continued to be on official business.

Although I have found Officer Briggs to be on official business while responding to the incident in Gettysburg Borough, compliance with other requirements of the MPJA, as delineated in *Lehman*, is more troublesome. As noted, the specific language of the applicable section of the MPJA grants jurisdiction where the officer views an offense, or has probable cause to believe that an offense has been committed, “which offense is a felony, misdemeanor, breach of the peace, or other act which presents an immediate, clear, and present danger to persons or property.” 42 Pa. C.S. § 8953. Pursuant to stipulation, the sole basis for Officer Briggs’ interaction with Duckworth was his observation of the summary traffic violation of driving the wrong direction on a roadway designated for one-way traffic. See 75 Pa. C.S. § 3308. Officer Briggs observed no other traffic violation or any indication of erratic driving. At the time of his observation, there were no other vehicles on the roadway. There is no evidence that Duckworth’s actions presented a danger to anyone. Critically, any concern over potential danger presented by Duckworth’s operation of his vehicle is also absent. At the time of Officer Briggs’ interaction with Duckworth, Duckworth had parked his vehicle in a parking lot. Duckworth was not attempting to leave the area or continue in his travels thus constituting a potential threat to other motorists. Moreover, Officer Harvey’s arrival on the scene was imminent. Thus, any urgency for Officer Briggs’ actions, as well as any indication of clear and present danger, is lacking. In essence, Officer Briggs responded to observations of a summary traffic violation which constituted neither a breach of the peace nor danger to persons or property. I find, therefore, that this response is not authorized by the MPJA.<sup>2</sup>

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<sup>2</sup>In *Commonwealth v. Eisenfelder*, 664 A.2d 151 (Pa. Super. 1995), the Superior Court approved an extra jurisdictional interaction where the police officer initially observed a summary offense, however, developed probable cause to suspect a misdemeanor offense upon his approach to the vehicle. I find that case distinguishable in that Officer Briggs’ probable cause to suspect a misdemeanor offense would not have incurred until after he requested Duckworth to exit the vehicle.

Officer Briggs' actions after the initial stop of Duckworth's vehicle raise additional concerns. As indicated in *Lehman*, the MPJA authorizes extra-jurisdictional actions in certain circumstances provided they are limited to maintaining the status quo until officers from the appropriate jurisdiction arrive. Instantly, Officer Briggs not only conducted an initial detention of Duckworth, but he essentially followed through with that detention as the investigative officer. Specifically, he commanded Duckworth from his vehicle and conducted field sobriety tests. This involvement in the investigation by Officer Briggs is far from maintaining the status quo and exceeds the activities contemplated and authorized by the MPJA. The more appropriate procedure, based on instruction from our appellate courts, was for Officer Briggs to detain Duckworth until officers from the appropriate jurisdiction could arrive and conduct investigation.

Based on the foregoing, I find that Officer Briggs' interaction with Duckworth exceeded the permissible bounds of the MPJA. This finding, however, does not completely resolve the issue before the Court. I must now consider what remedy, if any, should result. Duckworth seeks suppression of all evidence derived from the stop which, ultimately, will result in the dismissal of the charges against him.

Appellate authority in this area provides no clear answer. In a number of cases, the Superior Court has found that suppression is an appropriate remedy where a government agent acts beyond his jurisdictional authority.<sup>3</sup> *Commonwealth v. Roberts*, 514 A.2d 626, 630 (Pa. Super. 1986)(suppression appropriate where park police officer acted beyond his jurisdictional authority); *Commonwealth v. Savage*, 589 A.2d 696, 700 (Pa. Super. 1991)(suppression authorized where campus police officer acted beyond his jurisdictional authority); *Commonwealth v. Price*, 593 A.2d 1288, 1292 (Pa. Super. 1991), affirmed 672 A.2d 280 (Pa. 1996)(suppression a proper remedy when an FBI agent acted beyond jurisdictional authority); *Commonwealth*

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<sup>3</sup> It is indisputable that Officer Briggs acted as a government official during his interaction with Duckworth. He effectuated a stop in a marked vehicle while in full uniform displaying a badge of authority. Whether or not he was jurisdictionally authorized to make the stop, he was clearly acting under color of law, thus implicating a government action. See *Commonwealth v. Leet*, 641 A.2d 299 (Pa. 1994) (Sheriff making extra-jurisdictional stop acting under color of law); *Commonwealth v. Price*, 593 A.2d 1288 (Pa. Super. 1991), affirmed, 672 A.2d 280 (Pa. 1996) (FBI agent lacking jurisdiction to conduct a vehicle stop acting under color of state law).

v. *Bienstock*, 673 A.2d 952, 955-956 (Pa. Super. 1996)(suppression an appropriate remedy where liquor control enforcement officer conducted vehicle stop). A predominant theme in this line of cases is that the lack of jurisdiction was subject matter rather than territorial. For instance, the *Price* Court noted that an FBI agent lacks authority to conduct a vehicle stop for a summary offense regardless of the jurisdiction where it occurs. *Price*, 593 A.2d at 1289. In those cases approving suppression where the officer arguably had subject matter jurisdiction, each Court specifically noted that the person conducting the initial stop was not a municipal officer with any meaning of the MPJA. See *Savage*, 589 A.2d at 698.

On the other hand, the Superior Court has indicated that suppression is an excessive remedy where a municipal officer may have committed a technical violation of the MPJA. The seminal decision in this group of cases is *Commonwealth v. Saul*, 499 A.2d 358 (Pa. Super. 1985). In *Saul*, a Harrisburg detective conducted police activities in Susquehanna Township; a township which unquestionably was outside of his jurisdiction. In ruling that suppression for his violation of the MPJA was a remedy all out of proportion to the violation, the Superior Court affirmed the trial court's admission of the evidence opining that suppression is appropriate only where the violation implicates fundamental constitutional concerns. *Id.* at 361. A number of Superior Court cases since *Saul* have followed this reasoning. See *Commonwealth v. Peppers*, 515 A.2d 971 (Pa. Super. 1986); *Commonwealth v. Sestina*, 546 A.2d 109 (Pa. Super. 1987); *Commonwealth v. McPeak*, 708 A.2d 1263 (Pa. Super. 1998); and *Commonwealth v. Laird*, 797 A.2d 995 (Pa. Super. 2002). Each of these cases recognize that where an officer otherwise had a legal basis to conduct the stop, suppression of evidence was an inappropriate remedy for a technical violation of the MPJA.

The most recent Superior Court instruction on this matter is found in *Commonwealth v. Chernosky*, 874 A.2d 123 (Pa. Super. 2005). In *Chernosky*, although the Court found the arresting officer's actions to be in compliance with the MPJA, the Court instructed, in dicta, that even if a violation of the MPJA had occurred, suppression was not an appropriate remedy. In citing Supreme Court precedent, the Superior Court recognized that suppression of evidence for a violation of the MPJA may, or may not be, the appropriate remedy depending upon



all of the circumstances of the case including the intrusiveness of the police conduct, the extent of deviation from the letter and spirit of the act, and the prejudice to the accused. The *Chernosky* Court instructed that a case-by-case review on this issue is appropriate.

Interestingly, an exhaustive search of precedent on this subject has failed to reveal any Supreme Court opinion validating suppression as an appropriate remedy for a violation of the MPJA. On the other hand, the Supreme Court has not clearly enunciated that suppression is inappropriate. Nevertheless, the Supreme Court has signaled its position on this subject.

In *Commonwealth v. O'Shea*, 567 A.2d 1023 (Pa. 1990), the Supreme Court concluded that police had not violated the MPJA. They noted, however, that even if there had been a violation, it would not have warranted the remedy of suppression. *Id.* at 1030. In doing so, they reiterated the principle established in *Commonwealth v. Mason*, 490 A.2d 421 (Pa. 1985) that automatic exclusion of evidence obtained as the result of relatively minor infractions of the Rules of Criminal Procedure would be a remedy all out of proportion to the violation or the benefits gained to the end of obtaining justice while preserving individual liberties. *O'Shea*, 567 A.2d at 1030.

Subsequent Supreme Court cases have signaled a similar message. In *Commonwealth v. Merchant*, 595 A.2d 1135 (Pa. 1991), the Supreme Court reversed an Order of the Superior Court suppressing evidence as a result of the MPJA. Although the Supreme Court reached its decision on the basis that no violation of the MPJA occurred, they instructed that "the Superior Court's discussion concerning the proper remedy for an illegal stop becomes theoretical, and hence should not be considered a binding interpretation of the law on the issue of the appropriate remedy for a violation of this act." *Id.* at 1139. Although this statement is not a complete renunciation of suppression as a remedy, it offers insight into the Supreme Court's hesitancy in embracing suppression as an appropriate remedy.

Recently, the Supreme Court signaled its thoughts on the exclusionary rule in *Commonwealth v. Ruey*, 892 A.2d 802 (Pa. 2006). In *Ruey*, a plurality of the Supreme Court considered whether evidence obtained as the result of a defective search warrant should be suppressed. The four corners of the affidavit of probable cause lacked indication whether the source for information in the warrant was

credible or reliable. However, in fact, there was no question as to the source's actual reliability. Noting that the defect did not reach constitutional proportions, the *Ruey* Court reaffirmed the viability of its earlier opinion in *Commonwealth v. Mason*, supra, that it is only when violations "assume constitutional dimensions and/or substantially prejudice the accused" that suppression is necessary. *Id.* at 808.

Although I recognize that the plurality opinion in *Ruey* and the dicta in *O'Shea* and *Merchant* are of limited presidential value, they reinforced the Superior Court's recommendation that a case-by-case analysis is appropriate. They also confirm the notion that the exclusion of inculpatory evidence is only an appropriate remedy where the violation implicates fundamental constitutional concerns. Such an interpretation is consistent with the theory behind the exclusionary rule that damaging evidence is justifiably excluded if the illegality in procuring the evidence offends our collective concept of fundamental fairness. Essentially, it is our societal judgment that it is better to relieve the culprit of responsibility for an act rather than condone law enforcement officers who improperly obtain evidence. Thus, the rule of exclusion is only properly employed where "the objection goes to the question of the reliability of the challenged evidence ... or reflects intolerable government conduct which is widespread and cannot otherwise be controlled ..." *Commonwealth v. Musi*, 404 A.2d 378, 385 (Pa. 1979).

In determining the propriety of exclusion for a violation of the MPJA, it is important to keep in mind the instruction of our Supreme Court that the MPJA is to be liberally construed to achieve its purposes. *Lehman*, 870 A.2d at 203 (MPJA is designed to promote public safety while maintaining police accountability to local authority). The purpose of the statute is to expand, not limit, the power of police officers to make arrests outside of their primary jurisdictions in recognition that "constructing impenetrable jurisdictional walls benefited only the criminals hidden in their shadows." *Merchant*, 595 A.2d at 1139. An additional goal is to foster effective working relationships among municipal police departments. *Sestina*, 546 A.2d at 112.

Undoubtedly, Officer Briggs, as a municipal officer, is vested with authority to conduct a vehicle stop for a violation of the Pennsylvania Motor Vehicle Code. See 75 Pa. C.S.A. § 6308. Equally unquestionable is the existence of probable cause on the part of Officer

Briggs to suspect that a motor vehicle violation has occurred. Given these facts, I conclude that no constitutional infringement is present.

There is also no indication that Officer Briggs acted in bad faith. He was not engaged in an extra-jurisdiction fishing expedition nor was he seeking to expand his sphere of power without the control of the municipality. Rather, he was in a neighboring jurisdiction for a legitimate purpose. The record reveals that he found himself in the awkward position of sitting in a fully marked police vehicle while a blatant traffic violation occurred in front of him. His options were to conduct the vehicle stop, or alternatively, take no action where an obvious motor vehicle code violation has occurred in his presence, thereby undermining public confidence in effective law enforcement. Although his actions in conducting field sobriety tests may have exceeded permissible action under the MPJA, Officer Harvey's arrival on the scene was imminent and almost certainly would have brought about the same results. It is hard to imagine how Duckworth was prejudiced by Officer Briggs' involvement. Moreover, Officer Harvey's presence on the scene during the course of Briggs' actions circumstantially establishes that there was no attempt by Officer Briggs to act outside the control of Gettysburg Borough officials.

In summation, although Officer Briggs' actions technically violated the MPJA, I find that his actions were not conducted in bad faith, did not substantially prejudice the Defendant, nor violated a fundamental constitutional right. Accordingly, Duckworth's Motion to Suppress is denied.<sup>4</sup>

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<sup>4</sup>In a very recent opinion, the Supreme Court determined that, in the context of a license appeal, evidence of a chemical test refusal was inadmissible where the police officer acted in violation of the MPJA. *Martin v. Commonwealth*, 905 A.2d 438, 439 (Pa. 2006). Critical to their decision was the interplay between the MPJA and the Implied Consent Law, 75 Pa.C.S.A. § 1547, finding that the officer acted outside the authority of the MPJA, the Court held that he was no longer a "police officer" for purpose of the Implied Consent Law. That statutory provision is not at issue in the current case. Moreover, unlike *Martin*, Duckworth was placed under arrest by an officer from the appropriate jurisdiction.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-767 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE two tracts of land situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1 (157 North Stratton Street)

BEGINNING at an iron pin on the East side of North Stratton Street at its intersection with a public alley adjoining lot now or formerly of B.W. Hummer, now of Adams Electric Cooperative, Inc., on the South; thence along said public alley, South 83° East, 160 feet, more or less, to an iron pin at another public alley in the rear; thence along said latter public alley, North 07° East, 18 feet to a point at corner of lot now or formerly of Verne Arndt; thence along said Arndt lot North 83° West, running through the center of a party wall in a double house on the Arndt lot and the lot hereby conveyed, 160 feet, more or less, to the East side of North Stratton Street; thence along said street, South 07° West, 18 feet to an iron pin at the place of BEGINNING.

TRACT NO. 2 (159 North Stratton Street)

BEGINNING at a point on the Eastern side or property line of North Stratton Street, on line or at corner of lot now or formerly of Viola D. Weygandt; thence running through the center of the party wall standing on the line between the lot hereby conveyed and said Weygandt lot, South 83° East, 160 feet, more or less, to a point on the Western side of a public alley in the rear; thence by the Western side of said rear alley, North 7° East, 18 feet to an iron pin at corner of lot now or formerly of Emma Sharpe; thence by said last mentioned lot, North 83° West; 160 feet, more or less, to an iron pin on the Eastern side of property line of said North Stratton Street; thence by the Eastern side or property line of said street, South 7° degrees West, 18 feet to the above described place of BEGINNING.

HAVING THEREON ERECTED A DWELLING HOUSE KNOWN AS: 157 and 159 North Stratton Street, Gettysburg, PA 17325

BEING THE SAME PREMISES WHICH Cleameth H. Stull, by Deed dated 3/24/00 and recorded 3/27/00 in Adams County Deed Book 2019, Page 275, granted and conveyed unto Charles L. Duppins and Joan L. Duppins.

SEIZED IN EXECUTION AS THE PROPERTY OF CHARLES L. DUPPINS and JOAN L. DUPPINS UNDER ADAMS COUNTY JUDGMENT NO. 07-S-767

MAP & PARCEL 16-7-134 AND 16-7-134.01

SEIZED and taken into execution as the property of **Charles L. Duppins & Joan L. Duppins** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS:

You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/5, 12 & 19

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-750 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or piece of ground situate in Mount Joy Township, County of Adams, Commonwealth of Pennsylvania, being known as Lot #1 in a plan of lots of John D. Clapsaddle, prepared by Draft and Survey by Wilbur V. Redding, R.S., dated May 24, 1955, more particularly bounded and described as follows:

BEGINNING at a spike in the center line of the Township Road leading to the Gettysburg to Littlestown Road at corner of lands of Cletus Sanders; thence by land of Sanders North 47 degrees West, 200 feet to an iron pin at other lands now or formerly of Frank H. Fissel, Jr. and Helen M. Fissel; thence by same North 36 degrees 34 minutes East, 150 feet to an iron pin at corner of Lot #2 on the above mentioned plan; thence by Lot #2 South 47 degrees 42 minutes East, 223.3 feet to a spike in the center line of the Township Road leading to the Gettysburg to Littlestown Road; thence along said center line South 45 degrees West, 150 feet to the iron pin, the place of BEGINNING. CONTAINING 115 Perches.

TITLE TO SAID PREMISES IS VESTED IN Timothy E. Wilson, Sr. and Heather Marie Wilson, husband and wife, as tenants by the entirety, by Deed from Reta N. Warner, widow, by her appointed guardians and Pamela S. Chiara and Russell E. Warner, dated 08/29/2006, recorded 08/31/2006, in Deed Book 4552, page 105.

Premises being: 1845 Highland Avenue Road, Gettysburg, PA 17325

Tax Parcel No. 30-614-0055-000

SEIZED and taken into execution as the property of **Timothy E. Wilson a/k/a Timothy E. Wilson, Sr. & Heather Marie Wilson** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS:

You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Act of Assembly, No. 295, effective March 16, 1983, of the filing in the Office of the Department of State, of the Commonwealth of Pennsylvania, at Harrisburg, PA on September 21, 2007, for an Application for the conduct of business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of MUD RUN POTTERY, with the principal place of business at 2520 Lake Meade Road, East Berlin, PA 17316.

The name and address of the individual interested in said business is: F. Stephen VanVoorhees, 2520 Lake Meade Road, East Berlin, PA 17316.

10/19

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-313 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in the Borough of Abbottstown, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point at a thirty (30) foot dedicated right-of-way line of Country Club Road and Lot No. 4 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 40, South seventy-eight (78) degrees ten (10) minutes nine (09) seconds West one hundred eighteen and eight hundredths (118.08) feet to a point at a twenty (20) feet drainage easement; thence along the twenty (20) feet drainage easement North nine (09) degrees forty-one (41) minutes eighteen (18) seconds West, eighty-nine and forty-one hundredths (89.41) feet to a point as Lot No. 6 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 6 North eighty (80) degrees eighteen (18) minutes forty-two (42) seconds East, one hundred eighteen (118.00) feet to a point at a thirty (30) foot dedicated right-of-way line of Country Club Road; thence further along the dedicated right-of-way line of Country Club Road, South nine (09) degrees forty-one (41) minutes eighteen (18) seconds East, eighty-five (85.00) feet to the point and place of BEGINNING.

Known as Lot No. 5 on a subdivision plan of Country Club Estates as recorded in the Adams County Recorder of Deeds Office in Plat Book 63, page 44.

TITLE TO SAID PREMISES IS VESTED IN Lawrence Shoul, married man, by Deed from Lawrence Shoul & Terri Shoul, husband and wife, dated 01/20/2006, recorded 01/24/2006 in Book 4292 Page 271.

Premises being: 257 Country Club Road, Abbottstown, PA 17301

Tax Parcel No. (1)4-85

SEIZED and taken into execution as the property of **Lawrence Shoul a/k/a Lawrence Scott Shoul** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 21, 2007, and distribution will be made in accordance with said schedule, unless

exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-839 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at the corner of lot now or formerly of Harry Oyler, known as Lot No. 2; thence along Hanover Street East 35 feet, more or less, to lot now or formerly of Fissel; thence along said Fissel lot North 180 feet, more or less, to an alley; thence along said alley West 35 feet, more or less, to said Lot No. 2; thence along the same South 180 feet, more or less, to the place of BEGINNING.

Map #16-8-113

Improvements: Residential dwelling  
Premises Being Known As: 124 Hanover Street, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Victoria Singleton** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 30, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-840 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at the corner of lot now or formerly of Harry Oyler, known as Lot No. 2; thence along Hanover Street East 35 feet, more or less, to lot now or formerly of Fissel; thence along said Fissel lot North 180 feet, more or less, to an alley; thence along said alley West 35 feet, more or less, to said Lot No. 2; thence along the same South 180 feet, more or less, to the place of BEGINNING.

Map #16-8-113

Improvements: Residential dwelling  
Premises Being Known As: 124 Hanover Street, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Victoria Singleton** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 30, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-917 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Township of Tyrone, County of Adams and Commonwealth of Pennsylvania, as follows:

BEGINNING at a stone in or at the Western edge of the E Co. Road (T-564); thence in and along said E Co. Road North 27 degrees 12 minutes 04 seconds West 185.49 feet to a railroad spike in said E Co. Road; thence crossing said E Co. Road, through an iron pin set 25 feet from the beginning of this course and along Lot B in and upon the below-mentioned draft of survey and subdivision plan, North 82 degrees 58 minutes 32 seconds East, 561.03 feet to an iron pin (see Note 5. in the below-mentioned draft of survey and subdivision plan) at corner of Lots B and C in and upon the below-mentioned draft of survey and subdivision plan; thence along Lot C in and upon the below-mentioned draft of survey and subdivision plan South 20 degrees 43 minutes 24 seconds East, 130.00 feet to an iron pin at corner of said Lot C and lands now or formerly of Andrew E. Burgess and Patricia A. Curtis; thence continuing along said lands of Burgess and Curtis South 77 degrees 48 minutes 02 seconds West, 530.00 feet to a stone in or at the Western edge of said E Co. Road (T-564), the point and place of BEGINNING.

Parcel ID # (40) H06-3A

Property is being sold subject to a first mortgage.

Being Known As: 829 Company Farm Road (Tyrone Township), Aspers, PA 17304

TITLE TO SAID PREMISES IS VESTED IN Ronald L. Harris, Jr. and Sandra M. Harris, h/w by Deed from Ronald L. Harris, Jr. and Sandra M. Smith, NKA Sandra M. Harris dated 12/26/03 recorded 1/6/03 in Deed Book 2932 Page 307.

SEIZED and taken into execution as the property of **Ronald L. Harris, Jr. & Sandra M. Harris** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

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

2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/19, 26 & 11/2

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY COMMONWEALTH OF PENNSYLVANIA

ORPHANS' COURT DIVISION  
NO. RT-9-07(A)

NOTICE

TO: DANIEL LUTHER FUNT, SR.

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for November 15, 2007, at 9:00 a.m., prevailing time, in the conference room on the 4th Floor of the Adams County Courthouse, at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

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

Court Administrator  
Adams County Courthouse  
111-117 Baltimore Street  
Gettysburg, PA 17325  
Telephone number: (717) 337-9846

Chester G. Schultz, Attorney at Law  
145 Baltimore Street  
Gettysburg, PA 17325

10/19, 26 & 11/2

NOTICE

In accordance with the Municipality Authorities Act of 2001, the Bonneauville Borough Municipal Authority hereby gives notice that it intends to file Articles of Amendment to its Articles of Incorporation with the Pennsylvania Department of State, no earlier than three days after the notice contained herein.

In accordance with 53 Pa. C.S.A. Section 5605(d), the Authority hereby states the following:

- (a) The name of the Authority is Bonneauville Borough Municipal Authority and its registered address is R.D. #5, Gettysburg, PA 17325.
- (b) The Articles of Amendment will be filed under 53 Pa. C.S.A. Chapter 56.
- (c) The amendment to its Articles of Incorporation will extend its existence for an additional 50 years to terminate on October 1, 2057 and will change its registered office to 86 West Hanover Street, Gettysburg, PA 17325.
- (d) The Articles of Amendment will be filed with the Secretary of the Commonwealth on October 29, 2007, which is at least three days after the date this Notice is published.

Bonneauville Borough Municipal Authority  
Doris A. Busbey, Secretary  
BARLEY SNYDER, LLC  
Bond Counsel

10/19

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY COMMONWEALTH OF PENNSYLVANIA

ORPHANS' COURT DIVISION  
NO. RT-10-07(A)

NOTICE

TO: DANIEL LUTHER FUNT, SR.

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for November 15, 2007, at 9:00 a.m., prevailing time, in the conference room on the 4th Floor of the Adams County Courthouse, at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

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

Court Administrator  
Adams County Courthouse  
111-117 Baltimore Street  
Gettysburg, PA 17325  
Telephone number: (717) 337-9846

Chester G. Schultz, Attorney at Law  
145 Baltimore Street  
Gettysburg, PA 17325

10/19, 26 & 11/2

**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 ROBERT J. DILLMAN, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executor: James S. Dillman, 53 Meadow Lane, Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

**ESTATE OF HOWARD GRANT RYDER, DEC'D**

Late of Reading Township, Adams County, Pennsylvania

Executrix: Helen C. Gonzalez, 7624 Forest Park Drive, NW, Olympia, WA 98502

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

**ESTATE OF ROSANNA GULDEN WRIGHT, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

Executor: William C. Wright, 606 Quaker Valley Road, Biglerville, PA 17307

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

**SECOND PUBLICATION****ESTATE OF KENNETH L. CRAWFORD a/k/a KENNETH LEE CRAWFORD, DEC'D**

Late of Abbottstown Borough, Adams County, Pennsylvania

Executor: David M. Crawford, 6146 Acorn Dr., Spring Grove, PA 17362

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

**ESTATE OF SARAH ANNE LAGES, DEC'D**

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executrix: Mary Jane Nagle, c/o E. Steve O'Donnell, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

Attorney: E. Steve O'Donnell, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

**ESTATE OF LOUISE V. LENTZ, DEC'D**

Late of Reading Township, Adams County, Pennsylvania

Executor: Stanley E. Lentz, 30 Halleck Dr., East Berlin, PA 17316

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

**ESTATE OF HOWARD G. SHOEMAKER, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Clarice F. Shoemaker, 60 Spruce Dr., Gettysburg, PA 17325

Attorney: Phillips & Phillips, 101 W. Middle St., Gettysburg, PA 17325

**ESTATE OF CAROLINE STERRETT, DEC'D**

Late of the Borough of Arendtsville, Adams County, Pennsylvania

Executor: William N. Sterrett, Jr., 1332 Ridgeview Circle, Downingtown, PA 19335

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

**THIRD PUBLICATION****ESTATE OF ROBERT LEWIS HARBAUGH, DEC'D**

Late of York, York County, Pennsylvania  
Shirley Cluck, 460 Hoffacker Road, Littlestown, PA 17340

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

**ESTATE OF ELIZABETH W. HULL, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Kenneth P. Hull, Jr., 540 Cornell Avenue, Swarthmore, PA 19081; Elizabeth H. Holloway, 240 Confederate Drive, Gettysburg, PA 17325

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

**ESTATE OF LINDY L. SHANOLTZ, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Virginia M. Shanoltz, 125 Barlow Road, Gettysburg, PA 17325

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 66 West Middle Street, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-807 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land located in Reading Township, Adams County, Pennsylvania, shown as Tract No. 2 on the final subdivision plan prepared for Edward C. Wallen, Sr. dated December 29, 1998, and about to be recorded in the Adams County, Pennsylvania, Recorder of Deeds Office and shown as Lot No. 2 on said plan, more particularly bounded and described as follows:

BEGINNING at a steel pin set located at the Eastern corner of Lot No. 1 as shown on said plan; thence along Lot No. 1 South 40 degrees 19 minutes 42 seconds West 160.00 feet to a steel pin set located at lands now or formerly of Gene H. Shenberger; thence by said lands of Shenberger South 49 degrees 40 minutes 18 seconds West 306.54 feet to an existing iron pipe at lands now or formerly of David W. Diehl; thence by lands of David W. Diehl North 22 degrees 54 minutes 02 seconds East 167.70 feet to an

existing iron pipe at other lands of the grantors herein; thence by same North 49 degrees 40 minutes 18 seconds West 256.31 feet to a steel pin set, the point and place of BEGINNING. CONTAINING 1.034 acres.

TOGETHER WITH THE right to use the stone driveway as it is extended across Lot No. 1 as shown on the aforesaid subdivision plan. The rights and responsibilities related to the use and maintenance of the driveway as between owners of Lots 1 and 2 are set forth in a Declaration of Right-of-Way and Responsibilities previously recorded in the aforesaid Recorder of Deeds Office.

BEING known as Parcel Identification Number J7-69.

BEING the same premises which Edward C. Wallen, Sr. and Darlene Wallen, husband and wife, by deed dated April 22, 1999 and recorded June 09, 1999 in Adams County in Deed Book Volume 1849, Page 20, granted and conveyed unto Edward C. Wallen, Jr. and Lori Sue Wallen, husband and wife. Edward C. Wallen, Jr. died 9/30/01, thereby vesting fee simple title into Lori Sue Wallen, Grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Trevor C. Reck, a single man, by Deed from Lori Sue Wallen, widow, dated 10/28/2005, recorded 11/10/2005, in Deed Book 4204, page 289.

Premises being: 22 Miller Road, New Oxford, PA 17350

SEIZED and taken into execution as the property of Trevor Reck and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26

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# *Adams County* Legal Journal

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October 26, 2007

No. 23, pp. 152-158


## IN THIS ISSUE

BON TON BUILDERS VS. HARMON

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

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IN THE COURT OF COMMON  
PLEAS OF ADAMS COUNTY  
COMMONWEALTH OF PENNSYLVANIA

ORPHANS' COURT DIVISION  
NO. RT-9-07(A)

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You should contact 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.

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IN THE COURT OF COMMON  
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COMMONWEALTH OF PENNSYLVANIA

ORPHANS' COURT DIVISION  
NO. RT-10-07(A)

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## BON TON BUILDERS VS. HARMON

1. Supersedeas should be granted only if the appeal appears to present a question which is meritorious, not frivolous, if a detriment to interest of the parties resulting from the stay would be less than the harm resulting from a denial of it, and if the public interest would not be adversely affected by the stay.
2. The trial Court's findings of fact are controlling unless those findings are not based upon competent evidence.
3. The trial Court's assessment of the credibility of witnesses is binding absent an abuse of discretion.
4. An abuse of discretion does not occur where there is a mere difference of opinion regarding an interpretation of the facts; rather, an abuse of discretion is found only in flagrant cases where there is not a substantial ground for difference of opinion.
5. Ratification, in a broad sense, is the confirmation of a voidable act. In essence, to ratify is to make valid and/or to confirm.
6. Any ambiguity concerning the meaning of the paragraph referencing ratification should be interpreted against the preparer of the agreement.
7. In entering a decree for specific performance, it is essential that there be a definite present agreement in writing with every requisite element thereof being clearly and fully set forth in the agreement. If the writing does not definitely and conclusively evidence a meeting of the minds of all the requisite terms of the agreement, leaving nothing left to the future except actual performance, then specific performance is not appropriate.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 05-S-1324, BON TON BUILDERS, INC. VS. WILLIAM S. HARMON, JR.

Arthur J. Becker, Jr., Esq., for Plaintiff  
John J. Mooney, III, Esq., for Defendant  
George, J., October 13, 2006

### OPINION PURSUANT TO PA.R.A.P. 1925(b)

The Plaintiff, Bon Ton Builders, Inc. ("Bon Ton"), appeals from this Court's Order dated June 30, 2006 wherein judgment on Bon Ton's Complaint for Specific Performance was entered in favor of the Defendant, William S. Harmon, Jr. ("Harmon"). The relevant factual background, found by this Court to be credible, is as follows:

During the early fall of 2005, Harmon and a third party, John Lescalleet ("Lescalleet"), negotiated concerning the purchase of property located at 925 Gettysburg Road, Germany Township, Adams County, Pennsylvania. During discussions, Lescalleet offered to pay one hundred twenty thousand dollars (\$120,000.00) for the property.

Trial Transcript pg. 92. Subsequent to these negotiations, Harmon met with Tony Forbes ("Forbes"). Forbes is an agent for Bon Ton and has over twenty years experience in buying and selling real estate. Tr., pg. 40. Following this meeting, an informal bid process occurred wherein Forbes and Lescalleet matched each other's offers. This part of the process consummated on October 6, 2005 when Harmon went to the offices of Bon Ton to meet with Forbes. When Harmon arrived at Forbes' office, Forbes presented Harmon with a sales agreement for the purchase of the property which had been prepared prior to Harmon's arrival. Id. at 41. The sales agreement was prepared by Forbes' mother, Charlotte Forbes, who is a licensed real estate agent. Charlotte Forbes is also an authorized signatory on the Bon Ton business account. Id. at 74. She claims, however, not to have been acting as an agent for Bon Ton at the time of the transaction. Tr. pg. 70. Nevertheless, at the time of execution of the sales agreement, the customary seller disclosure form was neither prepared nor executed. Id. at 40. The sales agreement, which was signed by Harmon, provided for the sale of the property to Bon Ton in the amount of one hundred seventy-five thousand dollars (\$175,000.00). The sales agreement specifically provided for a payment to Harmon in the amount of one thousand dollars (\$1,000.00) at the time of its ratification. Settlement was to be made on or before November 30, 2005. The sales agreement also required that the contents of the home and garage as well as any tenants to the property be removed before settlement and that all corner pins to the property be re-set. An additional term of the sales agreement provided that time "shall be of the essence with respect to performance of any obligation arising under this agreement." In the event of default, the seller may, at seller's option, elect to declare the agreement of sale null and void. Finally, Forbes agreed that due to Harmon's age, he would clean out the house in exchange for the equipment in the basement.

Upon execution of the agreement, Harmon left the Bon Ton offices without receiving any deposit or payment

upon ratification pursuant to the terms of the agreement. Thereafter, Harmon never saw Forbes again. *Id.* at 95. Harmon did go back to the Bon Ton offices, however, on October 10th or 11th, 2005. *Tr.* pg. 96. At that time, Harmon advised Charlotte Forbes that he wanted out of the sales agreement. Harmon heard nothing back from Forbes concerning this representation. On the other hand, Forbes refrained from taking any action pursuant to the sales agreement. No steps were taken by Forbes to clean out the property or complete the inspections specified in the sales agreement. *Id.* at 94-96. After hearing nothing back from Forbes, Harmon placed the property in the multi-listing with the real estate firm of Long & Foster on October 23, 2005. A real estate sign was placed on the front of the property and a key box placed near the entrance to the home.

On November 23, 2005, Forbes contacted Long & Foster, leaving a message on the answering machine representing that he had a contract with Harmon “signed back in the beginning of September.” Defendant’s Exhibit No. 7. The phone message prompted a return call to Forbes from an agent from Long & Foster. During this discussion, the agent from Long & Foster questioned the validity of the contract Forbes claimed he held with Harmon. *Id.* at 85. On November 23, 2005, Forbes’ counsel also forwarded correspondence to Harmon and Long & Foster Realtors seeking, for the first time, to schedule settlement prior to November 30, 2005.

During the course of trial, I had the opportunity to observe Harmon. He presented himself as a very elderly gentleman suffering from numerous health issues including hearing loss. He appeared unsophisticated and confused in regard to the meaning of the documents which were presented to him. Nevertheless, and perhaps due to his lack of sophistication, he presented as a very credible witness.

Following this Court’s entry of judgment in favor of Harmon, Bon Ton filed post trial motions for judgment notwithstanding the verdict or, in the alternative, for a new trial. After those motions were denied, Bon Ton has taken appeal to the Superior Court. In the

Concise Statement of Matters Complained of on Appeal, Bon Ton raises what appear to be a number of challenges to this Court's factual findings as well as to legal conclusions reached by the Court. The Concise Statement, however, contains fourteen different paragraphs and is not clear as to the reference in each paragraph whether the challenge is claimed to be an abuse of discretion or an error of law. This Court, therefore, is unable to determine with accuracy the specific issue being raised by Bon Ton. Nevertheless, I will attempt to address the Court's reasoning in its verdict.

Initially, I note that in reviewing the results of a non-jury trial, the trial Court's findings of fact are controlling unless those findings are not based upon competent evidence. *Viener v. Jacobs*, 834 A.2d 546, 554 (Pa. Super. 2003). Moreover, the trial Court's assessment of the credibility of witnesses is binding absent an abuse of discretion. *Thatcher's Drug Store v. Consolidated Supermarkets, Inc.*, 636 A.2d 156, 160 (Pa. 1994). An abuse of discretion does not occur where there is a mere difference of opinion regarding an interpretation of the facts; rather, an abuse of discretion is found only in flagrant cases where there is not a substantial ground for difference of opinion. *Viener*, 834 A.2d at 556. Instantly, although Bon Ton may disagree with this Court's credibility determinations, the record amply supports the factual background relied upon by the Court.

Essentially, this Court found that a written document prepared by a realtor, who also had an interest in Bon Ton, was presented by Bon Ton to Harmon. The document, by its very terms, implied ratification by payment of one thousand dollars (\$1,000.00). Ratification, in a broad sense, is the confirmation of a **voidable act**. Black's Law Dictionary, Fifth Edition. In essence, to ratify is to make valid and/or to confirm. *Id.* As the document contained a number of paragraphs which were initialed by Harmon but not by Bon Ton, it appears a number of items were left unresolved pending ratification. In any case, any ambiguity concerning the meaning of the paragraph referencing ratification should be interpreted against Bon Ton as preparer of the agreement. *Insurance Adjustment Bureau, Inc. v. Allstate Insurance Co.*, 206 Pa. Lexis 156, 13 (Pa. 2006).

I concluded, since there was neither ratification nor payment of the one thousand dollars (\$1,000.00) pursuant to the contract, that Bon Ton's claim for specific performance was unenforceable. The

Supreme Court has long held that in entering a decree for specific performance, it is essential that there be a definite present agreement in writing with every requisite element thereof being clearly and fully set forth in the agreement. *Gettemy v. Homestead Ass'n. of Westmoreland*, 52 A.2d 325, 327 (Pa. 1947). If the writing does not definitely and conclusively evidence a meeting of the minds of all the requisite terms of the agreement, leaving nothing left to the future except actual performance, then specific performance is not appropriate. *Id.*

Instantly, the parties executed a document which by its terms required ratification and a payment of one thousand dollars (\$1,000.00). Prior to ratification, or the payment of one thousand dollars (\$1,000.00) on the part of Bon Ton, Harmon evidenced his intent to void the agreement.<sup>1</sup> There is no indication in the record that Harmon waived the one thousand dollar payment. To the contrary, the record is replete with representations from Harmon that he wanted the money as he desperately needed it. See Tr. pg. 95.

Interestingly, Bon Ton recognizes the significance of the thousand dollar payment when they attempted to prove at trial that the payment was made. I specifically discredit the testimony of Forbes in this regard and, rather, accept the testimony of Harmon as being true. Circumstantial evidence presented during the course of the trial supported this finding. In sum, Bon Ton, despite having a superior experience in matters such as this, did not completely execute the contract; made no down payment pursuant to the contract; did not ratify the contract despite an express term contemplating the same; did not make payment at the time of ratification as required; did not conduct the inspections contemplated under the agreement; failed to make efforts to remove Harmon's personal property as discussed; nor took any other action pursuant to the document until the agreement was voided. I found, therefore, that equity did not weigh in favor of specific performance.

#### ORDER

AND NOW, this 13th day of October, 2006, the Petition of Bon Ton Builders, Inc. ("Bon Ton") for Supersedeas is denied.

---

<sup>1</sup> Bon Ton suggests that Harmon's representation that he wished to void the sales document did not mention the lack of the one thousand dollar payment as a reason. However, I am unaware of any authority which requires one to specify why they are voiding a voidable act.

Supersedeas should be granted only if the appeal appears to present a question which is meritorious, not frivolous, if any detriment to interest of the parties resulting from the stay would be less than the harm resulting from a denial of it, and if the public interest would not be adversely affected by the stay. *Pennsylvania Public Utility Commission v. Process Gas Consumers Group*, 467 A.2d 805, 808 (Pa. 1983). I find that Bon Ton has not satisfied those requirements.

As evidenced by this Court's 1925(b) Opinion filed concurrently with this Order, this Court finds little merit to Bon Ton's appeal. Moreover, the harm to William S. Harmon, Jr. ("Harmon") in granting the stay is self-apparent in that the use of the property is tied up indefinitely on appeal. Observing Harmon testify, it is clear to the Court that Harmon has substantial medical issues brought about by the natural aging process. Although the record does not reflect Harmon's age, observations of Harmon at trial and during supersedeas hearing provide indication that there is substantial risk in Harmon not surviving the appellate process. Harmon testified as to substantial expense related to his medical needs. He has indicated that he lacks resources available to pay those medical needs and observation indicates he is clearly incapable of earning income through employment or through managing his property as a rental property. In fact, his testimony revealed that attempts to lease his property have resulted in the loss of substantial income through non-payment of rent. Additionally, trial testimony indicated that Harmon owns no other real estate from which to draw funds. Trial testimony also reflected that Harmon is currently attempting to sell the property as a means to provide for his needs.

On the other hand, there is a paucity of information regarding harm to Bon Ton in the event the stay is not granted. Bon Ton essentially argues that it will be harmed if the property is sold while the appellate process is ongoing. While all real estate is unique to some extent, the record fails to reveal anything particular about this property which would cause substantial detriment to Bon Ton in the event of its sale. The record is absent as to any exceptional features about this property or any specific need by Bon Ton to own this property. Although the record lacks any indication as to whether this property is being purchased for residential or commercial purposes, circumstances indicate commercial and/or developmental use for the property. In the event that Bon Ton's appeal is upheld, Bon Ton certainly



may be made whole by a breach of contract claim for lost profits and/or losses related to obtaining an alternative property. *Ebright v. Shutler*, 386 A.2d 66, 68 (Pa. Super. 1978); *Trosky v. Civil Service Commission, City of Pittsburgh*, 652 A.2d 813, 817 (Pa. 1995). This balance weighs in favor of a finding of greater hardship to Harmon in granting the stay than to Bon Ton in denying supersedeas.

This Court finds persuasive the reasoning of *Janus Management Services, Inc. v. Schlessinger*, 810 A.2d 637 (Pa. Super. 2002). Recognizing that the trial Court's discharge of record of a lis pendens has meaning, the Court relevantly stated:

If every time there is an appeal of an issue in the underlying matter a buyer could not obtain clear title until the appeals were ultimately disposed, no title insurance company would insure the property and transactions could be stalled for years. This would have a two-fold effect, One, the appellate process would render meaningless the striking of the lis pendens. By delaying the insurability of title through appeal, even after lis pendens was stricken, we would effectively be maintaining the lis pendens. This is an absurd result. Two, as can be seen from this case, where the net value of property when resold by Schlessinger was for a million dollars less than the brothers received, such a delay occasioned by appeal could deprive sellers of profits to which they could be entitled. Any frivolous claims in appeal would wreak havoc on sellers and only sets the stage for abuse.

*Id.* A.2d at 642. Accordingly, Bon Ton's request for supersedeas is denied.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-750 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or piece of ground situate in Mount Joy Township, County of Adams, Commonwealth of Pennsylvania, being known as Lot #1 in a plan of lots of John D. Clapsaddle, prepared by Draft and Survey by Wilbur V. Redding, R.S., dated May 24, 1955, more particularly bounded and described as follows:

BEGINNING at a spike in the center line of the Township Road leading to the Gettysburg to Littlestown Road at corner of lands of Cletus Sanders; thence by land of Sanders North 47 degrees West, 200 feet to an iron pin at other lands now or formerly of Frank H. Fissel, Jr. and Helen M. Fissel; thence by same North 36 degrees 34 minutes East, 150 feet to an iron pin at corner of Lot #2 on the above mentioned plan; thence by Lot #2 South 47 degrees 42 minutes East, 223.3 feet to a spike in the center line of the Township Road leading to the Gettysburg to Littlestown Road; thence along said center line South 45 degrees West, 150 feet to the iron pin, the place of BEGINNING. CONTAINING 115 Perches.

TITLE TO SAID PREMISES IS VESTED IN Timothy E. Wilson, Sr. and Heather Marie Wilson, husband and wife, as tenants by the entirety, by Deed from Reta N. Wamer, widow, by her appointed guardians and Pamela S. Chiara and Russell E. Wamer, dated 08/29/2006, recorded 08/31/2006, in Deed Book 4552, page 105.

Premises being: 1845 Highland Avenue Road, Gettysburg, PA 17325

Tax Parcel No. 30-614-0055-000

SEIZED and taken into execution as the property of **Timothy E. Wilson a/k/a Timothy E. Wilson, Sr. & Heather Marie Wilson** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-917 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Township of Tyrone, County of Adams and Commonwealth of Pennsylvania, as follows:

BEGINNING at a stone in or at the Western edge of the E Co. Road (T-564); thence in and along said E Co. Road North 27 degrees 12 minutes 04 seconds West 185.49 feet to a railroad spike in said E Co. Road; thence crossing said E Co. Road, through an iron pin set 25 feet from the beginning of this course and along Lot B in and upon the below-mentioned draft of survey and subdivision plan, North 82 degrees 58 minutes 32 seconds East, 561.03 feet to an iron pin (see Note 5. in the below-mentioned draft of survey and subdivision plan) at corner of Lots B and C in and upon the below-mentioned draft of survey and subdivision plan; thence along Lot C in and upon the below-mentioned draft of survey and subdivision plan South 20 degrees 43 minutes 24 seconds East, 130.00 feet to an iron pin at corner of said Lot C and lands now or formerly of Andrew E. Burgess and Patricia A. Curtis; thence continuing along said lands of Burgess and Curtis South 77 degrees 48 minutes 02 seconds West, 530.00 feet to a stone in or at the Western edge of said E Co. Road (T-564), the point and place of BEGINNING.

Parcel ID # (40) H06-3A

Property is being sold subject to a first mortgage.

Being Known As: 829 Company Farm Road (Tyrone Township), Aspers, PA 17304

TITLE TO SAID PREMISES IS VESTED IN Ronald L. Harris, Jr. and Sandra M. Harris, h/w by Deed from Ronald L. Harris, Jr. and Sandra M. Smith, NKA Sandra M. Harris dated 12/26/02 recorded 1/6/03 in Deed Book 2932 Page 307.

SEIZED and taken into execution as the property of **Ronald L. Harris, Jr. & Sandra M. Harris** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/19, 26 & 11/2

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation-Nonprofit were filed on September 12, 2007 with the Department of State of the Commonwealth of Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed non-profit business corporation to be organized under the provisions of the Pennsylvania Non-Profit Corporation Law statutes at 15 Pa. C.S. § 5306 et seq., as amended.

The name of the non-profit corporation is THE STONERS FARM HOMEOWNERS ASSOCIATION, INC., with its principal office or place of business at 209 Locust Street, P.O. Box 644, East Berlin, PA 17326. The name and address of person owning or interested in said business is Harry P. McKean.

10/26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-313 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in the Borough of Abbottstown, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point at a thirty (30) foot dedicated right-of-way line of Country Club Road and Lot No. 4 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 40, South seventy-eight (78) degrees ten (10) minutes nine (09) seconds West one hundred eighteen and eight hundredths (118.08) feet to a point at a twenty (20) feet drainage easement; thence along the twenty (20) feet drainage easement North nine (09) degrees forty-one (41) minutes eighteen (18) seconds West, eighty-nine and forty-one hundredths (89.41) feet to a point at Lot No. 6 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 6 North eighty (80) degrees eighteen (18) minutes forty-two (42) seconds East, one hundred eighteen (118.00) feet to a point at a thirty (30) foot dedicated right-of-way line of Country Club Road; thence further along the dedicated right-of-way line of Country Club Road, South nine (09) degrees forty-one (41) minutes eighteen (18) seconds East, eighty-five (85.00) feet to the point and place of BEGINNING.

Known as Lot No. 5 on a subdivision plan of Country Club Estates as recorded in the Adams County Recorder of Deeds Office in Plat Book 63, page 44.

TITLE TO SAID PREMISES IS VESTED IN Lawrence Shoul, married man, by Deed from Lawrence Shoul & Terri Shoul, husband and wife, dated 01/20/2006, recorded 01/24/2006 in Book 4292 Page 271.

Premises being: 257 Country Club Road, Abbottstown, PA 17301

Tax Parcel No. (1)4-85

SEIZED and taken into execution as the property of **Lawrence Shoul a/k/a Lawrence Scott Shoul** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 21, 2007, and distribution will be made in accordance with said schedule, unless

exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-839 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at the corner of lot now or formerly of Harry Oyler, known as Lot No. 2; thence along Hanover Street East 35 feet, more or less, to lot now or formerly of Fissel; thence along said Fissel lot North 180 feet, more or less, to an alley; thence along said alley West 35 feet, more or less, to said Lot No. 2; thence along the same South 180 feet, more or less, to the place of BEGINNING.

Map #16-8-113

Improvements: Residential dwelling

Premises Being Known As: 124 Hanover Street, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Victoria Singleton** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 30, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-840 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at the corner of lot now or formerly of Harry Oyler, known as Lot No. 2; thence along Hanover Street East 35 feet, more or less, to lot now or formerly of Fissel; thence along said Fissel lot North 180 feet, more or less, to an alley; thence along said alley West 35 feet, more or less, to said Lot No. 2; thence along the same South 180 feet, more or less, to the place of BEGINNING.

Map #16-8-113

Improvements: Residential dwelling

Premises Being Known As: 124 Hanover Street, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Victoria Singleton** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 30, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/12, 19 & 26

NOTICE

NOTICE IS HEREBY GIVEN that David R. Erhard, Esquire, intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 15th day of November, 2007, and that he intends to continue practicing law as an Associate in the law firm of Steve Rice, P.C., County of Adams, 18 Carlisle Street, Gettysburg, Pennsylvania.

10/19, 26 & 11/2

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-817 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described real estate, lying and being situate in Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in Church Road (T-361) at the Northeast corner of the tract herein conveyed; thence in T-361, South 36 degrees 59 minutes 27 seconds West, 41.84 feet to a point; thence continuing in T-361, South 39 degrees 41 minutes 39 seconds West 13.18 feet to a point; thence with Lot No. 1 through a set iron pin on line, North 77 degrees 54 minutes 24 seconds West 98.86 feet to a set iron pin; thence by the same, South 67 degrees 14 minutes 13 seconds West 90.00 feet to a set iron pin; thence by the same, North 75 degrees 11 minutes 52 seconds West 200.78 feet to a set iron pin; thence by the same, North 67 degrees 00 minutes 00 seconds West 328.00 feet to a set iron pin; thence by the same, South 36 degrees 01 minute 18 seconds West 224.35 feet to a set iron pin; thence with lands now or formerly of Diane M. Garman, North 75 degrees 25 minutes 31 seconds West 580.36 feet to an existing iron pin and stones; thence with lands now or formerly of Robert F. Wagner, North 59 degrees 17 minutes 58 seconds East 334.96 feet to an existing steel pin and stone; thence with lands now or formerly of Samuel A. Ehman, through an existing iron pin on line, South 77 degrees 00 minutes 00 seconds East, 1,144.22 feet to a point in T-361, the place of BEGINNING. CONTAINING 4.074 acres and BEING the residue identified as 'Residue' on that survey and subdivision of land as prepared by R. Lee Royer & Associates, surveying, dated April 1, 1992 as approved by the Franklin Township Supervisors and recorded in Adams County Plat Book 61, Page 20.

Stewart Title Guarantee Company

Tax ID # B9-12B

BEING the same premises which John A. Gardiner, III a/k/a John A. Gardiner and Christine C. Gardiner, by Deed dated March 23, 2004 and recorded in Book 3593, Page 185, granted and conveyed unto John A. Gardiner, III and Christine C. Gardiner, his wife, Tenants by the Entirety, in fee.

Premises being: 940 Church Road, Ortanna, PA 17353

SEIZED and taken into execution as the property of **John A. Gardiner, III a/k/a John A. Gardiner, IV & Christine C. Gardiner** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/26, 11/2 & 9

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-746 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following two (2) tracts of land situate on the West side of Pennsylvania State Highway, Route No. 94, otherwise known as the Carlisle Pike, in Oxford Township, Adams County, Pennsylvania, bounded and limited as follows:

TRACT NO. 1:

BEGINNING at a point on said Highway, which point is thirty-seven (37) feet North of a stone set along said Highway at the line of lands of L. L. Bittinger, deceased, and lands of William Krebs; thence from said point, and along lands of L. L. Bittinger, deceased, South sixty-three and one-half (63-1/2) degrees West two hundred (200) feet to a point; thence along the same, North twenty-six and one-half (26-1/2) degrees West, ninety-three (93) feet to a point at the Northerly side of a twenty-eight (28) feet wide alley; thence along the Northerly side of said alley North sixty-three and one-half (63-1/2) degrees East, two hundred (200) feet to a point at said Highway; and thence along said Highway, South twenty-six and one-half (26-1/2) degrees East, ninety-three (93) feet to a point, the place of BEGINNING.

Subject, however, to a public alley, twenty-eight (28) feet in width, extending from said Highway along the Northerly boundary of the premises herein described, a distance of two hundred

(200) feet to the rear or Western line of said premises, and further subject to the condition that the grantees, by the acceptance of the delivery of this conveyance, release and quitclaim to the grantors, their heirs and assigns any and all claim for any rights to water or use of water on said premises.

TRACT NO. 2:

BEGINNING for a corner at a stake on the line between the lands now or formerly of Edward Laughman and lands now or formerly of Claude J. Laughman and Lydia Laughman, his wife, sixty-five (65) feet from the State Highway formerly known as the Carlisle Pike, thence along other lands now or formerly of Edward Laughman of which this was a part, South forty-five (45) degrees thirty-four (34) minutes West, seventy (70) feet to a stake; thence South fifty-one (51) degrees nine (9) minutes West, seventy and one-tenth (70.1) feet to a stake at lands now or formerly of John H. Bittinger; thence along the same, North twenty-six (26) degrees thirty (30) minutes West, thirty-six and six-tenths (36.6) feet to a stake at other lands now or formerly of Claude J. Laughman and Lydia Laughman, his wife, thence along the same, North sixty-three (63) degrees thirty (30) minutes East, one hundred thirty-five (135) feet to the place of the BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Brian J. Staub, by Deed from Dennis A. Church and James A. Church, correctly known as, James M. Church and Brenda K. Wertz, Executors of the Last Will and Testament of Dennis E. Church, deceased, dated 06/20/2005, recorded 06/23/2005, in Deed Book 4016, page 157.

Premises being: 2168 Carlisle Pike, Hanover, PA 17331

Tax Parcel No. 35-K12-0054-000

SEIZED and taken into execution as the property of **Brian J. Staub** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/26, 11/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-706 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of November, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an iron pipe in or along Township Road T-369, known as Fairground Road, at corner of land now or formerly of Francis T. Carberry and wife; thence in or along said Fairground Road and by land now or formerly of South Mountain Community Fair Association, South 55 degrees 41 minutes 16 seconds West 34.20 feet to an iron pipe at a post; thence continuing in said Fairground Road and by land now or formerly of South Mountain Community Fair Association, South 72 degrees 9 minutes 15 seconds West 130.80 feet to a railroad spike at the Northern side of said road; thence by other land now or formerly of Dale G. Showers and wife, designated as Lot No. 3 on the Plan of Lots referred to below, and running in the center of a private road 50 feet in width, North 29 degrees 37 minutes 12 seconds West 285 feet to a point in the center of said private road; thence by other land now or formerly of Dale G. Showers and wife, designated as Lot No. 8 on the Plan of Lots referred to below, and running through an iron pipe located 25 feet from the beginning of this line, North 56 degrees 43 minutes 50 seconds East 162.47 feet to an iron pipe; thence by land now or formerly of Francis T. Carberry and wife and running through an iron pipe located 40 feet from the end of this line, South 29 degrees 37 minutes 12 seconds East 319.23 feet to an iron pipe in or along Fairground Road, the place of BEGINNING. CONTAINING 1.139 acres, more or less.

The foregoing description was obtained from a Plan of Lots prepared by Richard W. Boyer, Registered Surveyor, trading as Boyer Surveys, dated May 2, 1983 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 38 at page 38, the lot hereby conveyed being designated as Lot No. 4 on the said Plan of Lots.

TOGETHER WITH AND SUBJECT TO the right to use in common with Dale G. Showers and Janet S. Showers, husband and wife, their heirs and assigns, the 50 foot private road referred to in the foregoing description as a means of

ingress, egress and regress from Township Road T-369 to the lot of ground hereby conveyed and to Lot No. 3 and Lot No. 8 shown on the aforementioned Plan of Lots.

IT BEING the same which William Eugene Rudisill and Barbara Ann Rudisill, husband and wife, by their deed dated June 12, 2000, and recorded June 20, 2000 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2073 at page 1, sold and conveyed unto Barbara Ann Rudisill.

TITLE TO SAID PREMISES IS VESTED IN Ronald D. Barnhart, single person, by Deed from Barbara Ann Rudisill, single person, dated 01/05/2006, recorded 01/10/2006, in Deed Book 4277, page 179.

Premises being: 431 Fairground Road, Biglerville, PA 17307

Tax Parcel No. 29-D8-6C

SEIZED and taken into execution as the property of **Ronald D. Barnhart** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 21, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/26, 11/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-499 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of December, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an existing iron pin located along the Eastern side of North Main Street at corner of land formerly of Robert J. Klunk, Jr., now land of Henry Janny, said iron pin being located 5.2

feet East of the curb along the Eastern side of said North Main Street; thence by land formerly of Robert J. Klunk, Jr., now land of Henry Janny, North 61 degrees East, 131.80 feet to a buggy axle along the Western side of a 20 foot public alley (North Laurel Lane); thence along the Western side of said 20 foot public alley (North Laurel Lane), South 28 degrees 4 minutes 50 seconds East, 70 feet to a railroad spike; thence along the Northern side of another 20 foot public alley, South 62 degrees 44 minutes 10 seconds West, 132.90 feet to a point on the stone curb; thence along North Main Street on a line parallel with and 5.2 feet East of the curb along the Eastern side of North Main Street, North 27 degrees 7 minutes 30 seconds West, 66 feet to an existing iron pin at corner of land formerly of Robert J. Klunk, Jr., now land of Henry Janny, the place of BEGINNING.

CONTAINING 8,998 Square Feet.

BEING more commonly known as 133 North Main Street, Bendersville, PA 17306.

BEING known as Adams County Sheriff Parcel No. (03) 1-45.

SEIZED and taken into execution as the property of **Joseph G. Rosch** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 28, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/26, 11/2 & 9

**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 JOSEPHINE N. DECOSOMO, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executrices: Lottie D. Pecher, 631 Pecher Road, Fairfield, PA 17320; Denise Sprankle, Box 81, Orrtanna, PA 17353

Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

**ESTATE OF SHIRLEY A. HERMAN, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Tammy L. Utz, 636 Oxford Rd., New Oxford, PA 17350

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

**ESTATE OF ROSE G. McFERREN a/k/a ROSE GERTRUDE McFERREN, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: James Elmer McFerren, 147 South Charles Street, Dallastown, PA 17313

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 66 West Middle Street, Gettysburg, PA 17325

**ESTATE OF BARBARA J. STAUB a/k/a BARBARA JEANNE STAUB, DEC'D**

Late of Hamilton Township, Adams County, Pennsylvania

Executors: Richard B. Staub, Jr., 105 New Chester Road, New Oxford, PA 17350; Dennis E. Staub, 352 Fleshman Mill Road, New Oxford, PA 17350

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

**SECOND PUBLICATION****ESTATE OF ROBERT J. DILLMAN, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executor: James S. Dillman, 53 Meadow Lane, Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

**ESTATE OF HOWARD GRANT RYDER, DEC'D**

Late of Reading Township, Adams County, Pennsylvania

Executrix: Helen C. Gonzalez, 7624 Forest Park Drive, NW, Olympia, WA 98502

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

**ESTATE OF ROSANNA GULDEN WRIGHT, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

Executor: William C. Wright, 606 Quaker Valley Road, Biglerville, PA 17307

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

**THIRD PUBLICATION****ESTATE OF KENNETH L. CRAWFORD a/k/a KENNETH LEE CRAWFORD, DEC'D**

Late of Abbottstown Borough, Adams County, Pennsylvania

Executor: David M. Crawford, 6146 Acorn Dr., Spring Grove, PA 17362

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

**ESTATE OF SARAH ANNE LAGES, DEC'D**

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executrix: Mary Jane Nagle, c/o E. Steve O'Donnell, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

Attorney: E. Steve O'Donnell, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

**ESTATE OF LOUISE V. LENTZ, DEC'D**

Late of Reading Township, Adams County, Pennsylvania

Executor: Stanley E. Lentz, 30 Halleck Dr., East Berlin, PA 17316

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

**ESTATE OF HOWARD G. SHOEMAKER, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Clarice F. Shoemaker, 60 Spruce Dr., Gettysburg, PA 17325

Attorney: Phillips & Phillips, 101 W. Middle St., Gettysburg, PA 17325

**ESTATE OF CAROLINE STERRETT, DEC'D**

Late of the Borough of Arendtsville, Adams County, Pennsylvania

Executor: William N. Sterrett, Jr., 1332 Ridgeway Circle, Downingtown, PA 19335

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-919 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of December, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described lot of ground, situate, lying and being in Oxford Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a corner at a point in Township Road T-476 at lands now or formerly of O. Stambaugh as shown on the hereinafter referred Subdivision Plan; thence from said point of beginning through a post set 26 feet from the beginning of this course North 42 degrees 23 minutes 41 seconds East 412.4 feet to a steel pin; thence continuing along said lands now or formerly of O. Stambaugh North 41 degrees 17 minutes 02 seconds East 214.61 feet to a post set at the corner of a lot designated as Lot 'A' on the hereinafter referred to Subdivision Plan; thence along said Lot 'A' as so designated South 44 degrees 06 minutes 08 seconds East 332.12 feet to an iron pipe at lands now or formerly of John H. Shank and Edna C. Shank; thence along said last mentioned lands the following three (3) courses and distances: (1) South 41 degrees 21 minutes 20 seconds West 184.63 feet to an iron pipe; (2) North 49 degrees 34 minutes 46 seconds West 280.86 feet to an iron pipe; (3) South 42 degrees 23 minutes 41 seconds West 420.32 feet through an iron pipe set near the end of this course to a point in the aforesaid Township Road T-476; thence along said Township Road T-476 North 38 degrees 36 minutes 17 seconds West 50.62 feet in said Township Road T-476, being the point and place of BEGINNING. CONTAINING 2 acres of land.

The above description was taken from a Subdivision Plan captioned 'Final Plan-Subdivision for John H. Shank' dated November 14, 1978, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, Map Book 25, Page 37, and designated on said Subdivision Plan as Lot 'B'.

Parcel Number: (35)-K11-105B.

TITLE TO SAID PREMISES IS VESTED IN Robert E. Wilt and Wanda J. Wilt, husband and wife, as to a two-third interest as tenants by the entireties and Grace M. Wonder, unmarried, as to a one-third interest, and all with full right of survivorship, by Deed from Laura Miller, Executrix of the last will of Elizabeth J.

Fitzpatrick, formerly known as Elizabeth J. Revels, dated 04/19/1993, recorded 04/20/1993, in Deed Book 712, page 237.

Premises being: 1175 Red Hill Road, New Oxford, PA 17350

SEIZED and taken into execution as the property of **Robert E. Wilt, Wanda J. Wilt & Grace M. Wonger** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 28, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/26, 11/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-808 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of December, 2007, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground, as improved, situate in the Borough of McSherrystown, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING for a corner on a street known as Second Street at property now or formerly of Richard A. Welty and Darlene H. Welty; thence along said street, South 14-1/2 degrees East, 42 feet 7 inches to a corner at a street known as North Street; thence along said last mentioned street in a Southwesterly direction, 148 feet to a corner at an alley 10 feet wide; thence along said alley, North 18 degrees West, 50 feet 8 inches to aforesaid property formerly of Richard A. Welty and Darlene H. Welty; thence along last mentioned property, North 65-1/2 degrees East 149 feet to a corner, the place of BEGINNING.

The improvements thereon now known as 101 North Second Street, McSherrystown, PA 17344.

BEING - 3489/114 Jerry W. Miller and Kathryn E. Miller unto Eric D. Yingling dated 2/23/04.

TITLE TO SAID PREMISES IS VESTED IN Jeffrey Francis Mann and Jennifer Ann Mann, by Deed from Eric D. Yingling, dated 08/16/2006, recorded 08/31/2006, in Deed Book 4522, page 171.

Premises being: 101 North Second Street, McSherrystown, PA 17344

Tax Parcel No. 28-002-0029-000

SEIZED and taken into execution as the property of **Jeffrey F. Mann a/k/a Jeffrey Francis Mann & Jennifer Ann Mann** and to be sold by me.

James W. Muller-Sheriff  
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 28, 2007, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/26, 11/2 & 9