

Adams County Legal Journal

Vol. 39

February 6, 1998

No. 37, pp. 203-210

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, February 10, 1998, at 9:00 o'clock a.m.

SITES—Orphans' Court Action Number OC-153-97. The First and Final Account of Penelope S. Sites, Administratrix of the Estate of Dale S. Sites, deceased, late of Franklin Township, Adams County, Pennsylvania.

FOULK—Orphans' Court Action Number OC-157-97. The First and Final Account of Alice Fisel Halter, Administratrix c.t.a. of the Last Will and Testament of Dorothy May Foulk, deceased, late of Straban Township, Adams County, Pennsylvania.

REINAMAN—Orphans' Court Action Number OC-161-97. The First and Final Account of Wayne A. Reinaman, Administrator c.t.a. of the Estate of Bernie W. Reinaman, also known as Bernie W. Reinaman, deceased, late of Germany Township, Adams County, Pennsylvania.

WILSON—Orphans' Court Action Number OC-163-97. The First and Final Account of Adams County National Bank, Executor of the Last Will and Testament of Mildred B. Wilson, deceased, late of the Borough of New Oxford, Adams County, Pennsylvania, with annexed First and Final Account of Adams County National Bank, Trustee under Revocable Inter Vivos Trust Agreement established May 17, 1990 by decedent, in accor-

dance with Section 3501.2 of the Probate, Estates and Fiduciaries Code.

WEAVER—Orphans' Court Action Number OC-164-97. The First and Final Account of Richard J. Weaver and Roger R. Weaver, Co-Executors of the Last Will and Testament of Marie E. Weaver, deceased, late of the Borough of Bonneauville, Adams County, Pennsylvania.

REED—Orphans' Court Action Number OC-166-97. The First and Final Account of Peggy J. Breighner and John S. Reed, Co-Executors of the Estate of Ethel L. Reed, deceased, late of Cumberland Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

1/30 & 2/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-538 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of February, 1998, at 10:00 A.M. in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel rod set at curbface on the West side of South High Street, said steel rod also being at the Northernmost corner of land now or formerly of Miriam Thomas; thence by said land now or formerly of Miriam Thomas, South 75 degrees 47 minutes 25 seconds West, 187.48 feet to a steel rod at land now or formerly of Elliott Schlosser;

thence by said land now or formerly of Elliott Schlosser, North 15 degrees 4 minutes 30 seconds West, 33.28 feet to a pipe at land now or formerly of Margaret J. Frederick; thence by said land now or formerly of Margaret J. Frederick, North 75 degrees 15 minutes 50 seconds East, 187.41 feet to a steel rod set at curbface along the West side of South High Street; thence along the West side of South High Street, South 15 degrees 9 minutes 10 seconds East 35 feet to a steel rod at curbface, the place of BEGINNING.

CONTAINING 0.146 acre.

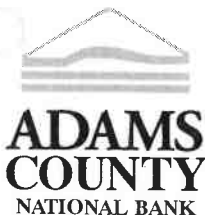
BEING THE SAME PREMISES which Ernest V. Sillik, Jr. and Donna M. Sillik, husband and wife, by their deed dated October 21, 1994 and recorded October 26, 1994 in the Office of the Recorder of Deeds of Adams County in Record Book 956, Page 132, granted and conveyed unto David S. Walker and Danielle L. Walker, husband and wife.

SEIZED and taken into execution as the property of **David S. Walker and Danielle L. Walker** and to be sold by me
Bernard V. Miller
Sheriff
Sheriff's Office, Gettysburg, PA
December 23, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 16, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
2/6, 13 & 20



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IN THE
COURT OF COMMON PLEAS
OF ADAMS COUNTY,
PENNSYLVANIA
ORPHANS' COURT DIVISION

IN RE: The First and Final Account of Bank of Hanover and Trust Company, Trustee under the Will of Clarence R. Wolf, late of Oxford Township, Adams County, Pennsylvania.

TO ALL BENEFICIARIES, HEIRS AND
OTHER PERSONS CONCERNED:

NOTICE IS HEREBY GIVEN that the First and Final Account and Statement of Proposed Distribution of Bank of Hanover and Trust Company, Trustee under the will of Clarence R. Wolf, have been filed in the Office of the Clerk of the Orphans' Court, and will be presented to the Court of Common Pleas of Adams County, Pennsylvania, at Gettysburg, Pennsylvania, for confirmation and approval on February 10, 1998, at 9:00 a.m.

Peggy J. Breighner, Clerk
Swope, Heiser & McQuaide
Attorneys for the Estate

1/30 & 2/6

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 the 14th day of January, 1998, for the purpose of obtaining a Certificate of Incorporation for a business corporation organized under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania of 1988, as amended.

The name of the Corporation is STAG-DRAG, INC. The purpose for which said Corporation is organized is to engage in and do any lawful act concerning any or all business for which corporations may be incorporated under the Business Corporation Law of 1988, December 21, P.L. 1444, No. 177 Section 103, effective October 1, 1989.

Stonesifer and Kelley

2/6

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Corporation Bureau of the Department of State of the Commonwealth of Pennsylvania for the purpose of incorporating a domestic business corporation.

1. The name of the corporation is GRANDSTANDS NITE-CLUB, INC. and its registered office is located at the following: 79 Kinneman Road, Abbottstown, PA 17301.

2. The Articles of Incorporation were filed pursuant to the provisions of the Pennsylvania Business Corporation Law, Act of December 21, 1998, P.L.1444, as amended.

3. The business purpose of the corporation is: Retail Sales—Beer, Liquor & Food.

4. The Articles of Incorporation were filed with the Corporation Bureau of the Department of State on 12/8/97.

2/6

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Act of Assembly No. 295 of 1982, of the filing in the Office of the Secretary of Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on the 20th day of January, 1998, a certificate for the conduct of business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of "VILLAGE CAR WASH" with its principal place of business at 1880 Emmitsburg Road, Gettysburg, Pennsylvania. The name and address of the person owning or interested in said business is Caroline S. Smith, 355 Howard Avenue, Gettysburg, PA 17325.

David K. James, III
Wilcox, James & Cook
234 Baltimore Street
Gettysburg, PA 17325

2/6

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Name Act, 54 Pa. C.S.A. § 301, et seq., that an Application to conduct business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of KEYSTONE COUNTRY FURNITURE was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, in Harrisburg, Pennsylvania, on August 6, 1997. The business is located at 2904 Emmitsburg Road, Gettysburg, Pennsylvania 17325. The name and address of the person who is a party to the registration is John R. Smith, Jr., 7 Marsh Creek Road, Gettysburg, Pennsylvania.

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

2/6

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Fictitious Names Act, 54 PA. C.S. § 311, et seq., and its amendments and supplements, of filing with the Secretary of the Commonwealth of Pennsylvania, Harrisburg, Pennsylvania on January 26, 1998, an application for conducting business under the assumed or fictitious name of HILL TOP MONOGRAMMING, with its principal place of business at 220 Gettysburg Road, Littlestown, Pennsylvania 17340. The names and addresses of all persons owning or interested in said business are:

Mildred R. Coshun
220 Gettysburg Road
Littlestown, PA 17340

2/6

JACOBS VS. MALONEY, ET AL.

1. While notice and other requirements under the Mechanics' Lien Law are to be strictly construed, the Court must apply the doctrine of substantial compliance to temper such strict construction.

2. A mechanics' lien claim filed against an owner's property includes all property necessarily a part of the premises or so inseparable as to constitute a portion thereof.

3. Defendants in a mechanics' lien claim are entitled to specific breakdowns of labor or materials furnished, or both, and the prices charged for each thereof unless the claim is for a definite contract price.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. Mechanics' Lien 45 of 1997, JOHN R. JACOBS VS. GERALD F. MALONEY AND MARIA T. MEDICI.

L. C. Heim, Esq., for Plaintiff

D. J. Hart, Esq., for Defendants

OPINION ON PRELIMINARY OBJECTIONS

Spicer, P.J., July 11, 1997.

The parties entered into a construction agreement on April 20, 1996, whereby plaintiff agreed to construct a 3,000 square feet two story house on defendants' lot on the Harney Road, in Mt. Joy Township, Adams County. The construction price was listed at approximately \$220,000.00.

On January 29, 1997, plaintiff filed a notice of Mechanics' Lien Claim, alleging that defendants had paid only \$200,000.00 on a total price of \$241,184.02, leaving a balance for which the lien was filed of \$41,184.02. Attached to the claim was an itemization containing 52 entries which totaled the amount claimed. The exhibit listed various items and gave the total price for each, without identifying separate charges for labor material. The lien was filed against 68.348 acres.

Defendants have filed preliminary objections attacking service of the claim, requesting a detailed statement of labor and materials, and claiming that excessive property has been subjected to the claim.

Superior Court has said:

It is well settled that strict compliance with the Mechanics' Lien Law is necessary in order to effect a valid claim.(citations omitted.) However, it is also clear that when the sustaining of preliminary objections will result in the denial of claim or dismissal of suit, preliminary objections in a mechanics' lien proceeding should be sustained only in cases which are clear and free from doubt. (citation

omitted.) Further, we have recognized that while notice and other requirements under the Mechanics' Lien Law are to be strictly construed, we must apply the doctrine of substantial compliance to temper such strict construction. (citation omitted.)

Section 502 of the Mechanics Lien Law (Act of August 24, 1963, P.L. 1175, No. 497. Art. V §502), which is set forth at 49 P.S. §1502, details the requirements for the filing and service of the mechanics' lien claim. It provides that in order to perfect a lien, a claimant must file a timely claim with the prothonotary, and serve written notice of such filing upon the owner within time limits provided. Further, in subsection (c), it declares that service of the notice of the filing of a claim shall be made by an adult in the same manner as a writ of summons in *assumpsit*. The manner of service of a writ of summons in *assumpsit* is governed by Pa.R.Civ.P. 402. It provides that service may be accomplished, *inter alia*, at the residence of the defendant, by handing a copy to an adult member of the family with whom the defendant is residing.

Castle Pre-Cast Superior Walls of Delaware, Inc. v. Strauss-Hammer, 416 Pa. Super 53, 56, 57, 610 A.2d 503, 504, 406 (1992).

Service of the claim was effectuated by an adult, not the sheriff. Defendants argue that the rule requires service by the sheriff in case of original process. Assuming this is true, the record indicates that plaintiff filed his complaint within the time period prescribed for the claim and had the sheriff make service. Thus, we rule that plaintiff has substantially complied with the rules, find no hint of prejudice and dismiss the objection based upon the mode of service.

The Act, *supra*, §1301, gives contractors and subcontractors the right to file liens, under certain circumstances, against an owner's property for work done and material furnished in making improvements. Section 1201 (2) defines "property" as "the improvement the land covered thereby and the lot or curtilage appurtenant thereto." Cases annotated after this section make it clear that the amount of land involved maybe limited. Cases in other areas of the law equate curtilage with premises, which includes all property necessarily a part of the premises or so inseparable as to constitute a portion thereof. *Commonwealth v. Aponte*, Pa. Super, 690 A.2d 1189 (1997); *Com-*

monwealth DER v. Blosenski Disposal Service, 523 Pa. 274, 566 A.2d 845 (1989). The Act, supra, §1304 provides:

Where an owner objects that a lien has been claimed against more property than should justly be included therein, the court upon petition may, after a hearing by deposition or otherwise, limit the boundaries of the property subject to the lien. Failure to raise this objection preliminarily shall not be a waiver of the right to plead the same as a defense thereafter.

Defendants have not requested a hearing. Instead, they have argued that it is manifestly unreasonable to subject the entire farm to a lien for work done only on a part thereof. While this argument appears very reasonable, the flies in the ointment are subdivision regulations. Plaintiff could not effectuate a subdivision through a judicial sale of only part of the premises. Until subdivision is approved through normal course, each part of the acreage is legally inseparable from the whole.

We think this matter should be raised as a defense and the matter determined after a hearing. We overrule the objection based upon excessive curtilage.

Lastly, defendants argue that they are entitled to specific break-downs of labor and material, in light of the fact that the final price exceeds the contract price by around \$20,000.00. The Act, supra, §1503, requires a detailed statement "of the kind and character of the labor or materials furnished, or both, and the prices charged for each thereof," unless the claim is for a definite contract price. Although we feel that the information sought by defendants should more properly be addressed through discovery, we agree with our distinguished predecessor, The Honorable John A. MacPhail, that the act means what it says. *Wetzel v. Covelli*, 60 D&C 2d 270, 14 Adams L.J. 147 (1973). Thus, we will sustain the objection as to this point and allow plaintiff to amend. See. 20 Standard Pennsylvania Practice 2d. §105.160.

ORDER

And Now, July 11, 1997, preliminary objections are dismissed except as to the detailed itemization of charges for which the lien is asserted. Objections are sustained as to that part of the Claim and Complaint. Plaintiff may file an amended Claim and Complaint, or an amendment to the Claim and Complaint within twenty days hereof.

A.P.M., INC. VS. WILLIAMS, ET AL.

1. Interpretation of a construction agreement is for the Court, unless there are substantial questions as to facts relating to proper interpretation.
2. Courts generally hold that a lending institution's right of inspection is exercised for its own benefit, and not that of the borrower.
3. Disbursement practices usually do not give rise to a cause of action.
4. Equitable estoppel involves (1) failure to speak or act when there is a duty to do so, or (2) intentional or negligent misrepresentation of a material fact, (3) knowledge that the other party will justifiably rely upon statements, conduct or silence, and, (4) justifiable reliance.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 96-S-363, A.P.M. , INC. VS. DAVID D. WILLIAMS AND KATHY A. WILLIAMS AND BANK OF HANOVER VS. CAROL KEYS AND MARTHA SIMPSON.

John W. Phillips, Esq., Plaintiff
Daniel M. Frey, Esq., for Defendant Bank of Hanover
Jered L. Hock, Esq., for Defendant Williams
Carol Keys, pro se
Kenneth J. Sparler, Esq.

OPINION ON PRELIMINARY OBJECTIONS TO AMENDED ADDITIONAL DEFENDANT COMPLAINT

Spicer, P. J., February 13, 1997.

The action began May 14, 1996, when plaintiff filed suit to recover for materials furnished for the construction of a dwelling owned by David D. Williams and Kathy A. Williams (Owners). The complaint named Bank of Hanover (Bank) as a defendant. Bank filed preliminary objections, which were sustained mainly on the strength of *D.A. Hill Co. v. CleveTrust Realty*, 524 Pa. 425, 573, A.2d 1005 (1990). Thereafter, plaintiff elected to proceed against Owners, only. Owners then filed what is titled as an Amended Additional Defendant Complaint (complaint), but which is the first complaint filed by Owners against Bank.

Although Owners have not filed preliminary objections to plaintiff's amended complaint, each count in their complaint requests dismissal of the plaintiff's amended complaint.

Owners allege that the Richard E. Simpson, who was their general contractor (contractor), had judgements of record against him and was in serious financial difficulties. They also allege (¶22) that Bank knew or should have known about his financial difficulties. Despite this knowledge, Bank is alleged to have disbursed money to the contractor

instead of seeing that it was paid to material men and subcontractors. The complaint contains four counts: Count I, Negligence; Count II, Contract; Count III, Detrimental Reliance and; Count IV, Breach of Fiduciary Relationship.

The agreement between Owners and Bank, appended to the complaint as Exhibit D, was executed January 18, 1995. It recited as its purpose the loan of \$750,000.00 from Bank to Owners, \$588,636.00 of which was to fund the construction of a dwelling. A provision relating to disbursement of construction funds read, in part:

3.3 Obligatory Advances by Lender. Lender shall be obligated to advance funds against the Note from time to time upon Borrower's request. ... Such advances shall be made upon written orders or vouchers of the General Contractor, —which orders or vouchers in every case shall be countersigned by Borrower and approved by Lender.

Another provision read, in part:

3.7 Inspections. Borrower will permit Lender or Lender's representative to make inspections of the Premises and the Improvements at such time or times as Lender may reasonably request. ...Borrower agrees to pay Lender an inspection fee of \$85.00 Dollars for each site visitation and a final inspection fee of \$125.00 Dollars conducted by Lender or its representative, provided that such site visits at Borrower's expense shall not be conducted more frequently than monthly except when Borrower requests and Lender agrees to more than one advance of funds per month...

Although no provision in the agreement contained representatives by Bank that it possessed expertise, or stated that Bank undertook inspections to protect Owner's interests, the complaint contains the following allegations:

20. Bank represented to Defendants that it had expertise in this area and would release construction draws to the Contractor, Richard E. Simpson, only upon proper inspection and adequate demonstration of the propriety of such release.

37. Defendants reasonably relied upon Defendant bank and expected the Bank to investigate the creditworthiness of Contractor, Richard E. Simpson, to determine the propriety of releasing draws, to ascertain that Richard E. Simpson was paying materialmen and other suppliers, and

to perform other duties on behalf of Defendants.

It is clear that Owners premise many of their ascertains of liability on the loan documents. For example, Owners allege:

16. Under its construction draw inspection schedule, Bank had an obligation to inspect the property of Defendants before each of the construction draws to be sure there was completion of improvements before releasing funds to the contractor, Richard Simpson. The obligation to see that funds were properly applied to materialmen, suppliers or employees of Simpsons was Bank's.

34. Bank had a contractual obligation to investigate the creditworthiness of Contractor, Richard E. Simpson, to ascertain that Richard E. Simpson was paying materialmen and other suppliers, and to perform its other duties on behalf of Defendants. The Bank breached these obligations.

Owners have not identified the contract provisions which give rise to such duties. Specifically, they have not pointed to specific provisions to explain how Bank undertook to monitor a person with whom Owners, not the Bank, contracted. The court's review of the loan agreement has revealed no basis for Owners' assertions. Nevertheless, we are in a preliminary stage of proceedings and cannot properly decide whether ¶8.9 and the parol evidence rule preclude admissibility and/or enforcement of oral representations. Such issues have been neither raised or argued.

There also may be questions concerning the relevancy of inspection provisions. Owners' complaint basically advances theories that Bank is liable because contractor did not pay his bills. That problem was certainly the cause of the plaintiff's action. Except for ¶123, which alleges in part, that Bank "permitted draws to be released to Richard E. Simpson without specific items of work being completed including, but not limited to, the septic system in Draw 5," there is no hint that Bank paid for unsatisfactory or work not qualifying for a specific draw. Nothing in the complaint alleges that draw number 5 was the final draw, or that the septic system was not completed when work was finished. There is also no allegation that draws were paid without Owner's consent.

Interpretation of a construction agreement is for the court, unless there are substantial questions as to facts relating to proper interpretation. *Henry v. First Federal Savings and Loan Association of Green County*, 313 Pa. Super 128, 459 A.2d 772 (1983). In that case, the court

held that oral representations allegedly made by the lender was barred by the parol evidence rule. However, the holding dealt with summary judgement, and not preliminary objections. Allegations about representations cannot be decided at this time.

Courts generally hold that a lending institution's right of inspection is exercised for its own benefit, and not that of the borrower. *id.*, citing *Federal Land Bank of Baltimore v. Fetner*, 269 Pa. Super. 455, 410 A.2d 344 (1979), US cert den 446 US 918. Disbursement practices usually do not give rise to a cause of action. However, there are exceptions. For example, a contractor, who was a party to a tripartite construction loan agreement, was allowed to recover against a bank which refused to disburse a final draw, opting to credit owner for the amount, instead. *Kramer v. Carrabino*, 425 Pa. Super 222, 624 A.2d 648 (1993) alloc. den. 538 Pa. 671, 649 A.2d 673. Superior Court has said that disbursement of funds may give rise to a principal and agent relationship between borrower and lender, with the same duty as in the case of a fiduciary. *Garbish v. Malvern Federal Savings and Loan Ass'n*, 358 Pa. Super. 282, 517 A.2d 547 (1986), alloc. den. 516 Pa. 641, 533 A.2d 712 (1987). The court said that the standard of care which will be imposed depends on whether the bank has held itself out as an expert. If so, Bank would be judged by the level of skill it claimed to possess, or by that possessed by an ordinary, prudent person, whichever was higher.

Of course, factual situations in that case and the one at bar bear little resemblance to each other. The lender in *Garbish* reserved exclusive power to disburse, apparently on the grounds that it was an expert in such matters. Owner was allowed to recover when construction funds were depleted and work was not completed. Although the holding may be narrowly construed to apply only to situations in which a lender retains exclusive power of disbursement and poses as an expert, we are not prepared to make that decision at the present time.

The count based upon justifiable reliance involves the doctrine of equitable estoppel. The doctrine may be evoked in a variety of situations, but involves 1) failure to speak or act when there is a duty to do so, or 2) intentional or negligent misrepresentation of a material fact, 3) knowledge that the other party will justifiably rely upon statements, conduct or silence, and 4) justifiable reliance. *Fidelity Federal Savings & Loan v. Capponi*, ___ Pa. Super. ___, 684 A.2d 580 (1996); *Stonehedge Square Ltd. v. Movie Merchants, Inc.* ___ Pa. Super. ___, 685, A.2d 1019 (1996).

Although we are far from confident that Owners will be successful in resisting motions for summary judgment, Bank's demurrer may be sustained only if it is clear that Owners' claim has no merit and Bank is entitled to judgement as a matter of law. *McClellan v. Health Maintenance Organization of Pennsylvania*, 413 Pa. Super 128, 604 A.2d 1053 (1992), allocatur denied 532 Pa. 664, 616 A.2d 985 (1992). Since several issues require additional attention, we overrule objections.

ORDER

AND NOW, this 13th day of February, 1997, preliminary objections by additional defendant to the Amended Additional Defendant Complaint are overruled. Additional defendant shall have twenty (20) days to file its answer.

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

FIRST PUBLICATION

ESTATE OF EDWARD J. ALTLAND, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Gerard A. Altland, R.D. #10, Box 294, Hanover, PA 17331

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

ESTATE OF RICHARD H. BRUBAKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Richard K. Brubaker, 584 Hammond Ave., Hanover, PA 17331; Barbara A. Willman, 305 Old Babcock Trail, Gibsonia, PA 15044

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

ESTATE OF JAMES A. EMORY, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Administratrix: Norma Jean Emory, 871-B Biglerville Road, Gettysburg, PA 17325

Attorney: Thomas R. Campbell, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ROBERT D. FIDLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Dorothy Esther Fidler, 146 Gettys Street, Gettysburg, PA 17325

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

ESTATE OF ARCHIE G. MARTIN, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Dennis Wright, 24 Meadow Lane, Gettysburg, PA 17325

Attorney: Wendy Weikal-Beauchat, 116 Baltimore Street, Gettysburg, PA 17325

ESTATE OF GARY C. ZEIGLER, DEC'D

Late of East Berlin Borough, Adams County, Pennsylvania

Executrix: Romaine Zeigler, 118 East King Street, East Berlin, PA 17316

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

SECOND PUBLICATION

ESTATE OF D. EDWIN BENNER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executrix: Susan Benner, 230 Benner Road, Gettysburg, PA 17325

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

ESTATE OF JOYCE ANDREA BROWN, DEC'D

Late of Fairfield, Adams County, Pennsylvania

Executor: Maurice G. Brown, Jr., 364 Mount Hope Road, Fairfield, PA 17320

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

ESTATE OF BERNARD F. FLICKINGER, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executrices: Shirley A. Craig, 10 Clearview Road, Hanover, PA 17331; Dorothy B. Smith, 72 Mummert Drive, Littlestown, PA 17340

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

ESTATE OF KATHLEEN M. LEONARD, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Austin F. Leonard, Jr.

Attorney: David C. Smith, Esquire, 334 Main Street, McSherrystown, PA 17344

ESTATE OF BERTHA I. NITCHMAN, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executrices: Betty I. Lauchman, 3755 East Berlin Road, East Berlin, PA 17316; Doris A. Shoemaker, R.D. #1, Box 854, East Berlin, PA 17316

Attorney: Sharon E. Myers, Esquire, c/o Countess Gilbert Andrews, 29 North Duke Street, York, PA 17401

ESTATE OF MAURINE RINEHART, DEC'D

Late of the Franklin Township, Adams County, Pennsylvania

Executrix: Judy D. Marks, 1550 Highland Avenue Road, Gettysburg, PA 17325

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

THIRD PUBLICATION

ESTATE OF HELEN R. BECHTEL, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executors: Wilbur M. Bechtel, 775 Littlestown Road, Littlestown, PA 17340; Redamay Garvick, 201 Filbert Street, Hanover, PA 17331

Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

ESTATE OF WILLIAM C. BENSON, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: PNC Bank, N.A., 10 York Street, Gettysburg, PA 17325

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

ESTATE OF ROBERT L. DONOHUE, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania

Executor: Alan M. Cashman, Esquire

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

ESTATE OF ARLEAN FRANCES S. FAUST, a/k/a ARLEAN S. FAUST, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: Lloyd Sheipe, P.O. Box 360, York Springs, PA 17372

Attorney: Richard E. Thrasher, Esquire, Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF JOHN N. IAEA, JR., DEC'D

Late of Adams County, Pennsylvania

Executrix: Naida Iaea, 15 Lightning Trail, Fairfield, PA 17320

Attorney: Kimberly S. Gray, Esquire, Martin & Gray, P.C., 38 North Main Street, Chambersburg, PA 17201

ESTATE OF SOLOMON GROVER STARNER a/k/a S. GROVER STARNER, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: Cornelius Starnier, 756 Gun Club Road, York Springs, PA 17372

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-794 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of February, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN Unit in the property known and identified in the Declaration referred to below as "Hampton Plains Condominium," located in Reading Township, Adams County, Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 68 Pa. C.S., Section 3101, et seq., by the recording in the Adams County Records of a Declaration dated November 13, 1990 and recorded on November 23, 1990 in Deed Book 573, Page 915, being and designated in such Declaration as UNIT NO. 69-3, as more fully described in such Declaration, together with a proportionate undivided interest in the Common Elements (as defined in such Declaration of sixteen and two-thirds (16 2/3%) percent.

UNDER AND SUBJECT to any and all covenants, conditions, restrictions, rights-of-way, easements and agreements of record.

IT BEING the same premises which David L. Trish, individual, by his Deed dated March 9, 1992 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 622, Page 987, granted and conveyed unto Ash-Mel, Inc., a Pennsylvania Corporation.

SEIZED and taken into execution as the property of **Ash-Mel, Inc., a/k/a Barry R. Rauhauser and Susan Rauhauser t/a Ash-Mel, Inc.** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
December 30, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 16, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
1/23, 30 & 2/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-221 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of February, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE FOLLOWING (3) described lots or parcels of land, lying and being in the Township of Franklin, in the development of Gettysburg Mountain Camp Sites, Inc., in Adams County, Pennsylvania, as follows:

PREMISES "A":

BEING Lots Nos. 56 and 57 of Section "E," as shown on the survey and original Plat of Gettysburg Mountain Camp Sites, Inc., Adams County, Pennsylvania, and of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 4, at page 799; reference being made thereto for a more particular description of the lots hereinbefore described and herein conveyed.

PREMISES "B":

BEING Lots Nos. 54 and 55, of Section "E," as shown on the survey and original Plat of Gettysburg Mountain Camp Sites, Inc., Adams County, Pennsylvania, and of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 4, at page 799; reference being made thereto for a more particular description of the lots hereinbefore described and herein conveyed.

PREMISES "C":

BEING Lots Nos. 4, 5, 6, and 51, 52, and 53 of Section "E," respectively, as shown on the survey and original Plat of Gettysburg Mountain Campsites, Inc., Adams County, Pennsylvania, made by William L. Arrowood, Registered Surveyor, dated November 9, 1965, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book No. 4, at page 799, reference being made thereto for a more particular description of the lots hereinbefore described and herein conveyed.

TITLE TO SAID PREMISES IS VESTED in Clyde Osborne by Deed from Millard L. Stermer and Ruth R. Stermer, his wife dated 6/8/83, recorded 6/10/83, in Record Book 368 page 710.

Tax Parcel #2-95

SEIZED and taken into execution as the property of **Clyde E. Osborne** and to be sold by me

Bernard V. Miller
Sheriff

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 16, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
1/23, 30 & 2/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-66 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of February, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point three (3) feet from corner of the house now or formerly of Joseph Wolf's heirs and fronting on West King Street, formerly Frederick Street, running eastwardly thirty-three (33) feet, more or less, until it reaches or meets the lot now or formerly of Sylvannus Lynn; thence running southwardly along the line of land now or formerly of Sylvannus Lynn, two hundred and sixty (260) feet to an alley in the rear; thence westwardly along said alley about ninety (90) feet six (6) inches to the lot now or formerly of Joseph Wolf's heirs; thence northwardly to the first point named.

BEING THE SAME PREMISES which Jesse R. Bible and Edith A. Bible, husband and wife, by their deed dated June 28, 1991 and recorded July 3, 1991 in the Office of the Recorder of Deeds in and for Adams County in Record Book 593, page 316, granted and conveyed unto Timothy N. Harvey.

Parcel No. 27-8-224.

SEIZED and taken into execution as the property of **Timothy N. Harvey** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
December 23, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 16, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
1/23, 30 & 2/6

Adams County Legal Journal

Vol. 39

February 13, 1998

No. 38, pp. 211-214

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-538 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of February, 1998, at 10:00 A.M. in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel rod set at curfpace on the West side of South High Street, said steel rod also being at the Northernmost corner of land now or formerly of Miriam Thomas; thence by said land now or formerly of Miriam Thomas, South 75 degrees 47 minutes 25 seconds West, 187.48 feet to a steel rod at land now or formerly of Elliott Schlosser;

thence by said land now or formerly of Elliott Schlosser, North 15 degrees 4 minutes 30 seconds West, 33.28 feet to a pipe at land now or formerly of Margaret J. Frederick; thence by said land now or formerly of Margaret J. Frederick, North 75 degrees 15 minutes 50 seconds East, 187.41 feet to a steel rod set at curfpace along the West side of South High Street; thence along the West side of South High Street, South 15 degrees 9 minutes 10 seconds East 35 feet to a steel rod at curfpace, the place of BEGINNING.

CONTAINING 0.146 acre.

BEING THE SAME PREMISES which Ernest V. Sillik, Jr. and Donna M. Sillik, husband and wife, by their deed dated October 21, 1994 and recorded October 26, 1994 in the Office of the Recorder of Deeds of Adams County in Record Book 956, Page 132, granted and conveyed unto David S. Walker and Danielle L. Walker, husband and wife.

SEIZED and taken into execution as the property of **David S. Walker and Danielle L. Walker** and to be sold by me

Bernard V. Miller
Sheriff

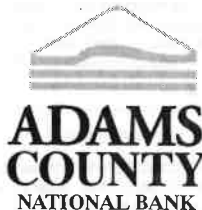
Sheriff's Office, Gettysburg, PA
December 23, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 16, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
2/6, 13 & 20

Our Trust Department
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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on or about January 12, 1998, for the incorporation of LET'S LOOK, INCORPORATED, under the Pennsylvania Business Corporation Law of 1988. The corporation shall engage in the medical assessment, follow-up medical care and support of children who have been sexually assaulted. The initial registered office of the corporation is 455 S. Washington Street, Gettysburg, PA 17325.

Bernard A. Yannetti, Esq.
Hartman & Yannetti
Solicitor

2/13

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Name Act, 54 Pa. C.S.A. §301, *et seq.*, that an Application to conduct business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of HALL BROTHERS FRUIT FARM was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, in Harrisburg, Pennsylvania, on January 7, 1998. The business is located at 2470 Buchanan Valley Road, Orrtanna, Pennsylvania. The name and address of the persons who are party to the registration are Daniel F. Hall, 2384 Buchanan Valley Road, Orrtanna, Pennsylvania and Gregory P. Hall, 319 Holswart Drive, Shippensburg, Pennsylvania.

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

2/13

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-698 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of March, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of Thunder Trail at Lot No. 37; thence by

said lot, North 37 degrees 20 minutes East, 225 feet to Lot No. 31; thence by said lot, South 52 degrees 40 minutes East, 100 feet to Lot No. 39; thence by said lot, South 37 degrees 20 minutes West, 225 feet to a point in the center of said Thunder Trail; thence in said Thunder Trail, North 52 degrees 40 minutes West, 100 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section BB of Charnita, Inc.," dated December 6, 1969, prepared by Gordon L. Brown, R.S., and recorded in Plat Book 1 at page 62, designating the above as Lot No. 38.

TOGETHER WITH and SUBJECT TO restrictions, conditions and easements referred to in the above recited deed and contained in Deed Book 287 at page 164.

BEING THE SAME PREMISES which Justice Phillip E. and Leonard M. Sites by Deed dated August 13, 1993 and recorded August 16, 1993 in the Office of the Recording of Deeds in and for Adams County, in Record Book Volume 767, Page 141, granted and conveyed unto James K. Campbell and Linda D. Campbell, husband and wife.

MAP # BB-38

SEIZED and taken into execution as the property of **James K. Campbell and Linda D. Campbell** and to be sold by me

Raymond A. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 15, 1998.

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 April 6, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/13, 20 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-1143 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of March, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT tract of land situate, lying and being in the Borough of Bonneauville Adams County, Pennsylvania, being Lot No. 54 of Springfield Estates, bounded and described as follows:

BEGINNING at an iron pin on the northwesterly edge of Autumn Drive at Lot No. 53; thence by said lot North 76 degrees 07 minutes 20 seconds West, 125 feet to Lot No. 55; thence by said lot North 13 degrees 52 minutes 40 seconds East, 180 feet to a concrete monument on the southerly edge of said Autumn Drive; thence in said Autumn Drive (by a curve to the right, the radius of which is 125 feet, for an arc distance of 196.35 feet, and having a chord bearing and distance of South 31 degrees 07 minutes 20 seconds East, 176.78 feet) to a concrete monument on the northwesterly edge of said Autumn Drive; thence along the northwesterly edge of said Autumn Drive South 13 degrees 52 minutes 40 seconds West, 55 feet to the place of beginning.

CONTAINING 19,147 Square Feet.

The above description was taken from a plan of lots labeled "Springfield Estates," dated June 22, 1977, prepared by Gettysburg Engineering Co., Inc., and recorded in Adams County Plat Book 20 at Page 29.

TAX PARCEL NUMBER: 5-95

TITLE TO SAID PREMISES IS VESTED IN Stephen R. Carbaugh and Victoria Carbaugh, his wife by Deed from James L. Gebhart and Joan G. Gebhart, his wife dated 8/1/88 recorded 8/1/88 in Deed Book 496 Page 376.

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

Raymond A. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 21, 1998.

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 April 6, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/13, 20 & 27

H & S SUPPLY, INC. VS. WILLIAMS, ET AL.

1. The Restatement (2d) of Contracts §302, which recognizes the right of third parties to enforce rights created in contracts, has been adopted in Pennsylvania but such rights are accorded only to intended beneficiaries and not incidental beneficiaries.

2. In a typical situation, a contractor is insulated from claims of an owner, and an owner is insulated from claims by the subcontractor.

3. A party becomes a third party beneficiary only where both parties to the contract express an intention to benefit the third party in the contract itself, unless circumstances are so compelling that recognition of the beneficiary's right is appropriate to effectuate the intention of the parties, and the performance satisfies an obligation of the promisee to pay money to the beneficiary or the circumstances indicate that the promisee intends to give the beneficiary the benefit of the promised performance.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 96-S-370, H & S SUPPLY, INC. VS. DAVID D. WILLIAMS AND KATHY A. WILLIAMS AND THE BANK OF HANOVER AND TRUST CO.

Bernard A. Yannetti, Jr., Esq., for Plaintiff
Steven P. Miner, Esq., for Defendants

OPINION ON PRELIMINARY OBJECTIONS

Spicer, P. J., February 12, 1997.

This is a suit by a material man against an owner, seeking to recover the price of construction materials furnished to a bankrupt contractor. On November 22, this Court sustained preliminary objections, but allowed plaintiff to amend. Although the caption still contains the name of the construction lender, an amended complaint was filed against owners only on December 11, 1996. A praecipe to enter judgement of non pros was filed by the bank on January 16, 1997.

The amended complaint contains copies of a construction contract, dated January 23, 1995, and an addendum dated September 20, 1995. Unlike the time when the court reviewed the original complaint, we now have the benefit of the agreements upon which plaintiff bases its cause of action.

Paragraph 53, of the amended complaint, alleges:

It is believed and therefore averred that Paragraph 3 of Exhibit C to Plaintiff's Amended Complaint gives rise to Plaintiff's status as a third party beneficiary of an agreement between the Contractor and Defendant Williams.

Paragraph 3 of Exhibit C reads as follows:

3. The parties acknowledge and agree that any and all future payment by Owner on account of the Contract Price

shall be paid pursuant to the parties' Construction Draw Inspection Schedule, in accordance with the following arrangements:

(a) Upon completion of all the work specified in each future construction draw under the Construction Draw Inspection Schedule, Contractor shall submit all of his subcontractors' and material suppliers' invoices incurred relative to each draw unto Owner's Mortgage Lender; and

(b) Owner and Owner's Mortgage Lender's inspector shall thereafter confirm that all of the work specified in connection with each construction draw under the Construction Draw Inspection Schedule has been satisfactorily completed by Contractor; additionally, Owner's Mortgage Lender shall independently confirm, by contacting Contractor's relevant contractors and materials suppliers, that Contractor has submitted all of his subcontractors' and materials suppliers' invoices incurred relative to each construction draw; and

(c) Upon satisfaction and completion of the procedures specified in subparagraph (b) above, Owner's Mortgage Lender shall disburse checks, in accordance with the invoices submitted by Contractor, directly unto Contractor's subcontractors and material suppliers, up to the amount of the construction draw in question; the balance of each construction draw, if any, shall be disbursed by Owner's Mortgage Lender directly unto Contractor.

The remainder of the agreement concerns credits for items purchased directly by owners, including \$7,902.00 from plaintiff.

Resolution of this case through preliminary objections appears proper, since it involves the interpretation of an unambiguous agreement. *Lindstrom v. Pennswood Village*, 417 Pa.Super. 495, 612 A.2d 1048 (1992).

In certain situations, the Restatement (Second) of Contracts §302 recognizes the right of third parties to enforce rights created in contracts. Our courts have adopted this section and directed that cases be decided in accordance with its provisions and guidelines. *Scarpitti v. Weborg*, 530 Pa. 366, 609 A.2d 147 (1992). Intended beneficiaries, but not incidental beneficiaries, are accorded such rights. *Gerace v. Holmes Protection of Philadelphia*, 357 Pa.Super. 467, 516 A.2d 354 (1986), alloc. dn. 515 Pa. 580, 527 A.2d 541. A materials supplier is generally designated as an incidental beneficiary. Restatement, com-

ment e., illustration 19. In a typical situation, a subcontractor is insulated from claims of an owner, and an owner is insulated from claims by the subcontractor. See, footnote 2, *Turner Construction Inc. v. American States Insurance Co.*, 397 Pa. Super 29, 579 A.2d 915 (1990), alloc. dn. 527 Pa. 603, 589 A.2d 693.

Restatement §302 provides:

(1) Unless otherwise agreed between promisor and promisee, a beneficiary of a promise is an intended beneficiary if recognition of a right to performance in the beneficiary is appropriate to effectuate the intention of the parties and either

(a) the performance of the promise will satisfy an obligation of the promisee to pay money to the beneficiary; or

(b) the circumstances indicate that the promisee intends to give the beneficiary the benefit of the promised performance.

(2) An incidental beneficiary is a beneficiary who is not an intended beneficiary.

The agreement refers to a class of potential creditors, without identifying any. Nor does it refer to existing debt which owner agreed to pay. In fact, defendant did not agree to pay anything. That duty was placed upon the construction lender, who was not a party to the agreement. That being the case, the owner and contractor could not impose such a duty. *Marshall v. Port Authority*, 524 Pa. 1, 568 A.2d 931 (1990).

Even if defendants had agreed to pay future invoices, it is questionable whether the agreement would have given plaintiff the status as creditor beneficiary, since that status is limited to existing debts. *Gerace v. Holmes Protection of Philadelphia*, supra.

Although this statement may foreclose further consideration of issues, it would seem appropriate to consider all provisions of §302. Supreme Court, in *Scarpitti*, supra, has held that a party becomes a third party beneficiary only where both parties to the contract express an intention to benefit the third party in the contract itself, unless circumstances are so compelling that recognition of the beneficiary's right is appropriate to effectuate the intention of the parties, and the performance satisfies an obligation of the promisee to pay money to the beneficiary or the circumstances indicate that the promisee intends to give the beneficiary the benefit of the promised performance.

The addendum to the construction agreement may be construed as an expression by the contractor to benefit subcontractors. The contractor gave up the right to receive payments and then disburse to his subs. A similar intent arguably can be drawn on the part of the owner, because of the agreement to pay directly to people with whom owner did not deal or contract. However, the missing link is a meaningful obligation on the part of owner. Paragraph 3(a) and (c) clearly contemplate a monetary paper trail between the bank and contractor, with obligation of bank to "disburse checks...directly unto...subcontractors and material suppliers." Defendants never agreed to pay plaintiff anything and we cannot rewrite the contract to add such an obligation.

The attached order is entered.

ORDER

AND NOW this 12th day of February, 1997, defendants' demurrer is sustained and the amended complaint is dismissed.

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment out delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF LLOYD M. ELDERDICE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executrix: Elizabeth E. Reichard, c/o Farmers & Mechanics National Bank, Trust Division, P.O. Box 518, Frederick, MD 21705

ESTATE OF ANNIE T. MOSSER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executor: Adams County National Bank, Lincoln Square, Gettysburg, PA 17325
 Attorney: Phul & Eastman, Esqs., Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

STATE OF FLEETA FAY SINGLEY, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executor: Sterling Calvin Singley, 1735 West Minor Street, Emmaus, PA 18049
 Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF IDA V. ZEIGLER, DEC'D

Late of the Borough of Abbottstown, Adams County, Pennsylvania
 Executor: Clair H. Zeigler, 206 Georgetown Circle, Hanover, PA 17331
 Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF EDWARD J. ALTLAND, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
 Executor: Gerard A. Altland, R.D. #10, Box 294, Hanover, PA 17331
 Attorney: Keith R. Nonemaker, Esquire, Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF RICHARD H. BRUBAKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Co-Executors: Richard K. Brubaker, 584 Hammond Ave., Hanover, PA 17331; Barbara A. Willman, 305 Old Babcock Trail, Gibsonia, PA 15044
 Attorney: G. Steven McKonly, Attorney, 119 Baltimore Street, Hanover, PA 17331

ESTATE OF JAMES A. EMORY, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania
 Administratrix: Norma Jean Emory, 871-B Biglerville Road, Gettysburg, PA 17325
 Attorney: Thomas R. Campbell, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ROBERT D. FIDLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executrix: Dorothy Esther Fidler, 146 Gettys Street, Gettysburg, PA 17325
 Attorney: Charles W. Wolf, Esquire, 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ARCHIE G. MARTIN, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executor: Dennis Wright, 24 Meadow Lane, Gettysburg, PA 17325
 Attorney: Wendy Weikal-Beauchat, 116 Baltimore Street, Gettysburg, PA 17325

ESTATE OF GARY C. ZEIGLER, DEC'D

Late of East Berlin Borough, Adams County, Pennsylvania
 Executrix: Romaine Zeigler, 118 East King Street, East Berlin, PA 17316
 Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

THIRD PUBLICATION

ESTATE OF D. EDWIN BENNER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania
 Executrix: Susan Benner, 230 Benner Road, Gettysburg, PA 17325
 Attorney: John A. Wolfe, Esq., Wolfe & Rice, 47 West High Street, Gettysburg, PA 17325

ESTATE OF JOYCE ANDREA BROWN, DEC'D

Late of Fairfield, Adams County, Pennsylvania
 Executor: Maurice G. Brown, Jr., 364 Mount Hope Road, Fairfield, PA 17320
 Attorney: Matthew R. Battersby, Esq., 20 West Main Street, P.O. Box 215, Fairfield, Pennsylvania 17320

ESTATE OF BERNARD F. FLICKINGER, DEC'D

Late of Union Township, Adams County, Pennsylvania
 Executrices: Shirley A. Craig, 10 Clearview Road, Hanover, PA 17331; Dorothy B. Smith, 72 Mummert Drive, Littlestown, PA 17340
 Attorney: Keith R. Nonemaker, Esquire, Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF KATHLEEN M. LEONARD, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
 Executor: Austin F. Leonard, Jr.
 Attorney: David C. Smith, Esquire, 334 Main Street, McSherrystown, PA 17344

ESTATE OF BERTHA I. NITCHMAN, DEC'D

Late of Reading Township, Adams County, Pennsylvania
 Executrices: Betty I. Lauchman, 3755 East Berlin Road, East Berlin, PA 17316; Doris A. Shoemaker, R.D. #1, Box 854, East Berlin, PA 17316
 Attorney: Sharon E. Myers, Esquire, c/o Countess Gilbert Andrews, 29 North Duke Street, York, PA 17401

ESTATE OF MAURINE RINEHART, DEC'D

Late of the Franklin Township, Adams County, Pennsylvania
 Executrix: Judy D. Marks, 1550 Highland Avenue Road, Gettysburg, PA 17325
 Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-75 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of March, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land.

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

BEGINNING for a point on East Berlin Road (PA 234) at lands now or formerly of Randy Kuhn; thence along said lands now or formerly of Randy Kuhn, North fourteen (14) degrees on (01) minute thirteen (13) seconds East, four hundred forty-eight and ninety-five hundredths (448.95) feet to a pipe at corner of lands now or formerly of Gordon L. Rudacile, North fifty-six (56) degrees eleven (11) minutes ten (10) seconds East, three hundred and twenty-three hundredths (300.23) feet to an iron pin at Lot No. 2; thence along said Lot No. 2, South sixteen (16) degrees forty-seven (47) minutes twenty-three (23) seconds West, four hundred seventy-six and thirty-four hundredths (476.34) feet to a concrete monument at lands now or formerly of John J. Jacobs; thence along said lands now or formerly of John J. Jacobs, South sixteen (16) degrees forty-seven (47) minutes twenty-three (23) seconds West, one hundred ninety-one and seven hundredths (191.07) feet to a point on East Berlin Road; thence along said East Berlin Road, North seventy-seven (77) degrees thirty-seven (37) minutes ten (10) seconds West, one hundred sixty-nine and thirty-six hundredths (169.36) feet to a point at lands now or formerly of Randy Kuhn, the point and place of beginning.

CONTAINING 2.332 ACRES.

BEING Lot No. 1 on a Final Plan for Craig A. Laughman, dated January 13, 1987, in Plat Book 46 Page 1.

TAX PARCEL NO. I-7-15

TITLE TO SAID PREMISES IS VESTED IN Timothy A. Sterner and Lori A. Sterner, husband and wife by Deed from James F. Myers and Susan E. Myers, husband and wife dated 6/30/95 recorded 7/3/95 in Record Book 1050 Page 160.

SEIZED and taken into execution as the property of **Timothy A. Sterner and Lori A. Sterner** and to be sold by me

Raymond A. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 21, 1998.

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 April 6, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/13, 20 & 27

Adams County Legal Journal

Vol. 39

February 20, 1998

No. 39, pp. 215-218

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-538 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of February, 1998, at 10:00 A.M. in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel rod set at curfbase on the West side of South High Street, said steel rod also being at the Northernmost corner of land now or formerly of Miriam Thomas; thence by said land now or formerly of Miriam Thomas, South 75 degrees 47 minutes 25 seconds West, 187.48 feet to a steel rod at land now or formerly of Elliott Schlosser;

thence by said land now or formerly of Elliott Schlosser, North 15 degrees 4 minutes 30 seconds West, 33.28 feet to a pipe at land now or formerly of Margaret J. Frederick; thence by said land now or formerly of Margaret J. Frederick, North 75 degrees 15 minutes 50 seconds East, 187.41 feet to a steel rod set at curfbase along the West side of South High Street; thence along the West side of South High Street, South 15 degrees 9 minutes 10 seconds East 35 feet to a steel rod at curfbase, the place of BEGINNING.

CONTAINING 0.146 acre.

BEING THE SAME PREMISES which Ernest V. Sillik, Jr. and Donna M. Sillik, husband and wife, by their deed dated October 21, 1994 and recorded October 26, 1994 in the Office of the Recorder of Deeds of Adams County in Record Book 956, Page 132, granted and conveyed unto David S. Walker and Danielle L. Walker, husband and wife.

SEIZED and taken into execution as the property of **David S. Walker and Danielle L. Walker** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
December 23, 1997.

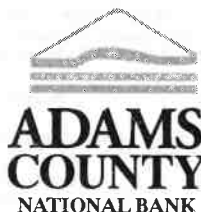
TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 16, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/6, 13 & 20

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-698 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of March, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of Thunder Trail at Lot No. 37; thence by said lot, North 37 degrees 20 minutes East, 225 feet to Lot No. 31; thence by said lot, South 52 degrees 40 minutes East, 100 feet to Lot No. 39; thence by said lot, South 37 degrees 20 minutes West, 225 feet to a point in the center of said Thunder Trail; thence in said Thunder Trail, North 52 degrees 40 minutes West, 100 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section BB of Charnita, Inc.," dated December 6, 1969, prepared by Gordon L. Brown, R.S., and recorded in Plat Book 1 at page 62, designating the above as Lot No. 38.

TOGETHER WITH and SUBJECT TO restrictions, conditions and easements referred to in the above recited deed and contained in Deed Book 287 at page 164.

BEING THE SAME PREMISES which Justice Phillip E. and Leonard M. Sites by Deed dated August 13, 1993 and recorded August 16, 1993 in the Office of the Recording of Deeds in and for Adams County, in Record Book Volume 767, Page 141, granted and conveyed unto James K. Campbell and Linda D. Campbell, husband and wife.

MAP # BB-38

SEIZED and taken into execution as the property of **James K. Campbell and Linda D. Campbell** and to be sold by me

Raymond A. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 15, 1998.

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 April 6, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
2/13, 20 & 27

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-1143 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of March, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT tract of land situate, lying and being in the Borough of Bonneauville, Adams County, Pennsylvania, being Lot No. 54 of Springfield Estates, bounded and described as follows:

BEGINNING at an iron pin on the northwesterly edge of Autumn Drive at Lot No. 53; thence by said lot North 76 degrees 07 minutes 20 seconds West, 125 feet to Lot No. 55; thence by said lot North 13 degrees 52 minutes 40 seconds East, 180 feet to a concrete monument on the southerly edge of said Autumn Drive; thence in said Autumn Drive (by a curve to the right, the radius of which is 125 feet, for an arc distance of 196.35 feet, and having a chord bearing and distance of South 31 degrees 07 minutes 20 seconds East, 176.78 feet) to a concrete monument on the northwesterly edge of said Autumn Drive; thence along the northwesterly edge of said Autumn Drive South 13 degrees 52 minutes 40 seconds West, 55 feet to the place of beginning.

CONTAINING 19,147 Square Feet.

The above description was taken from a plan of lots labeled "Springfield Estates," dated June 22, 1977, prepared by Gettysburg Engineering Co., Inc., and recorded in Adams County Plat Book 20 at Page 29.

TAX PARCEL NUMBER: 5-95

TITLE TO SAID PREMISES IS VESTED IN Stephen R. Carbaugh and Victoria Carbaugh, his wife by Deed from James L. Gebhart and Joan G. Gebhart, his wife dated 8/1/88 recorded 8/1/88 in Deed Book 496 Page 376.

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

Raymond A. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 21, 1998.

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

ule of distribution will be filed by the Sheriff in his office on April 6, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
2/13, 20 & 27

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on January 26, 1998, pursuant to the Fictitious Name Act, setting forth that Sites Realty, Inc. is the only entity interested in a business, the character of which is real estate management and operations, and that the designation under which the business is and will be conducted is CONCEPT 100 and that the location where said business is and will be conducted is 1270 Fairfield Road, Gettysburg, PA 17325.

Bernard A. Yannetti, Jr.
Solicitor

2/20

COMMONWEALTH VS. THOMAS

Objections to the Attorney General's authority to prosecute can be made by criminal defendants and should be made in an orderly fashion through an omnibus pretrial motion but such objections, if not made in a timely fashion, are waived.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal Nos. CC-830-95, CC-314-96, CC-315-96 and CC-316-96, COMMONWEALTH OF PENNSYLVANIA VS. LEON THOMAS.

Shawn Wagner, Esq., Assistant District Attorney
Barbara Jo Entwistle, Esq., for Defendant

OPINION ON POST SENTENCE MOTIONS

Spicer, P.J., March 31, 1997.

Defendant has filed post sentence motions attacking sentences entered on jury verdicts dated October 11, 1996. After a lengthy trial, defendant was adjudged guilty of various drug related charges, three of which involved mandatory sentences of three years each. Three consecutive three to ten years, three concurrent three to ten and an additional concurrent one to ten were imposed.

The case entered to CC-830-95 has its genesis in a search warrant executed on October 6, 1995. Other prosecutions followed, some of which involved information procured during an investigating grand jury proceeding. (CC-315, 316 and 318-96). Presentments were entered March 29, 1996. However, CC-314-96 began with an arrest following a second search warrant, which was executed March 23, 1996. Defendant was formally arraigned on the initial case on December 29, 1995, and on subsequent charges May 23, 1996. On May 8, 1996, Commonwealth nolle prossed racketeering or corrupt organization charges. The nolle prosequi was signed by Shawn Wagner, Esq., designated as the District Attorney of Adams County.

Numerous pretrial motions were presented and ruled upon by the court. Included were two orders entered July 23, 1996. The first consolidated all of defendant's charges for trial and the second extended until August 2, 1996, the time in which omnibus pretrial motions could be filed.

Shawn Wagner, Deputy Attorney General, was the attorney for the Commonwealth at trial, and on most occasions. However, some informations were signed by another member of the Attorney General's staff. At least with respect to CC-830 and CC-314-96, Mr. Wagner was appointed an assistant District Attorney of Adams County and filed his

oath of office and appointment on May 8, 1997. Mr. Wagner has identified himself in other cases as both a Deputy Attorney General and as a member of the District Attorney's staff. See, e.g., the nolle prosequi filed CC-317-96.

Defense counsel has questioned Mr. Wagner's authority to prosecute these cases, raising the issue for the first time in post sentence motions. When it was pointed out, during oral argument, that the objection may not have been preserved, defense counsel was stimulated to promptly file a request for an extension of time under which post sentence motions could be decided and also requested a Goodman hearing (*Commonwealth v. Goodman*, 347 Pa. Super. 403, 500 A.2d 1117 (1985)).

We summarily denied both requests. Post sentence motions were filed December 6, 1996, and normally should have been decided by March 6, 1997. However, on defendant's motion, argument was continued until March 24, 1997, extending the time for disposition until April 6, 1997. With Easter occurring, there is simply no time to conduct another hearing or to consider further arguments.

Supreme Court has held that objections to the Attorney General's authority can be made by criminal defendants and should be made in an orderly fashion through an omnibus pretrial motion. *Commonwealth v. Cosgrove*, 545 Pa. 71, 680 A.2d 823 (1996). The time for such motions expired August 2, 1997. Such objections, if not made in timely fashion, are waived. *Commonwealth v. Khorey and Commonwealth v. Trputec*, 521 Pa. 1, 555 A.2d 100 (1989).

Although we can sympathize with defense counsel, who may be thinking of PCRA proceedings, we do not feel it is wise to allow litigation of this matter after extensive pretrial proceedings and a lengthy trial. Furthermore, we see absolutely no prejudice which has accrued to defendant.

Mr. Thomas also attacks the procedure employed to commence the prosecutions. This challenge has also been waived, but we think it is meritless, anyhow. The Eleventh Statewide Investigating Grand Jury may have derived its authority from 42 Pa.C.S.A. §4544(a) and has been limited to investigations of corrupt organizations which operated in more than one county. Defendant's activities did not fall within the ambit of corrupt organizations. *Commonwealth v. Cosgrove*, 436 Pa. Super. 550, 648, A.2d 546 (1994), affirmed, *supra*. Defense counsel concedes the grand jury had only authority to hand up presentments, not indictments. All cases began with arrests and criminal complaints. All involved the panoply of pretrial safeguards common to all criminal prosecutions. Defendant's cases did not begin nor develop differently

than other cases which come into court. Defendant has not argued that important constitutional rights were violated. He had opportunity to and did litigate the lawfulness of the two searches which occurred. Had any rights been trampled, his remedy would have differed not at all from the remedies of all other criminal defendants.

Defendants requested and was provided with informal discovery. In fact, Mr. Wagner represented to the court that the Commonwealth turned over the entire police file. Commonwealth argues, and defendant does not contend otherwise, that information was clearly provided indicating a course of drug dealing which fell within a period beginning January, 1995, and ending in March of that year. Defense counsel argues that only events which occurred on specific dates mentioned in the reports, should have been admitted.

At trial, accomplices described almost continuous drug trafficking at defendant's residence. We have heard no suggestion that trial was by surprise and ambush. Quite the contrary. Defendant was fully aware of with what he was faced.

The court was never called upon to rule on the pretrial request for a bill of particulars. Thus, our familiarity with problems he may have faced stems from trial evidence. He certainly was aware that Commonwealth intended to present accomplices who would describe the business conducted who would describe the business conducted at defendant's residence. Some of the evidence described purchases where drugs were sold to genuine customers. We believe defendant's main problem was the amount of evidence that Commonwealth had amassed against him. We do not think he is entitled to complain because evidence was so overwhelming. Friends and confederates he employed and befriended turned against him. They described a large scale drug operation with which defendant was thoroughly familiar. The time period conformed to the charges and was not so long or ill-defined as to prejudice defendant. No double jeopardy claims have been presented and defendant's ability to defend was not affected. See *Commonwealth v. Chambers*, 528 Pa. 558, 599 A.2d 630 (1991), cert. denied 504 U.S. 946, 112 S.Ct. 2290, 119 L.Ed. 2d 214 (1992). Therefore, we decline to grant relief regarding convictions in CC-315 and 316-96.

Although conceding that an addict may say what it was that he ingested, *Commonwealth v. Davis*, 183 Pa. Super. 347, 132 A.2d 408 (1957), defendant nonetheless argues identification of substances sold on behalf of defendant was not competent to prove that the merchandise was cocaine. Several witnesses described the effects produced by the substances vended by defendant. Mr. Thomas argues that, since

these witnesses did not say that material provided by other sources had the same effects, the witnesses should have been precluded from identifying the matter as cocaine. However, the record makes abundantly clear that the accomplices were deep into cocaine use and knew enough about the substance to identify it. See also, *Commonwealth v. Minott*, 395 Pa. Super. 552, 577 A.2d 928 (1990).

Lastly, defendant argues that we wrongly constrained him from questioning Harvey Flynn about *crimen falsi* conviction in 1972. We observed that defendant had ample grounds to argue untrustworthiness apart from the twenty-four year old conviction. We think the ruling was correct. *Commonwealth v. Bigham*, 452 Pa. 554, 307 A.2d 255 (1973).

ORDER

AND NOW, this 31st day of March, 1997, defendant's post sentence motions are dismissed. Defendant is notified that he may appeal from this order to Superior Court within the next thirty days. He has the right to proceed with assigned counsel, to proceed in forma pauperis if he is indigent and to request that bail be set and that he be allowed the opportunity to post bail on appeal.

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 MILDRED W. BENNER, DEC'D

Late of 230 Benner Road, Gettysburg, Adams County, Pennsylvania
 Administratrix, d.b.n.c.t.a.: Susan Benner, 230 Benner Road, Gettysburg, PA 17325
 Attorney: John A. Wolfe, Esq., Wolfe & Rice, 47 West High Street, Gettysburg, PA 17325

ESTATE OF MARY L. GARRETSON, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania
 Executor: Adams County National Bank, Lincoln Square, Gettysburg, PA 17325
 Attorney: Puhl & Eastman, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF RICHARD HAMILTON, DEC'D

Late of Butler Township, Adams County, Pennsylvania
 Executors: Richard E. Hamilton, 286 Long Lane, Lititz, PA 17543; Keith B. Hamilton, 402 Gregory Lane, Bellefonte, PA 16823
 Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JACKIE L. HARBAUGH, SR., a/k/a JACK L. HARBAUGH, SR., DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executrix: Martha E. Harbaugh, 34 North Franklin Street, Gettysburg, PA 17325
 Attorney: Audrey E. Woloshin

ESTATE OF GLADYS M. HULL, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executrices: Linda L. Keller, 1911 Old Harrisburg Road, Gettysburg, PA 17325; Susanne H. Beily, 3 Rebecca Lane, Hanover, PA 17331

ESTATE OF MICHAEL J. KELLY, DEC'D

Late of Reading Township, Adams County, Pennsylvania
 Executor: Joseph Kelly, 766 Oatman Street, York, PA 17404
 Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

ESTATE OF RAYMOND W. KESSLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executors: Harold L. Kessler, R.D. #1, Box 1038, Brodbeck's, PA 17329; Jean E. Yingling, 9 Charles Avenue, Hanover, PA 17331
 Attorney: James T. Yingst, Esquire, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF ISABELLE L. NACE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executor: Farmers Bank & Trust Company, a division of Dauphin Deposit Bank & Trust Company, 13 Baltimore Street, Hanover, PA 17331
 Attorney: Stonesifer and Kelley, 209 Broadway, Hanover, PA 17331

ESTATE OF WILBUR PITTENTURF, DEC'D

Late of Reading Township, Adams County, Pennsylvania
 Co-Executors: Harvey W. Stimer, Jr.; Dorothy Ruppert
 Attorney: David C. Smith, Esquire, 334 Main Street, McSherrystown, PA 17344

ESTATE OF HANNAH O. SHAFER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executors: R. Donald Shafer, 1222 Blossom Terrace, Boiling Springs, PA 17007; Samuel J. Shafer, 1320 Herr's Ridge Road, Gettysburg, PA 17325
 Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARGARET A. STALLSMITH, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania
 Executrix: Constance Lee Machamer, 15 Ardmore Drive, Hummelstown, PA 17036
 Attorney: Richard E. Thrasher, Esq., Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF PEARL A. STARRY a/k/a PEARL S. STARRY and PEARL A. S. STARRY, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania
 Executors: Gene A. Starry, 1443 East Berlin Road, New Oxford, PA 17350; Dean E. Starry, 2908 Robin Road, York, PA 17404; Joyce S. Snyder, 1441 East Berlin Road, New Oxford, PA 17350
 Attorney: Swope, Heiser & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF LLOYD M. ELDERDICE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executrix: Elizabeth E. Reichard, c/o Farmers & Mechanics National Bank, Trust Division, P.O. Box 518, Frederick, MD 21705

ESTATE OF ANNIET. MOSSER, DEC'D
 Late of Oxford Township, Adams County, Pennsylvania

Executor: Adams County National Bank, Lincoln Square, Gettysburg, PA 17325
 Attorney: Puhl & Eastman, Esqs., Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF FLEETA FAY SINGLEY, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executor: Sterling Calvin Singley, 1735 West Minor Street, Emmaus, PA 18049
 Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF IDA V. ZEIGLER, DEC'D

Late of the Borough of Abbottstown, Adams County, Pennsylvania
 Executor: Clair H. Zeigler, 206 Georgetown Circle, Hanover, PA 17331
 Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF EDWARD J. ALTLAND, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
 Executor: Gerard A. Altland, R.D. #10, Box 294, Hanover, PA 17331
 Attorney: Keith R. Nonemaker, Esquire, Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF RICHARD H. BRUBAKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Co-Executors: Richard K. Brubaker, 584 Hammond Ave., Hanover, PA 17331; Barbara A. Willman, 305 Old Babcock Trail, Gibsonia, PA 15044
 Attorney: G. Steven McCorly, Attorney, 119 Baltimore Street, Hanover, PA 17331

ESTATE OF JAMES A. EMORY, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania
 Administratrix: Norma Jean Emory, 871-B Biglerville Road, Gettysburg, PA 17325
 Attorney: Thomas R. Campbell, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ROBERT D. FIDLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executrix: Dorothy Esther Fidler, 146 Gettys Street, Gettysburg, PA 17325
 Attorney: Charles W. Wolf, Esquire, 112 Baltimore Street, Gettysburg, PA 17325

Continued on next page

ESTATE NOTICES (cont.)

ESTATE OF ARCHIE G. MARTIN, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executor: Dennis Wright, 24 Meadow Lane, Gettysburg, PA 17325

Attorney: Wendy Weikal-Beauchat, 116 Baltimore Street, Gettysburg, PA 17325

ESTATE OF GARY C. ZEIGLER, DEC'D
 Late of East Berlin Borough, Adams County, Pennsylvania

Executrix: Romaine Zeigler, 118 East King Street, East Berlin, PA 17316
 Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-75 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of March, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land.

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

BEGINNING for a point on East Berlin Road (PA 234) at lands now or formerly of Randy Kuhn; thence along said lands now or formerly of Randy Kuhn, North fourteen (14) degrees on (01) minute thirteen (13) seconds East, four hundred forty-eight and ninety-five hundredths (448.95) feet to a pipe at corner of lands now or formerly of Gordon L. Rudacile, North fifty-six (56) degrees eleven (11) minutes ten (10) seconds East, three hundred and twenty-three hundredths (300.23) feet to an iron pin at Lot No. 2; thence along said Lot No. 2, South sixteen (16) degrees forty-seven (47) minutes twenty-three (23) seconds West, four hundred seventy-six and thirty-four hundredths (476.34) feet to a concrete monument at lands now or formerly of John J. Jacobs; thence along said lands now or formerly of John J. Jacobs, South sixteen (16) degrees forty-seven (47) minutes twenty-three (23) seconds West, one hundred ninety-one and seven hundredths (191.07) feet to a point on East Berlin Road; thence along said East Berlin Road, North seventy-seven (77) degrees thirty-seven (37) minutes ten (10) seconds West, one hundred sixty-nine and thirty-six hundredths (169.36) feet to a point at lands now or formerly of Randy Kuhn, the point and place of beginning.

CONTAINING 2.332 ACRES.

BEING Lot No. 1 on a Final Plan for Craig A. Laughman, dated January 13, 1987, in Plat Book 46 Page 1.

TAX PARCEL NO. I-7-15

TITLE TO SAID PREMISES IS VESTED

IN Timothy A. Sterner and Lori A. Sterner, husband and wife by Deed from James F. Myers and Susan E. Myers, husband and wife dated 6/30/95 recorded 7/3/95 in Record Book 1050 Page 160.

SEIZED and taken into execution as the property of **Timothy A. Sterner and Lori A. Sterner** and to be sold by me

Raymond A. Newman
 Sheriff

Sheriff's Office, Gettysburg, PA
 January 21, 1998.

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 April 6, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
 2/13, 20 & 27

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-862 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of March, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

REAL PROPERTY OF
MARK H. HAINES and DONNA L. HAINES
 32 CYPRESS TRAIL
 FAIRFIELD, PA

ALL THAT TRACT OF LAND situate, lying and being in Carroll Valley Borough (formerly Liberty Township), Adams County, Pennsylvania, being Lot No. 92 in Section RI, bounded and described as follows:

BEGINNING at a point in the center of Faircloth Trail at other lands of Charnita, Inc.; THENCE by said lands South 11 degrees 14 minutes 40 seconds East, 181.30 feet to a point; THENCE continuing by said lands and by Lot No. 112 South 74 degrees 12 minutes 40 seconds West, 158.97 feet to Lot No. 93; THENCE by said Lot North 11 degrees 14 minutes 40 seconds West 193.89 feet to a point in the center of said Faircloth Trail; THENCE in said Faircloth Trail North 78 degrees 45 minutes 20 seconds East, 158.47 feet to the place of BEGINNING.

SEIZED and taken into execution as the property of **Mark H. Haines and Donna L. Haines** and to be sold by me

Raymond A. Newman
 Sheriff

Sheriff's Office, Gettysburg, PA
 February 10, 1998.

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 April 20, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
 2/20, 27 & 3/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-915 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed Public Sale on Friday, the 27th day March, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground situate in the Borough of Littlestown, Adams County, Pennsylvania, known as the eastern part of Lot No. 35, more particularly described as follows:

BOUNDED on the South by East King Street; on the West by the other part of said Lot No. 35; on the North by a twenty feet wide alley; and on the East by lot now or formerly of Dr. E.K. Foreman; comprising in front on East King Street 22 feet or the whole space between the Eastern wall of the Alexander C. Shorb brick house (now P.O.S. of A. Building) and now or formerly of Dr. E.K. Foreman's line be the same more or less in width, and in depth 264 feet to a twenty feet wide alley.

HAVING ERRECTED THEREON a commercial building containing a store room and three apartments and garages known and numbered as 12 East King Street Littlestown, Pennsylvania.

TAX MAP NO. 8-174

BEING THE SAME PREMISES which Lester F. Berkheimer and Madeline M. Berkheimer, husband and wife, by deed dated January 24, 1997, and recorded in the Office of the Recorder of Deeds of Adams County in Record Book 1321, Page 77, granted and conveyed unto Rodney B. Messinger and Stephanie J. Messinger, Mortgagors herein.

SEIZED and taken in execution and to be sold as the property of Rodney B. Messinger and Stephanie J. Messinger, judgment debtors and real owners.

SEIZED and taken into execution as the property of **Rodney B. Messinger and Stephanie J. Messinger** and to be sold by me

Raymond A. Newman
 Sheriff

Sheriff's Office, Gettysburg, PA
 February 9, 1998.

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 April 20, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
 2/20, 27 & 3/6

Adams County Legal Journal

Vol. 39

February 27, 1998

No. 40, pp. 219-222

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-686 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 24th day of April, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that improved tract of land situate on the western side of Kime Hatchery Road, T-650, in Tyrone Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a railroad spike set 2 feet west of the center line of Kime Hatchery Road, T-650, which point of beginning is more particularly established on the survey and subdivision plan herein-after referred to; thence in and along Kime Hatchery Road, T-650, and by lands of Evelyn E. Kime Estate, South 3 degrees 59 minutes 25 seconds West, 58 feet to an existing railroad spike in the center line of said Kime Hatchery Road,

T-650; thence continuing in and along Kime Hatchery Road and by lands of Evelyn E. Kime Estate, South 14 degrees 11 minutes 54 seconds West, 172 feet to a railroad spike set 3 feet west of the center line of Kime Hatchery Road; thence leaving Kime Hatchery Road and through a steel pin set back 25 feet from the beginning hereof and by lands of Lynn F. Kime and Sandra S. Kime, North 83 degrees 51 minutes 6 seconds West, 177.04 feet to a steel pin; thence continuing by lands of same North 2 degrees 25 minutes 56 seconds East, 230.91 feet to a steel pin; thence continuing by lands of same and through a steel pin set back 25 feet from the end hereof, South 83 degrees, 16 minutes 20 seconds East, 213.92 feet to a railroad spike set 2 feet west of the center line of Kime Hatchery Road, T-650 the point and place of BEGINNING. CONTAINING 1.050 acres.

BEING the same premises which Lynn F. Kime and Sandra S. Kime by deed dated December 30, 1994 and recorded in the Office of the Recorder of Deeds in and for Adams County in Deed Book 984, Page 23, granted and conveyed to

Michael M. McKenrick and Leonora A. McKenrick.

SEIZED and taken into execution as the property of **Leonora A. McKenrick and Michael L. McKenrick** and to be sold by me

Raymond A. Newman
Sheriff

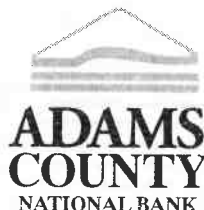
Sheriff's Office, Gettysburg, PA
February 14, 1998.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 18, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
2/27, 3/6 & 13

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-698 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of March, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of Thunder Trail at Lot No. 37; thence by said lot, North 37 degrees 20 minutes East, 225 feet to Lot No. 31; thence by said lot, South 52 degrees 40 minutes East, 100 feet to Lot No. 39; thence by said lot, South 37 degrees 20 minutes West, 225 feet to a point in the center of said Thunder Trail; thence in said Thunder Trail, North 52 degrees 40 minutes West, 100 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section BB of Charnita, Inc.," dated December 6, 1969, prepared by Gordon L. Brown, R.S., and recorded in Plat Book 1 at page 62, designating the above as Lot No. 38.

TOGETHER WITH and SUBJECT TO restrictions, conditions and easements referred to in the above recited deed and contained in Deed Book 287 at page 164.

BEING THE SAME PREMISES which Justice Phillip E. and Leonard M. Sites by Deed dated August 13, 1993 and recorded August 16, 1993 in the Office of the Recording of Deeds in and for Adams County, in Record Book Volume 767, Page 141, granted and conveyed unto James K. Campbell and Linda D. Campbell, husband and wife.

MAP # BB-38

SEIZED and taken into execution as the property of **James K. Campbell and Linda D. Campbell** and to be sold by me

Raymond A. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 15, 1998.

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 April 6, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/13, 20 & 27

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-1143 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of March, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT tract of land situate, lying and being in the Borough of Bonneauville, Adams County, Pennsylvania, being Lot No. 54 of Springfield Estates, bounded and described as follows:

BEGINNING at an iron pin on the northwesterly edge of Autumn Drive at Lot No. 53; thence by said lot North 76 degrees 07 minutes 20 seconds West, 125 feet to Lot No. 55; thence by said lot North 13 degrees 52 minutes 40 seconds East, 180 feet to a concrete monument on the southerly edge of said Autumn Drive; thence in said Autumn Drive (by a curve to the right, the radius of which is 125 feet, for an arc distance of 196.35 feet, and having a chord bearing and distance of South 31 degrees 07 minutes 20 seconds East, 176.78 feet) to a concrete monument on the northwesterly edge of said Autumn Drive; thence along the northwesterly edge of said Autumn Drive South 13 degrees 52 minutes 40 seconds West, 55 feet to the place of beginning.

CONTAINING 19,147 Square Feet.

The above description was taken from a plan of lots labeled "Springfield Estates," dated June 22, 1977, prepared by Gettysburg Engineering Co., Inc., and recorded in Adams County Plat Book 20 at Page 29.

TAX PARCEL NUMBER: 5-95

TITLE TO SAID PREMISES IS VESTED IN Stephen R. Carbaugh, and Victoria Carbaugh, his wife by Deed from James L. Gebhart and Joan G. Gebhart, his wife dated 8/1/88 recorded 8/1/88 in Deed Book 496 Page 376.

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

Raymond A. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 21, 1998.

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 April 6, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/13, 20 & 27

NONPROFIT CORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA on December 5, 1997, for the purpose of obtaining a charter of a nonprofit corporation organized under the Nonprofit Corporation Law of the Commonwealth of Pennsylvania.

The name of the corporation is: DE-SIGN CORPS.

The purpose for which it was organized is as follows: Exclusively for charitable and educational purposes within the meaning of Section 501 (c)(3) of the Internal Revenue Code of 1986, as amended.

Montgomery, McCracken,
Walker & Rhoads LLP
Solicitors
123 South Broad Street
Philadelphia, PA 19106

2/27

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, that on January 15, 1998, an application was filed under the Fictitious Name Act, No. 1982-295 (54 Pa. C.S. Section 311) in the Office of the Secretary of the Commonwealth of Pennsylvania setting forth that: James E. Murphy, Jr. and Tina L. Murphy are the only persons or entity owning or interested in a business, the character of which is a health and fitness club, and that the name, style and designation under which said business is and will be conducted is NEW OXFORD BODYWORKS and the location where said business is and will be located is 400 Lincolnway East, New Oxford, Pennsylvania.

Stonesifer and Kelley

2/27

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that application was or will be filed for registration of the fictitious name CASA REYNA under the Fictitious Names Act, 54 PA. C.S.A. Sec. 301, et seq., in the Department of State of the Commonwealth of Pennsylvania, in Harrisburg, Pennsylvania, an application for the conduct of a business at its principal office of place of business situate at 155 S. Washington St., Gettysburg, Adams County, Pennsylvania. The name and respective addresses of all persons and entities who are parties to the registration are: Brigida Duque, 277 W. Middle St., Gettysburg, PA 17325 and Reyna Fallon, 337 Carlisle St., Gettysburg, PA, 17325.

2/27

COMMONWEALTH VS. AMICK

1. Application of the spontaneous or excited utterance exception to the hearsay rule has always been subject to a relaxed standard when children have been the victims of sexual assaults.

2. The length of time between the event and declaration is weighed with other circumstances on a case basis in applying the spontaneous utterance exception to the hearsay rule and questioning does not make the declaration inadmissible.

3. Factors used in determining competency to testify at trial include (1) capacity to communicate, including as it does, both an ability to understand questions and to frame and express intelligent answers; (2) mental capacity to remember what the witness was called upon to testify about and; (3) consciousness of a duty to tell the truth.

4. Consistent repetition of accusations has been recognized as an indication of reliability.

5. Prior consonant statements have always been admissible to corroborate a witnesses's testimony when certain conditions are fulfilled.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-26-96 COMMONWEALTH OF PENNSYLVANIA VS. ROSS STANLEY AMICK.

E. Christopher Abruzzo, Esq., Deputy Attorney General
Anthony Miley, Esq., for, Defendant

STATEMENT PURSUANT TO P.A.R.APP.P. 1925

Spicer, P.J., March 26, 1997.

Defendant has appealed from a sentence imposed on a charge of indecent assault, which was graded as a misdemeanor of the first degree because of the age of the victim. The order was entered following a jury trial and verdicts of guilty to indecent assault and corruption of minors. On February 24, 1997, when defendant was sentenced, the undersigned ruled that a corruption charge merged for purposes of sentencing, because it was based entirely on the indecent assault. Although no post sentence motions were filed, defendant has filed a statement of matters complained of an appeal.

This case began on October 15, 1995, when Officer Cytha Grissom, attached to the Gettysburg Borough police force, went to the home of two young females and interviewed them about possible sexual assaults perpetrated by defendant. At that time, K.L.G. was 3 years old and her sister, K.G. was 5. (At trial, the girls were 5 and 7.) The interview was prompted by a report by the girl's babysitter, Jenny Mojica. Ms. Mojica reported that she overheard the girls complaining about the defendant, tickling them and commenting how it hurt. She asked her young charges where the tickling occurred and why it had hurt. In response, both girls pointed to vaginal and rectal areas. Based

upon information received from Ms. Mojica and the girls, the police charged defendant with a number of sexual offenses, including rape.

The Public Defender's Office, representing defendant, filed a number of pretrial requests, including requests to examine files generated by Adams County Children and Youth Services, and for a psychological evaluation of the children. The first request was granted on May 21, 1996, but the latter was denied. Ignoring motions for continuances, the case next came to the court's attention on defendant's motion for a pretrial conference, which finally occurred August 27, 1996. As the order bearing that date indicates, three issues were presented for rulings. The first involved the competency of the children, with defense counsel requesting a pretrial ruling and arguing that the trial judge should view videotaped interviews of the children to determine competency. The undersigned denied the motion, ruling that competency would be determined at trial. The second and third trial issues also involved competency, but related to 42 Pa.C.S.A. §5985.1. Defense counsel argued that the court was required to assess competency at the time extra judicial declarations were made. The court ruled that indicia of reliability would be determined by the immediate circumstances of the declaration, and not the overall condition of the declarant. However, the court also ruled that declarations would probably not be admissible should the declarants fail to testify at trial. Thus, we would evaluate admissibility in light of the declarant's incompetency. See, *Commonwealth v. Bean*, 450 Pa. Super 574, 677 A.2d 842 (1996).

Lastly, defendant renewed his request for a psychological evaluation of the declarants. The court refused this request, once again, ruling that defendant was required to allege more than the declarants were young to justify granting the request.

However, on August 28, 1996, the Deputy Attorney General assigned to this case gave notice that he intended to invoke the provisions of 42 Pa.C.S.A. §5985.1 and introduce the interview between Officer Grissom and the children. For reasons explained in a Discussion and Order dated August 29, 1996, we changed our ruling with respect to the request for an evaluation and authorized defense counsel to employ a psychologist.

Although evaluations were accomplished, defense counsel chose not to present the psychologist as a witness in any subsequent proceedings.

The court conducted an in camera hearing on January 10, 1997, and ruled that Ms. Mojica would be permitted to testify about the state-

ments made by the two youngsters and that, if the two girls testified at trial, Officer Grissom would be permitted to corroborate their testimony.

Although defendant has not challenged the admissibility of Ms. Mojica's testimony, we feel it pertinent to comment that application of the spontaneous or excited utterance exception to the hearsay rule has always been subject to a relaxed standard when children have been the victims of sexual assaults. *Commonwealth v. McEachin*, 371 Pa.Super 188, 537 A.2d 883 (1988), alloc. denied 520 Pa. 603, 553 A.2d 965 (1988). Superior Court has ruled that there is no precise rule as to the passage of time and that such declarations are admissible because it is the event speaking. The length of time between the event and declaration is weighed with other circumstances on a case by case basis. Questioning does not make the declaration inadmissible. *Commonwealth v. Watson*, 426 Pa.Super. 496, 627 A.2d 785 (1993). In that case, a child was asked how he burned his hands. "Daddy did it," was admissible.

Competency was determined at trial, in accordance with factors described in *Commonwealth v. Trimble*, 419 Pa.Super. 108, 615 A.2d 48 (1992). These include: 1) capacity to communicate, including as it does, both an ability to understand questions and to frame and express intelligent answers; 2) mental capacity to remember what the witness was called upon to testify about and; 3) consciousness of a duty to tell the truth.

Although K.L.G. testified at trial, she did not implicate defendant in any wrong doing. Nor was Officer Grissom permitted to describe prior statements made by her. Issues in this case relate solely to charges involving K.G. and her testimony.

We know of no authority requiring the court, in the discharge of its duty to see that a searching inquiry is performed, to view pretrial interviews. All of the cases with which the undersigned is familiar involve trial colloquies. Furthermore, testimony of the witness at trial is considered in determining competency. *Id.* We think that the record clearing shows that the witness, K.G. was competent.

We ruled that statements made to Officer Grissom were admissible to corroborate K.G.'s in-court testimony. Prior consonant statements have always been admissible to corroborate a witness's testimony when certain conditions are fulfilled. Although impeachment is necessary, such statements become admissible whenever a jury may reasonably infer that impeachment is occurring, *Commonwealth v. McEachin*, supra. We have previously pointed out that the requirement for spontaneity is relaxed in the case of youthful witnesses. *Id.*

It is commonly known that youngsters are susceptible to make-believe and suggestion. *Commonwealth v. McMaster*, 446 Pa. Super 261, 666 A.2d 724 (1995). Thus, any time a witness as young as K.G. testifies, it can be anticipated that the jury may question the reliability of the testimony.

Consistent repetition of accusations has been recognized as an indication of reliability. *Commonwealth v. Halsted*, 542 Pa. 318, 666 A.2d 655 (1995).

We are not called upon to defend our rulings with respect to The Tender Years Hearsay Act, *supra*. Suffice it to say, there are very troubling aspects of the legislation. When an adult takes the stand and describes a prior conversation with a child, the jury is usually deprived of the essential climate of the conversation. Usually, and as occurred in this case, an adult witness will recite questions and answers without giving very much indication of hesitancy, contradiction or confusion on the part of the child. An officer's idea of leading questions may differ radically from that of court and counsel. This difference again leads us to a point where the officer's credibility, not that of the child, becomes the issue.

We think we exercised sufficient caution to insure a fair trial. The jury was specifically instructed that they could consider Officer Grissom's testimony as relating to the reliability of K.G.'s testimony, and could not consider the statements as substantive evidence. The verdict of guilty to indecent, but not aggravated indecent assault indicates that the instruction was followed.

We leave, for another day, discussion about the Act, *supra*. Whether or not Officer Grissom's testimony should have been considered admissible substantively, it is clear that the factors discussed in *Halsted, supra.*, coupled with existing law about prior consonant statements, made the officer's testimony admissible for the purposes defined at trial.

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment out delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF WADE FRANKLIN HOOK, a/k/a WADE F. HOOK, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
 Executrix: Melverda P. Hook, 195 Ridgewood Drive, Gettysburg, PA 17325
 Attorney: Keefer Wood Allen & Rahal, LLP, Attn: Robert R. Church, Esq., P.O. Box 11963, Harrisburg, PA 17108-1963

ESTATE OF CORA E. OELLIG, DEC'D

Late of Oxford Township, New Oxford, Adams County, Pennsylvania
 Co-Executors: Robert Henry Oellig, 192 Hershey Road, Hummelstown, PA 17036; Barbara Ann Teets, P.O. Box 30, McKnightstown, PA 17343

ESTATE OF DONALD W. STORM, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executor: Clinton C. Bankert, c/o 230 York Street, Hanover, Pennsylvania 17331
 Attorney: John James Mooney, III, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF BEULAH M. WINTRODE, a/k/a BEULAH MAE WINTRODE, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
 Executor: Adams County National Bank, Lincoln Square, Gettysburg, PA 17325
 Attorney: Puhl & Eastman, Esqs., Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF MILDRED W. BENNER, DEC'D

Late of 230 Benner Road, Gettysburg, Adams County, Pennsylvania
 Administratrix, d.b.n.c.t.a.: Susan Benner, 230 Benner Road, Gettysburg, PA 17325
 Attorney: John A. Wolfe, Esq., Wolfe & Rice, 47 West High Street, Gettysburg, PA 17325

ESTATE OF MARY L. GARRETSON, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania
 Executor: Adams County National Bank, Lincoln Square, Gettysburg, PA 17325
 Attorney: Puhl & Eastman, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF RICHARD HAMILTON, DEC'D

Late of Butler Township, Adams County, Pennsylvania
 Executors: Richard E. Hamilton, 286 Long Lane, Lititz, PA 17543; Keith B. Hamilton, 402 Gregory Lane, Bellefonte, PA 16823
 Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JACKIE L. HARBAUGH, SR., a/k/a JACK L. HARBAUGH, SR., DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executrix: Martha E. Harbaugh, 34 North Franklin Street, Gettysburg, PA 17325
 Attorney: Audrey E. Woloshin

ESTATE OF GLADYS M. HULL, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executrices: Linda L. Keller, 1911 Old Harrisburg Road, Gettysburg, PA 17325; Susanne H. Beily, 3 Rebecca Lane, Hanover, PA 17331

ESTATE OF MICHAEL J. KELLY, DEC'D

Late of Reading Township, Adams County, Pennsylvania
 Executor: Joseph Kelly, 766 Oatman Street, York, PA 17404
 Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

ESTATE OF RAYMOND W. KESSLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executors: Harold L. Kessler, R.D. #1, Box 1038, Brodbeck, PA 17329; Jean E. Yingling, 9 Charles Avenue, Hanover, PA 17331
 Attorney: James T. Yingst, Esquire, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF ISABELLE L. NACE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executor: Farmers Bank & Trust Company, a division of Dauphin Deposit Bank & Trust Company, 13 Baltimore Street, Hanover, PA 17331
 Attorney: Stonesifer and Kelley, 209 Broadway, Hanover, PA 17331

ESTATE OF WILBUR PITTENTURF, DEC'D

Late of Reading Township, Adams County, Pennsylvania
 Co-Executors: Harvey W. Stimer, Jr.; Dorothy Ruppert
 Attorney: David C. Smith, Esquire, 334 Main Street, McSherrystown, PA 17344

ESTATE OF HANNAH O. SHAFER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executors: R. Donald Shafer, 1222 Blossom Terrace, Boiling Springs, PA 17007; Samuel J. Shafer, 1320 Herr's Ridge Road, Gettysburg, PA 17325
 Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARGARET A. STALLSMITH, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania
 Executrix: Constance Lee Machamer, 15 Ardmore Drive, Hummelstown, PA 17036
 Attorney: Richard E. Thrasher, Esq., Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF PEARL A. STARRY a/k/a PEARL S. STARRY and PEARL A. S. STARRY, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania
 Executors: Gene A. Starry, 1443 East Berlin Road, New Oxford, PA 17350; Dean E. Starry, 2908 Robin Road, York, PA 17404; Joyce S. Snyder, 1441 East Berlin Road, New Oxford, PA 17350
 Attorney: Swope, Heiser & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF LLOYD M. ELDERDICE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executrix: Elizabeth E. Reichard, c/o Farmers & Mechanics National Bank, Trust Division, P.O. Box 518, Frederick, MD 21705

ESTATE OF ANNIE T. MOSSER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executor: Adams County National Bank, Lincoln Square, Gettysburg, PA 17325
 Attorney: Puhl & Eastman, Esqs., Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF FLEETA FAY SINGLEY, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executor: Sterling Calvin Singley, 1735 West Minor Street, Emmaus, PA 18049
 Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF IDA V. ZEIGLER, DEC'D

Late of the Borough of Abbottstown, Adams County, Pennsylvania
 Executor: Clair H. Zeigler, 206 Georgetown Circle, Hanover, PA 17331
 Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-75 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of March, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land.

SITUATE, lying and being in Hunting-ton Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING for a point on East Berlin Road (PA 234) at lands now or formerly of Randy Kuhn; thence along said lands now or formerly of Randy Kuhn, North fourteen (14) degrees on (01) minute thirteen (13) seconds East, four hundred forty-eight and ninety-five hundredths (448.95) feet to a pipe at corner of lands now or formerly of Gordon L. Rudacile, North fifty-six (56) degrees eleven (11) minutes ten (10) seconds East, three hundred and twenty-three hundredths (300.23) feet to an iron pin at Lot No. 2; thence along said Lot No. 2, South sixteen (16) degrees forty-seven (47) minutes twenty-three (23) seconds West, four hundred seventy-six and thirty-four hundredths (476.34) feet to a concrete monument at lands now or formerly of John J. Jacobs; thence along said lands now or formerly of John J. Jacobs, South sixteen (16) degrees forty-seven (47) minutes twenty-three (23) seconds West, one hundred ninety-one and seven hundredths (191.07) feet to a point on East Berlin Road; thence along said East Berlin Road, North seventy-seven (77) degrees thirty-seven (37) minutes ten (10) seconds West, one hundred sixty-nine and thirty-six hundredths (169.36) feet to a point at lands now or formerly of Randy Kuhn, the point and place of beginning.

CONTAINING 2.332 ACRES.

BEING Lot No. 1 on a Final Plan for Craig A. Laughman, dated January 13, 1987, in Plat Book 46 Page 1.

TAX PARCEL NO. I-7-15

TITLE TO SAID PREMISES IS VESTED

IN Timothy A. Sterner and Lori A. Sterner, husband and wife by Deed from James F. Myers and Susan E. Myers, husband and wife dated 6/30/95 recorded 7/3/95 in Record Book 1050 Page 160.

SEIZED and taken into execution as the property of **Timothy A. Sterner and Lori A. Sterner** and to be sold by me

Raymond A. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 21, 1998.

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 April 6, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
2/13, 20 & 27

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-862 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of March, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

REAL PROPERTY OF
MARK H. HAINES and DONNA L. HAINES
32 CYPRESS TRAIL
FAIRFIELD, PA

ALL THAT TRACT OF LAND situate, lying and being in Carroll Valley Borough (formerly Liberty Township), Adams County, Pennsylvania, being Lot No. 92 in Section RI, bounded and described as follows:

BEGINNING at a point in the center of Faircloth Trail at other lands of Charnita, Inc.; THENCE by said lands South 11 degrees 14 minutes 40 seconds East, 181.30 feet to a point; THENCE continuing by said lands and by Lot No. 112 South 74 degrees 12 minutes 40 seconds West, 158.97 feet to Lot No. 93; THENCE by said Lot North 11 degrees 14 minutes 40 seconds West 193.89 feet to a point in the center of said Faircloth Trail; THENCE in said Faircloth Trail North 78 degrees 45 minutes 20 seconds East, 158.47 feet to the place of BEGINNING.

SEIZED and taken into execution as the property of **Mark H. Haines and Donna L. Haines** and to be sold by me

Raymond A. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
February 10, 1998.

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 April 20, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
2/20, 27 & 3/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-915 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of March, 1998, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground situate in the Borough of Littlestown, Adams

County, Pennsylvania, known as the eastern part of Lot No. 35, more particularly described as follows:

BOUNDED on the South by East King Street; on the West by the other part of said Lot No. 35; on the North by a twenty feet wide alley; and on the East by lot now or formerly of Dr. E.K. Foreman; comprising in front on East King Street 22 feet or the whole space between the Eastern wall of the Alexander C. Shorb brick house (now P.O.S. of A. Building) and now formerly of Dr. E.K. Foreman's line be same more or less in width, and in depth 264 feet to a twenty feet wide alley.

HAVING ERECTED THEREON a commercial building containing a store room and three apartments and garages known and numbered as 12 East King Street, Littlestown, Pennsylvania.

TAX MAP NO. 8-174

BEING THE SAME PREMISES which Lester F. Berkheimer and Madeline M. Berkheimer, husband and wife, by deed dated January 24, 1997, and recorded in the Office of the Recorder of Deeds of Adams County in Record Book 1321, Page 77, granted and conveyed unto Rodney B. Messinger and Stephanie J. Messinger, Mortgagees herein.

SEIZED and taken in execution and to be sold as the property of Rodney B. Messinger and Stephanie J. Messinger, judgment debtors and real owners.

SEIZED and taken into execution as the property of **Rodney B. Messinger and Stephanie J. Messinger** and to be sold by me

Raymond A. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
February 9, 1998.

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 April 20, 1998, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.
2/20, 27 & 3/6

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that a fictitious name application has been filed with the department of State for registration in Harrisburg, Pennsylvania on November 7, 1997 pursuant to Fictitious Name Act No. 1982-25, stating that Carol L. Simpson, of 12 Wheatfield Trail, Fairfield, Adams County, Pennsylvania, is the sole owner and operator of a business which is for the purpose of collecting past due debts and the name under which said business will be conducted is CLS COLLECTION AGENCY and the mailing address of the business will be Post Office Box No. 462, Fairfield, Pennsylvania 17320.

Carol L. Simpson
Owner