

# *Adams County* Legal Journal

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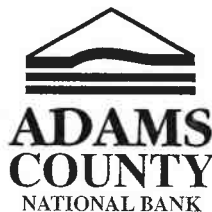
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MCGLAUGHLIN VS. GETTYSBURG HOSPITAL ET AL

*This opinion continues to next issue (9/10/2004)*

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-297 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

No. 04-S-297

Judgment: \$18,797.33

Attorney: Joseph S. Wiesmeth, Esq.

ALL THAT lot of ground situate along the public road leading from the Hanover-Carlisle State Highway to the Hanover-Abbottstown State Highway, in Berwick Township, Adams County, Pennsylvania, which is bounded and described as follows:

BEGINNING at an iron pin on the North side of the public road aforesaid at land now or formerly of Merle C. Brallier; thence by said lands North 28 degrees 15 minutes West 120 feet to an iron pin at other land now or formerly of C.H. Bittinger; thence by the same North 62 degrees East 35.5 feet to an iron pin at lands now or formerly of the Evangelical Church; thence by the same South 31 degrees 30 minutes East 120 feet to an iron pin at the public road aforesaid; thence by the same South 62 degrees West 42 feet to an iron pin, the place of BEGINNING.

Improved Lot

Tax Parcel #: (04) L12-53

Assessed Value: 31,853

To be sold as the property of Richard E. Luckabaugh.

SEIZED and taken into execution as the property of Richard E. Luckabaugh and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-543 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the thirty (30) foot right-of-way line of Trenton Court at Lot No. 22 as shown on the hereinafter mentioned referenced subdivision plan; thence running along said Lot No. 22 South eighty-seven (87) degrees fifty-five (55) minutes twenty-seven (27) seconds East, one hundred twenty-six and seventy-one hundredths (126.71) feet to a point at lands now or formerly of Robert G. Stouffer; thence running along said lands now or formerly of Robert G. Stouffer South two (02) degrees fifty-nine (59) minutes nine (09) seconds West, eighty and one hundredths (80.01) feet to a point at Lot No. 20 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 20 North eighty-seven (87) degrees fifty-five (55) minutes twenty-seven (27) seconds West, one hundred twenty-five and forty hundredths (125.40) feet to a point on the right-of-way line of Trenton Court; thence running along said right-of-way line by a curve to the right having a radius of three hundred seventy-five (375.00) feet an arc length of five and seventy-seven hundredths (5.77) feet and along chord bearing and distance of North one (01)

degrees thirty-eight (38) minutes twelve (12) seconds East, five and seventy-seven hundredths (5.77) feet to a point on the right-of-way line of Trenton Court; thence continuing along said right-of-way line of Trenton Court, North two (02) degrees four (04) minutes thirty-three (33) seconds East, seventy-four and twenty-three hundredths (74.23) feet to a point on the right-of-way line of Trenton Court at Lot No. 22, the point and place of BEGINNING, CONTAINING 10,188 square feet.

THE above description being Lot No. 21 on the Phase 6 Final Plan for Heritage Hill II, prepared by Martin and Martin, Incorporated, dated October 4, 1999, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 79 at page 64.

TITLE TO SAID PREMISES IS VESTED IN Julie R. Hieronimus and Randall S. Hieronimus, wife and husband by Deed from Julie R. Hieronimus and Randall S. Hieronimus, wife and husband dated 9/28/2001 and recorded 10/11/2001 in Record Book 2417 Page 327.

Premises being: 11 Trenton Court, Lot 21, Littlestown, PA 17340

Tax Parcel No. 19 Map #10

SEIZED and taken into execution as the property of **Randall S. Hieronimus & Julie R. Hieronimus** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 25, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/20, 27 & 9/3

## McGLAUGHLIN VS. GETTYSBURG HOSPITAL ET AL

1. Historically, the standard for qualifying as an expert witness in Pennsylvania has been a liberal one. The common law test to be applied when qualifying an expert witness is “whether the witness has **any** reasonable pretension to specialized knowledge on the subject under investigation.” However, the Medical Care Availability and Reduction of Error Act’s (MCARE) enactment on March 20, 2002, preempted Pennsylvania common law in this area.

2. The initial issue for determination concerns during which time period a prospective expert’s qualifications are to be considered. Specifically, the language of MCARE Section 512 begs the question of whether the critical focal point for the five-year period referenced by subparagraph (b)(2) is the time of the alleged negligent act; the time the expert witness’s testimony is presented to the fact finder; or both.

3. When construing a statute, a court begins with the presumption that our legislature did not intend any statutory language to exist as mere surplusage and, accordingly, courts must construe a statute so as to give effect to every word contained therein whenever possible.

4. It is improper for a court, under its powers of construction, to supply omissions in the statute where it appears the legislature may have intentionally omitted those matters.

5. When the meaning of a statute is plain, a court should not disregard the language of the law in the context of pursuing its spirit.

6. This Court reads Section 512(b) to require that an expert testifying on a medical matter in a malpractice action possess the requisite qualifications at the time the testimony is presented to the fact finder.

7. In order to sustain a cause of action for medical malpractice, a plaintiff must establish:

1. The physician owed a duty to the patient;
2. The physician breached that duty;
3. The breach of the duty was the proximate cause of, or a substantial factor in, bringing about the harm suffered by the patient; and
4. The damages suffered by the patient were a direct result of that harm.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 99-S-675, MICHAEL S. McGLAUGHLIN AND TAMMY J. McGLAUGHLIN VS. THE GETTYSBURG HOSPITAL, RUKHSANA K. RAHMAN, M.D., GREGORY J. CODORI, D.O., AND JOHN DUFENDACH, M.D.

Darryl Cunningham, Esq., for Plaintiffs

Robert McDermott, Esq., for Defendants

George, J., September 5, 2003

## OPINION

This matter comes before the Court on the Defendants' Pre-trial Motion in Limine and concurrent Motion for Summary Judgment. Resolution of the issues raised by the Defendants requires a brief review of the unfortunate history underlying the Plaintiffs' Complaint.<sup>1</sup>

On January 15, 1999, Plaintiff Michael McGlaughlin (hereinafter referred to as "McGlaughlin") was transported via ambulance to the emergency room of Defendant Gettysburg Hospital. McGlaughlin's family members contacted ambulance personnel after their interaction with him that morning alerted them that he might need medical treatment. Apparently, McGlaughlin was previously diagnosed with juvenile myoclonic epilepsy. Prior to the morning of January 15, 1999, McGlaughlin noticed that previous minor twitching and occasional jerking of his arms had been steadily increasing. On the morning of January 15, 1999, he complained to family members that he was not feeling well and wished not to go into work right away.

Upon McGlaughlin's arrival at the Gettysburg Hospital Emergency Room on the morning of January 15, 1999, Defendant Dr. Gregory Codori, examined him. Dr. Codori conducted an initial examination and decided to obtain a CT scan of McGlaughlin's brain. McGlaughlin was transferred to the Gettysburg Hospital Radiology Department for the CT scan. During the CT scan, McGlaughlin experienced a grand mal seizure which caused convulsions. Hospital personnel, including Dr. Codori, injected McGlaughlin with the anti-seizure drug, Ativan. However, despite the ongoing seizure, the Radiology Department continued with the CT scan. From start to finish, McGlaughlin's seizure lasted approximately thirty minutes. Following his seizure, McGlaughlin was postictal and developed Todd's paralysis.<sup>2</sup> He remained at the

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<sup>1</sup> The factual recitation set forth in this opinion is based upon allegations in McGlaughlin's Complaint and McGlaughlin's experts' reports which were provided to the Court. In considering the Defendants' Motion in Limine, I presume that McGlaughlin will present evidence consistent with the allegations underlying his claim, of which the Defendants seek to limit in their Motion in Limine. *Commonwealth v. Pikur Enterprises, Inc.*, 596 A.2d 1253, 1259 (Pa.Cmwlt. 1991).

<sup>2</sup> Todd's paralysis is post-epileptic paralysis lasting a few minutes, hours, or occasionally, several days after a seizure. Mosby's Medical, Nursing, & Allied Health Dictionary 1719 (6th ed. 2002).

emergency room for several hours until he was released to return home. Upon his release he was prescribed Depakote and advised to return to the emergency room if he had any further problems. He was further counseled to contact a neurologist.

The following day, McGlaughlin complained of substantial pain in his neck and shoulder area. He attributed the pain to his seizure and remained in bed all day. On January 17, 1999, McGlaughlin's pain was unbearable and he returned to the Gettysburg Hospital Emergency Room. According to McGlaughlin, Defendant Dr. John Dufendach treated him at the Gettysburg Hospital Emergency Room. Dr. Dufendach diagnosed him with thoracolumbar muscle strain due to the seizure he suffered on January 15, 1999. Dr. Dufendach did not conduct any x-rays prior to his diagnosis. According to McGlaughlin, Dr. Dufendach suggested as a result of his examination that McGlaughlin visit a massage therapist.

Apparently McGlaughlin's pain did not subside but rather continued to the extent that on January 20, 1999, McGlaughlin visited his family physician, Dr. Adam Wasserman. By order of Dr. Wasserman, an x-ray of McGlaughlin's thoracic spine was performed at Gettysburg Hospital on January 26, 1999. Defendant Dr. Rukhsana K. Rahman, a radiologist at Gettysburg Hospital, interpreted the thoracic spine x-ray. Dr. Rahman's interpretation diagnosed a "focal, mild, sharp angle scoliosis<sup>3</sup> in the upper thoracic spine, probably related to a congenital anomaly of T-5 and possibly T-4 vertebral bodies". After receiving continued complaints of pain from McGlaughlin, Dr. Wasserman personally reviewed McGlaughlin's thoracic spine x-ray on January 28, 1999. Dr. Wasserman read the thoracic spine x-ray to indicate that McGlaughlin suffered from "compression fractures" and directed that an immediate CT scan and MRI be performed. The subsequent tests, conducted at Gettysburg Hospital, confirmed Dr. Wasserman's interpretation that McGlaughlin had suffered a fractured vertebra.

Following discovery of the fractured vertebra, McGlaughlin visited several neurologists and neurosurgeons seeking opinions as to treatment. As a result of the recommendation from one of his

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<sup>3</sup> Scoliosis is a lateral curvature of the spine. See Mosby's, cited above at n.2, at p. 1546.

treating physicians, McGlaughlin underwent surgical intervention at York Hospital on March 10, 1999. Currently, he claims that as a result of his injury, he suffered severe pain in his spine and back. He further alleges that he is permanently disabled and unable to work in any capacity. He claims to have subsequently endured a substantial loss of life's pleasures.<sup>4</sup> On October 7, 1999, McGlaughlin initiated a medical malpractice action against a number of physicians, medical personnel and Gettysburg Hospital. During the course of the litigation, a number of the issues involving several defendants have been resolved. The remaining defendants and issues for trial consist of the following:

- i) a negligence claim against Dr. Rukhsana K. Rahman based upon an alleged failure to properly read McGlaughlin's January 26, 1999 thoracic spine x-ray;
- ii) a negligence claim against Dr. Gregory Codori for his actions on January 15, 1999 for:
  - a) failing to properly supervise the administering of the CT scan;
  - b) failing to appropriately treat McGlaughlin when he went into a grand mal seizure;
  - c) improperly instructing medical personnel to restrain McGlaughlin during his grand mal seizure;
  - d) failing to call for assistance after McGlaughlin went into grand mal seizure;
  - e) attempting to administer a CT scan without the radiologist present during the scan;
  - f) failing to document the grand mal seizure McGlaughlin experienced;
  - g) failing to properly follow-up and evaluate McGlaughlin following his seizure; and
  - h) failing to stop the CT scan upon commencement of McGlaughlin's grand mal seizure.
- iii) a negligence claim against Dr. John Dufendach based upon Dr. Dufendach's alleged negligence in:

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<sup>4</sup>McGlaughlin's wife, Tammy J. McGlaughlin, joined McGlaughlin's civil action by filing a loss of consortium claim against the respective Defendants.

- a) failing to properly examine and diagnose McGlaughlin's injuries during the examination on January 17, 1999;
  - b) failing to order appropriate tests during the examination of McGlaughlin on January 17, 1999; and
  - c) advising McGlaughlin to undergo physical therapy.
- iv) McGlaughlin's vicarious liability claim against the Gettysburg Hospital;
- v) Tammy McGlaughlin's loss of consortium claim against the four above-named Defendants.

The several Defendants' current Motion in Limine seeks to preclude the testimony of McGlaughlin's two expert witnesses, Dr. Peter G. Bernad and Dr. Thomas K. Howard. Specifically, the Defendants argue that McGlaughlin's experts lack the qualifications necessary to express opinions regarding the standard of care applicable to the Defendant doctors. The Defendants further move the Court for summary judgment reasoning that since a breach of a standard of care is a necessary element of a medical malpractice claim, McGlaughlin's inability to present qualified expert testimony in this regard necessitates summary judgment in their favor.

Prior to addressing the substantive issues raised by the Defendants, it is important to clarify the procedural posture of this matter. Generally, the specific training and experience of a potential expert witness is to be explored at trial in order to determine whether the witness qualifies as an expert in the field at issue. See *Rauch v. Mike-Mayer*, 783 A.2d 815, 823 n.6 (Pa.Super. 2001). This principle reflects long-standing precedent that the credibility of evidence is normally not a proper consideration at the summary judgment stage. See generally *Resolution Trust Corp. v. Urban Redevelopment Auth.*, 638 A.2d 972, 975 (Pa. 1994). However, perhaps in recognition of the significance of the testimony at issue to the viability of McGlaughlin's causes of action, the current parties have agreed to submit the issue of the qualifications of McGlaughlin's experts to the Court for disposition prior to the selection of a jury and commencement of trial. Pursuant to this agreement, the parties have submitted deposition transcripts of Doctors Bernad and Howard as an offer of proof for the Court's consideration of this issue. Accordingly, in

light of the parties' agreement, I will undertake to rule upon this issue based upon the offer of proof presented by the parties.

Historically, the standard for qualifying as an expert witness in Pennsylvania has been a liberal one. *Von Der Stuck v. Apco Concrete, Inc.*, 779 A.2d 570, 573-74 (Pa.Super. 2001). In *Miller v. Brass Rail Tavern*, 664 A.2d 525 (Pa. 1995), the Pennsylvania Supreme Court enunciated the common law test to be applied when qualifying an expert witness is "whether the witness has **any** reasonable pretension to specialized knowledge on the subject under investigation". *Id.* at 528 (emphasis in original). If the expert witness's qualifications satisfied this very lenient standard, Pennsylvania common law permitted the expert to testify leaving the trier of fact to determine the weight to be given to such testimony. *Von Der Stuck*, cited above.

However, the Medical Care Availability and Reduction of Error Act's (hereinafter referred to as "MCARE") enactment on March 20, 2002 preempted Pennsylvania common law in this area.<sup>5</sup> MCARE, according to its own language, is a by-product of the General Assembly's effort to allow for a prompt determination of litigation and fair compensation to those injured as a result of medical negligence, while attempting to maintain medical professional liability insurance at an affordable and reasonable cost. See 40 P.S. § 1303.102. In furtherance of that effort, MCARE codifies the standards that a witness must meet in order to offer expert medical testimony against a physician in a medical professional liability action. MCARE, in relevant part, provides:

- (a) **General Rule.**—No person shall be competent to offer an expert medical opinion in a medical professional liability action against a physician unless that person possesses sufficient education, training, knowledge and experience to provide credible, competent

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<sup>5</sup> Although the conduct at issue occurred on September 15, 1999 and MCARE did not become effective until March 20, 2002, neither party questioned the applicability of MCARE to the current facts. Because MCARE sets the standard a witness must meet in order to provide an expert opinion, a prospective application of it from its effective date makes it applicable to the current issue. Although McGlaughlin may have retained both experts prior to MCARE's enactment, their expert medical testimony will not occur until trial which has not yet commenced. See *Callari v. Rosenwasser*, 2003 WL 21911912 (C.P. Philadelphia Aug. 12, 2003) (this opinion, is, however, an unpublished slip opinion). Since neither party has challenged the applicability of MCARE, further discussion on this issue is unnecessary.



testimony and fulfills the additional qualifications set forth in this section as applicable.

- (b) **Medical testimony.**—An expert testifying on a medical matter, including the standard of care, risks and alternatives, causation and the nature and extent of the injury, must . . .
  - (1) Possess an unrestricted physician’s license to practice medicine . . . .
  - (2) Be engaged in or retired within the previous five years from active clinical practice or teaching.

Provided, however, the court may waive the requirements of this subsection for an expert on a matter other than the standard of care if the court determines that the expert is otherwise competent to testify about medical or scientific issues by virtue of education, training or experience.

- (c) **Standard of care.**— . . . an expert testifying as to a physician’s standard of care must also meet the following qualifications:
  - (1) Be substantially familiar with the applicable standard of care for the specific care at issue as of the time of the alleged breach of the standard of care.
  - (2) Practice in the same subspecialty as the defendant physician or in a subspecialty which has a substantially similar standard of care for the specific care at issue, except as provided in subsection (d) or (e).
  - (3) In the event the defendant physician is certified by an approved board, be board certified by the same or a similar approved board, except as provided in subsection (e).
- (d) **Care outside specialty.**—A court may waive the same subspecialty requirement for an expert testifying on the standard of care for the diagnosis or treatment of a condition if the court determines that:
  - (1) the expert is trained in the diagnosis or treatment of the condition, as applicable; and

(2) the defendant physician provided care for that condition and such care was not within the physician's specialty or competence.

- (e) **Otherwise adequate training, experience and knowledge.**—A court may waive the same specialty and board certification requirements for an expert testifying as to a standard of care if the court determines that the expert possesses sufficient training, experience and knowledge to provide the testimony as a result of active involvement in or full-time teaching of medicine in the applicable subspecialty or a related field of medicine within the previous five-year time period.

40 P.S. § 1303.512.<sup>6</sup>

*Continued to next issue (9/10/2004)*

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<sup>6</sup>Appellate court interpretation of this statutory provision is non-existent since the application of the statute is in its infancy. Thus, guidance in addressing the issues the Defendants raised is sparse. An exhaustive search for precedent revealed only two other Courts of Common Pleas addressed issues related to the applicability and interpretation of this section. See *Callari*, 2003 WL 21911912; *Spotts v. Small*, 61 D.&C.4th 225 (C.P. Lancaster 2003).

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-287 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described real estate, locally known as 16 Valley View Trail, lying and being situate in the Borough of Carroll Valley, Adams County, Pennsylvania, bounded and described as follows:

Lot #161

BEGINNING at a point in the center of Valley View Trail at Lot No. 160; thence by said lot South 62 degrees 13 minutes East 200 feet to Lot No. 193; thence by said lot South 27 degrees 47 minutes West, 100 feet to Lot No. 162; thence by said lot North 62 degrees 13 minutes West 200 feet to a point in the center of said Valley View Trail; thence in center of said Valley View Trail North 27 degrees 47 minutes East 100 feet to the place of BEGINNING.

Lot #162

BEGINNING at a point in the center of Valley View Trail at Lot No. 161; thence by said lot South 62 degrees 13 minutes East, 200 feet to Lot No. 192; thence by said lot South 27 degrees 47 minutes West, 100 feet to Lot No. 163; thence by said lot North 62 degrees 13 minutes West, 200 feet to a point in the center of Valley View Trail; thence in said Valley View Trail North 27 degrees 47 minutes East, 100 feet to the place of BEGINNING.

THE above descriptions were taken from a plan of lots labeled "Section A, Charnita" dated March 10, 1965, prepared by Gordon L. Brown, R.S., and recorded in Adams County Miscellaneous Docket 3 at page 733.

BEING the same real estate conveyed to Daniel J. Leclerc, unmarried, mortgagor(s) herein, by deed of Robert H. Jones and Elizabeth M. Jones, husband and wife, dated October 31, 1994, and recorded in Adams County Record Book Volume 960, Page 100.

SEIZED and taken into execution as the property of Daniel Leclerc and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 25, 2004, and distribution will be made in accordance with said schedule, unless

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

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

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

8/27, 9/3 & 10

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-78 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point in middle of a public road known and identified as Pennsylvania Legislative Route No. 01037 and at lands now or formerly of Donald E. Danner, Jr.; thence through and along the middle of the public road identified as Pennsylvania Legislative Route No. 01037, North twenty (20) degrees thirteen (13) minutes twenty-eight (28) seconds West, one thousand two hundred eight and eleven hundredths (1208.11) feet to a point in the middle of the aforementioned public road and at lands now or formerly of E. L. Eckert Estate; thence through and across a portion of said public road identified as Pennsylvania Legislative Route No. 01037 and along lands now or formerly of E. L. Eckert Estate, South sixty (60) degrees East, one thousand three hundred and two tenths (1300.2) feet to a point at lands now or formerly of Samuel Baker; thence along lands now or formerly of Samuel Baker, South forty-one (41) degrees West, five hundred sixty-five and nine hundred and five thousandths (565.905) feet to an iron pin at lands now or formerly of Donald E. Danner, Jr.; thence along lands now or formerly of Donald E. Danner, Jr. North twenty-one (21) degrees West, sixty-seven (67) feet to an iron pin at lands of same; thence along said lands and through an iron pin located twenty (20) feet from the place of beginning and through and across one-half (1/2) of the aforementioned public road identified as Pennsylvania Legislative Route No. 01037, South sixty-nine (69) degrees

eleven (11) minutes three (03) seconds West, three hundred thirteen and eighty-two hundredths (313.82) feet to a point in the middle of the aforementioned public road identified as Pennsylvania Legislative Route No. 01037, the place of BEGINNING.

CONTAINING approximately 12.40 acres.

THE above description has been prepared from a plotted plan from a deed and subdivision plan prepared by George M. Wildas, Civil Engineer, for Wilson S. Linebaugh and Ruth C. Linebaugh, dated May 12, 1979.

BEING Tax Map K8 Parcel 112.

BEING THE SAME PREMISES WHICH Jan W. Zimmerman, widow, by Indenture dated December 10, 1999 and recorded December 15, 1999 in the Office of the Recorder of Deeds in and for the County of Adams in Record Book 1970 page 240, granted and conveyed unto Burton F. Karsteter and Pamela S. Karsteter, husband and wife.

Anthony R. Distasio, Esq.  
No. 04-S-78  
Judgment: \$302,605.26

SEIZED and taken into execution as the property of Burton F. Karsteter & Pamela S. Karsteter and to be sold by me,

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/27, 9/3 & 10

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-867 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 827 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds in and for Adams County in Misc. Deed Book 1, page 5, and subject to all legal highways, easements, rights of way and restrictions of record.

TOGETHER with the right in common with other owners of lots in said subdivision to use for all usual purposes the streets, ways, beaches, recreation areas, and other public areas, as shown on the said plot, and the right in common with the other owners of lots in the said subdivision to use the lake and beaches for swimming, fishing and boating in accordance with the rules and regulations of Lake Meade Property Owners Association, its successor or assigns.

UNDER AND SUBJECT to the restrictions, conditions and agreement set forth at length in deed of Lake Meade, Inc. to the grantors herein, referred above.

HAVING THEREON erected a dwelling house known as: 397 Lake Meade Drive, East Berlin, PA 17316

BEING THE SAME PREMISES WHICH Robert W. Snyder and Linda S. Snyder, by Deed dated 6/30/00 and recorded 7/25/00 in Adams County Deed Book 2093, Page 56, granted and conveyed unto Gary Zittle.

SEIZED IN EXECUTION AS THE PROPERTY OF GARY D. ZITTLE UNDER ADAMS COUNTY JUDGMENT NO. 03-S-867

Map & Parcel 37-10-56

SEIZED and taken into execution as the property of Gary D. Zittle and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/27, 9/3 & 10

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-863 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated, lying, and being in Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center line of Legislative Route 01077 at corner of other lands now or formerly of John Whitney; thence in said center line of Legislative Route 01077 South 58 degrees 40 minutes East, 89.77 feet to a point in the center line of said Legislative Route 01077 at land now or formerly of James Sharrah; thence through an iron pin set back along the line by other land now or formerly of James Sharrah South 34 degrees 36 minutes West, 182.41 feet to an iron pipe; thence by land of James Sharrah and Mrs. Lottie Topper South 57 degrees 33 minutes East, 117.93 feet to an iron pipe; thence by other land formerly of Calvin Cluck and wife South 30 degrees 12 minutes West, 268.11 feet to an iron pin; thence by same South 25 degrees 38 minutes West, 808.79 feet to an iron pipe, thence by land now or formerly of Mark Bucher, North 55 degrees 9 minutes West, 386.35 feet to an iron pipe; thence by other land formerly of Cluck North 37 degrees 25 minutes East, formerly of John Whitney and through an iron pin set back along the line 29.90 feet North 34 degrees 37 minutes East, 322.80 feet to a point in the center of Legislative Route 01077 to the point and place of BEGINNING.

CONTAINING 6.7478 acres.

BEING KNOWN AS: 126 Olde Rte. 30, McKnightstown, PA 17343

PROPERTY ID NO.: D-11-95A

TITLE TO SAID PREMISES IS VESTED IN Stephan H. Reaver and Cindy L. Reaver, husband and wife, as tenants of an estate by the entireties by Deed from Calvin A. Slegal a/k/a Calvin Andrew Slegal and Mary Jane Slegal, husband

and wife dated 01/02/97 recorded 01/03/97 in Deed Book 1312 Page 345.

SEIZED and taken into execution as the property of **Stephan H. Reaver & Cindy L. Reaver** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on or about March 15, 2004, for the incorporation of BRICK POINT CONSTRUCTION, INC., under the Pennsylvania Business Corporation Law of 1988. The corporation shall engage in the business of home construction and sales, together with any legal function of a corporation under PA law. The initial registered office of the corporation is 596 Middle Creek Road, Fairfield, PA 17320.

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

9/3

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Pennsylvania Department of State, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania, on April 16, 2004, for the purpose of obtaining a Certificate of Incorporation of a proposed nonprofit corporation under the Pennsylvania Nonprofit Corporation Law of 1988. The name of the corporation is CITIZENS AGAINST WORLD STARVATION.

John W. Phillips, Esq.  
101 West Middle Street  
Gettysburg, PA 17325  
Attorney for the Corporation

9/3

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-525 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an iron pin driven at the point of intersection of the center line of Legislative Route 10116 running between Mt. Hope through Virginia Mills and to the Fairfield-Orrtanna State Highway and the center line of the Western Maryland Railroad right-of-way near Virginia Mills; thence running in the center of said Legislative Route No. 10116 North 70-3/4 degrees West 574 feet to an iron pin in the center of said state highway; thence by land now or formerly of Mike McGlaughlin land now or formerly of Lloyd Benner and land now or formerly of Ronald Kump North 52 degrees East 980 feet running through an elm tree 44 feet from the end of this course to a point in the center of said railroad right-of-way; thence running in the center of said railroad right-of-way South 12-1/4 degrees West 412.5 feet to a point in the center of said railroad right-of-way in a curve thereof; thence continuing in the center of said railroad right-of-way South 19-1/2 degrees West 415.8 feet to the above described place of BEGINNING.

Premises known as: 401 Mt. Hope Road, Fairfield, PA 17320

SEIZED and taken into execution as the property of **Randy A. Rippeon & Tracie L. Rippeon** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/27, 9/3 & 10

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-10 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that improved lot of ground situate on the East side of Fourth Street, in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a steel rod on the East property line of Fourth Street at lands of Gettysburg Area School District, which steel rod is more particularly set forth on the subdivision plan hereinafter referred to; thence by lands of Gettysburg Area School District, South 68 degrees East, 125.48 feet to a steel rod; thence continuing by lands of Gettysburg Area School District, South 5 degrees 4 minutes 50 seconds West, 59.74 feet to a steel rod; thence by lands formerly of Clair F. Ditzler, now lands of John P. DeHaas and Patsy A. DeHaas, Lot No. 2, North 85 degrees 30 minutes 40 seconds West, 119.92 feet to a steel rod on the East property line of Fourth Street; thence along the East property line of Fourth Street, North 5 degrees East, 97.50 feet to a steel rod, the point and place of BEGINNING. CONTAINING 9,430 square feet.

The foregoing description was taken from a draft of survey prepared by Adams County Surveyors, J. Riley Redding, R.S., dated August 1, 1984, which subdivision is approved by the various municipal subdivisions and commissions of Adams County and duly recorded in Adams County Plat Book 40, at page 101, and identified thereon as Lot No. 1.

BEING KNOWN AS: 421 North Fourth Street, Gettysburg, PA 17325

PROPERTY ID NO.: 5-3

TITLE TO SAID PREMISES IS VESTED IN Edwin E. Wickline, a single man by deed from Diane K. Barbour and Gary L. Barbour, her husband dated 10/14/99 recorded 10/14/99 in Deed Book 1932 Page 341.

SEIZED and taken into execution as the property of **Edwin E. Wickline, Charles Wickline, Known and/or Unknown Heirs of Edwin E. Wickline, Last Record Owner** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the

Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/27, 9/3 & 10

## 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 July 14, 2004, for the incorporation of THE GETTYSBURG INTERNATIONAL ARTS FESTIVAL, INC., under the Pennsylvania Business Corporation Law of 1988. The corporation shall engage in the production of an annual international arts festival, together with any legal function of a corporation under PA law. The initial registered office of the corporation is 126 Baltimore Street, Gettysburg, PA 17325.

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

9/3

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 311 of the Act of December 16, 1982, P.L. 1309, No. 295, codified as amended (54 Pa. C.S.A. §311), there was filed in the Office of the Secretary of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on July 29, 2004, an Application for Registration of Fictitious Name of SMALLTOWN RENTALS, the address of the principal place of business being 3560 Carlisle Road, Idaville, Pennsylvania 17337. The names and addresses of the persons who are a party to said registration are: Dirk A. Small of 3560 Carlisle Road, P.O. Box 77, Idaville, Pennsylvania 17337, and Julie A. Small of 3560 Carlisle Road, P.O. Box 77, Idaville, Pennsylvania 17337.

Puhl, Eastman & Thrasher  
Attorneys

9/3

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-596 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the property line of East Locust Lane at corner of Lot No. 40 on the hereinafter referred to plan of lots; thence along Lot No. 40, North seven (7) degrees eighteen (18) minutes thirty-one (31) seconds East, one hundred sixty and seventeen hundredths (160.17) feet to a point at lands now or formerly of Lloyd E. Eckert; thence along same, South fifty-three (53) degrees twenty-eight (28) minutes fifty (50) seconds East, a ninety-nine and sixty-four hundredths (99.64) feet to a point at Lot No. 38 on said plan; thence along Lot No. 38, South eighteen (18) degrees four (4) minutes three (3) seconds West, one hundred nineteen and seventy-three hundredths (119.73) feet to a point on the property line of East Locust Lane, aforesaid; thence along same, by a curve to the left, the radius of which is three hundred forty-six and thirteen hundredths (346.13) feet, for an arc length of sixty-five (65) feet, and having a long chord bearing and distance of North seventy-seven (77) degrees eighteen (18) minutes forty-three (43) seconds West, sixty-four and ninety hundredths (64.90) feet to a point at Lot No. 40, the point and place of BEGINNING. CONTAINING 10,766.645 square feet or 0.247 acres and being known as Lot No. 39 on a plan of lots of Oxford Estates, Phase V, dated September 11, 1985 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plan Book 42, at Page 64.

SEIZED and taken into execution as the property of **Deborah J. Unger & Garry L. Unger** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-528 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract or parcel of land and premises, situate, lying and being in the Township of Latimore in the County of Adams and Commonwealth of Pennsylvania, being as Lot No. 1349 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 1, Page 7, and subject to all legal highways, easements, rights of way and restrictions of record.

TITLE TO SAID PREMISES IS VESTED IN Michael Kolson, married man by Deed from John H. Alger and Anna M. Alger, husband and wife dated 5/31/2002 and recorded 6/4/2002 in Record Book 2684, Page 339.

Premises being: 195 Lake Meade Drive, East Berlin, PA 17316

Tax Parcel No. 9 Map #7

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-456 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the Carlisle and Gettysburg public road; thence along the same, South 16 degrees West, 8.7 perches to a post in said road; thence along the same, South 16-1/2 degrees West, 4.4 perches to a stone in said road; thence by lands now or formerly of Wesley Miller, North 72 degrees West, 18.4 perches to a stone; thence by land now or formerly of John B. Group, North 19-1/4 degrees East, 4.4 perches to a stone; thence by the same land, North 72-1/2 degrees West, 1.9 perches to a post; thence by the same land, North 24 degrees East, 7.1 perches to a stone; thence by land now or formerly of Mrs. Nathan Rhoads, South 77 degrees East, 19.3 perches to the place of BEGINNING.

CONTAINING 1 acre and 77 perches, more or less.

BEING KNOWN AS and numbered 3830 Carlisle Road, Gardners, Pennsylvania 17324.

SEIZED and taken into execution as the property of **Linda L. Clouse** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

**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 JAMES W. BIGHAM, DEC'D**

Late of Freedom Township, Adams County, Pennsylvania

Executor: James R. Bigham, 430 Camp Gettysburg Road, Gettysburg, PA 17325

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

**ESTATE OF JOHN A. HULL, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Linda L. Keller, 1911 Old Harrisburg Road, Gettysburg, PA 17325; David A. Hull, 460 Shealer Road, Gettysburg, PA 17325

Attorney: Walton Davis, Esq., 63 W. High Street, Gettysburg, PA 17325

**ESTATE OF GLORIA W. RONDEAU, DEC'D**

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Debra M. Shelley, c/o Craig A. Diehl, Esq., 3464 Trindle Rd., Camp Hill, PA 17011

Attorney: Craig A. Diehl, Esq., 3464 Trindle Rd., Camp Hill, PA 17011

**SECOND PUBLICATION****ESTATE OF ROMAINE W. MILLER, DEC'D**

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Richard P. Arigo, 209 Spring Avenue, Hanover, PA 17331

Attorney: Crabbs & Crabbs, Attorneys for the Estate, 202 Broadway, Hanover, PA 17331

**ESTATE OF HARRY D. PATTERSON, JR., DEC'D**

Late of Tyrone Township, Adams County, Pennsylvania

Executor: James L. Patterson, P.O. Box 137, 100 Laurel Lane, Bendersville, PA 17306

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

**ESTATE OF RAYMOND E. ROUTSON, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executors: Barry W. Routson, 456 Moul Avenue, Hanover, PA 17331; Ronald J. Routson, 1074 Irishtown Road, New Oxford, PA 17350; William D. Routson, 2690 Water Street, York, PA 17403

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

**ESTATE OF MARY H. TOLLIVER, DEC'D**

Late of Liberty Township, Adams County, Pennsylvania

Executor: Harold Thomas Hafley, Jr., 619 Park Avenue, Laurel, MD 20707

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

**THIRD PUBLICATION****ESTATE OF RITA B. GOULD, DEC'D**

Late of Hamilton Township, Adams County, Pennsylvania

Executrix: Suzanne Leib, 1627 West Lisburn Road, Mechanicsburg, PA 17055

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

**ESTATE OF KENNETH R. HOCK, DEC'D**

Late of Huntington Township, Adams County, Pennsylvania

Executor: Scott A. Hock, c/o Roger B. Irwin, Esq., 60 West Pomfret Street, Carlisle, PA 17013

Attorney: Roger B. Irwin, Esq., Irwin & McKnight, Attorneys, 60 West Pomfret Street, Carlisle, PA 17013

**ESTATE OF ROBERT K. HOTT, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: John L. Hott, 4408 Peaceford Glen Drive, High Point, NC 27265

Attorney: Walton V. Davis, Esq., 63 W. High Street, Gettysburg, PA 17325

**ESTATE OF MARGARET S. KESSEL, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Executors: Karen Rabine, 1221 Hunterstown-Hampton Road, New Oxford, PA 17350; Clyde Kepner, 1225 Brickcrafters Road, New Oxford, PA 17350

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

**ESTATE OF EVELYN GRACE LONG-STAFF a/k/a EVELYN B. SCHRIVER, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: Patricia A. Schriver, 616 East Hills Road, Glen Gardner, NJ 08826; Roland Henry Schriver, 5 Lexington Court, McMurray, PA 15317

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

**ESTATE OF HENRY C. ORDEMANN, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Executors: Elizabeth C. Werner, 39 Leonard Road, Hamden, CT 06514; Carl W. Ordemann, 317 Riverville Road, Greenwich, CT 06830

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

**ESTATE OF MARY E. SMALL, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Mary S. Brenner, 341 North 26th Street, Camp Hill, PA 17011; William D. Small, 2701 Murkle Road, Westminster, MD 21158

Attorney: Neil E. Hendershot, Esq., Goldberg Katzman, P.C., P.O. Box 1268, Harrisburg, PA 17108-1268

ADAMS COUNTY  
COURT OF COMMON PLEAS

CIVIL ACTION—COMPLAINT IN  
MORTGAGE FORECLOSURE  
NO. 04-S-584

HOUSEHOLD REALTY CORPORATION  
v.

JO ANN M. CRAWFORD a/k/a JO ANN  
AUCHEY

and

JUNE R. CRAWFORD, ONLY KNOWN  
SURVIVING HEIR OF JOHN W. CRAW-  
FORD, DECEASED MORTGAGOR AND  
REAL OWNER

and

UNKNOWN SURVIVING HEIRS OF  
JOHN W. CRAWFORD, DECEASED  
MORTGAGOR AND REAL OWNER

TO: Unknown surviving heirs of John W.  
Crawford, deceased mortgagor and real  
owner

TYPE OF ACTION: Civil Action/  
Complaint in Mortgage Foreclosure

PREMISES SUBJECT TO FORECLO-  
SURE: 25 Krug Road, Littlestown, PA  
17340

**NOTICE**

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

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

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

Court Administrator  
Adams County Courthouse  
Gettysburg, PA 17325  
(717) 337-9846

McCabe, Weisberg and Conway, P.C.  
By: Terrence J. McCabe, Esq.  
Identification Number 16496  
123 South Broad Street, Suite 2080  
Philadelphia, Pennsylvania 19109  
(215) 790-1010  
Attorney for Plaintiff

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execu-  
tion, Judgment No. 04-S-589 issuing out  
of the Court of Common Pleas of Adams  
County, and to me directed, will be ex-  
posed to Public Sale on Friday, the 22nd  
day of October, 2004, at 10:00 o'clock in  
the forenoon at the Sheriff's Office locat-  
ed in the Courthouse, Borough of Gettys-  
burg, Adams County, PA, the following  
Real Estate, viz.:

ALL the right, title, interest and claim of  
Cynthia R. Tavares, of, in and to the fol-  
lowing described property:

ALL the following described real estate  
situated in the Township of Conewago,  
City of Hanover, Adams County,  
Pennsylvania, having erected thereon a  
dwelling being known as 45 Sycamore  
Lane, Hanover, Pennsylvania 17331,  
Deed Book Volume 501, Page 336, Tax  
Parcel Number 9-243.

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

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

TO ALL PARTIES IN INTEREST AND  
CLAIMANTS: You are notified that a  
schedule of distribution will be filed by the  
Sheriff in his office on November 15,  
2004, and distribution will be made in  
accordance with said schedule, unless  
exceptions are filed thereto within 10  
days after the filing thereof. Purchaser  
must settle for property on or before filing  
date.

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

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

9/3, 10 & 17

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that  
Articles of Incorporation were filed on  
August 6, 2004, with the Department of  
State of the Commonwealth of Penn-  
sylvania, for the purposes of obtain-  
ing a Certificate of Incorporation of a  
proposed non-profit business corpora-  
tion to be organized under the provisions  
of the Pennsylvania Non-Profit Corpo-  
ration Law statutes at 15 Pa. C.S. § 5301  
et seq., as amended.

The name of the non-profit corporation  
is THE CREEK SIDE CONDOMINIUM  
ASSOCIATION, INC., with its principal  
office or place of business at 35 Buford  
Avenue, Gettysburg, PA 17325. The  
name and address of all persons owning  
or interested in said non-profit corpora-  
tion is Altamont, LLLP, having an  
address of 12760 Barnett Drive, New  
Market, MD 21774.

John J. Murphy III, Esq.  
Patrono & Associates, LLC  
30 W. Middle Street  
Gettysburg, PA 17325



# Adams County Legal Journal

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Vol. 46

September 10, 2004

No. 16, pp. 101-107

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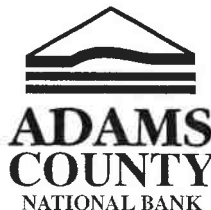
## IN THIS ISSUE

MCGLAUGHLIN VS. GETTYSBURG HOSPITAL ET AL

*This opinion continued from last issue (9/3/2004)  
and continues to next issue (9/17/2004)*

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



Member FDIC

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

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Periodicals postage paid at Gettysburg, PA 17325.

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-297 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

No. 04-S-297

Judgment: \$18,797 33

Attorney: Joseph S. Wiesmeth, Esq.

ALL THAT lot of ground situate along the public road leading from the Hanover-Carlisle State Highway to the Hanover-Abbotstown State Highway, in Berwick Township, Adams County, Pennsylvania, which is bounded and described as follows:

BEGINNING at an iron pin on the North side of the public road aforesaid at land now or formerly of Merle C. Brallier; thence by said lands North 28 degrees 15 minutes West 120 feet to an iron pin at other land now or formerly of C.H. Bittinger; thence by the same North 62 degrees East 35.5 feet to an iron pin at lands now or formerly of the Evangelical Church; thence by the same South 31 degrees 30 minutes East 120 feet to an iron pin at the public road aforesaid; thence by the same South 62 degrees West 42 feet to an iron pin, the place of BEGINNING.

Improved Lot

Tax Parcel #: (04) L12-53

Assessed Value: 31,853

To be sold as the property of Richard E. Luckabaugh.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-553 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner at a stone on the Northeastern side of the road leading to Gettysburg at lands now or formerly of Paul Rahn; thence along said road North seventy-two (72) degrees West, eight and five-tenths (8.5) perches to a stone; thence along lands now or formerly of John Rahn, North seventeen and one-half (17-1/2) degrees East, three and eight-tenths (3.8) perches to a stake; thence along the same North twenty-one and one-half (21-1/2) degrees West, thirteen and five-tenths (13.5) perches to a stone; thence North eighty-one and one-half (81-1/2) degrees East, seven and five-tenths (7.5) perches to a stone; thence along lands now or formerly of Charles E. Klunk and lands now or formerly of Paul Rahn, aforesaid, South twenty-four and one-half (24-1/2) degrees East, seventeen and fifteen hundredths (17.15) perches to a stone; thence along lands now or formerly of Paul Rahn, South thirty and one-half (30-1/2) degrees West, five (5) perches to the point and place of BEGINNING.

CONTAINING 155.5 perches of land, more or less.

TITLE TO SAID PREMISES IS VESTED IN Douglas E. Wherley and Gail E.

Wherley, husband and wife by Deed from Lynn B. Strevig, Executor under the Last Will and Testament of Loretta A. Strevig, deceased dated 8/7/2000 and recorded 8/16/2000 in Record Book 2108, Page 192.

Premises being: 5500 Hanover Road, Hanover, PA 17331

Tax Parcel No. K14-61

SEIZED and taken into execution as the property of **Gail E. Wherley a/k/a Gail E. Hilty & Douglas E. Wherley** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/10, 17 & 24

## McGLAUGHLIN VS. GETTYSBURG HOSPITAL ET AL

*Continued from last issue (9/3/2004)*

In reviewing this recent legislation, it is apparent the initial issue for determination concerns during which time period a prospective expert's qualifications are to be considered. Specifically, the language of Section 512 begs the question of whether the critical focal point for the five-year period referenced by subparagraph (b)(2) is the time of the alleged negligent act; the time the expert witness's testimony is presented to the fact finder; or both. Section 512 does not expressly provide the answer to this issue. It is important, therefore, to rely upon the instruction of our appellate courts in interpreting statutory language.

The aim of a court in statutory construction is to ascertain and effectuate the legislature's intent. 1 Pa.C.S.A. § 1921(a); *Kmonk-Sullivan v. State Farm Mut. Auto. Ins. Co.*, 746 A.2d 1118, 1120-21 (Pa.Super. 1999). When construing a statute, a court begins with the presumption that our legislature did not intend any statutory language to exist as mere surplusage and, accordingly, courts must construe a statute so as to give effect to every word contained therein whenever possible. *Keystone Aerial Surveys, Inc. v. Pennsylvania Guar. Ass'n*, 777 A.2d 84, 90 (Pa.Super. 2001). When words of a statute are not explicit, courts may consider, among other matters:

. . . the occasion and necessity for the statute, the circumstances under which it was enacted, the mischief to be remedied, the object to be attained, the former law, if any, including other statutes upon the same or similar subjects, the consequences of a particular interpretation, the contemporaneous legislative history and the legislative and administrative interpretations of the statute.

*Meier v. Maleski*, 670 A.2d 755 (Pa.Cmwlt. 1996) (citing 1 Pa.C.S.A. § 1921(c)(1-8)).

The General Assembly's declaration of policy provides insight into the necessity of MCARE. MCARE's purpose, as stated by the legislature, is to allow fair compensation to those injured due to medical negligence while insuring that medical care is available throughout the Commonwealth. 40 P.S. § 1303.102. The legislature further recognized that in order to maintain high quality health care, "medical professional liability insurance has to be obtainable at an affordable and reasonable cost . . ." *Id.* Clearly, MCARE was enacted at a time when the legislature was facing a health care crisis in the

Commonwealth which has been attributed to the soaring costs of professional liability insurance.<sup>7</sup> It appears that MCARE is an early effort to address this ongoing issue. Legislative efforts to stem exorbitant professional liability expenses have been complimented by efforts of the Pennsylvania Supreme Court to bring medical malpractice litigation under control. For instance, the Pennsylvania Supreme Court amended the Pennsylvania Rules of Civil Procedure to limit the number of appropriate venues for a medical professional liability action, see Pa.R.C.P. 1006(a.1), and place additional hurdles on the filing of complaints which assert a professional liability claim. See Pa.R.C.P. 1042.1, et. seq.

When viewed against this background, a reading of the language of MCARE Section 512 reveals its purpose is to narrow the liberal common law standard for admission of expert testimony in medical malpractice actions by placing a more stringent standard on the admission of such testimony. At least one other court interpreting this section concurs that the purpose of the legislation is restrictive. See *Spotts*, 61 D.&C.4th at 235.

Although the legislative history of Section 512 is generally unremarkable, a minor amendment to the section during its enactment is interesting. The legislative history reveals that the legislation began in House Bill 1802 of the 2001 Legislative Session. Initial drafts of House Bill 1802 failed to include any reference concerning expert witness qualifications. However, in a January 29, 2002 amended draft, House Bill 1802 included a section addressing expert witness

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<sup>7</sup>While there was substantial debate among the legislature as to the cure for the health care crisis, a reading of the legislative journal concerning enactment of this legislation confirms the legislature's concern over spiraling medical malpractice insurance costs. For instance, see Commonwealth of Pennsylvania Legislative Journal, House of Representatives, pp. 88-140 (Jan. 29, 2002); pp. 297-323 (Feb. 13, 2002). Additionally, a survey of published reports during the relevant time period reveals a plethora of news articles addressing the legislature's concern over medical malpractice litigation. An example may be found at: Susie Kozar, *Officials: Malpractice crisis needs a quick fix*, [http://www.lewistownsentinel.com/news\\_02194.htm](http://www.lewistownsentinel.com/news_02194.htm) (Feb. 19, 2003).

qualifications.<sup>8</sup> Significantly, this version of House Bill 1802, while similar to the final enacted version, differed in a material respect. The January 29, 2002 version required that the expert “must be . . . engaged in active clinical practice or teaching . . .” This version also expressly allowed a court to permit expert witnesses to testify on

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<sup>8</sup>The January 29, 2002 amended version of House Bill 1802 included the following:

- Section 828-A. **Expert witness qualifications.**—(A) An expert witness in a medical professional liability action against a physician must possess sufficient education, training, knowledge, and experience to provide credible, competent testimony, and meet the qualifications set forth in subsection (B), (C), (D), (E) or (F), as applicable.
- (B) An expert witness testifying on a medical matter, including the standard of care, risks and alternatives, causation and nature and extent of injury, must be:
- (1) a physician with an unrestricted license to practice in any state or the District of Columbia; and
  - (2) engaged in active clinical practice or teaching and experienced in the medical care at issue.
- (C) An expert witness testifying as to a physician’s standard of care must be:
- (1) substantially familiar with the applicable standard of care for the specific care at issue as of the time of the alleged malpractice;
  - (2) in the same specialty as the defendant physician or a specialty which has a substantially similar standard of care for the specific care at issue; and
  - (3) if the defendant physician is certified by an approved board, certified by the same or a similar approved board.
- (D) In a case in which it is alleged that a health care provider engaged in the process of diagnosis or treatment for a condition which was not within the health care provider’s specialty or competence, a specialist found by the court to be trained in treatment or diagnosis for such condition shall be considered competent to render an expert opinion.
- (E) An expert witness shall not be precluded from offering testimony as to the standard of care under subsection (C) if the court makes a specific finding that the proposed expert possesses sufficient training, experience and knowledge as a result of practice or teaching in the specialty of the defendant or practice or teaching in a related field of medicine so as to equip the witness to provide expert testimony as to the prevailing professional standard of care in a given field of medicine. Such training, experience or knowledge must be as a result of active involvement in the practice or full-time teaching of medicine within the five-year period before the incident giving rise to the claim.
- (F) An expert witness not offering an opinion as to the standard of care who otherwise is competent to testify about medical or scientific issues by virtue of education, training or experience, is not precluded from testifying because of an absence of board certification or the lack of a medical license within the United States.

the standard of care who did not otherwise meet the requirements of the section if, among other criteria, the witness has training, experience or knowledge resulting from the active involvement “in the practice or full-time teaching of medicine within the five-year period **before the incident giving rise to the claim**”. House Bill 1802, Section 828-A(E)(emphasis added), 2001 Session, January 29, 2002 (emphasis added). Interestingly, the version of House Bill 1802 as amended February 12, 2002 included the additional language in Subsection(b)(2) that expanded the time period for an expert to be involved in active clinical practice or teaching to the “previous five years”. Additionally, this version removed the language which required the applicable time frame referenced in Subsection(e) to be within five years prior to the incident. See 40 P.S. § 1303.512(e). Ultimately, the February 12, 2002 version of House Bill 1802, with these changes, was adopted by the legislature.

In instances such as this, where the legislature has changed the language of the legislation, there is a clear indication of the legislature’s admitted different intent. *Masland v. Bachman*, 374 A.2d 517, 521-22 (Pa. 1977); *Deremer v. Workman’s Compensation Appeal Bd.*, 433 A.2d 926, 928-29 (Pa.Cmwlth. 1981). Thus, an examination of the legislative history of this section reveals that the legislature rejected defining the five-year focal point of Subsection(e) to be prior to “the incident giving rise to the claim”. Moreover, this change in language is indicative of the legislative intent to require that the focal point of determining an expert’s qualification for Subsection(b) be from the time that the expert is testifying. Had the legislature intended otherwise, they would have placed defining language similar to the original version of MCARE in the subsection. In such circumstances, it is improper for a court, under its powers of construction, to supply omissions in the statute where it appears the legislature may have intentionally omitted those matters. *Kusza v. Maximonis*, 70 A.2d 329, 331 (Pa. 1950). Interpreting Section 512 to call for the consideration of an expert’s qualifications within a period of five years “prior to the date of the underlying incident” would appear to violate this instruction from our appellate courts.

Although MCARE Section 512 lacks an express, specific direction as to the relevant time frame for consideration of expert qualifications, the section’s general language is revealing in this regard.

Section 512 sets forth the general rule and then sets forth specific criteria contingent upon the nature of the respective expert's opinion. Specifically, Subsection(b) sets forth qualifications for all expert witnesses regardless of whether they are testifying as to "the standard of care, risks and alternatives, causation and the nature and extent of the injury . . ." 40 P.S. § 1303.512(b). The dual requirements set forth in this subsection are that: 1) the witness possess an unrestricted physician's license and 2) the witness be engaged in or retired within the previous five years from active clinical practice or teaching. *Id.* A plain reading of Subsection(b) leaves little ambiguity as to the context of its language. The language speaks in the current tense requiring that an expert witness "**testifying** on a medical matter . . . [b]e engaged in or retired within the **previous** five years from active clinical practice or teaching." *Id.* (emphasis added). Importantly, our Supreme Court admonished that when the meaning of a statute is plain, a court should not disregard the language of the law in the context of pursuing its spirit. *Commonwealth v. Kelley*, 801 A.2d 551, 554 (Pa. 2002). In such instances, any further deliberation as to its meaning is unwarranted. See generally *Id.* Based on this instruction, I read Section 512(b) to require that an expert testifying on a medical matter in a malpractice action possess the requisite qualifications at the time the testimony is presented to the fact finder.

This interpretation is consistent with the interpretation of our appellate courts in construing competency statutes as of the date of the witness's testimony. See *Commonwealth v. Boris*, 372 A.2d 451 (Pa.Super. 1977) (interpreting the competency of a spouse as a witness in a criminal case to be as of the date of testimony); *Adams v. Bleakley*, 10 A. 884 (Pa. 1887) (noting former spouses may testify against each other in civil matters if divorced at the time the testimony is presented). Even in the absence of statutory consideration, it is axiomatic in Pennsylvania law that witness competency is determined at the time of the witness's testimony before the trier of fact. See generally Pa.R.Evid. 601 (relating to competency of witnesses); Pa.R.Evid. 702 (relating to expert testimony); *Rauch*, 783 A.2d at 823 n.6 (noting correct opportunity to evaluate expert qualifications is at the time of trial). While it is clear that Section 512 speaks to expert qualifications rather than basic competency, this history highlights the proposition that determination of issues concerning the

propriety of testimony are generally not based upon the date of the incident precipitating the litigation but rather made at the time the witness presents testimony. A statute which requires certain expert qualifications within five years prior to the prospective expert's testimony is not an aberration from this historical practice. See Pa.R.Evid. 609 (admissibility of *crimen falsi* conviction against witness requires conviction or relief of confinement from conviction to have occurred **within ten years of the trial date**); see also *Commonwealth v. Randall*, 528 A.2d 1326 (Pa. 1987).

Interpreting Section 512 to require that expert witnesses be engaged in or retired from active clinical practice or teaching within five years of the date of their testimony leads to consequences consistent with the legislature's intention to place more stringent qualification requirements on expert witnesses and, thus, exercise restraint on medical malpractice litigation. Limiting qualification requirements to a period of five years from the date of testimony ensures that malpractice claims will be supported by the most recent medical knowledge available when presenting a malpractice claim to the fact finder.<sup>9</sup>

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<sup>9</sup>An interpretation requiring that the expert witness be engaged in active clinical practice or teaching within five years previous to the date of the event giving rise to the claim might have a chilling effect on the fact finder being presented with the most recent medical expertise. Section 512 is clear that the active clinical practice or teaching is to be within the "previous" five years. Since every word of a statute is to be given effect, *Keystone Aerial Surveys, Inc.*, cited above, the premier expert in a field at the time of trial would not be qualified to testify as to causation or other medical issues concerning an incident if the incident occurred years prior to when the expert became an active clinical practitioner or teacher. Since it is possible for one to assert a medical professional liability claim within seven years after the alleged tort (or in the event of a minor within twenty years of the alleged tort if the tort occurs at the plaintiff's birth), see 40 P.S. § 1303.513, such an absurd result is more than remotely possible. Similarly, interpreting the qualifications to be within five years **previous** to the date of the underlying incident may effectively, and perhaps illegally, preclude an injured party from ever collecting from a physician tort-feasor. Specifically, if a twenty-year-old plaintiff files a medical malpractice action for injuries sustained as a result of medical negligence occurring when the plaintiff was two years old, requiring the expert's qualifications to exist prior to the date of the tort would require the plaintiff to locate an expert witness who was in active clinical practice or teaching at a time eighteen years prior to the date the suit is commenced. While undoubtedly there is an abundance of willing expert witnesses readily available, the mere passage of time and the recognition that witnesses, as human beings, are mortal, may, in certain circumstances, preclude a plaintiff from ever being able to

(footnote 9 continued to next page)



Although I recognize that hypothetical circumstances may bring into question the rationality of this section,<sup>10</sup> interpreting the relevant time period as being the date of the expert's testimony consistently results in the most recent medical expertise being available to the fact finder from witnesses who are currently qualified in their field. Such a consistent result is in furtherance of the legislature's goal in establishing a more stringent standard for the admission of expert testimony.

For the foregoing reasons, I find that Subsection 512(b)(2) references a five-year time period previous to the date of trial. Having resolved this issue, it now becomes necessary to apply the statute to McGlaughlin's experts.

*Continued to next issue (9/17/2004)*

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*(footnote 9 continued from previous page)*

recover as a result of a physician's negligence. Obviously, such a result is absurd and contrary to the goals of statutory construction. See *Pennsylvania Financial Responsibility Assigned Claims Plan v. English*, 664 A.2d 84, 87 (Pa. 1995) (noting courts must presume that the legislature, in enacting a statute, did not intend a result that is absurd or unreasonable nor one that would be violative of the United States or Pennsylvania Constitutions.)

<sup>10</sup>The Lancaster Court of Common Pleas in addressing this same issue reached a contrary result. See *Spotts*, cited above. In doing so, the *Spotts* Court hypothesizes that using the time of the breach as the focal point for the expert's qualifications avoids issues related to an expert who may be qualified at the time of commencement of the suit, however, later becomes unqualified due to lengthy litigation. While such a scenario certainly presents difficulties, those difficulties are not insurmountable. This unlikely scenario would only arise in circumstances where an expert provides a report and retires from active clinical practice or teaching in excess of five years prior to the trial date. In such circumstances, regardless of the Section 512 provisions, a party would normally be prudent in obtaining a more recent expert report closer in time to the date of trial. In fact, the Pennsylvania Rules of Civil Procedure recognize that circumstances may arise where an expert providing an initial report is not the expert that may testify at the time of trial. See Pa.R.C.P. 1042.3, Note. Although Section 512 may place an additional burden on the parties in matters involving protracted litigation, I do not find such a result to be absurd in light of the legislature's desire to restrict the parameters of expert qualifications.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-287 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described real estate, locally known as 16 Valley View Trail, lying and being situate in the Borough of Carroll Valley, Adams County, Pennsylvania, bounded and described as follows:

Lot #161

BEGINNING at a point in the center of Valley View Trail at Lot No. 160; thence by said lot South 62 degrees 13 minutes East 200 feet to Lot No. 193; thence by said lot South 27 degrees 47 minutes West, 100 feet to Lot No. 162; thence by said lot North 62 degrees 13 minutes West 200 feet to a point in the center of said Valley View Trail; thence in center of said Valley View Trail North 27 degrees 47 minutes East 100 feet to the place of BEGINNING.

Lot #162

BEGINNING at a point in the center of Valley View Trail at Lot No. 161; thence by said lot South 62 degrees 13 minutes East, 200 feet to Lot No. 192; thence by said lot South 27 degrees 47 minutes West, 100 feet to Lot No. 163; thence by said lot North 62 degrees 13 minutes West, 200 feet to a point in the center of Valley View Trail; thence in said Valley View Trail North 27 degrees 47 minutes East, 100 feet to the place of BEGINNING.

THE above descriptions were taken from a plan of lots labeled "Section A, Charmita" dated March 10, 1965, prepared by Gordon L. Brown, R.S., and recorded in Adams County Miscellaneous Docket 3 at page 733.

BEING the same real estate conveyed to Daniel J. Leclerc, unmarried, mortgagor(s) herein, by deed of Robert H. Jones and Elizabeth M. Jones, husband and wife, dated October 31, 1994, and recorded in Adams County Record Book Volume 960, Page 100.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 25, 2004, and distribution will be made in accordance with said schedule, unless

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

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

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

8/27, 9/3 & 10

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-78 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point in middle of a public road known and identified as Pennsylvania Legislative Route No. 01037 and at lands now or formerly of Donald E. Danner, Jr.; thence through and along the middle of the public road identified as Pennsylvania Legislative Route No. 01037, North twenty (20) degrees thirteen (13) minutes twenty-eight (28) seconds West, one thousand two hundred eight and eleven hundredths (1208.11) feet to a point in the middle of the aforementioned public road and at lands now or formerly of E. L. Eckert Estate; thence through and across a portion of said public road identified as Pennsylvania Legislative Route No. 01037 and along lands now or formerly of E. L. Eckert Estate, South sixty (60) degrees East, one thousand three hundred and two tenths (1300.2) feet to a point at lands now or formerly of Samuel Baker; thence along lands now or formerly of Samuel Baker, South forty-one (41) degrees West, five hundred sixty-five and nine hundred and five thousandths (565.905) feet to an iron pin at lands now or formerly of Donald E. Danner, Jr.; thence along lands now or formerly of Donald E. Danner, Jr. North twenty-one (21) degrees West, sixty-seven (67) feet to an iron pin at lands of same; thence along said lands and through an iron pin located twenty (20) feet from the place of beginning and through and across one-half (1/2) of the aforementioned public road identified as Pennsylvania Legislative Route No. 01037, South sixty-nine (69) degrees

eleven (11) minutes three (03) seconds West, three hundred thirteen and eighty-two hundredths (313.82) feet to a point in the middle of the aforementioned public road identified as Pennsylvania Legislative Route No. 01037, the place of BEGINNING.

CONTAINING approximately 12.40 acres.

THE above description has been prepared from a plotted plan from a deed and subdivision plan prepared by George M. Wildasin, Civil Engineer, for Wilson S. Linebaugh and Ruth C. Linebaugh, dated May 12, 1979.

BEING Tax Map K8 Parcel 112.

BEING THE SAME PREMISES WHICH Jan W. Zimmerman, widow, by Indenture dated December 10, 1999 and recorded December 15, 1999 in the Office of the Recorder of Deeds in and for the County of Adams in Record Book 1970 page 240, granted and conveyed unto Burton F. Karsteter and Pamela S. Karsteter, husband and wife.

Anthony R. Distasio, Esq.  
No. 04-S-78  
Judgment: \$302,605.26

SEIZED and taken into execution as the property of **Burton F. Karsteter & Pamela S. Karsteter** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof, Purchaser must settle for property on or before filing date.

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

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

8/27, 9/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-867 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 827 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds in and for Adams County in Misc. Deed Book 1, page 5, and subject to all legal highways, easements, rights of way and restrictions of record.

TOGETHER with the right in common with other owners of lots in said subdivision to use for all usual purposes the streets, ways, beaches, recreation areas, and other public areas, as shown on the said plot, and the right in common with the other owners of lots in the said subdivision to use the lake and beaches for swimming, fishing and boating in accordance with the rules and regulations of Lake Meade Property Owners Association, its successor or assigns.

UNDER AND SUBJECT to the restrictions, conditions and agreement set forth at length in deed of Lake Meade, Inc. to the grantors herein, referred above.

HAVING THEREON erected a dwelling house known as: 397 Lake Meade Drive, East Berlin, PA 17316

BEING THE SAME PREMISES WHICH Robert W. Snyder and Linda S. Snyder, by Deed dated 6/30/00 and recorded 7/25/00 in Adams County Deed Book 2093, Page 56, granted and conveyed unto Gary Zittle.

SEIZED IN EXECUTION AS THE PROPERTY OF GARY D. ZITTLE UNDER ADAMS COUNTY JUDGMENT NO. 03-S-867

Map & Parcel 37-10-56

SEIZED and taken into execution as the property of Gary D. Zittle and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/27, 9/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-863 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated, lying, and being in Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center line of Legislative Route 01077 at corner of other lands now or formerly of John Whitney; thence in said center line of Legislative Route 01077 South 58 degrees 40 minutes East, 89.77 feet to a point in the center line of said Legislative Route 01077 at land now or formerly of James Sharrah; thence through an iron pin set back along the line by other land now or formerly of James Sharrah South 34 degrees 36 minutes West, 182.41 feet to an iron pipe; thence by land of James Sharrah and Mrs. Lottie Topper South 57 degrees 33 minutes East, 117.93 feet to an iron pipe; thence by other land formerly of Calvin Cluck and wife South 30 degrees 12 minutes West, 268.11 feet to an iron pin; thence by same South 25 degrees 38 minutes West, 808.79 feet to an iron pipe; thence by land now or formerly of Mark Bucher, North 55 degrees 9 minutes West, 386.35 feet to an iron pipe; thence by other land formerly of Cluck North 37 degrees 25 minutes East, formerly of John Whitney and through an iron pin set back along the line 29.90 feet North 34 degrees 37 minutes East, 322.80 feet to a point in the center of Legislative Route 01077 to the point and place of BEGINNING.

CONTAINING 6.7478 acres.

BEING KNOWN AS: 126 Olde Rte. 30, McKnightstown, PA 17343

PROPERTY ID NO.: D-11-95A

TITLE TO SAID PREMISES IS VESTED IN Stephan H. Reaver and Cindy L. Reaver, husband and wife, as tenants of an estate by the entireties by Deed from Calvin A. Slegal a/k/a Calvin Andrew Slegal and Mary Jane Slegal, husband

and wife dated 01/02/97 recorded 01/03/97 in Deed Book 1312 Page 345.

SEIZED and taken into execution as the property of Stephan H. Reaver & Cindy L. Reaver and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

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, September 21, 2004, at 9:00 a.m.

PARRY—Orphans' Court Action Number OC-75-04, The First and Final Account of William C. Wright, Executor of the Estate of Virginia W. Parry, deceased, late of Oxford Township, Adams County, Pennsylvania.

CRUMBLING—Orphans' Court Action Number OC-78-04, The First and Final Account of Tamara J. Eisenhart, Personal Representative of the Estate of Frances M. Crumbling, deceased, late of Berwick Township, Adams County, Pennsylvania.

Lisa K. Grubbs  
Clerk of Courts

9/10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-525 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an iron pin driven at the point of intersection of the center line of Legislative Route 01016 running between Mt. Hope through Virginia Mills and to the Fairfield-Orrtanna State Highway and the center line of the Western Maryland Railroad right-of-way near Virginia Mills; thence running in the center of said Legislative Route No. 01016 North 70-3/4 degrees West 574 feet to an iron pin in the center of said state highway; thence by land now or formerly of Mike McLaughlin land now or formerly of Lloyd Benner and land now or formerly of Ronald Kump North 52 degrees East 980 feet running through an elm tree 44 feet from the end of this course to a point in the center of said railroad right-of-way; thence running in the center of said railroad right-of-way South 12-1/4 degrees West 412.5 feet to a point in the center of said railroad right-of-way in a curve thereof; thence continuing in the center of said railroad right-of-way South 19-1/2 degrees West 415.8 feet to the above described place of BEGINNING.

Premises known as: 401 Mt. Hope Road, Fairfield, PA 17320

SEIZED and taken into execution as the property of **Randy A. Rippeon & Tracie L. Rippeon** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/27, 9/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-10 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that improved lot of ground situate on the East side of Fourth Street, in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a steel rod on the East property line of Fourth Street at lands of Gettysburg Area School District, which steel rod is more particularly set forth on the subdivision plan hereinafter referred to; thence by lands of Gettysburg Area School District, South 68 degrees East, 125.48 feet to a steel rod; thence continuing by lands of Gettysburg Area School District, South 5 degrees 4 minutes 50 seconds West, 59.74 feet to a steel rod; thence by lands formerly of Clair F. Ditzler, now lands of John P. DeHaas and Patsy A. DeHaas, Lot No. 2, North 85 degrees 30 minutes 40 seconds West, 119.92 feet to a steel rod on the East property line of Fourth Street; thence along the East property line of Fourth Street, North 5 degrees East, 97.50 feet to a steel rod, the point and place of BEGINNING. CONTAINING 9,430 square feet.

The foregoing description was taken from a draft of survey prepared by Adams County Surveyors, J. Riley Redding, R.S., dated August 1, 1984, which subdivision is approved by the various municipal subdivisions and commissions of Adams County and duly recorded in Adams County Plat Book 40, at page 101, and identified thereon as Lot No. 1.

BEING KNOWN AS: 421 North Fourth Street, Gettysburg, PA 17325

PROPERTY ID NO.: 5-3

TITLE TO SAID PREMISES IS VESTED IN Edwin E. Wickline, a single man by deed from Diane K. Barbour and Gary L. Barbour, her husband dated 10/14/99 recorded 10/14/99 in Deed Book 1932 Page 341.

SEIZED and taken into execution as the property of **Edwin E. Wickline, Charles Wickline, Known and/or Unknown Heirs of Edwin E. Wickline, Last Record Owner** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the

Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/27, 9/3 & 10

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-596 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the property line of East Locust Lane at corner of Lot No. 40 on the hereinafter referred to plan of lots; thence along Lot No. 40, North seven (7) degrees eighteen (18) minutes thirty-one (31) seconds East, one hundred sixty and seventeen hundredths (160.17) feet to a point at lands now or formerly of Lloyd E. Eckert; thence along same, South fifty-three (53) degrees twenty-eight (28) minutes fifty (50) seconds East, a ninety-nine and sixty-four hundredths (99.64) feet to a point at Lot No. 38 on said plan; thence along Lot No. 38, South eighteen (18) degrees four (4) minutes three (3) seconds West, one hundred nineteen and seventy-three hundredths (119.73) feet to a point on the property line of East Locust Lane, aforesaid; thence along same, by a curve to the left, the radius of which is three hundred forty-six and thirteen hundredths (346.13) feet, for an arc length of sixty-five (65) feet, and having a long chord bearing and distance of North seventy-seven (77) degrees eighteen (18) minutes forty-three (43) seconds West, sixty-four and ninety hundredths (64.90) feet to a point at Lot No. 40, the point and place of BEGINNING. CONTAINING 10,766.645 square feet or 0.247 acres and being known as Lot No. 39 on a plan of lots of Oxford Estates, Phase V, dated September 11, 1985 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plan Book 42, at Page 64.

SEIZED and taken into execution as the property of **Deborah J. Unger & Garry L. Unger** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-528 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract or parcel of land and premises, situate, lying and being in the Township of Latimore in the County of Adams and Commonwealth of Pennsylvania, being as Lot No. 1349 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 1, Page 7, and subject to all legal highways, easements, rights of way and restrictions of record.

TITLE TO SAID PREMISES IS VESTED IN Michael Kolson, married man by Deed from John H. Alger and Anna M. Alger, husband and wife dated 5/31/2002 and recorded 6/4/2002 in Record Book 2684, Page 339.

Premises being: 195 Lake Meade Drive, East Berlin, PA 17316

Tax Parcel No. 9 Map #7

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-456 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the Carlisle and Gettysburg public road; thence along the same, South 16 degrees West, 8.7 perches to a post in said road; thence along the same, South 16-1/2 degrees West, 4.4 perches to a stone in said road; thence by lands now or formerly of Wesley Miller, North 72 degrees West, 18.4 perches to a stone; thence by land now or formerly of John B. Group, North 19-1/4 degrees East, 4.4 perches to a stone; thence by the same land, North 72-1/2 degrees West, 1.9 perches to a post; thence by the same land, North 24 degrees East, 7.1 perches to a stone; thence by land now or formerly of Mrs. Nathan Rhoads, South 77 degrees East, 19.3 perches to the place of BEGINNING.

CONTAINING 1 acre and 77 perches, more or less.

BEING KNOWN AS and numbered 3830 Carlisle Road, Gardners, Pennsylvania 17324.

SEIZED and taken into execution as the property of **Linda L. Clouse** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

**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 TREVA M. SHAFFER, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executor: P. Frederick Trump, 5594 Lischys Church Road, Spring Grove, PA 17362

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

**SECOND PUBLICATION****ESTATE OF JAMES W. BIGHAM, DEC'D**

Late of Freedom Township, Adams County, Pennsylvania

Executor: James R. Bigham, 430 Camp Gettysburg Road, Gettysburg, PA 17325

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

**ESTATE OF JOHN A. HULL, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Linda L. Keller, 1911 Old Harrisburg Road, Gettysburg, PA 17325; David A. Hull, 460 Shealer Road, Gettysburg, PA 17325

Attorney: Walton Davis, Esq., 63 W. High Street, Gettysburg, PA 17325

**ESTATE OF GLORIA W. RONDEAU, DEC'D**

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Debra M. Shelley, c/o Craig A. Diehl, Esq., 3464 Trindle Rd., Camp Hill, PA 17011

Attorney: Craig A. Diehl, Esq., 3464 Trindle Rd., Camp Hill, PA 17011

**THIRD PUBLICATION****ESTATE OF ROMAINE W. MILLER, DEC'D**

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Richard P. Arigo, 209 Spring Avenue, Hanover, PA 17331

Attorney: Crabbs & Crabbs, Attorneys for the Estate, 202 Broadway, Hanover, PA 17331

**ESTATE OF HARRY D. PATTERSON, JR., DEC'D**

Late of Tyrone Township, Adams County, Pennsylvania

Executor: James L. Patterson, P.O. Box 137, 100 Laurel Lane, Bendersville, PA 17306

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

**ESTATE OF RAYMOND E. ROUTSON, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executors: Barry W. Routson, 456 Moul Avenue, Hanover, PA 17331; Ronald J. Routson, 1074 Irishtown Road, New Oxford, PA 17350; William D. Routson, 2690 Water Street, York, PA 17403

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

**ESTATE OF MARY H. TOLLIVER, DEC'D**

Late of Liberty Township, Adams County, Pennsylvania

Executor: Harold Thomas Halley, Jr., 619 Park Avenue, Laurel, MD 20707

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

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-621 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the Northern half of U.S. Route 30, said point being North 12 degrees 14 minutes 18 seconds West, 32.59 feet from an existing iron pipe and at the Northwestern corner of land now or formerly of Peggy Lou Gastley, et al; thence by said land of Peggy Lou Gastley, et al and passing through the aforesaid iron pipe, South 12 degrees 14 minutes 18 seconds East, 300.00 feet to an existing iron pin on line of land now or formerly of Raymond M. Lillich, thence by said land of Raymond M. Lillich, South 77 degrees 32 minutes 39 seconds West, 100.02 feet to an existing iron pipe at corner of land now or formerly of Gladys Plank; thence by said land and passing through an existing iron pipe set back 31.42 feet from the next-mentioned point, North 12 degrees 10 minutes 02 seconds West, 300.00 feet to a point on the Northern half of U.S. Route 30 aforesaid; thence in and along said U.S. Route 30, North 77 degrees 32 minutes 36 seconds East, 99.65 feet to a point, the place of BEGINNING.

CONTAINING 0.688 acres.

THE above mentioned description was taken from a Draft of Survey by LaRue Surveys, Inc., dated August 19, 1975.

TITLE TO SAID PREMISES IS VESTED IN Howard C. Gladfelter and Grace M. Gladfelter, husband and wife by Deed from Larry J. Redding and Aghella M. Redding, husband and wife, dated 10/19/1993 and recorded 10/19/1993 in Record Book 794, Page 49.

Premises being: 1933 York Road a/k/a 1935 York Road, Gettysburg, PA 17325

Tax Parcel No. H12-40

SEIZED and taken into execution as the property of **Howard C. Gladfelter & Grace M. Gladfelter a/k/a Grace M. Cooper** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in

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

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

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

9/10, 17 & 24

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-655 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or parcel of land situate in Reading Township, Adams County, Pennsylvania, designated County Map No. 13, Parcel No. 20, Lake Meade Lot No. 906 as shown on the records of the Adams County Mapping Department, Miscellaneous Deed Book 1, Page 6.

UNDER AND SUBJECT, NEVERTHELESS, to all rights of way, easements, restrictions and/or conditions of record.

IT BEING the same premises which Allan L. Sutch and Karen E. Sutch, his wife, by Deed dated the 13th day of March, 1996, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Land Record Book 1159, Page 0321, granted and conveyed unto Kevin L. Strickhouser and Sandi Michele Strickhouser, husband and wife, Grantors herein.

AND the said Grantors hereby covenant and agree that they will warrant specially the property hereby.

Being Known As: 12 Stuart Drive

TITLE TO SAID PREMISES IS VESTED IN Rebekah S. Bodkin, single woman by Deed from Kevin L. Strickhouser and Sandi Michele Strickhouser, his wife dated 5/27/1999 and recorded 5/28/1999 in Record Book 1840, Page 88.

Premises being: 12 Stuart Drive, East Berlin, PA 17316

Tax Parcel No. MAP #13 PARCEL #20

SEIZED and taken into execution as the property of **Rebekah S. Bodkin a/k/a Rebekah S. Harlacher** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/10, 17 & 24

# Adams County Legal Journal

Vol. 46

September 17, 2004

No. 17, pp. 108-115

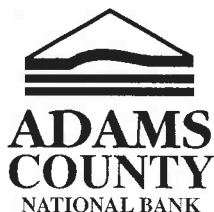
## IN THIS ISSUE

MCGLAUGHLIN VS. GETTYSBURG HOSPITAL ET AL

*This opinion continued from last issue (9/10/2004)*

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-297 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

No. 04-S-297

Judgment: \$18,797.33

Attorney: Joseph S. Wiesmeth, Esq.

ALL THAT lot of ground situate along the public road leading from the Hanover-Carlisle State Highway to the Hanover-Abbotstown State Highway, in Berwick Township, Adams County, Pennsylvania, which is bounded and described as follows:

BEGINNING at an iron pin on the North side of the public road aforesaid at land now or formerly of Merle C. Brallier; thence by said lands North 28 degrees 15 minutes West 120 feet to an iron pin at other land now or formerly of C.H. Bittinger; thence by the same North 62 degrees East 35.5 feet to an iron pin at lands now or formerly of the Evangelical Church; thence by the same South 31 degrees 30 minutes East 120 feet to an iron pin at the public road aforesaid; thence by the same South 62 degrees West 42 feet to an iron pin, the place of BEGINNING.

Improved Lot

Tax Parcel #: (04) L12-53

Assessed Value: 31,853

To be sold as the property of Richard E. Luckabaugh.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-553 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner at a stone on the Northeastern side of the road leading to Gettysburg at lands now or formerly of Paul Rahn; thence along said road North seventy-two (72) degrees West, eight and five-tenths (8.5) perches to a stone; thence along lands now or formerly of John Rahn, North seventeen and one-half (17-1/2) degrees East, three and eight-tenths (3.8) perches to a stake; thence along the same North twenty-one and one-half (21-1/2) degrees West, thirteen and five-tenths (13.5) perches to a stone; thence North eighty-one and one-half (81-1/2) degrees East, seven and five-tenths (7.5) perches to a stone; thence along lands now or formerly of Charles E. Klunk and lands now or formerly of Paul Rahn, aforesaid, South twenty-four and one-half (24-1/2) degrees East, seventeen and fifteen hundredths (17.15) perches to a stone; thence along lands now or formerly of Paul Rahn, South thirty and one-half (30-1/2) degrees West, five (5) perches to the point and place of BEGINNING.

CONTAINING 155.5 perches of land, more or less.

TITLE TO SAID PREMISES IS VESTED IN Douglas E. Wherley and Gail E.

Wherley, husband and wife by Deed from Lynn B. Strevig, Executor under the Last Will and Testament of Loretta A. Strevig, deceased dated 8/7/2000 and recorded 8/16/2000 in Record Book 2108, Page 192.

Premises being: 5500 Hanover Road, Hanover, PA 17331

Tax Parcel No. K14-61

SEIZED and taken into execution as the property of **Gail E. Wherley a/k/a Gail E. Hilty & Douglas E. Wherley** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/10, 17 & 24

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on July 2, 2004.

The name of the corporation is **LEN DICK SIGNS, INC.**

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

Len Dick Signs, Inc.  
3000 York Road  
Gettysburg, PA 17325

9/17

## McGLAUGHLIN VS. GETTYSBURG HOSPITAL ET AL

*Continued from last issue (9/10/2004)*

Dr. Thomas K. Howard is currently licensed to practice medicine in the Commonwealth of Pennsylvania. He is a graduate of the Jefferson Medical College of Philadelphia and is board certified by the American Board of Orthopaedic Surgeons<sup>11</sup> and a diplomat with the American Academy of Orthopaedic Surgery. During the course of his career, he was affiliated with a number of hospitals in Pennsylvania and Maryland and conducted a private orthopaedic practice from 1968 through September 30, 1996. On September 30, 1996 he retired from actively practicing and ceased performing surgeries or seeing patients on a daily basis. Howard Tr. p. 9. By his own admission, Dr. Howard has not had an active clinical practice since 1996. *Id.* at pp. 22, 25. Although Dr. Howard has teaching experience in the field of orthopaedics, he has not taught since 1979. *Id.* at pp. 19-21.

Clearly, Dr. Howard has enjoyed an impressive and remarkable career. However, as discussed above, the Pennsylvania legislature has made a policy determination wherein it has set forth specific qualifications for an expert in medical malpractice litigation. Unfortunately for McGlaughlin, Dr. Howard does not meet those qualifications. Although licensed to practice medicine, he has not been engaged in an active clinical practice or teaching within five years prior to the date of trial. Accordingly, he does not qualify under the bright line test set forth in Section 512(b). This, however, does not end my inquiry.

Before precluding the testimony of Dr. Howard, it is important to note that Section 512 provides a waiver provision wherein a court may permit expert testimony by an expert who does not meet the specified qualifications but otherwise possesses an indicia of competency. A thorough review of Dr. Howard's qualifications indicates that despite his failure to comply with Section 512(b)(2), he is otherwise competent to testify as to the nature and extent of McGlaughlin's injuries and causation. Accordingly, he will be permitted to testify in these areas.

Although Dr. Howard's impressive credentials allow the court to waive the requirements of Section 512(b) as it relates to his testimony

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<sup>11</sup> Orthopaedic medicine is a branch of health care that is connected with the prevention and correction of disorders of the musculoskeletal system of the body. See Mosby's, cited above at n.2, at 1236.

in regard to the nature and extent of McGlaughlin's injuries and causation, the section necessitates a different result in regard to Dr. Howard's proffered testimony as to the applicable standards of care. The waiver provisions of Section 512(b), by express language, apply only to experts testifying "on a matter other than the standard of care . . ." 40 P.S. § 1303.512(b) (emphasis added). Thus, waiver of the requisite qualifications in regard to Dr. Howard's opinion on the applicable standard of care is statutorily unavailable. Accordingly, Dr. Howard's testimony in regard to the applicable standards of care is inadmissible.

McGlaughlin's second expert, Dr. Peter Bernad, is a licensed neurologist<sup>12</sup> possessing licenses to practice medicine in California, the District of Columbia, Maryland, Massachusetts and Virginia. Dr. Bernad currently teaches neurology at the George Washington University Medical School and is an adjunct professor in the field of neurology at the Michigan State University Medical School. Bernad Tr., p. 7. He currently operates a clinical practice in the field of neurology in the Washington area. *Id.* at p. 8. Dr. Bernad is board certified in neurology, internal medicine, pain management, sleep disorders, forensic medicine, electroencephalography and neurophysiology. On the surface, it is apparent that Dr. Bernad enjoys extensive credentials necessary to qualify him as an expert witness in the field of neurology. Although the several Defendants do not seriously challenge Dr. Bernad's qualifications in the field of neurology, they question his compliance with MCARE Section 512 as it relates to the substance of his expert testimony.

Dr. Bernad's expert report opines that McGlaughlin most likely previously suffered from an abnormality involving the thoracic vertebral bodies. However, he opines that the delay in proper diagnosis of the fractured vertebra caused by misinterpretation of the x-rays, and a lack of careful examination in the emergency room, exacerbated and worsened McGlaughlin's condition within a reasonable degree of medical certainty. He concludes that the delay in actual diagnosis and treatment led to McGlaughlin's permanent damages. Implicit in his opinion is that the misinterpretation of the x-rays and the lack of careful examination of McGlaughlin in the emergency room violated the standard of care applicable to those circumstances.

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<sup>12</sup>Neurology is the field of medicine that deals with the nervous system and its disorders. See Mosby's, cited above at n.2, at 1176.

In regard to issues concerning causation and the nature and extent of the injury to McGlaughlin, Dr. Bernad is clearly qualified. In his deposition, he indicated that he is involved in both the teaching and reading of radiological studies, *Id.* at p. 9; that his clinical practice causes him to review his own radiological films, *Id.* at p. 29; that it is not unusual for him to make his own interpretation of radiological films, *Id.* at p. 33; that he has undergone training in the radiology department, *Id.* at p. 34; and that he has interpreted thoracic spine x-rays in his clinical practice, *Id.* at p. 35. Moreover, Dr. Bernad treats seizure patients on a regular basis and has substantial familiarity with juvenile myoclonic seizure disorder. *Id.* at pp. 10-12. Under these circumstances, I am satisfied that Dr. Bernad is competent to testify as to the nature and extent of McGlaughlin's injuries, interpretation of the radiological films and causation.

Dr. Bernad's qualification to testify as to the applicable standards of care, however, is a different issue. As previously mentioned, in regard to experts testifying as to a respective standard of care, MCARE Section 512(c) sets forth additional requirements. Specifically, an expert testifying as to a standard of care, in addition to the requirements set forth in Subsection(b), must also: (1) be substantially familiar with the applicable standard of care as of the time of the alleged breach of the standard of care; (2) practice in the same subspecialty as the defendant physician or a subspecialty with a substantially similar standard of care for the specific care at issue; and (3) be certified by the same or similar board of which the defendant is certified. Once again, there is a waiver provision of these requirements in regard to standard of care if the court determines that the proffered expert possesses sufficient training and knowledge as a result of the active involvement in or full-time teaching of medicine in the same or related field of medicine "within the previous five-year time period". 40 P.S. § 1303.512(e).<sup>13</sup> Therefore, it is apparent that resolution of the

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<sup>13</sup> A review of Dr. Bernad's qualifications indicates that the time period of his credentials is not an issue. Due to the lack of any real issue, and because of the disposition herein, it is unnecessary to determine the focal point for the five-year time period set forth in Section 512(e). However, as previously noted, the legislature clearly chose not to include language directing that the focal point of the five-year period be the date of the alleged negligence. A close review of the context of the language in Section 512(e) indicates that the focal point of the five-year time period for the purpose of this subsection is also the date of testimony of the expert witness.

issues concerning the admissibility of Dr. Bernad's testimony is dependent upon a cursory review of each of the several Defendants' qualifications and the applicable standards of care at issue.

Defendant Dr. Codori is employed by Gettysburg Hospital as a licensed emergency room physician. He is certified by the American Osteopathic Board of Emergency Medicine. Defendant Dr. Dufendach is also employed as an emergency room physician by Gettysburg Hospital. He is licensed in the Commonwealth of Pennsylvania and board certified in the specialty of family practice. Dufendach Tr., p. 16. Dr. Rahman is employed in the Gettysburg Hospital Radiology Department and is board certified by the American Board of Radiology.

The relevant standards of care raised by Dr. Bernad's opinion appear to focus upon the standard of care rendered by Dr. Codori and Dr. Dufendach during the emergency room examinations and upon the standard of care rendered by Dr. Rahman in interpreting the x-ray films. Thus, the standard of care applicable to the actions of Dr. Codori and Dr. Dufendach is a standard of care exercised by an emergency room physician in examining and treating a patient. The applicable standard of care in regard to Dr. Rahman is the standard of care applicable to a physician in interpreting radiological films.

With this background, Dr. Bernad's qualifications may now be examined. Initially, in regard to board certification, it is clear from Dr. Bernad's deposition testimony and curriculum vitae that he is not board certified in the field of emergency medicine, general family practice medicine or radiology. See Bernad's curriculum vitae at Defendants' Omnibus Motion in Limine at Exhibit D; Bernad's Tr., pp. 18-22. Additionally, Dr. Bernad acknowledges that clinical practice guidelines exist in the fields of emergency medicine and general family practice of which he is not familiar. See Bernad's Tr., pp. 27-29, 54. In his testimony, Dr. Bernad makes a similar concession when he indicates that he is not familiar with the clinical practice guidelines promulgated for radiologists. *Id.* at p. 29. Critically, Dr. Bernad's testimony lacks any indication that he is familiar with the standard of care applicable to either an emergency medicine or general family practice physician. In fact, a reading of his deposition as a whole leads to an opposite conclusion. His testimony in regard to the standard of care applicable for reading radiological studies is less

clear. Although he implies that he possesses such knowledge, his deposition testimony lacks any conclusive acknowledgment that he is familiar with such a standard of care.<sup>14</sup>

From the foregoing, it is apparent that Dr. Bernad is not adequately qualified pursuant to MCARE Section 512 to testify as to the standard of care in the fields of emergency medicine or general family practice. He is neither board certified in those fields nor can I find that the fields in which he is board certified are substantially similar to those of Defendants Codori and Dufendach. Similarly, in regard to his proffered opinion concerning the standard of care applicable to Dr. Codori and Dr. Dufendach, the record lacks any indication that Dr. Bernad is familiar with the applicable standard of care to these doctors as it existed as of the time of the alleged breach. See 40 P.S. § 1303.512(c)(1).<sup>15</sup>

While it appears that Dr. Bernad may have similar difficulty in being qualified as an expert in the standard of care for reading radiological studies, final determination in that regard will await trial testimony. There is substantial indication in Dr. Bernad's testimony that the field of neurology and radiology overlap in this regard. Dr. Bernad indicated that he reads radiological films on a regular basis for the purpose of assisting in his diagnosis of patients. On the other hand, he has failed to affirmatively indicate that he is familiar with

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<sup>14</sup>Dr. Bernad's transcript indicates in relevant part the following exchange while being questioned by McGlaughlin's counsel:

Q: And are you familiar with the standard of care for reading radiological studies that existed in 1999 and today?

A: Well, in the sense that I'm not a radiologist, but as a neurologist, we use radiology as an adjunct, as an assist. In some states like New York, for example, neurologists can actually read MRIs and CAT scans, especially Dent Institute in Northern New York.

In most other facilities, there are radiologists that have taken that particular aspect of medicine. So in our area, we read our own CAT scans, MRIs, x-rays, but we don't charge for it in the sense of having a code and so forth, but it becomes part and parcel of evaluating a patient.

If you were to come in and see me for a seizure, I would either go to the x-ray suite and track down your films or ask you to bring it with you so I can review it . . . .

Bernad Tr., p. 9, line 21 - p. 10, line 17. A thorough review of the deposition transcript reveals that the ultimate issue was never answered.

<sup>15</sup> Incidentally, Subsection(c) of Section 512 is consistent with previous Pennsylvania case law. *Maurer v. Trustees of Univ. of Pennsylvania*, 614 A.2d 754 (Pa.Super. 1992).

the applicable standard of care in 1999. Therefore, in the event that Dr. Bernad is able to affirmatively indicate at the time of trial that he is familiar with the standard of care in 1999 applicable to a physician reading radiological studies, he will be permitted to offer an expert opinion in that regard. On the other hand, if he is unable to affirmatively make such an indication, he will be precluded at trial from testifying.

In sum, I find that Dr. Bernad lacks qualifications sufficient to testify in regard to the standards of care applicable to Dr. Codori and Dr. Dufendach. However, in regard to his opinion concerning Dr. Rahman, I find that Dr. Bernad has sufficient training, experience and knowledge to provide testimony in regard to Dr. Rahman's reading of the radiological films provided that testimony reveals that he is substantially familiar with the applicable standard of care at issue. I will now turn to the Defendants' Motion for Summary Judgment in light of disposition of the Defendants' Motion in Limine.

It is well settled in Pennsylvania law that summary judgment may be granted only in those cases in which the record clearly shows that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law. *Capek v. Devito*, 767 A.2d 1047, 1048 n.1 (Pa. 2001). In considering whether summary judgment is appropriate, the trial court is required to review the record in the light most favorable to the non-moving party resolving all doubts as to the existence of a genuine issue of material fact against the moving party. *Potter v. Herman*, 762 A.2d 1116, 1119 (Pa.Super. 2000).

In order to sustain a cause of action for medical malpractice, a plaintiff must establish:

1. The physician owed a duty to the patient;
2. The physician breached that duty;
3. The breach of the duty was the proximate cause of, or a substantial factor in, bringing about the harm suffered by the patient; and
4. The damages suffered by the patient were a direct result of that harm.

*Eaddy v. Hamaty*, 694 A.2d 639, 642 (Pa.Super. 1997). Implicit in this burden is a requirement that the plaintiff offer an expert witness

who will testify to a reasonable degree of medical certainty that the acts of the defendant physician deviated from good and acceptable standards. *Id.*; *Mitzelfelt v. Kamrin*, 584 A.2d 888, 892 (Pa. 1990).<sup>16</sup>

An exhaustive review of the record in this matter indicates that McGlaughlin is unable to present admissible expert testimony in regard to the standard of care applicable to Dr. Codori's and Dr. Dufendach's actions. Accordingly, the Defendants' Motion for Summary Judgment will be granted. Counts 6, 7, 16 and 17 will be dismissed with prejudice. There appears to be a question of fact in regard to the ability of Dr. Bernad to render an expert opinion in regard to the standard of care applicable to Dr. Rahman's actions. Since a genuine issue of material facts exists, summary judgment in this regard is not appropriate. See *Capek*, cited above. McGlaughlin's vicarious liability and loss of consortium claims against Gettysburg Hospital will be limited to the conduct of Dr. Rahman.

For the foregoing reasons, the Court entered the Order of September 5, 2003.

#### ORDER OF COURT

AND NOW, this 5th day of September, 2003, the Defendants' Omnibus Pre-trial Motion in Limine to Preclude the Expert Testimony of Dr. Thomas K. Howard is granted in part and denied in part. Dr. Howard may offer expert opinion in regard to the extent and nature of Plaintiff Michael McGlaughlin's injuries. He is, however, precluded from testifying as to the applicable standards of care relevant to the several Defendants' actions. The Defendants' Omnibus Pre-trial Motion in Limine to Preclude the Testimony of Peter G. Bernad is granted in part and denied in part. Dr. Bernad may offer expert testimony in regard to the nature and extent of the Plaintiff Michael McGlaughlin's injuries. He is, however, precluded from presenting testimony in regard to the applicable standard of care as it relates to the actions of Defendants Codori and Dufendach.

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<sup>16</sup> Pennsylvania courts have recognized an exception to this general rule where "the matter in dispute is so simple and the lack of skill or want of care so obvious as to be comprehensible by lay persons". *Maurer*, 614 A.2d at 758 n.2. McGlaughlin has not argued, nor do I find any support in the record for the argument, that the issues involved in the current litigation are so obvious as to be comprehensible by lay persons.



The issue of whether Dr. Bernad may express expert opinion in regard to the standard of care applicable to the actions of Dr. Rahman is reserved for time of trial.

It is further Ordered that the Defendants' Motion for Summary Judgment is granted in part and denied in part. Summary judgment is granted in favor of Dr. Gregory Codori and Dr. John Dufendach and against the Plaintiffs and Counts 6, 7, 16 and 17 are dismissed with prejudice. The Defendants' Motion for Summary Judgment is denied in regard to Counts 5, 11, 15 and 21, however, the Plaintiffs' claims in Counts 11 and 21 are limited to the negligence, if any, attributable to Dr. Rahman.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-863 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated, lying, and being in Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center line of Legislative Route 01077 at corner of other lands now or formerly of John Whitney; thence in said center line of Legislative Route 01077 South 58 degrees 40 minutes East, 89.77 feet to a point in the center line of said Legislative Route 01077 at land now or formerly of James Sharrah; thence through an iron pin set back along the line by other land now or formerly of James Sharrah South 34 degrees 36 minutes West, 182.41 feet to an iron pipe; thence by land of James Sharrah and Mrs. Lottie Topper South 57 degrees 33 minutes East, 117.93 feet to an iron pipe; thence by other land formerly of Calvin Cluck and wife South 30 degrees 12 minutes West, 268.11 feet to an iron pin; thence by same South 25 degrees 38 minutes West, 808.79 feet to an iron pipe; thence by land now or formerly of Mark Bucher, North 55 degrees 9 minutes West, 386.35 feet to an iron pipe; thence by other land formerly of Cluck North 37 degrees 25 minutes East, formerly of John Whitney and through an iron pin set back along the line 29.90 feet North 34 degrees 37 minutes East, 322.80 feet to a point in the center of Legislative Route 01077 to the point and place of BEGINNING.

CONTAINING 6.7478 acres.

BEING KNOWN AS: 126 Olde Rte., 30, McKnightstown, PA 17343

PROPERTY ID NO.: D-11-95A

TITLE TO SAID PREMISES IS VESTED IN Stephan H. Reaver and Cindy L. Reaver, husband and wife, as tenants of an estate by the entireties by Deed from Calvin A. Slegal a/k/a Calvin Andrew Slegal and Mary Jane Slegal, husband and wife dated 01/02/97 recorded 01/03/97 in Deed Book 1312 Page 345.

SEIZED and taken into execution as the property of **Stephan H. Reaver & Cindy L. Reaver** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004,

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

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

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

9/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-584 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in or near the centerline of Township Road T-534, at corner of land now or formerly of Pet Incorporated; thence in and along said Township Road T-534, North 1 degree 16 minutes 00 seconds West, 904.78 feet to a point at corner of Lot No. 10A on the hereinafter referred to draft of survey; thence by said Lot No. 10A, and passing through a reference pipe set back 25.00 feet from the last mentioned point, North 78 degrees 50 minutes 40 seconds East, 517.78 feet to a pipe on line of Lot No. 9; thence by said Lot No. 9, South 19 degrees 43 minutes 10 seconds East, 115.00 feet to a pin; thence by same, South 67 degrees 55 minutes 50 seconds West, 129.88 feet to a pin; thence continuing by same, South 24 degrees 10 minutes 20 seconds East, 217.86 feet to a point in or near the centerline of Township Road T-541; thence in and along said Township Road T-541, North 68 degrees 27 minutes 50 seconds East 19.50 feet to a P.K. nail in said Township Road and at corner of Lot No. 11; thence by said Lot No. 11, and passing through a reference pipe set back 14.10 feet from the last mentioned point, South 4 degrees 3 minutes 30 seconds East, 751.83 feet to a pin on line of land now or formerly of Pet Incorporated, aforesaid; thence by said land of Pet Incorporated, and passing through a reference pin set back 25.67 feet from the next mentioned point, North 80 degrees 36 minutes 00 seconds West, 574.71 feet to a point in Township Road T-534, the place of BEGINNING. CONTAINING 12.121 Acres.

The above description was taken from a draft of survey by Adams County Surveyors, dated July 26, 1977, being Lot No. 10B.

SUBJECT to the protective covenants and conditions contained in Miscellaneous Book 27 at page 199.

BEING the same premises which Walden Enterprises, Incorporated, by Deed dated September 16, 1977 and recorded in Adams County on September 16, 1977 by Deed Book Volume 333, Page 543, granted and conveyed to Thomas J. Gerhart and Judith M. Gerhart.

Kimberly J. Hong, Esq.  
Attorney for Plaintiff  
2718 Koppers Building  
436 Seventh Avenue  
Pittsburgh, Pennsylvania 15219

Parcel No: (29)-F06-57

SEIZED and taken into execution as the property of **Thomas J. Gerhart & Judith M. Gerhart** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 22, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/17, 24 & 10/1

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for TER BEAR, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on February 18, 2004, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Yingst & Hart  
Solicitor

9/17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-596 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point on the property line of East Locust Lane at corner of Lot No. 40 on the hereinafter referred to plan of lots; thence along Lot No. 40, North seven (7) degrees eighteen (18) minutes thirty-one (31) seconds East, one hundred sixty and seventeen hundredths (160.17) feet to a point at lands now or formerly of Lloyd E. Eckert; thence along same, South fifty-three (53) degrees twenty-eight (28) minutes fifty (50) seconds East, a ninety-nine and sixty-four hundredths (99.64) feet to a point at Lot No. 38 on said plan; thence along Lot No. 38, South eighteen (18) degrees four (4) minutes three (3) seconds West, one hundred nineteen and seventy-three hundredths (119.73) feet to a point on the property line of East Locust Lane, aforesaid; thence along same, by a curve to the left, the radius of which is three hundred forty-six and thirteen hundredths (346.13) feet, for an arc length of sixty-five (65) feet, and having a long chord bearing and distance of North seventy-seven (77) degrees eighteen (18) minutes forty-three (43) seconds West, sixty-four and ninety hundredths (64.90) feet to a point at Lot No. 40, the point and place of BEGINNING. CONTAINING 10,766.645 square feet or 0.247 acres and being known as Lot No. 39 on a plan of lots of Oxford Estates, Phase V, dated September 11, 1985 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plan Book 42, at Page 64.

SEIZED and taken into execution as the property of **Deborah J. Unger & Garry L. Unger** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-528 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract or parcel of land and premises, situate, lying and being in the Township of Latimore in the County of Adams and Commonwealth of Pennsylvania, being as Lot No. 1349 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 1, Page 7, and subject to all legal highways, easements, rights of way and restrictions of record.

TITLE TO SAID PREMISES IS VESTED IN Michael Kolson, married man by Deed from John H. Alger and Anna M. Alger, husband and wife dated 5/31/2002 and recorded 6/4/2002 in Record Book 2684, Page 339.

Premises being: 195 Lake Meade Drive, East Berlin, PA 17316

Tax Parcel No. 9 Map #7

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-456 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the Carlisle and Gettysburg public road; thence along the same, South 16 degrees West, 8.7 perches to a post in said road; thence along the same, South 16-1/2 degrees West, 4.4 perches to a stone in said road; thence by lands now or formerly of Wesley Miller, North 72 degrees West, 18.4 perches to a stone; thence by land now or formerly of John B. Group, North 19-1/4 degrees East, 4.4 perches to a stone; thence by the same land, North 72-1/2 degrees West, 1.9 perches to a post; thence by the same land, North 24 degrees East, 7.1 perches to a stone; thence by land now or formerly of Mrs. Nathan Rhoads, South 77 degrees East, 19.3 perches to the place of BEGINNING.

CONTAINING 1 acre and 77 perches, more or less.

BEING KNOWN AS and numbered 3830 Carlisle Road, Gardners, Pennsylvania 17324.

SEIZED and taken into execution as the property of **Linda L. Clouse** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/3, 10 & 17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-621 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the Northern half of U.S. Route 30, said point being North 12 degrees 14 minutes 18 seconds West, 32.59 feet from an existing iron pipe and at the Northwestern corner of land now or formerly of Peggy Lou Gastley, et al; thence by said land of Peggy Lou Gastley, et al and passing through the aforesaid iron pipe, South 12 degrees 14 minutes 18 seconds East, 300.00 feet to an existing iron pin on line of land now or formerly of Raymond M. Lillich; thence by said land of Raymond M. Lillich, South 77 degrees 32 minutes 39 seconds West, 100.02 feet to an existing iron pipe at corner of land now or formerly of Gladys Plank; thence by said land and passing through an existing iron pipe set back 31.42 feet from the next-mentioned point, North 12 degrees 10 minutes 02 seconds West, 300.00 feet to a point on the Northern half of U.S. Route 30 aforesaid; thence in and along said U.S. Route 30, North 77 degrees 32 minutes 36 seconds East, 99.65 feet to a point, the place of BEGINNING.

CONTAINING 0.688 acres.

THE above mentioned description was taken from a Draft of Survey by LaRue Surveys, Inc., dated August 19, 1975.

TITLE TO SAID PREMISES IS VESTED IN Howard C. Gladfelter and Grace M. Gladfelter, husband and wife by Deed from Larry J. Redding and Aghella M. Redding, husband and wife, dated 10/19/1993 and recorded 10/19/1993 in Record Book 794, Page 49.

Premises being: 1933 York Road a/k/a 1935 York Road, Gettysburg, PA 17325

Tax Parcel No. H12-40

SEIZED and taken into execution as the property of **Howard C. Gladfelter & Grace M. Gladfelter a/k/a Grace M. Cooper** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in

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

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

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

9/10, 17 & 24

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-655 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or parcel of land situate in Reading Township, Adams County, Pennsylvania, designated County Map No. 13, Parcel No. 20, Lake Meade Lot No. 906 as shown on the records of the Adams County Mapping Department, Miscellaneous Deed Book 1, Page 6.

UNDER AND SUBJECT, NEVERTHELESS, to all rights of way, easements, restrictions and/or conditions of record.

IT BEING the same premises which Allan L. Sutch and Karen E. Sutch, his wife, by Deed dated the 13th day of March, 1996, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Land Record Book 1159, Page 0321, granted and conveyed unto Kevin L. Strickhouser and Sandi Michele Strickhouser, husband and wife, Grantors herein.

AND the said Grantors hereby covenant and agree that they will warrant specially the property hereby.

Being Known As: 12 Stuart Drive

TITLE TO SAID PREMISES IS VESTED IN Rebekah S. Bodkin, single woman by Deed from Kevin L. Strickhouser and Sandi Michele Strickhouser, his wife dated 5/27/1999 and recorded 5/28/1999 in Record Book 1840, Page 88.

Premises being: 12 Stuart Drive, East Berlin, PA 17316

Tax Parcel No. MAP #13 PARCEL #20

SEIZED and taken into execution as the property of **Rebekah S. Bodkin a/k/a Rebekah S. Harlacher** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/10, 17 & 24

## 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, September 21, 2004, at 9:00 a.m.

**PARRY**—Orphans' Court Action Number OC-75-04. The First and Final Account of William C. Wright, Executor of the Estate of Virginia W. Parry, deceased, late of Oxford Township, Adams County, Pennsylvania.

**CRUMBLING**—Orphans' Court Action Number OC-78-04. The First and Final Account of Tamara J. Eisenhart, Personal Representative of the Estate of Frances M. Crumbling, deceased, late of Berwick Township, Adams County, Pennsylvania.

Lisa K. Grubbs  
Clerk of Courts

9/10 & 17

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for TER'S DREAM, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on February 18, 2004, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Yingst & Hart  
Solicitor

9/17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-613 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain premises with the improvements thereon erected situate in Conewago Township, Adams County, Pennsylvania, known on the plat or general plan of a series of lots, streets, avenues and c. of lands of Hanover Improvement Company, as Lot No. 31, on the South side of Linden Avenue, in Block No. 1, adjoining Lot No. 32 on the West, a public alley on the South, Lot No. 30 on the East and Linden Avenue on the North.

BEING known as 722 Linden Avenue.

BEING THE SAME PREMISES which Randall D. Peterson and Donna E. Peterson, husband and wife, by Deed dated April 27, 1999 and recorded in the Recorder of Deeds of Adams County on May 11, 1999 in Deed Book Volume 1829, Page 15, granted and conveyed unto Brian K. Brown, a single male and Judy A. Reichart, a single female, as joint tenants.

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

DBV 1829

Page 15

Parcel 8-53

SEIZED and taken into execution as the property of **Brian K. Brown & Judy A. Reichart** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 22, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/17, 24 & 10/1

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-620 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point at Lynx Drive and Lot No. 149-B; thence along Lot No. 149-B, South twenty-seven (27) degrees fifty-one (51) minutes twenty-four (24) seconds East, one hundred twenty-eight and eighteen hundredths (128.18) feet to a point at Lot No. 148; thence along Lot No. 148, South seventy-four (74) degrees twenty-one (21) minutes fifty-seven (57) seconds East, thirty and fifty hundredths (30.50) feet to a point at Cheetah Drive; thence along Cheetah Drive, by a curve to the left whose radius is two hundred thirty-nine and nineteen hundredths (239.19) feet and whose chord bearing is North five (05) degrees two (02) minutes thirty-six (36) seconds West, one hundred forty (140.00) feet for an arc distance of one hundred forty-two and eight hundredths (142.08) feet to a point at the intersection of Cheetah Drive and Lynx Drive; thence along said intersection North sixty-seven (67) degrees three (03) minutes thirty-seven (37) seconds West, twenty-one and twenty-one hundredths (21.21) feet to a point at Lynx Drive; thence along Lynx Drive, by a curve to the left whose radius is seven hundred forty (740.00) feet and whose chord bearing is South sixty-five (65) degrees twenty-nine (29) minutes, forty-four (44) seconds West, sixty-three and eleven hundredths (63.11) feet for an arc distance of sixty-five and twelve hundredths (65.12) feet to the point and place of BEGINNING. CONTAINING 8,397 square feet and identified as Lot No. 149-A on a plan of lots entitled Lot 149, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

HAVING THEREON ERECTED A DWELLING HOUSE KNOWN AS: 105 Lynx Drive, Hanover, PA 17331

BEING THE SAME PREMISES WHICH Mary Lee Kuhn and John H. Kuhn, by Deed dated 11/21/90 and recorded 12/5/90 in Adams County Deed Book 574, Page 1018, granted and conveyed unto Stephen M. Staub.

SEIZED IN EXECUTION AS THE PROPERTY OF STEPHEN M. STAUB UNDER ADAMS COUNTY JUDGMENT NO. 04-S-620

## MAP &amp; PARCEL 8-7-63

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 22, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/17, 24 & 10/1

## NOTICE

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons that the account and statement of proposed distribution has been filed with 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 Friday, October 22, 2004, at 9:00 a.m.

KRIVAK—Orphans' Court Action Number OC-133-99. The First and Final Account and proposed distribution of Manufacturers and Traders Trust Company, successor in interest to Keystone Financial Bank, successor trustee to Maxine L. LaPlace, Esq., as trustee, of Mary Mellott Krivak, for the benefit of Joanne M. Krivak, now deceased, late of Adams County, Pennsylvania.

John A. Wolfe, Esq.  
Wolfe & Rice, LLC

9/17, 24 & 10/1

**ESTATE NOTICES**

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

**FIRST PUBLICATION****ESTATE OF JESSIE M. ALTHOUSE, DEC'D**

Late of Reading Township, Adams County, Pennsylvania

Administrator: John C. Zepp, III, Esq., P.O. Box 204, York Springs, PA 17372

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

**ESTATE OF JOHN M. ARNOLD, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: James C. Arnold, 123 Edward Street, Hanover, PA 17331

Attorney: Donald W. Dorr, Esq., 846 Broadway, Hanover, PA 17331

**ESTATE OF BARRY L. CLUCK, DEC'D**

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executor: Maynard O. Gochenauer, 119 Mt. Tabor Road, P.O. Box 77, Bendersville, PA 17306

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

**ESTATE OF EMMA S. SHUE, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executor: Richard W. Shue, 12 Northview Drive, Hanover, PA 17331

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

**ESTATE OF JOHN P. STEPHENSON, DEC'D**

Late of Latimore Township, Adams County, Pennsylvania

Executrix: Sylvia Peck Stephenson, 216 Lake Meade Drive, East Berlin, PA 17316

Attorney: Elyse E. Rogers, Esq., Keefer Wood Allen & Rahal LLP, 415 Fallowfield Road, Suite 301, Camp Hill, PA 17011

**ESTATE OF PAMELA K. WALLEN, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Administratrices: Sharon A. Hamme, 92 Hamilton Drive, Abbottstown, PA 17301; Joyce R. Markle, 1324 Peepytown Road, Abbottstown, PA 17301

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

**SECOND PUBLICATION****ESTATE OF TREVA M. SHAFFER, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executor: P. Frederick Trump, 5594 Lischays Church Road, Spring Grove, PA 17362

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

**THIRD PUBLICATION****ESTATE OF JAMES W. BIGHAM, DEC'D**

Late of Freedom Township, Adams County, Pennsylvania

Executor: James R. Bigham, 430 Camp Gettysburg Road, Gettysburg, PA 17325

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

**ESTATE OF JOHN A. HULL, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Linda L. Keller, 1911 Old Harrisburg Road, Gettysburg, PA 17325; David A. Hull, 460 Shealer Road, Gettysburg, PA 17325

Attorney: Walton Davis, Esq., 63 W. High Street, Gettysburg, PA 17325

**ESTATE OF GLORIA W. RONDEAU, DEC'D**

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Debra M. Shelley, c/o Craig A. Diehl, Esq., 3464 Trindle Rd., Camp Hill, PA 17011

Attorney: Craig A. Diehl, Esq., 3464 Trindle Rd., Camp Hill, PA 17011

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of The Fictitious Names Act, 54 Pa. C.S.A. § 311, of the filing of an Application for Registration of Fictitious Name on or about August 16, 2004, with the Pennsylvania Department of State, Corporation Bureau, for the conduct of business in Adams County, Pennsylvania, under the fictitious name of: BIGLERVILLE FOOT AND ANKLE CENTER.

Principal Place of Business: 23 North Main Street, Biglerville, Adams County, PA 17307.

The name and address of the entity owning or interested in said business is: Keystone Podiatric Medical Associates, P.C., 6100 Old Jonestown Road, Suite B, Harrisburg, PA 17112.

Drake, Hileman & Davis  
Solicitors  
P.O. Box 1306  
Suite 15, Bailiwick Office Campus  
Doylestown, PA 18901

9/17

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Commonwealth of Pennsylvania, in the Department of State's Corporation Bureau. The purpose of the incorporation is to provide floor care services, and to engage in any other lawful business a corporation may engage in. The name of the corporation is PROFESSIONAL CHOICE FLOOR CARE SERVICES, INC. The business is incorporated pursuant to the provisions of the Business Corporation Law of 1988.

Andrew Gilbert, President  
1475 Granite Station Road  
Gettysburg, PA 17325  
(301) 834-6397

9/17

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 July 29, 2004, pursuant to the Fictitious Name Act, setting forth that James E. Nickoles is the only individual interested in a business, the character of which is electrical contracting, that the designation under which the business is and will be conducted is NICKOLES ELECTRIC and that the location where said business is and will be conducted is 245 Bowers Road, Littlestown, PA 17340.

Gary E. Hartman  
Solicitor

9/17

# *Adams County* Legal Journal

Vol. 46

September 24, 2004

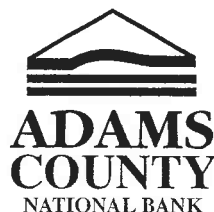
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## IN THIS ISSUE

PNC VS. BLUE

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



Member FDIC



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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-553 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner at a stone on the Northeastern side of the road leading to Gettysburg at lands now or formerly of Paul Rahn; thence along said road North seventy-two (72) degrees West, eight and five-tenths (8.5) perches to a stone; thence along lands now or formerly of John Rahn, North seventeen and one-half (17-1/2) degrees East, three and eight-tenths (3.8) perches to a stake; thence along the same North twenty-one and one-half (21-1/2) degrees West, thirteen and five-tenths (13.5) perches to a stone; thence North eighty-one and one-half (81-1/2) degrees East, seven and five-tenths (7.5) perches to a stone; thence along lands now or formerly of Charles E. Klunk and lands now or formerly of Paul Rahn, aforesaid, South twenty-four and one-half (24-1/2) degrees East, seventeen and fifteen hundredths (17.15) perches to a stone; thence along lands now or formerly of Paul Rahn, South thirty and one-half (30-1/2) degrees West, five (5) perches to the point and place of BEGINNING.

CONTAINING 155.5 perches of land, more or less.

TITLE TO SAID PREMISES IS VESTED IN Douglas E. Wherley and Gail E. Wherley, husband and wife by Deed from Lynn B. Strevig, Executor under the Last Will and Testament of Loretta A. Strevig, deceased dated 8/7/2000 and recorded 8/16/2000 in Record Book 2108, Page 192.

Premises being: 5500 Hanover Road, Hanover, PA 17331

Tax Parcel No. K14-61

SEIZED and taken into execution as the property of **Gail E. Wherley a/k/a Gail E. Hilty & Douglas E. Wherley** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/10, 17 & 24

## NOTICE

On the 22nd day of October, 2004, at 9:00 a.m., a hearing will be held in Courtroom No. 2 of the Adams County Courthouse, to determine whether the Gettysburg Area School District shall sell its student built house located at 40 Creekside Court, (Cumberland Township), Gettysburg, Pennsylvania, 17325 to Lonnie D Myers and Maria L. Myers for the purchase price of \$225,000, upon terms and conditions set forth in an Agreement of Sale dated September 7, 2004.

Any person who wishes to oppose the sale must attend the hearing and be heard.

Robert L. McQuaide  
Solicitor  
(717) 337-1360

9/24, 10/1 & 8

## NOTICE

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons that the account and statement of proposed distribution has been filed with 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 Friday, October 22, 2004, at 9:00 a.m.

KRIVAK—Orphans' Court Action Number OC-133-99. The First and Final Account and proposed distribution of Manufacturers and Traders Trust Company, successor in interest to Keystone Financial Bank, successor trustee to Maxine L. LaPlace, Esq., as trustee, of Mary Mellott Krivak, for the benefit of Joanne M. Krivak, now deceased, late of Adams County, Pennsylvania.

John A. Wolfe, Esq.  
Wolfe & Rice, LLC

9/17, 24 & 10/1

## PNC VS. BLUE

1. The Vehicle Code provides that a security interest in a vehicle title in the Commonwealth of Pennsylvania is perfected through application to the Department of Transportation specifying the lien holder's name and address. Upon receipt of the application and application fee, the Department issues a Certificate of Title which includes the lien holder's name. The Certificate of Title is then returned to the first lien holder to support its claim of a perfected security interest.

2. The holder of a perfected security interest has a superior interest in the vehicle enforceable against everyone except as otherwise provided in the Uniform Commercial Code.

3. A buyer in the ordinary course of business ... takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

4. UCC Section 9320(b) requires that the goods at issue must be consumer goods to both the buyer and the seller.

In the Court of Common Pleas of Adams County, Pennsylvania,  
Civil, No. 02-S-1321, PNC BANK, N.A., VS. ALLAN BLUE.

Edward S. Wehrenberg, Esq., for Plaintiff

R. Joseph Landy, Esq., for Defendant

George, J., September 17, 2003

### OPINION

In March 2001, Donald and Lori Hickok (hereinafter collectively referred to as "Hickok") purchased a 2000 Ford Mustang Convertible pursuant to an installment sales contract which a security agreement secured. PNC Bank, N.A., (hereinafter referred to as "PNC"), the holder of the security agreement, perfected its security interest in the vehicle by filing an appropriate application with the Pennsylvania Department of Transportation. See generally 75 Pa.C.S.A. § 1132.<sup>1</sup> PNC's perfected lien was noted on the Certificate of Title to the vehicle and returned to PNC. Under the terms of the installment sales contract, Hickok agreed to make sixty-six consecutive monthly payments beginning on April 20, 2001 until a total payment in the amount of \$31,331.34 was made. However, in August 2002, Hickok defaulted under the contract by failing to make the required monthly payments.

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<sup>1</sup>75 Pa.C.S.A. § 1132 was repealed on July 1, 2001. The relevant repealed material was incorporated in 75 Pa.C.S.A. § 1132.1, which became effective July 1, 2001. Under either provision, PNC's security interest was perfected.

Unbeknownst to PNC, on March 11, 2002, Allan Blue (hereinafter referred to as “Blue”) purchased the Mustang from DAB Auto Sales (hereinafter referred to as “DAB”) for the sum of \$18,200 plus applicable transfer costs. DAB is a licensed auto dealer and broker located in Chambersburg, Pennsylvania, and is a merchant dealing in automobile sales. Although Blue never viewed or received title to the Mustang, he paid for the vehicle by check. The check was subsequently cashed by DAB. The record is not clear as to how DAB obtained possession of the Mustang.

As a result of Hickok’s default, PNC initiated an action in replevin seeking possession of the Mustang. Blue timely filed an Answer with New Matter essentially admitting the allegations in PNC’s complaint; however, alleging that he was a buyer in the ordinary course of business pursuant to the Uniform Commercial Code, 13 Pa.C.S.A. § 1101, et. seq., and, therefore, entitled to possession of the vehicle free and clear of PNC’s security interest.<sup>2</sup> Following the close of relevant pleadings, PNC moved for summary judgment. Blue responded to PNC’s motion with the filing of a Cross Motion for Summary Judgment.

Since the relevant facts are undisputed, resolution of this issue is based solely on the legal interpretation of the applicable provisions of the Uniform Commercial Code, 13 Pa.C.S.A. § 1101, et. seq. Initially, it is important to recognize that PNC has a perfected security interest in the Mustang. Pursuant to 13 Pa.C.S.A. § 9311<sup>3</sup>, PNC’s compliance with the provisions of the Pennsylvania Motor Vehicle Code perfected the security interest. The Vehicle Code provides that a security interest in a vehicle titled in the Commonwealth of Pennsylvania is perfected through application to the Department of Transportation specifying the lien holder’s name and address. See 75 Pa.C.S.A. § 1132. Upon receipt of the application and applicable fee, the Department issues a Certificate of Title which includes the lien holder’s name. The Certificate of Title is then returned to the first lien holder. In support of its claim of a perfected security interest, PNC has attached to its complaint a copy of the Certificate of

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<sup>2</sup> Blue also filed a third-party claim against Frank Fruciano, alleged to be doing business as DAB Auto Sales.

<sup>3</sup> 13 Pa.C.S.A. § 9311 became effective July 1, 2001. The relevant subject matter was previously codified at 13 Pa.C.S.A. § 9302. Under either provision, PNC’s security interest was perfected.

Title for the vehicle in question which lists PNC as the first lien holder. Moreover, in his answer to the complaint, Blue admits PNC's status as the holder of a perfected security interest in the vehicle. See Blue's Answer, ¶ 3.

As holder of a perfected security interest, PNC has a superior interest in the vehicle enforceable against everyone except as otherwise provided in the Uniform Commercial Code. See generally 13 Pa.C.S.A. § 9301, et. seq.; *U.S. Fidelity and Guaranty Co. v. United Penn Bank*, 524 A.2d 958, 960 (Pa.Super. 1987). While Blue recognizes this general principle of law, he argues that he is protected from the ramifications of PNC's security interest since he was a good faith purchaser who purchased consumer goods in the ordinary course of business. Although the primary focus of Blue's argument is unclear, it appears that Blue relies upon, in the alternative, several sections of the Uniform Commercial Code. Specifically, Blue cites 13 Pa.C.S.A. § 2403 (relating to good faith purchase of goods); 13 Pa.C.S.A. § 9320(a) (relating to buyer in the ordinary course of business); and 13 Pa.C.S.A. § 9320(b) (relating to buyer of consumer goods).<sup>4</sup> Accordingly, I will review each of Blue's claims separately.

Section 9320(a) provides that "a buyer in the ordinary course of business . . . takes free of a security interest **created by the buyer's seller**, even if the security interest is perfected and the buyer knows of its existence." 13 Pa.C.S.A. § 9320(a) (emphasis added). Although at this time, PNC does not seriously challenge Blue's claim that he is a "buyer in ordinary course of business",<sup>5</sup> it nevertheless challenges the applicability of this subsection. Specifically, PNC argues that the subsection is inapplicable since the buyer's seller did not create the security interest at issue. I agree. The plain language of this subsection extinguishes only security interests "created by the

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<sup>4</sup> 13 Pa.C.S.A. §§ 9320(a) and 9320(b) became effective July 1, 2001. Its relevant material was previously codified at 13 Pa.C.S.A. § 9307. Under either provision, resolution of the issues before the Court would be the same.

<sup>5</sup> 13 Pa.C.S.A. § 1201 defines "buyer in ordinary course of business" as: "A person that buys in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. . . ." There is no indication in the pleadings that Blue acted in other than good faith. An amended version of 13 Pa.C.S.A. § 1201 became effective July 1, 2001. Its previous version contained a similar definition of "buyer in ordinary course of business". Under either provision, therefore, resolution of the issues before the Court would be the same.

buyer's seller". Instantly, DAB did not create the security interest PNC obtained. Rather, the transaction between Hickok and PNC created the security interest. Had DAB created the security interest PNC held as a means of financing its inventory, the result might be different. See *First Valley Bank v. Minninger*, 22 Pa.D.&C.3d 555 (C.P. Northampton 1981). However, Hickok is not Blue's seller here.

In an effort to salvage this subsection's applicability, Blue urges that DAB was acting as an agent for Hickok. See Blue's Response to PNC's Motion for Summary Judgment, ¶ 3. Therefore, Blue reasons that Hickok is Blue's seller and, thus, the creator of the security interest in the vehicle. While I admire the ingenuity of this argument, I disagree with the accuracy of its conclusion.<sup>6</sup> If we consider, for the sake of argument, that Hickok is Blue's seller, Blue is no longer a "buyer in ordinary course of business" since Hickok is not "a person in the business of selling vehicles". See footnote 6, cited above. Since, under this argument, Blue no longer meets the definition of a "buyer in ordinary course of business", Section 9320(a) is not applicable. Thus, Blue's arguments as they apply to Section 9320(a) are mutually exclusive with neither fully meeting the requirements of that section. Accordingly, Blue's effort to treat DAB as the seller for one portion of Section 9320(a) and Hickok as the seller for another provision of Section 9320(a) must fail.

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<sup>6</sup>The viability of Blue's claim of an agency relationship between Hickok and DAB is not ascertainable from the current pleadings. For instance, PNC disclaims any knowledge of the facts surrounding placement of the vehicle with DAB and dismisses Blue's factual claims as an attempt "to blur the position of PNC Bank". See PNC's Brief in Response to Blue's Cross Motion for Summary Judgment, p. 1. Blue, in his Answer to PNC's Complaint and in his Third Party Complaint against Frank Fruciano, has consistently alleged that DAB is a merchant dealing in automobile sales and that he purchased the Mustang from DAB. See PNC's Complaint, ¶¶ 14-19 and Blue's Third Party Complaint, ¶¶ 6-11. Subsequent to PNC's Motion for Summary Judgment, Blue attached an affidavit to his Response and Cross Motion for Summary Judgment indicating for the first time that "DAB Auto Sales was in fact acting as agent for individuals by the name of Lori and Donald Hickok . . ." See Allan Blue Affidavit, ¶ 8. Although the relationship between Hickok and DAB presents a factual dispute which would normally preclude summary judgment, see *Rush v. Philadelphia Newspapers, Inc.*, 732 A.2d 648, 650 (Pa.Super. 1999), resolution of this matter by summary judgment is appropriate since regardless of whether or not DAB is factually an agent, the section Blue relies upon is inapplicable for the reasons set forth above.

Similarly, Blue's attempt to fit within the protections offered by Section 9320(b) is without merit. Section 9320(b) provides in relevant part:

. . . a buyer of goods from a person who used or bought the goods for use primarily for personal, family or household purposes takes free of a security interest, even if perfected, if the buyer buys:

- (1) without knowledge of the security interest;
- (2) for value;
- (3) primarily for the buyer's personal, family or household purposes; and
- (4) before the filing of a financing statement covering the goods.

This section requires that the goods at issue must be consumer goods to both the buyer and the seller. *Minninger*, 22 Pa.D.&C.3d at 559.

Blue consistently indicated throughout the pleadings that he purchased the Mustang from DAB who is a merchant dealing in automobile sales. See Blue's Answer, ¶¶ 14-18. Regardless of the nature of the relationship between Hickok and DAB, Blue cannot retreat from his admission that his purchase was made from a merchant as compared to a seller who was a person using the vehicle primarily for personal, family or household purposes. As such, Section 9320(b) is inapplicable. Moreover, PNC, as previously noted, took all steps necessary under the Pennsylvania Motor Vehicle Code in lieu of filing a financing statement. See 75 Pa.C.S.A. § 1132. Since these actions occurred prior to the transaction between DAB and Blue, Section 9320(b) is inapplicable since it requires that the purchase of consumer goods occur prior to the secured party's filing of a financing statement. See Pa.C.S.A. § 9320(b).

Finally, Blue's attempt to seek protection under 13 Pa.C.S.A. § 2403 must also fail. Section 2403 affects the rights of a bonafide purchaser who purchases from one to whom property was entrusted. A thorough reading of that section clearly indicates that it addresses the relationship between Hickok and Blue, see *Carr v. Keller*, 74 Pa.D.&C.2d 534 (C.P. Cumberland 1976); *Gricar v. Bairhalter*, 11 Pa.D.&C.2d 723 (C.P. Pittsburgh 1958), and not the relationship between PNC and Blue. Thus, I find the section to be inapplicable.

The factual circumstances of this case are disturbing in that they present the Court with the dilemma of entering judgment against an innocent party. On the one hand, PNC acted responsibly and within the requirements of the law in securing the principle of the commercial transaction. Entering judgment against them would, in effect, place all commercial transactions affecting motor vehicles at risk and potentially have a chilling ripple effect on the manner in which vehicle transactions occur. On the other hand, by all indications, Blue acted in good faith in transferring substantial personal assets in exchange for the purchase of a car. Although the record does not address the issue, there is no reason to believe that Blue is sophisticated in the intricacies of the Uniform Commercial Code.

Blue's counsel points out that PNC is in the business of commercial transactions and, thus, is better able to absorb the costs of unethical business transactions. While I do not question that approximately \$18,000 to PNC may very well be insignificant when compared to its import to an individual, I regretfully reject that argument as a basis for my decision. Rather, the legislature's clear language has spoken in this area. PNC acted with prudence in taking all reasonable precautionary measures to protect its interest in the vehicle. Blue, on the other hand, while guilty of nothing more than being a trusting person, had the opportunity to ensure DAB had some title to the vehicle prior to his purchase. Although case law is sparse in this area, other courts considering substantially similar facts have reached similar resolutions. See *Swineford Nat'l Bank v. Beckenbaugh*, 34 Pa.D.&C.3d 419 (C.P. Northumberland 1984); *Milledgeville Community Credit Union v. Corn*, 716 N.E.2d 864 (Ill.App. 1999).

For the foregoing reasons, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 17th day of September 2003, summary judgment is granted in favor of PNC Bank, N.A. PNC Bank is entitled to possession of the vehicle identified as a 2000 Ford Mustang Convertible, VIN 1FAFP45X5YF218856. In the alternative, judgment is entered in favor of PNC Bank and against Allan Blue in the amount of \$17,350. Allan Blue's Cross Motion for Summary Judgment is denied. The third party complaint of Allan Blue v. Frank Fruciano remains active.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-620 Issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point at Lynx Drive and Lot No. 149-B; thence along Lot No. 149-B, South twenty-seven (27) degrees fifty-one (51) minutes twenty-four (24) seconds East, one hundred twenty-eight and eighteen hundredths (128.18) feet to a point at Lot No. 148; thence along Lot No. 148, South seventy-four (74) degrees twenty-one (21) minutes fifty-seven (57) seconds East, thirty and fifty hundredths (30.50) feet to a point at Cheetah Drive; thence along Cheetah Drive, by a curve to the left whose radius is two hundred thirty-nine and nineteen hundredths (239.19) feet and whose chord bearing is North five (05) degrees two (02) minutes thirty-six (36) seconds West, one hundred forty (140.00) feet for an arc distance of one hundred forty-two and eight hundredths (142.08) feet to a point at the intersection of Cheetah Drive and Lynx Drive; thence along said intersection North sixty-seven (67) degrees three (03) minutes thirty-seven (37) seconds West, twenty-one and twenty-one hundredths (21.21) feet to a point at Lynx Drive; thence along Lynx Drive, by a curve to the left whose radius is seven hundred forty (740.00) feet and whose chord bearing is South sixty-five (65) degrees twenty-nine (29) minutes, forty-four (44) seconds West, sixty-three and eleven hundredths (63.11) feet for an arc distance of sixty-five and twelve hundredths (65.12) feet to the point and place of BEGINNING. CONTAINING 8,397 square feet and identified as Lot No. 149-A on a plan of lots entitled Lot 149, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

HAVING THEREON ERECTED A DWELLING HOUSE KNOWN AS: 105 Lynx Drive, Hanover, PA 17331

BEING THE SAME PREMISES WHICH Mary Lee Kuhn and John H. Kuhn, by Deed dated 11/21/90 and recorded 12/5/90 in Adams County Deed Book 574, Page 1018, granted and conveyed unto Stephen M. Staub.

SEIZED IN EXECUTION AS THE PROPERTY OF STEPHEN M. STAUB UNDER ADAMS COUNTY JUDGMENT NO. 04-S-620

## MAP &amp; PARCEL 8-7-63

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 22, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/17, 24 & 10/1

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-584 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in or near the centerline of Township Road T-534, at corner of land now or formerly of Pet Incorporated; thence in and along said Township Road T-534, North 1 degree 16 minutes 00 seconds West, 904.78 feet to a point at corner of Lot No. 10A on the hereinafter referred to draft of survey; thence by said Lot No. 10A, and passing through a reference pipe set back 25.00 feet from the last mentioned point, North 78 degrees 50 minutes 40 seconds East, 517.78 feet to a pipe on line of Lot No. 9; thence by said Lot No. 9, South 19 degrees 43 minutes 10 seconds East, 115.00 feet to a pin; thence by same, South 67 degrees 55 minutes 50 seconds West, 129.88 feet to a pin; thence continuing by same, South 24 degrees 10 minutes 20 seconds East, 217.86 feet to a point in or near the centerline of Township Road T-541; thence in and along said Township Road T-541, North 68 degrees 27 minutes 50 seconds East 19.50 feet to a P.K. nail in said Township Road and at corner of Lot No. 11; thence by said Lot No. 11, and passing through a reference

pipe set back 14.10 feet from the last mentioned point, South 4 degrees 3 minutes 30 seconds East, 751.83 feet to a pin on line of land now or formerly of Pet Incorporated, aforesaid; thence by said land of Pet Incorporated, and passing through a reference pin set back 25.67 feet from the next mentioned point, North 80 degrees 36 minutes 00 seconds West, 574.71 feet to a point in Township Road T-534, the place of BEGINNING. CONTAINING 12.121 Acres.

The above description was taken from a draft of survey by Adams County Surveyors, dated July 26, 1977, being Lot No. 10B.

SUBJECT to the protective covenants and conditions contained in Miscellaneous Book 27 at page 199.

BEING the same premises which Walden Enterprises, Incorporated, by Deed dated September 16, 1977 and recorded in Adams County on September 16, 1977 at Deed Book Volume 333, Page 543, granted and conveyed to Thomas J. Gerhart and Judith M. Gerhart.

Kimberly J. Hong, Esq.  
Attorney for Plaintiff  
2718 Koppers Building  
436 Seventh Avenue  
Pittsburgh, Pennsylvania 15219

Parcel No: (29)-F06-57

SEIZED and taken into execution as the property of **Thomas J. Gerhart & Judith M. Gerhart** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 22, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/17, 24 & 10/1



SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-621 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the Northern half of U.S. Route 30, said point being North 12 degrees 14 minutes 18 seconds West, 32.59 feet from an existing iron pipe and at the Northwestern corner of land now or formerly of Peggy Lou Gastley, et al; thence by said land of Peggy Lou Gastley, et al and passing through the aforesaid iron pipe, South 12 degrees 14 minutes 18 seconds East, 300.00 feet to an existing iron pin on line of land now or formerly of Raymond M. Lillich; thence by said land of Raymond M. Lillich, South 77 degrees 32 minutes 39 seconds West, 100.02 feet to an existing iron pipe at corner of land now or formerly of Gladys Plank; thence by said land and passing through an existing iron pipe set back 31.42 feet from the next-mentioned point, North 12 degrees 10 minutes 02 seconds West, 300.00 feet to a point on the Northern half of U.S. Route 30 aforesaid; thence in and along said U.S. Route 30, North 77 degrees 32 minutes 36 seconds East, 99.65 feet to a point, the place of BEGINNING.

CONTAINING 0.688 acres.

THE above mentioned description was taken from a Draft of Survey by LaRue Surveys, Inc., dated August 19, 1975.

TITLE TO SAID PREMISES IS VESTED IN Howard C. Gladfelter and Grace M. Gladfelter, husband and wife by Deed from Larry J. Redding and Aghella M. Redding, husband and wife, dated 10/19/1993 and recorded 10/19/1993 in Record Book 794, Page 49.

Premises being: 1933 York Road a/k/a 1935 York Road, Gettysburg, PA 17325

Tax Parcel No. H12-40

SEIZED and taken into execution as the property of **Howard C. Gladfelter & Grace M. Gladfelter a/k/a Grace M. Cooper** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in

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

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

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

9/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-655 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or parcel of land situate in Reading Township, Adams County, Pennsylvania, designated County Map No. 13, Parcel No. 20, Lake Meade Lot No. 906 as shown on the records of the Adams County Mapping Department, Miscellaneous Deed Book 1, Page 6.

UNDER AND SUBJECT, NEVERTHELESS, to all rights of way, easements, restrictions and/or conditions of record.

IT BEING the same premises which Allan L. Sutch and Karen E. Sutch, his wife, by Deed dated the 13th day of March, 1996, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Land Record Book 1159, Page 0321, granted and conveyed unto Kevin L. Strickhouser and Sandi Michele Strickhouser, husband and wife, Grantors herein.

AND the said Grantors hereby covenant and agree that they will warrant specially the property hereby.

Being Known As: 12 Stuart Drive

TITLE TO SAID PREMISES IS VESTED IN Rebekah S. Bodkin, single woman by Deed from Kevin L. Strickhouser and Sandi Michele Strickhouser, his wife dated 5/27/1999 and recorded 5/28/1999 in Record Book 1840, Page 88.

Premises being: 12 Stuart Drive, East Berlin, PA 17316

Tax Parcel No. MAP #13 PARCEL #20

SEIZED and taken into execution as the property of **Rebekah S. Bodkin a/k/a Rebekah S. Harlacher** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 15, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/10, 17 & 24

## 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 ROMAINE A. APPLER, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executor: Thomas M. Appler, 2136 Herbert Avenue, Westminster, MD 21157

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

ESTATE OF HAROLD W. BUSBEY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: David L. Busbey, 3978 Skyview Drive, Glenville, PA 17329

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

ESTATE OF MARL L. ERICKSON, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executrix: Barbara J. Goehle, 70 Southview Drive, Biglerville, PA 17307

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

ESTATE OF HELEN V. STONESIFER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executors: Foster Adrian Stonesifer, 791 Sell Station Road, Littlestown, PA 17340; Brian Douglas Stonesifer, 1280 Frederick Pike, Littlestown, PA 17340; Jeffrey Grant Stonesifer, 1079 Bon-Ox Road, Gettysburg, PA 17325

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF JOHN M. WEST, SR., DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Sharon O. West, 960 Bendersville-Wenksville Road, Aspers, PA 17304

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

## SECOND PUBLICATION

ESTATE OF JESSIE M. ALTHOUSE, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Administrator: John C. Zepp, III, Esq., P.O. Box 204, York Springs, PA 17372

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

ESTATE OF JOHN M. ARNOLD, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: James C. Arnold, 123 Edward Street, Hanover, PA 17331

Attorney: Donald W. Dorr, Esq., 846 Broadway, Hanover, PA 17331

ESTATE OF BARRY L. CLUCK, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executor: Maynard O. Gochenauer, 119 Mt. Tabor Road, P.O. Box 77, Bendersville, PA 17306

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

ESTATE OF EMMA S. SHUE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Richard W. Shue, 12 Northview Drive, Hanover, PA 17331

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

ESTATE OF JOHN P. STEPHENSON, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executrix: Sylvia Peck Stephenson, 216 Lake Meade Drive, East Berlin, PA 17316

Attorney: Elyse E. Rogers, Esq., Keefer Wood Allen & Rahal LLP, 415 Fallowfield Road, Suite 301, Camp Hill, PA 17011

ESTATE OF PAMELA K. WALLEN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administratrices: Sharon A. Hamme, 92 Hamilton Drive, Abbottstown, PA 17301; Joyce R. Markle, 1324 Peepytown Road, Abbottstown, PA 17301

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

## THIRD PUBLICATION

ESTATE OF TREVA M. SHAFFER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: P. Frederick Trump, 5594 Lischeys Church Road, Spring Grove, PA 17362

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

