Adams County Legal Journal

Vol. 41 July 9, 1999 No. 6, pp. 25-30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-432 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a p.k. nail in the centerline of the intersection of Waynesboro Pike and Orchard Road; thence in the centerline of Waynesboro Pike, North 63 degrees 30 minutes 45 seconds West, 380.00 feet to a point in the centerline of said Waynesboro Pike at corner of Lot No. 2C on the hereinafter referred to Final Plan; thence by Lot 2C, and running through a reference rebar set back 35.0 feet from the beginning of this course, North 26 degrees 29 minutes 15 seconds East, 480.00 feet to a rebar set; thence by the same and by Lot Nos. 2B and 2A, North 63 degrees 30 minutes 45 seconds West, 565.57 feet to a rebar set at lands now or formerly of John B. Good, et al.; thence by same North 30 degrees 35 minutes 15 seconds East, 507.98 feet to a rebar; thence South 28 degrees 57 minutes 50 seconds East, 1,180.41 feet to a railroad spike in Orchard Road; thence in said Orchard Road, South 40 degrees 23 minutes 45 seconds West, 121.91 feet to a point; thence in same, South 36 degrees 05 minutes 45 seconds West, 201.74 feet to a p.k. nail in the centerline of the intersection of Waynesboro Pike and Orchard Road, the point and place of BEGINNING.

The above description was taken from a plan of lots prepared by Mark A. Kuntz, R.S. dated June 15, 1990, recorded in Plat Book 57, page 32 and designating the above as Lot No. 2.

IT BEING part of the same premises which Betty Mae Salone, individually and as Executrix of Douglas R. Piper, Sr., Douglas Ray Piper Jr., and Brenda Gessaman, individually and as Co-Trustees of The Piper Family Trust, by deed dated 1/16/93 and recorded 1/23/93 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 681, page 356, granted and conveyed unto Wayne W. Piper and Elaine L. Piper, husband and wife.

SEIZED and taken into execution as the property of **Wayne W. Piper & Elaine L. Piper** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
May 28, 1999.

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 August 23, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-831 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of July, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL tract of land situate, lying and being in Oxford Township, Adams County, Pennsylvania, More particularly bounded and described as follows, to wit:

BEGINNING for a point on the right-of-way line of Kimberly Ann Lane at Lot No. 92 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 92, North eight (08) degrees twenty-six (26) minutes forty-nine (49) seconds West, one hundred twenty (120) feet to a point at Lot No. 106 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 106, North eighty-one (81) degrees thirty-three (33) minutes eleven (11) seconds East, one hundred thirty and twenty-nine hundredths (130.29) feet to a point at Lot No. 94 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 94, South three (03) degrees six (06) minutes sixteen (16) seconds West, one hundred twenty-six and ten hundredths (126.10) feet to a point on the right-of-way line of Kimberly Ann Lane; thence along the right-of-way line of Kimberly Ann Lane by a curve to the right, having a radius one hundred seventy-five (175.00) feet, an arc length of thirty-five and twenty-eight (35.28) feet and a long chord bearing and distance of South eighty-seven (87) degrees nineteen (19) minutes forty-four (44) seconds West, thirty-five and two hundredths (35.22) feet to a point; thence along the right-of-way line of Kimberly Ann Lane, south eighty-one (81) degrees thirty-three (33) minutes eleven (11) seconds West, seventy (70.00) feet to a point, the point and place of BEGINNING. CONTAINING 14,206 square feet.

MAP & PARCEL NO. 35-013-0090

THE above description being Lot No. 93 on the Final Subdivision Plan of "Colonial Acres", for Delbert Piper, prepared by Mort, Brown and Associates, dated April 1, 1993, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plat Book 64 at page 93.

SUBJECT, NEVERTHELESS, to the Protective Covenants of "Colonial Acres" dated December 24, 1992, and recorded in the office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 898 at page 222.

BEING THE SAME PREMISES WHICH Anthony J. Lawrence and Diane L. Lawrence, by their Deed dated December 29, 1995 and recorded in Adams County Deed Book 1131, Page 220, granted and conveyed unto James K. Tracey and Beverly A. Tracey.

SEIZED IN EXECUTION AS THE PROPERTY OF JAMES K. TRACEY AND BEVERLY A. TRACEY UNDER ADAMS COUNTY JUDGMENT NO. 97-S-831.

SEIZED and taken into execution as the property of **James K. Tracey & Beverly A. Tracey** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
May 12, 1999.

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 August 16, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

6/25, 7/2 & 9

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-840 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel pin in the center of Oxford Road, S.R. 1016, at corner of Lot No. 3 and the northernmost corner of Lot No. 1 herein on the hereinafter described plan of lots; thence in the center of said road South 29 degrees 50 minutes 29 seconds East, 357.52 feet to a steel pin at the northernmost corner of Lot No. 2; thence by Lot No. 2, through a steel pin set back 27.66 feet from the beginning of this course, South 45 degrees 23 minutes 58 seconds West, 367.62 feet to steel pin on line of Lot No. 3, thence by Lot No. 3 North 29 degrees 42 minutes 07 seconds West, 292.45 feet to a concrete monument set; thence continuing by Lot No. 3, through a steel pin set back 27.66 feet from the end of this course, North 36 degrees 48 minutes 48 seconds East, 400 feet to a steel pin in tht center of Oxford Road, S.R. 1016, the place of BEGINNING. CONTAINING 2.676 Acres.

THIS description was taken from a Subdivision Plan prepared by John R. Williams, PLS,. dated June 16, 1994, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 65 at page 57, and designated as Lot No. 1 thereon.

IT being part of the same tract of land which Wellden Pyle, Jr. and Helen R. Pyle, husband and wife, by their deed dated March 9, 1974, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 312 at page 336, sold and conveyed unto Eddie C. Altice and Virginia D. Altice, husband and wife; and Eddie C. Altice having died the 6th day of February, 1992, title in fee simple vested in Virginia D. Altice, a/k/a Virginia Altice, the decedent herein.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
May 25, 1999.

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 August 23, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/2, 9, & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-540 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of July, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 504 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, in Plat Book 1, Page 4, and subject to all legal highways, easements, rights-of -way, and restrictions of record, including all rules, restrictions, conditions and agreements which are set forth at length in the deed of Lake Meade, Inc. to Ralph F. Wantz dated May 22, 1968 and recorded in the Office of Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 267, Page 875.

MAP & PARCEL NO. 2-111A

THE above described land has thereon erected a dwelling house which has the mailing address of 29 Jackson Drive, Lake Meade, East Berlin, PA 17316.

BEING THE SAME PREMISES WHICH Dale Fetrow, by his Deed dated December 2, 1993 and recorded in Adams County Deed Book 816, Page 303, granted and conveyed unto Randy L. McDougle and Patricia S. McDougle.

SEIZED IN EXECUTION AS THE PROPERTY OF RANDY L. MCDOUGLE AND PATRICIA S. MCDOUGLE UNDER ADAMS COUNTY JUDGMENT NO. 97-S-540.

SEIZED and taken into execution as the property of **Randy L. McDougle & Patricia S. McDougle** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
May 10, 1999.

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 August 16, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

6/25, 7/2 & 9

NOTICE OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation for a domestic non-profit corporation were filed by TEST ESTATES HOMEOWNERS ASSOCIATION, with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purpose of incorporating under the General Association Act of 1988.

Countess Gilbert Andrews
/s/ Jon C. Countess
Solicitor

7/9

NOTICE

On July 13, 1999, at 7:00 p.m., Gettysburg Area School District shall conduct a public auction of real estate known as 76 Pin Oak Lane, located in Cumberland Township, Adams County, Pennsylvania (Lot No. 14 of the Oakland Estates Subdivision), improved with a house built by its students.

The public auction will be held at 76 Pin Oak Lane (Cumberland Township), Gettysburg, PA.

Robert L. McQuaide
Solicitor

6/25, 7/2 & 9

1. Unlike provisions that restrict the number of times a party may raise preliminary objections, Pa.R.C.P 1028(b), rules governing summary judgment have no such limitation. The only provision bearing upon this issue is the mandate in Rule 1035.2 that motions must be fried "within such time as not to unreasonably delay trial."

2. We apply today the requirement in the law that in order for an employer to be held liable in indemnification for injuries to its own employees caused by the negligence of the indemnitee there must be an express provision for this contingency in the indemnification clause. The absence of a provision in the hold-harmless clause that lessee would indemnify lessor against the negligence of lessor in a claim by lessee's employee requires the conclusion that the clause does not meet the requirements of the Workmen's Compensation Act concerning express waiver.

3. The Workmen's Compensation Act, when applicable, provides an exclusive remedy.

4. Where an employer is joined as a defendant, case law would become pertinent if more than proportional liability is considered. Although the Comparative Negligence Act, 42 Pa.C.S.A.§7102 et seq. imposes general liability on all tortfeasors Section 481 of The Workman's Compensation Act thereunder, would limit (defendant's) exposure. This approach would allow pro tanto diminishment of an award in the same manner as with a released tortfeasor.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 96-S-455, SHARON KIEL, PLAINTIFF VS. MELVIN L. AND BARBARA ROSELLA DITZLER, DEFENDANTS, AND JANE LITTLE AND GLENN'S FAMILY RESTAURANT, INC., ADDITIONAL DEFENDANTS.

Ralph D. Oyler, Esq., for Plaintiff
Karen S. Feuchtenberger, Esq., for Defendants
C. Kent Price, Esq., for Additional Defendants

OPINION ON THIRD MOTION FOR SUMMARY JUDGMENT

Spicer, P.J., May 27, 1998.

Additional defendants (Little)[1] have moved, for a second time, for summary judgment. Taking advantage of the revisit, defendants (Ditzlers) ask the Court to reconsider its ruling of December 2, 1997, whereby summary judgment was entered in favor of Little on Ditzlers' claim for indemnification. Ditzlers have also expressed concern about allowing Little to reopen summary judgment proceedings and argue a new theory.

Unlike provisions that restrict the number of times a party may raise preliminary objections, Pa. R. C. P. 1028(b), rules governing summary

[1]For sake of simplicity, we will refer to additional defendants collectively as "Little," until inappropriate to do so. When the time comes to distinguish between them, we will refer to Jane Little either by that name, or as "Ms. Little." We will refer to Glenn's Family Restaurant, Inc., as "Glenn's".

judgment have no such limitation. See Pa.R.C.P. 1035.1 et seq. The only provision bearing upon this issue is the mandate in Rule 1035.2 that motions must be filed "within such time as not to unreasonably delay trial." Although most cases dealing with second considerations involve judges other than the one who initially ruled, see e.g., Vincent v. Fuller Co, 400 Pa. Super 108, 582 A.2d 1367 (1990); reversed on other grounds, 532 Pa. 547, 616 A.2d 969 (1992), authority supports reconsiderations. Given the purposes of summary judgment, to expedite litigation and avoid unnecessary trials, 3 Goodrich Amram 2d. § 1035.1, and recognizing that trial will not be delayed, we deem reconsideration proper.

Little's first motion for summary judgment was based entirely on construction of the lease agreement. The motion recited that the basement area was not subject to the terms of the lease and, therefore, neither maintenance nor indemnity provisions applied. Although immunity under the Workmen's Compensation Act was pleaded in New Matter, ¶21, it was not directly raised in Little's first motion. This Court ventured into Workmen's Compensation Act provisions only because of arguments subsequently made concerning interpretation of save-harmless provisions. While we are convinced that we correctly interpreted pertinent law in the prior ruling, a closer review of the record, motion and arguments convinces this Court that summary judgment should not have been entered on grounds beyond those specifically stated in Little's first motion.

The present posture of this case illustrates why our December 2, 1997 order was ill advised. It is obvious that some assumptions made earlier, based mainly upon Ditzlers' brief, may have been unwarranted.

A slip and fall accident occurred in the basement of a building owned by Ditzlers. Either Ms. Little or Glenn's, or both, leased the first floor of that building and conducted a restaurant business there. The written agreement said nothing about the basement, and use thereof was pursuant to an oral arrangement.

Ditzlers argued that lessee's identity was unclear, under the terms of the written agreement. Even while doing so, however, they made no attempt to distinguish between Ms. Little and Glenn's in other arguments concerning construction of maintenance and indemnity provisions. Article VII imposed a duty of maintenance on the lessee as to "all facilities appurtenant to the property."[2] Ditzlers argued that "Addi-

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[2] One of the definitions of "appurtenant" is belonging, accessory, or incident to. It is also used in the sense of an appendage. The American Heritage Dictionary of the English Language (Houghton Mifflin Company 1981). Commonwealth Court adopted a dictionary definition of "facilities" as "something (as a hospital, machinery, plumbing) that is

tional Defendants may be solely liable to the Plaintiff," because they "had the responsibility to keep the basement area...clean and free from debris, dirt and other unsightly and unsafe conditions." (Brief, filed November 17, 1997, p.7).[3]

Similarly, all arguments directed at interpretation of indemnification provisions contained in Article XI of the lease lumped Ms. Little and Glenn's together. That Article covered injuries to "Lessee, its agents, officers, or employees," occurring "on the real estate subject to this Lease agreement or in any way connected with the real estate subject to this Lease Agreement."

Even so, Ditzlers continue to argue that the identities of Plaintiff's employer and of the lessee are unresolved.

Little's second motion for relief specifically raises provisions in the Workmen's Compensation Act, specifically 77 P.S.§481(b). The Act provides, in part, that an employee may sue a third party for injury, but no employer shall be "liable to a third party for damages, contribution, or indemnity in any action at law, or otherwise, unless liability for such damages, contributions or indemnity shall be expressly provided for in a written contract...prior to the date of the occurrence..."

Ditzlers suggest that the contract suffices to impose a duty of indemnity on plaintiff's employer, citing Bester v. Essex Crane Rental Corp., 422 Pa. Super. 178, 619 A.2d 304 (1993); alloc. dn. 539 Pa. 641, 651 A.2d 530 (1994). This en banc decision does not support the argument. In sustaining preliminary objections to a complaint filed against an employer, Superior Court said:

> We apply today the requirement in the law that in order for an employer to be held liable in indemnification for injuries to its own employees caused by the negligence of the indemnitee there must be an express provision for this

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built, constructed, installed, or established to perform some particular function or to serve or facilitate some particular end." Kulzer Roofing v. Commonwealth, Department of Labor & Industry, 68 Pa. Cmwlth 642, 450 A.2d 259 (1982). That court held that an entire structure, including a roof, of a state correctional institution was included in the definition. We held that a jury would have to determine whether the parties intended to include the basement within the provisions of this article. Normally, we think of sidewalks and parking lots and not extra rooms, as related parts of real estate meant to aid in the use of demised property, but it may be different in this case.

[3]As we pointed out in our December opinion, Ditzlers drafted the lease and the document will be interpreted in Little's favor. The conclusion is fairly strong that Ditzlers treated Ms. Little and Glenn's as one and the same party. Melvin Ditzler, in his deposition, referred to "Glenn's Restaurant—or Jane's Restaurant." (p. 45). The lease provided that premises were to be used as "a restaurant business and for any business purpose directly related thereto." Article XII forbade subleasing without express written consent.

> contingency in the indemnification clause. The absence of a provision in the hold-harmless clause that lessee [Russell Construction] would indemnify lessor [Essex Crane] against the negligence of lessor in a claim by lessee's employee requires the conclusion that the clause does not meet the requirements of the Workmen's Compensation Act concerning express waiver, 77 P.S. §481(b).

422 Pa.Super at 187, 619 A.2d at 308.

Although the provision in the Ditzler-Little lease is broader than some, including language considered in the case cited in our December opinion, Hackman v. Moyer Packing, 423 Pa. Super. 378, 621 A.2d 166 (1993)[4], it lacks the specificity required by Bester, supra. Cf. Bethlehem Steel Corp. v. MATX, Inc., Pa. Super., 703 A.2d 39 (1997), where contract language specifically referred to an employer's negligence and an indemnity clause was given effect. Since the indemnity provision, sub judice, did not state that it covered liability arising from Ditzler's negligence, it is clear that the hold-harmless clause cannot be used to shift liability to plaintiff's employer.

The maintenance provision raises slightly different considerations. Although giving effect to this Article would shift liability, it would do so because of duty. Unanswered questions remain. We do not yet know that lease provisions apply to the basement. If they do not, Little would have no maintenance responsibilities, and the indemnification clause could not be extended to cover contribution. Even if they do, the record supports a finding that responsibility may have been shared, as our ruling on Ditzlers' motion for summary judgement indicates. This is an unresolved factual issue.[5]

Nothing in the lease specifically addresses contribution and, apropos plaintiff's employer, the indemnification clause would have to be construed to include it before Little would be subject to verdict and judgment.

The Workmen's Compensation Act, when applicable, provides an exclusive remedy. See, Lord Corporation v. Pollard, 548 Pa. 124, 695

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[4]The indemnity clause in Hackman referred to claims "for any alleged negligence or condition, caused or created, (in) whole or in part," by lessee. 621 A.2d at 168. The clause considered in Bester referred to "all loss, negligence, damage, expense, penalty, legal fees and costs, arising from any action on account of personal injury or damage to property occasioned by the operation, maintenance, handling storage, erection, dismantling or transportation of any equipment while in your possession." Neither specifically referred to employees, as did the clause in the case sub judice.

[5]We denied Ditzlers' motion February 25, 1998. That is why the present motion is number three, not number two.

A.2d 767 (1997), where all justices agreed to this principle but could not decide on its application. An argument may be mounted that Ditzlers' failure to include an express provisions concerning contribution is fatal to their claim of shared liability. On the other hand, the broad provisions relating to indemnity may be construed to include the lesser burden of contribution. Also, since this approach considers Little's, not Ditzlers', negligence, case law requiring specific reference to the indemnitee's negligence would be inapplicable.

Such case law would become pertinent, we think, if more than proportional liability is considered. Although the Comparative Negligence Act, 42 Pa.C.S.A. §7102 et seq. imposes general liability on all tortfeasors, §481 and cases decided thereunder, supra, would limit Little's exposure. This approach would allow pro tanto diminishment of an award in the same manner as with a released joint tortfeasor.

Although Ditzlers now appear to assume that Glenn's employed plaintiff, they nonetheless argue that a factual issue exists as to the employer's identity. Little, on the other hand, argues that the record make clear the fact that Jane Little was President and Treasurer of Glenn's, worked in the restaurant on a daily basis doing such things as supervising, cooking, baking, washing dishes, and paying bills. Thus, Little contends that she is entitled to immunity no matter who actually leased from Ditzlers. If Jane Little acted as plaintiff's coemployee, she is also immune from suit. 77 P.S. §§ 72, 481; Ducjai v. Dennis, 540 Pa.103, 656 A.2d 102 (1995).

Ditzlers cite Fern v. Ussler, 428 Pa. Super 210, 630 A.2d 896 (1993); alloc. gr. 539 Pa. 681, 652 A.2d 1326 (1994) to bolster their argument that Ms. Little and plaintiff were not "in the same employ," 77 P.S. §72, making the Workmen's Compensation Act inapplicable. In Fern, corporate officers owned the building leased by the corporation. A corporate employee fell down an exterior staircase. Superior Court ruled that summary judgment was improperly granted, because the record was not clear whether defendants-owners-officers were negligent as owners-lessors or as corporate officers-co-employees. Although the situation at bar bears little resemblance to that situation, we find a slim possibility exists that Ditzlers may successfully argue that they leased to Ms. Little, who subleased to Glenn's.

Questions thus posed are who leased the premises, who employed plaintiff, and what arrangements existed between Ms. Little and Glenn's.

The record will not support answers rendered as a matter of law. Only bits and pieces of depositions are attached to briefs. Arguments remain characterized by general assertions. Little's counsel, for example, did not attend oral argument, where we might have asked

questions. While Ms. Little's testimony supports her contention that Glenn's was the employer, she has the burden of proving her affirmative defense. For purposes of the summary judgment, her deposition testimony, even if uncontradicted, cannot establish this fact. 3 Goodrich Amram 2d. §1035(b): 15. Plaintiff, perhaps unaware of the implications of Little's accountability, has not participated in argument at all.

Although we are inclined to believe that Ditzlers' attempts to shift or share liability will be unsuccessful, we are not confident enough to render summary judgment.

We think the only reasonable course at the moment is to, a) vacate the December 2, 1997 order, b) rule that Ditzlers are not entitled to indemnification from plaintiff's employer, c) rule that Ms. Little is insulated from indemnification if she acted either as employer or co-employee, d) rule that, if the basement area is included in the lease, the indemnification clause is broad enough to include contribution, and, e) deny all motions for summary judgment filed by additional defendants.

The attached order is entered.

ORDER OF COURT

AND NOW, this 27th day of May, 1998, the Court vacates its order of December 2, 1997, and refuses all motions by additional defendants for summary judgment.

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 BETTY W. BAKER, a/k/a BETTY L. BAKER, DEC'D
Late of the Borough of Biglerville, Adams County, Pennsylvania
Executrix: Shelby Stone, 1745 Mummasburg Road, Gettysburg, PA 17325
Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF GUY W. HARNER, DEC'D
Late of Freedom Township, Adams County, Pennsylvania
Executor: Juanita A. Harner, 897 Middle Creek Road, Fairfield, PA 17320
Attorney: Vicky Ann Trimmer, Esq., Mette, Evans & Woodside, 3401 North Front Street, P.O. Box 5950, Harrisburg, PA 17110-0950

ESTATE OF GARRY H. HOFFHEINS, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Administratrix: Carlene G. Mason, a/k/a Carlene G. Hoffheins, 220 Mt. Misery Road, New Oxford, PA 17350
Attorney: Daniel M. Frey, Esq., Daniel M. Frey & Associates, a division of Barley, Snyder, Senft & Cohen, LLC., 14 Center Square, Hanover, PA 17331

ESTATE OF FLORENCE M. KENNEDY, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executor: Bank of Hanover
Attorney: William W. Hafer, Esq., 215 Baltimore Street, Hanover, PA 17331

ESTATE OF EMMA V. WILLS, a/k/a VIRGINIA E. WILLS, DEC'D
Late of Hamiltonban Township, Adams County, Pennsylvania
Co-Executors: Donald F. Wills, 2417 Iron Springs Road, Fairfield, PA 17320 or Terry F. Wills, 12902 Cathedral Avenue, Hagerstown, MD 21742
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF HOWARD T. ELLEDGE, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Executor: Howard Thomas Elledge, Jr., 110 Stone Jug Road, Gettysburg, PA 17325
Attorney: Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF EDWARD WILLIAM KOCH, A/K/A EDWARD W. KOCH, DEC'D
Late of Germany Township, Adams County, Pennsylvania
Executors: George F. Matthews, 325 Gettysburg Road, Littlestown, PA 17340; Barbara A. Matthews, 325 Gettysburg Road, Littlestown, PA 17340
Attorney: Richard E. Thrasher, Esq., Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF FLOELLA L. STAUB, DEC'D
Late of Franklin Township, Adams County, Pennsylvania
Executrix: Henrietta Walker, 130 Pine Tree Road, Orrtanna, PA 17353
Attorney: Robert E. Campbell, Esq., Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF BETTY R. BREAM, DEC'D
Late of Conewago Township, Adams County, Pennsylvania
Co-Executors: Wayne Reid, 175 Irishtown Road, Hanover, PA 17331; Glen Bream, 5060 SW 101 Avenue, Cooper City, FL 33328
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RUTH E. FREEMAN, DEC'D
Late of Union Township, Adams County, Pennsylvania
Executor: Bank of Hanover, 25 Carlisle Street, Hanover, PA 17331
Attorney: James T. Yingst, Esq., 515 Carlisle Street, Hanover, Pennsylvania 17331

ESTATE OF EARL W. MARTIN, DEC'D
Late of the Borough of McSherrystown, Adams County, Pennsylvania
Administrator c.t.a.: Nancy Lee Shultz, 1260 Goldenville Road, Gettysburg, PA 17325
Attorney: Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF ORVILLE B. ORNER, DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania
Co-Executrices: Leslie Hartman, 103 Fox Ridge Lane, Winfield, PA 17889; Marilyn Springsted, 45 Longview Drive, Gettysburg, PA 17325
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF SYLVIA SHUNK, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Executor: Harold Weinberg, 925 Hanover Road, Gettysburg, PA 17325
Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

FICTITIOUS NAME

NOTICE IS HEREBY GIVEN that on June 8, 1999, a certificate will be filed under the Fictitious Name Act approved December 21, 1988, P.L. 1444, in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that James and Rebecca Lawrence, 509 Main St., McSherrystown, PA 17344, are the only persons owning or interested in a business, the character of which is arts and crafts and gifts and that the name, style and designation under which said business is and will be conducted is THE COUNTRY BENCH GIFT SHOP and the location where said business is and will be located is 509 Main St., McSherrystown, PA 17344.

7/9

FICTITIOUS NAME

NOTICE IS 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 June 3, 1999, pursuant to the Fictitious Name Act, setting forth that Gregory W. Bair and Jeanne L. Bair, of 990 Beck Mill Road, Hanover, PA 17331, are the only persons owning or interested in a business, the character of which is an ice cream parlor and that the name, style and designation under which said business is and will be conducted is THE CANNON BALL OLDE TYME MALT SHOPPE and the location where said business is and will be conducted is 11 York Street, Gettysburg, PA 17325.

Guthrie, Nonemaker,
Guthrie & Yingst
Solicitor

7/9

NOTICE OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on June 1, 1999, for the purpose of obtaining a Certificate of Incorporation of a corporation organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended. The name of the corporation is D.R. ALTMAN, INC.

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

7/9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-2 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

THE DESCRIPTION of the real estate is as described as follows: ALL that certain lot of ground situate in Menallen Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of a private road 50 feet in width at the westernmost corner of the lot designated as Lot No. 1 on the plan of lots referred to below; thence by said Lot No. 1 and running through an iron pin located 25 feet from the place of Beginning South 48 degrees 23 minutes 38 seconds East, 183.56 feet to an iron pin; thence by land now or formerly of Charles E. Ott and wife South 41 degrees 5 minutes 37 seconds West, 353.01 feet to an iron pin; thence by the lot designated as Lot No. 5 on the plan of lots referred to below and running through an iron pin located 25 feet from the end of this line North 48 degrees 23 minutes 38 seconds West, 186.72 feet to a point in the center of the aforementioned private road; thence in the center of said private road and by the lot designated as Lot No. 4 on the plan of lots referred to below North 41 degrees 36 minutes 22 seconds East, 353 feet to a point in the center of said private road, the place of BEGINNING. CONTAINING 1.499 acres.

THE FOREGOING DESCRIPTION was obtained from a plan of lots of Big Flat Acres prepared by Richard W. Boyer, Registered Surveyor, trading as Boyer Surveys, dated September 27, 1978, and recorded in Adams County Plat Book 24 at Page 10, the lot hereby conveyed being designated as Lot No. 3 on said plan of lots.

BEING THE SAME WHICH Leroy E. Shultz, unmarried, by deed dated March 27, 1997, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1347 at page 71, sold and conveyed unto Patricia A. Slaybaugh, the Defendant herein.

IMPROVED WITH a two-story dwelling and two detached sheds.

Seized in Execution as the property of Neal A. Wuethrich and Helen B. Wuethrich under Adams County Judgement No. 96-S-01017.

SEIZED and taken into execution as the property of **Patricia A. Slaybaugh** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
May 27, 1999.

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 August 23, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/2, 9, & 16

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, July 12, 1999, at 9:00 o'clock a.m.

YEAGER—Orphans' Court Action Number OC-86-97. The First and Final Account of C. David Redding and Robert Dunkleberger, Executors of the Last Will and Testament of Anna M. Yeager, deceased, late of Straban Township, Adams County, Pennsylvania.

PETTYJOHN—Orphans' Court Action Number OC-138-98. The Second and Final Account of Dawn F. Fields, now Dawn F. Wertz, Executrix of the Estate of J. Harvey Pettyjohn, deceased, late of Oxford Township, Adams County, Pennsylvania.

MCLAUGHLIN—Orphans' Court Action Number OC-166-96. The First and Final Account of Mark A. McLaughlin, one of the Executors of the Estate of Louise C. McLaughlin a/k/a Bessie Louise McLaughlin, deceased, late of Straban Township, Adams County, Pennsylvania.

BURLEIGH—Orphans' Court Action Number OC-133-98. The First and Final Account of PNC Bank, N.A., Executor of the Last Will and Testament of Joseph P. Burleigh, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

WILDASIN—Orphans' Court Action Number OC-54-99. The First and Final Account of Daniel M. Frey and Catherine R. Dietz, Executors of the Last Will and Testament of Clair E. Wildasin, deceased, late of Oxford Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk Of Courts

7/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-124 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

THE description of the real estate is as described as follows: ALL that tract of land situate in Berwick Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING for the Northeast corner hereof at a steel pin at post, being a corner of lands now or formerly of Boris Leavitt and now or formerly of Kenneth Weld, et al.; thence by said land now or formerly of Kenneth Weld, et al., South 05 degrees 45 minutes 41 seconds East, 305 feet to a steel pin at post located at the southeast corner hereof; thence for the next two courses running through lands now or formerly of George A. O'Brien, South 67 degrees 42 minutes 01 second West, 200.97 feet to a steel pin at the southwest corner hereof, thence North 18 degrees 26 minutes 29 seconds West, 318.5 feet to a steel pin at the northwest corner hereof, on line of lands now or formerly of Boris Leavitt; thence by said last mentioned lands, North 73 degrees 02 minutes 55 seconds East, 267.55 feet to the above-described place of BEGINNING. CONTAINING 1.6509 acres.

THE above description was taken from a draft of survey prepared for George A. O'Brien and Beryl A. O'Brien by Frank H. Thomas, Jr., Registered Surveyor, dated May 5, 1977, his File No. D-8.

BEING the same which Michael O'Brien and Cynthia R. O'Brien, his wife, by deed dated December 14, 1995, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1122 at page 293, conveyed to Neal J. O'Brien and Mary L. O'Brien, husband and wife, the Defendants herein.

IMPROVED WITH a single 3-story dwelling unit with attached 2-car garage and detached 3-car pole building.

SEIZED and taken into execution as the property of **Neal J. & Mary L. O'Brien** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
May 26, 1999.

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 August 23, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/9, 16 & 23

Adams County
Legal Journal

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and
COMMONWEALTH VS. DICKINSON

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-840 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel pin in the center of Oxford Road, S.R. 1016, at corner of Lot No. 3 and the northernmost corner of Lot No. 1 herein on the hereinafter described plan of lots; thence in the center of said road South 29 degrees 50 minutes 29 seconds East, 357.52 feet to a steel pin at the northernmost corner of Lot No. 2; thence by Lot No. 2, through a steel pin set back 27.66 feet from the beginning of this course, South 45 degrees 23 minutes 58 seconds West, 367.62 feet to steel pin on line of Lot No. 3, thence by Lot No. 3 North 29 degrees 42 minutes 07 seconds West, 292.45 feet to a concrete monument set; thence continuing by Lot No. 3, through a steel pin set back 27.66 feet from the end of this course, North 36 degrees 48 minutes 48 seconds East, 400 feet to a steel pin in tht center of Oxford Road, S.R. 1016, the place of BEGINNING. CONTAINING 2.676 Acres.

THIS description was taken from a Subdivision Plan prepared by John R. Williams, PLS,. dated June 16, 1994, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 65 at page 57, and designated as Lot No. 1 thereon.

IT being part of the same tract of land which Wellden Pyle, Jr. and Helen R. Pyle, husband and wife, by their deed dated March 9, 1974, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 312 at page 336, sold and conveyed unto Eddie C. Altice and Virginia D. Altice, husband and wife; and Eddie C. Altice having died the 6th day of February, 1992, title in fee simple vested in Virginia D. Altice, a/k/a Virginia Altice, the decedent herein.

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

Raymond W. Newman
Sheriff
Sheriff's Office, Gettysburg, PA
May 25, 1999.

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 August 23, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/2, 9, & 16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-106 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of August, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land with improvements, situate on the West side of Cemetery Street, in the Borough of Littlestown, Adams County, Pennsylvania, adjoining land now or formerly of Samuel Althouse and formerly of J. Ernest Ohler, bounded and described as follows, to wit:

BEGINNING for a corner at lot now or formerly of Samuel Althouse and Cemetery Street, forty-four (44) feet and two (2) inches Southwest to corner of land formerly of J. Ernest Ohler; thence along said land one hundred and twenty-two (122) feet, more or less, Northwest to P.R.R. Co. right-of-way; thence along the said right-of way, forty-four (44) feet and two (2) inches Northeast to lands now or formerly of Althouse; thence one hundred and twenty-two (122) feet, more or less, Southeast along said last mentioned lands to the place of BEGINNING.

BEING the same tract of land which Jonathan E. Teal and Linda S. Teal, by deed dated July 9, 1998, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1618 at page 300, conveyed to Jonathan E. Teal, the Defendant herein.

IMPROVED with a two story single family residence with detached garage and shed.

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

Raymond W. Newman
Sheriff
Sheriff's Office, Gettysburg, PA
June 18, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 6, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/16, 23 & 30

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

To: TIMOTHY N. HINCHMAN

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for August 5, 1999, at 9 o'clock a.m., prevailing time, at the Courthouse at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

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

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone number: 717-337-9846
or 1-888-337-9846

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

7/16, 23 & 30

COMMONWEALTH VS. LIVINGSTON

1. The test for determining probable cause to arrest is the same as for determining probable cause for a search. That standard is the "totality of the circumstances" test which requires the magistrate to make a "practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the 'veracity' and 'basis of knowledge' of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place."

2. Affidavits should be tested "with common sense and a realistic manner, and not be subjected to overly technical interpretations."

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CR-48-98, CR-55-98, COMMONWEALTH VS. SHAWN LIVINGSTON.

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

MEMORANDUM OPINION

Kuhn, J., May 29, 1998.

A brief background appears as follows. On January 27, 1998, District Justice Thomas R. Carr issued an arrest warrant for the Defendant. The warrant was based upon an Affidavit of Probable Cause sworn to by Trooper John R. Brumbaugh which read:

> On 1/05/98, this officer met with a confidential informant in the Adams County area. The ci was searched for any contraband or money with negative results. The ci was then equipped with a recording device pursuant with Chapter 57—Wiretapping and Electronic Surveillance. The ci then met with the defendant on Washington Street, Gettysburg Boro., Adams County, at which time the ci purchased a quantity of crack/cocaine for $300.00. The recording device was then deactivated. The ci was searched again for contraband and money with negative results.

Defendant was subsequently arrested on the warrant on January 29, 1998 by Kevin Wilson of the Adams County Drug Task Force. During the arrest procedure Defendant allegedly attempted to escape and to assault another officer (Biggins). A search of Defendant revealed a significant quantity of cocaine.

On February 19, 1998, Defendant filed a Motion For Writ of Habeas Corpus claiming 1) that the affidavit of probable cause did not support the issuance of an arrest warrant, 2) that his subsequent arrest was illegal, and 3) therefore, any charges arising out of his arrest are tainted. Defendant seeks dismissal of all charges and his immediate release from incarceration.

As stated, Defendant initially contends that the Affidavit of Probable Cause for the arrest warrant in CR-48-98 is defective therefore the charges against him should be dismissed. The requirements for issuance of an arrest warrant are set forth in Pa. R.Crim.P. 119 which provides:

> (a) No arrest warrant shall issue but upon probable cause supported by one or more affidavits sworn to before the issuing authority. The issuing authority, in determining whether probable cause has been established, may not consider any evidence outside the affidavit.
>
> (b) At any hearing on a motion challenging an arrest warrant, no evidence shall be admissible to establish probable cause for the arrest warrant other than the affidavits provided for in paragraph (a).

The test for determining probable cause to arrest is the same as for determining probable cause for a search. Commonwealth v. Sorrell, 319 Pa. Super. 103, 465 A.2d 1250 (1983). That standard is the "totality of the circumstances" test set forth in Illinois v. Gates, 462 U.S. 213, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983), which requires the magistrate to make a "practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the 'veracity' and 'basis of knowledge' of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place..." 465 A.2d at 1254. See also Commonwealth v. Sharp, 453 Pa. Super. 349, 683 A.2d 1219 (1996) which instructs that affidavits should be tested "with common sense and a realistic manner, and not be subjected to overly technical interpretations." 683 A.2d at 1223.

An examination of the Affidavit in the matter sub judice, in accordance with the aforementioned standard, reveals the existence of probable cause. The Affidavit describes that on January 5, 1998 a confidential informant purchased crack cocaine from Defendant and that the informant was equipped with a recording device which was deactivated after the transaction was concluded that description would be sufficient probable cause for arrest. Defendant contends, however, that the subsequent search of the informant for contraband and money "with negative results" constitutes an internal inconsistency in the Affidavit which negates the existence of probable cause. While such a conclusion is logical another interpretation is just as logical. The Affidavit references a search of the informant for contraband and money both before and after the purchase of cocaine "with negative results". Without being overly technical each reference could logically

be interpreted as meaning that on neither occasion was the informant carrying contraband or cash inconsistent with a purchase of cocaine from Defendant. Therefore, we conclude that probable cause existed for issuance of the arrest warrant.

The balance of Defendant's issues is premised upon the lack of probable cause for issuance of the arrest warrant. The Court having concluded contrary to Defendant's contention, the remaining issues are dismissed without further discussion. Defendant was subsequently arrested on the basis of a valid warrant and the search of his person, which revealed cocaine, was legal.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 29th day of May, 1998, Defendant's Motion For Writ of Habeas Corpus is denied.

COMMONWEALTH VS. DICKINSON

1. Although evidence of other crimes committed by a defendant is generally not admissible at trial, such evidence is relevant and admissible for the purpose of establishing a common scheme, plan or design embracing the commission of two or more crimes so related to each other that proof of one naturally tends to prove the others.

2. The existence of a common scheme is relevant to establish any element of a crime (e.g. the identity or intent of the perpetrator) so long as it does not merely indicate the defendant's propensity to commit similar crimes.

3. While remoteness in time is a factor to be considered in determining the probative value of other crimes evidence under this theory, the importance of the time period is inversely proportional to the similarity of the crimes in question.

4. Sexual abuse causes are normally difficult to prosecute and therefore, corroboration will assist in overcoming the inclination to question the validity of such claims made years after the events against respected adults.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal. No. CC-857-97, CC-888-97, COMMONWEALTH OF PENNSYLVANIA VS. JAMES BRANN DICKINSON, JR.

Michael A. George, Esq., District Attorney
Farley G. Holt, Esq., for Defendant

MEMORANDUM OPINION

Kuhn, J., June 17, 1998.

Before the Court is disposition of Commonwealth's Motion in Limine and Defendant's Omnibus Pre-Trial Motion, both filed on June 12,1998.

In CC-857-97 Defendant was charged with counts of Involuntary Deviate Sexual Intercourse, Indecent Assault, and Corruption of Minors, 18 Pa. C.S.A. §3123(5); §3126(1) and §6301, involving S.L. and D.S. and in CC-888-97 he was charged with Corruption of Minors, 18 Pa. C.S.A. §6301, involving S.L.

Initially Commonwealth seeks a ruling that it be permitted to introduce evidence of other illegal sexual conduct involving Defendant while Defendant seeks preclusion of that evidence. Commonwealth has made the following offer of the evidence it intends to introduce at trial:

1. M.S.—It is alleged that in 1981 M.S., then age 13 and in 8th grade, had Defendant as a teacher, wrestling coach, Scout leader and Mountain Club leader in Frankfort, Germany. M.S.'s father was in the military and often away from home. Initially, M.S. participated in group outings with Defendant and later in individual outings. Defendant would give him rides home. Defendant began treating M.S. differently than the other children in school and would do special things for him including the purchase of gifts. M.S. and Defendant described each other as best friends. M.S. felt that Defendant gained his sympathy by complaining about a back injury that would eventually lead to his death. The first sexual overture occurred at Defendant's apartment when Defendant kissed M.S. On a later occasion Defendant got into bed with M.S., kissed and fondled him. Eventually the activity led to oral sex upon M.S. Often Defendant and M.S. would wrestle during which Defendant would fondle M.S.'s genitals. Defendant also discussed an area between M.S.'s penis and anus, which could be sexually stimulated. The sexual contact continued through 1983.

2. G.R.—It is alleged that between 1985 and 1986 G.R., then age 14 and in 8th grade at Gettysburg Junior High School, became involved with Defendant who was a teacher in that building and a leader in the Ski Club and Boy Scouts. G.R.'s father was deceased. G.R. began taking trips alone with Defendant. The first sexual overture occurred when De-

fendant got into bed with G.R. and hugged him. On a later occasion Defendant got into bed with G.R. and fondled his genitals. Often Defendant and G.R. would wrestle during which Defendant would fondle G.R.'s genitals.

3. S.L.—It is alleged that between 1990 and 1991, S.L., then age 14 and in 8th grade at Gettysburg Junior High School, had Defendant as a teacher and both were involved in the Outdoor Club. S.L.'s father was a trucker and often away from home. S.L. went on group, and then individual, outings with Defendant. Defendant would give S.L. rides home. S.L. considered himself Defendant's "favorite" student and the two described each other as "best friends". Defendant would provide S.L. with gifts including $100.00 at graduation. The first sexual encounter between the two occurred when Defendant got into bed with S.L., kissed and fondled his genitals and allowed S.L. to fondle him. The sexual encounters eventually led to mutual oral sex and continued into 1994-5. Defendant would often complain of back pain, get S.L. to rub his back, which acts S.L. perceived as Defendant trying to gain sympathy. On one occasion Defendant discussed with S.L. an area between the penis and anus which, when stimulated, would help S.L. get an erection.

4. D.S.—It is alleged that in September, 1992, D.S., then age 14 and in 8th grade at Gettysburg Junior High School, had Defendant as a teacher, Scout leader and leader of the Outdoor Club. At the time D.S. was not experiencing a good relationship with his father. D.S. began accompanying Defendant on group, and later individual, outings. Defendant would give D.S. rides home. D.S. became good friends with Defendant and considered himself the "teacher's pet". D.S. received gifts from Defendant including equipment and $100.00 at graduation. The sexual involvement between Defendant and D.S. included kissing, hugging, mutual genital fondling. The oral sex involved Defendant giving D.S. oral sex but on one occasion Defendant used physical movements attempting to encourage D.S. to reciprocate. Often Defendant and D.S. would wrestle during which Defendant would fondle D.S.'s genitals. Defendant would complain of a back injury and ask D.S. to

> massage his back, which D.S. perceived as Defendant's attempt to gain sympathy.

At issue is whether the testimony of M.S. and G.R. should be presented to the jury. The law provides that,

> Although evidence of other crimes committed by a defendant is generally not admissible at trial, such evidence is relevant and admissible for the purpose of establishing a common scheme, plan or design embracing the commission of two or more crimes so related to each other that proof of one naturally tends to prove the others... "In order for other crimes evidence to be admissible under this exception, a comparison of the crimes must establish a logical connection between them..." The existence of a common scheme is relevant to establish any element of a crime (e.g. the identity or intent of the perpetrator) so long as it does not merely indicate the defendant's propensity to commit similar crimes. Commonwealth v. Miller, 541 Pa. 531, 664 A.2d 1310, 1318 (1995) (citations omitted).

Superior Court has spoken on the role to be played by the trial court in ruling upon this issue.

> [A] determination of whether evidence is admissible under the common plan exception must be made on a case by case basis in accordance with the unique facts and circumstances of each case. However, we recognize that in each case, the trial court is bound to follow the same controlling, albeit general, principles of law. When ruling upon the admissibility of evidence under the common plan exception, the trial court must first examine the details and surrounding circumstances of each criminal incident to assure that the evidence reveals criminal conduct which is distinctive and so nearly identical as to become the signature of the same perpetrator. Relevant to such a finding will be the habits or patterns of action or conduct undertaken by the perpetrator to commit a crime, as well as the time, place, and types of victims typically chosen by the perpetrator. Given this initial determination, the court is bound to engage in a careful balancing test to assure that the common plan evidence is not too remote in time to be probative. If the evidence reveals that the details of each criminal incident are nearly identical, the fact that the incidents are separated by a lapse of time will not likely prevent the offer of the evidence unless the time lapse is excessive. Finally, the trial court must assure that the probative value of the evidence is not outweighed by its potential prejudicial impact of the evidence with such factors as the degree of

> similarity established between the incidents of criminal conduct, the Commonwealth's need to present evidence under the common plan exception, and the ability of the trial court to caution the jury concerning the proper use of such evidence by them in their deliberations.
>
> Commonwealth v. Smith, 431 Pa. Super. 91, 96-97, 635 A.2d 1086, 1089 (1993) (citations omitted).

A careful review of the Commonwealth's offer reveals numerous unique facts and circumstances common to each witness including (1) the gender of each child, (2) the age of each child, (3) the grade the child was in when the relationship began, (4) each child's lack of a strong presence of a father figure in the household, (5) Defendant's role as teacher or activity leader, (6) group outings which led to individual outings, (7) treating each child differently than other children in the class or group, (8) development of a mutual "best friend" relationship, (9) presentation of gifts, (10) the location of the initial sexual overtures, (11) type of activity constituting the initial sexual overtures and later sexual conduct, (12) back massages, (13) genital fondling while wrestling, and (14) discussion of a particular sexually stimulating area of the male anatomy.

We do not believe that testimony of M.S. or G.R. would refer to incidents too remote to be admissible. "While remoteness in time is a factor to be considered in determining the probative value of other crimes evidence under this theory, the importance of the time period is inversely proportional to the similarity of the crimes in question." Commonwealth v. Miller, supra., 541 Pa. at ___, 664 A.2d at 1319. See also Commonwealth v. Luktisch, 451 Pa. Super. 500, 680 A.2d 877 (1996). A time line connecting these four juveniles reveals a fairly consistent course of conduct. Defendant was allegedly involved with M.S. from 1981 through 1983. Defendant left Germany and secured employment with the Gettysburg Area School District. His involvement with G.R. allegedly took place during 1985-86, with S.L. during 1990-95, and with D.S. beginning in September 1992. The longest gap between one child and another is four years. In Luktisck, supra., a six-year gap was not considered to be excessive in a sexual abuse case.

Furthermore, we do not find that the potentially prejudicial effect of testimony from M.S. or G.R. would outweigh its probative value. The alleged sexual contact would naturally occur in a private setting. Sexual abuse cases are normally difficult to prosecute and therefore, corroboration will assist in overcoming the inclination to question the validity of such claims made years after the events against respected adults.

Defendant raises several other issues which are addressed as follows:

1. Motion for Change of Venue—The request is denied. Extensive voir dire was conducted and a majority of the 61 jurors questioned had no recollection

of having read or heard anything about the case. See Commonwealth v. Sneeringer, 36 Adams Co. L.J. 227 (1994).

2. Motion for Sequestration of Jury—This request is denied. Again, voir dire suggested a general lack of awareness of this case, especially on the part of jurors living outside the Gettysburg area. The jury will be instructed to void all media and/or other outside references to the case.

3. Motion for Return of Property—The Commonwealth has indicated its intent to return all of Defendant's property seized during a search of his residence which is not admitted into evidence.

Finally, both parties have requested a "gag" order, which request is deemed appropriate in this case.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 17th day of June, 1998, the following rulings and directives are entered:

1. The Motion in Limine filed by the Commonwealth seeking admission of the testimony of M.S. and G.R. is granted. In turn, Defendant's Motion in Limine seeking preclusion of such testimony is denied.

2. Defendant's Motion for Change of Venire is denied.

3. Defendant's Motion for Sequestration of Jury is denied.

4. Defendant's Motion for Return of Property is deferred without prejudice to grant the Commonwealth an opportunity to comply voluntarily.

5. No party, attorney and/or staff member, alleged victim or member of their family, or witnesses, shall make any statement to the media concerning factual background, testimony, the potential verdict and/or sentence until the jury has entered a verdict. This directive does not preclude comments regarding scheduling or procedure.

ERRATA SHEET

AND NOW, this 18th day of June, 1998, the Memorandum Opinion dated June 17,1998, is corrected as follows:

1. Page 6, line 3—The jury will be instructed to **avoid** all...

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-1154 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, August 20, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the State Highway leading from Hanover to Gettysburg; thence by other lands now or formerly of Joel D. Musselman, et ux., and through an iron pin, North 25 degrees East, 258 feet to an iron pin; thence by land now or formerly of A. E. Hutchison, North 35 degrees East, 110 feet to lands now or formerly of Robert Paris; thence by said last mentioned lands South 67 degrees East, 57 feet to an iron pin at lands now or formerly of Trondle; thence by said last mentioned lands South 24 degrees West, 366 feet to a point in the aforesaid State Highway; thence by said State Highway North 66 degrees West, 81.9 feet to the place of BEGINNING. CONTAINING 105 Perches.

The above description was taken from a draft of survey prepared by LeRoy H. Winebrenner, C.S., dated February 6, 1962.

The address of this tract of land is 1508 Hanover Road Gettysburg, Adams County, Pennsylvania.

SEIZED and taken into execution as the property of **Hector Lua Garcia and Brenda Doris Garcia** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
September 19, 1998.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 13, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

Patrick W. Quinn, Esq.
47 West High Street
Gettysburg, PA 17325

7/16, 23, & 30

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

To: CHARLOTTE ANN POST

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for August 5, 1999, at 9 o'clock a.m., prevailing time, at the Courthouse at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

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

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone number: 717-337-9846, or
1-888-337-9846

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

7/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-2 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

THE DESCRIPTION of the real estate is as described as follows: ALL that certain lot of ground situate in Menallen Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of a private road 50 feet in width at the westernmost corner of the lot designated as Lot No. 1 on the plan of lots referred to below; thence by said Lot No. 1 and running through an iron pin located 25 feet from the place of Beginning South 48 degrees 23 minutes 38 seconds East, 183.56 feet to an iron pin; thence by land now or formerly of Charles E. Ott and wife South 41 degrees 5 minutes 37 seconds West, 353.01 feet to an iron pin; thence by the lot designated as Lot No. 5 on the plan of lots referred to below and running through an iron pin located 25 feet from the end of this line North 48 degrees 23 minutes 38 seconds West, 186.72 feet to a point in the center of the aforementioned private road; thence in the center of said private road and by the lot designated as Lot No. 4 on the plan of lots referred to below North 41 degrees 36 minutes 22 seconds East, 353 feet to a point in the center of said private road, the place of BEGINNING. CONTAINING 1.499 acres.

THE FOREGOING DESCRIPTION was obtained from a plan of lots of Big Flat Acres prepared by Richard W. Boyer, Registered Surveyor, trading as Boyer Surveys, dated September 27, 1978, and recorded in Adams County Plat Book 24 at Page 10, the lot hereby conveyed being designated as Lot No. 3 on said plan of lots.

BEING THE SAME WHICH Leroy E. Shultz, unmarried, by deed dated March 27, 1997, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1347 at page 71, sold and conveyed unto Patricia A. Slaybaugh, the Defendant herein.

IMPROVED WITH a two-story dwelling and two detached sheds.

Seized in Execution as the property of Neal A. Wuethrich and Helen B. Wuethrich under Adams County Judgement No. 96-S-01017.

SEIZED and taken into execution as the property of **Patricia A. Slaybaugh** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
May 27, 1999.

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 August 23, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/2, 9, & 16

FICTITIOUS NAME

NOTICE IS 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 May 28, 1999, pursuant to the Fictitious Name Act, setting forth that Michael A. Stormes and Sally A. Stormes, of R.D. #1, Box 221H, Thomasville, Pennsylvania 17364, are the only persons owning or interested in a business, the character of which is to operate a public swimming pool, banquet facility and catering service, and that the name, style and designation under which said business is and will be conducted is NEIDERER'S POOL, BANQUET ROOM AND CATERING SERVICE and the location where said business is and will be conducted is 175 North Second Street, McSherrystown, Pennsylvania 17344.

Guthrie, Nonemaker,
Guthrie & Yingst
Solicitor

7/16

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 JONATHAN E. BARNES, DEC'D
Late of Germany Township, Adams County, Pennsylvania
Administrator: Julie B. Maher, RD1 Box 223T, Thomasville, PA 17364

ESTATE OF CHARLES M. BROTEMARKLE, DEC'D
Late of the Borough of New Oxford, Adams County, Pennsylvania
Executor: Charles M. Brotemarkle, II, c/o 230 York Street, Hanover, PA 17331
Attorney: John James Mooney, III, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF JOHN F. ENRIGHT, JR., DEC'D
Late of Reading Township, Adams County, Pennsylvania
Executrix: Therese M. Catching, 51 Schofield Drive, East Berlin, PA 17316
Attorney: Richard E. Thrasher, Esq., Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF DOLORES L. GRIM, DEC'D
Late of Reading Township, Adams County, Pennsylvania
Co-Executors: Keith M. Grimm and Kathy M. Julius, c/o 29 North Duke Street, York, PA 17401
Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

ESTATE OF MAURICE D. HOLSOPPLE, DEC'D
Late of Berwick Township, Adams County, Pennsylvania
Executors: Fred L. Holsopple, 203 W. King Street, Abbottstown, PA 17301; Terry D. Holsopple, 731 Elm Terrace, York, PA 17404
Attorney: Puhl, Eastman & Thrasher, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF MADELEINE PIHO, DEC'D
Late of Reading Township, Adams County, Pennsylvania
Executor: John David Piho, 56 Rife Road, East Berlin, PA 17316
Attorney: Clayton R. Wilcox, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ARTHUR W. SPAHR, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executrix: Margueritte S. Myers, c/o William W. Hafer, 215 Baltimore Street, Hanover, PA 17331
Attorney: William W. Hafer, Esq., 215 Baltimore Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF BETTY W. BAKER, a/k/a BETTY L. BAKER, DEC'D
Late of the Borough of Biglerville, Adams County, Pennsylvania
Executrix: Shelby Stone, 1745 Mummasburg Road, Gettysburg, PA 17325
Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF GUY W. HARNER, DEC'D
Late of Freedom Township, Adams County, Pennsylvania
Executor: Juanita A. Harner, 897 Middle Creek Road, Fairfield, PA 17320
Attorney: Vicky Ann Trimmer, Esq., Mette, Evans & Woodside, 3401 North Front Street, P.O. Box 5950, Harrisburg, PA 17110-0950

ESTATE OF GARRY H. HOFFHEINS, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Administratrix: Carlene G. Mason, a/k/a Carlene G. Hoffheins, 220 Mt. Misery Road, New Oxford, PA 17350
Attorney: Daniel M. Frey, Esq., Daniel M. Frey & Associates, a division of Barley, Snyder, Senft & Cohen, LLC., 14 Center Square, Hanover, PA 17331

ESTATE OF FLORENCE M. KENNEDY, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executor: Bank of Hanover
Attorney: William W. Hafer, Esq., 215 Baltimore Street, Hanover, PA 17331

ESTATE OF EMMA V. WILLS, a/k/a VIRGINIA E. WILLS, DEC'D
Late of Hamiltonban Township, Adams County, Pennsylvania
Co-Executors: Donald F. Wills, 2417 Iron Springs Road, Fairfield, PA 17320 or Terry F. Wills, 12902 Cathedral Avenue, Hagerstown, MD 21742
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF HOWARD T. ELLEDGE, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Executor: Howard Thomas Elledge, Jr., 110 Stone Jug Road, Gettysburg, PA 17325
Attorney: Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF EDWARD WILLIAM KOCH, A/K/A EDWARD W. KOCH, DEC'D
Late of Germany Township, Adams County, Pennsylvania
Executors: George F. Matthews, 325 Gettysburg Road, Littlestown, PA 17340; Barbara A. Matthews, 325 Gettysburg Road, Littlestown, PA 17340
Attorney: Richard E. Thrasher, Esq., Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF FLOELLA L. STAUB, DEC'D
Late of Franklin Township, Adams County, Pennsylvania
Executrix: Henrietta Walker, 130 Pine Tree Road, Orrtanna, PA 17353
Attorney: Robert E. Campbell, Esq., Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

NOTICE OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about June 22, 1999, for the purpose of obtaining a Certificate of Incorporation for a proposed business corporation to be organized under the Pennsylvania Business Corporation Law of 1988. The name of the corporation is GETTYSBURG ANNIVERSARY COMMITTEE, INC., and the purpose for which it is being organized is to organize living history and public living events and the corporation shall have unlimited powers to engage in and to do any lawful act concerning any and all business for which corporations may be incorporated under the Pennsylvania Business Corporation Law of 1988, and for these purposes to have, possess, and enjoy all the rights, benefits and privileges of said Act of Assembly and its supplements and amendments.

The initial registered office of the corporation is 917 Fairfield Road, Gettysburg, Pennsylvania, 17325

Wilcox & James
Attorneys at Law
234 Baltimore Street
Gettysburg, PA 17325

7/16

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-124 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

THE description of the real estate is as described as follows: ALL that tract of land situate in Berwick Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING for the Northeast corner hereof at a steel pin at post, being a corner of lands now or formerly of Boris Leavitt and now or formerly of Kenneth Weld, et al.; thence by said land now or formerly of Kenneth Weld, et al., South 05 degrees 45 minutes 41 seconds East, 305 feet to a steel pin at post located at the southeast corner hereof; thence for the next two courses running through lands now or formerly of George A. O'Brien, South 67 degrees 42 minutes 01 second West, 200.97 feet to a steel pin at the southwest corner hereof, thence North 18 degrees 26 minutes 29 seconds West, 318.5 feet to a steel pin at the northwest corner hereof, on line of lands now or formerly of Boris Leavitt; thence by said last mentioned lands, North 73 degrees 02 minutes 55 seconds East, 267.55 feet to the above-described place of BEGINNING. CONTAINING 1.6509 acres.

THE above description was taken from a draft of survey prepared for George A. O'Brien and Beryl A. O'Brien by Frank H. Thomas, Jr., Registered Surveyor, dated May 5, 1977, his File No. D-8.

BEING the same which Michael O'Brien and Cynthia R. O'Brien, his wife, by deed dated December 14, 1995, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1122 at page 293, conveyed to Neal J. O'Brien and Mary L. O'Brien, husband and wife, the Defendants herein.

IMPROVED WITH a single 3-story dwelling unit with attached 2-car garage and detached 3-car pole building.

SEIZED and taken into execution as the property of **Neal J. & Mary L. O'Brien** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
May 26, 1999.

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 August 23, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-432 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a p.k. nail in the centerline of the intersection of Waynesboro Pike and Orchard Road; thence in the centerline of Waynesboro Pike, North 63 degrees 30 minutes 45 seconds West, 380.00 feet to a point in the centerline of said Waynesboro Pike at corner of Lot No. 2C on the hereinafter referred to Final Plan; thence by Lot 2C, and running through a reference rebar set back 35.0 feet from the beginning of this course, North 26 degrees 29 minutes 15 seconds East, 480.00 feet to a rebar set; thence by the same and by Lot Nos. 2B and 2A, North 63 degrees 30 minutes 45 seconds West, 565.57 feet to a rebar set at lands now or formerly of John B. Good, et al.; thence by same North 30 degrees 35 minutes 15 seconds East, 507.98 feet to a rebar; thence South 28 degrees 57 minutes 50 seconds East, 1,180.41 feet to a railroad spike in Orchard Road; thence in said Orchard Road, South 40 degrees 23 minutes 45 seconds West, 121.91 feet to a point; thence in same, South 36 degrees 05 minutes 45 seconds West, 201.74 feet to a p.k. nail in the centerline of the intersection of Waynesboro Pike and Orchard Road, the point and place of BEGINNING.

The above description was taken from a plan of lots prepared by Mark A. Kuntz, R.S. dated June 15, 1990, recorded in Plat Book 57, page 32 and designating the above as Lot No. 2.

IT BEING part of the same premises which Betty Mae Salone, individually and as Executrix of Douglas R. Piper, Sr., Douglas Ray Piper Jr., and Brenda Gessaman, individually and as Co-Trustees of The Piper Family Trust, by deed dated 1/16/93 and recorded 1/23/93 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 681, page 356, granted and conveyed unto Wayne W. Piper and Elaine L. Piper, husband and wife.

SEIZED and taken into execution as the property of **Wayne W. Piper & Elaine L. Piper** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
May 28, 1999.

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 August 23, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-1053 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of August, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE RIGIHT, TITLE, INTEREST AND CLAIM OF STEVEN J. ZOLLERS AND CONNIE L. ZOLLERS OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN THE BOROUGH OF YORK SPRINGS, COUNTY OF ADAMS AND COMMONWEALTH OF PENNSYLVANIA. HAVING ERECTED THEREON A DWELLING BEING KNOWN AND NUMBERED AS 115 HARRISBURG ST., YORK SPRINGS, PA 17372. DEED BOOK VOLUME 1133, PAGE 246, AND PARCEL NUMBER MAP 5, PARCEL 43.

SEIZED and taken into execution as the property of **Steven J. Zollers and Connie L. Zollers** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
June 18, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 6, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/16, 23& 30

Adams County Legal Journal

Vol. 41 July 23, 1999 No. 8, pp. 39-44

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-1154 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, August 20, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the State Highway leading from Hanover to Gettysburg; thence by other lands now or formerly of Joel D. Musselman, et ux., and through an iron pin, North 25 degrees East, 258 feet to an iron pin; thence by land now or formerly of A. E. Hutchison, North 35 degrees East, 110 feet to lands now or formerly of Robert Paris; thence by said last mentioned lands South 67 degrees East, 57 feet to an iron pin at lands now or formerly of Trondle; thence by said last mentioned lands South 24 degrees West, 366 feet to a point in the aforesaid State Highway; thence by said State Highway North 66 degrees West, 81.9 feet to the place of BEGINNING. CONTAINING 105 Perches.

The above description was taken from a draft of survey prepared by LeRoy H. Winebrenner, C.S., dated February 6, 1962.

The address of this tract of land is 1508 Hanover Road Gettysburg, Adams County, Pennsylvania.

SEIZED and taken into execution as the property of **Hector Lua Garcia and Brenda Doris Garcia** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
September 19, 1998.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 13, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

Patrick W. Quinn, Esq.
47 West High Street
Gettysburg, PA 17325

7/16, 23, & 30

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

To: CHARLOTTE ANN POST

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for August 5, 1999, at 9 o'clock a.m., prevailing time, at the Courthouse at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

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

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone number: 717-337-9846, or
1-888-337-9846

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

7/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-65 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, August 20, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel pin set at corner of land of Annie M. Brough, said steel pin being West of the Ball Town Road on line of land of Upper Bermudian Lutheran Church; thence by said land of Upper Bermudian Lutheran Church and crossing said Ball Town Road (T-589) North 58 degrees 0 minutes 0 seconds East 595.14 feet to a concrete monument; thence by Lot No. 2 on the hereinafter described subdivision plan and running through a concrete monument located 30 feet from the end of this line, South 16 degrees 20 minutes 30 seconds East 272.68 feet to a point located near the edge of the aforementioned Ball Town Road (T-589) and at land of Annie M. Brough; thence by said land of Brough, South 79 degrees 39 minutes 30 seconds West, 126.20 feet to a steel pin; thence by same South 77 degrees 9 minutes 30 seconds West 294.11 feet to a steel pin and stones; thence by same North 74 degrees 0 minutes 45 seconds West 148.50 feet to a steel pin at land of Upper Bermudian Lutheran Church, the place of BEGINNING. CONTAINING 2.050 acres.

BRT# 22-1404-20-000

BEING known as 108 Balltown Road, Gardners, PA 17324.

SEIZED and taken into execution as the property of **Rodney D. Hollabaugh & Tina Marie Hollabaugh** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
June 30, 1998.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 13, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/23, 30, & 8/6

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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Periodicals postage paid at Gettysburg, PA 17325.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-106 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of August, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land with improvements, situate on the West side of Cemetery Street, in the Borough of Littlestown, Adams County, Pennsylvania, adjoining land now or formerly of Samuel Althouse and formerly of J. Ernest Ohler, bounded and described as follows, to wit:

BEGINNING for a corner at lot now or formerly of Samuel Althouse and Cemetery Street, forty-four (44) feet and two (2) inches Southwest to corner of land formerly of J. Ernest Ohler; thence along said land one hundred and twenty-two (122) feet, more or less, Northwest to P.R.R. Co. right-of-way; thence along the said right-of way, forty-four (44) feet and two (2) inches Northeast to lands now or formerly of Althouse; thence one hundred and twenty-two (122) feet, more or less, Southeast along said last mentioned lands to the place of BEGINNING.

BEING the same tract of land which Jonathan E. Teal and Linda S. Teal, by deed dated July 9, 1998, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1618 at page 300, conveyed to Jonathan E. Teal, the Defendant herein.

IMPROVED with a two story single family residence with detached garage and shed.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
June 18, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 6, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/16, 23 & 30

NOTICE OF INCORPORATION

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

7/23

FICTITIOUS NAME

NOTICE IS HEREBY GIVEN that an Application has been filed under the Fictitious Names Act, 54 Pa. C.S.A. §§ 301 et seq., as amended, with the Secretary of the Commonwealth, in Harrisburg, Pennsylvania, on June 21, 1999, for conducting business under the assumed or fictitious name of SUNSATIONS. The address of the principal office or place of business to be carried on under or through the fictitious name is: 705 Old Harrisburg Road, Gettysburg, Pennsylvania 17325. The name and address of the only person who is a party to the registration is: Susan C. Sutphen, 705 Old Harrisburg Road, Gettysburg, PA 17325.

John W. Phillips, Esq.
Attorney

7/23

NOTICE OF INCORPORATION

NOTICE IS HEREBY GIVEN that on July 1, 1999, Articles of Incorporation were filed with the Department of State for EASTERN CLUSTER OF LUTHERAN SEMINARIES a Nonprofit Corporation organized under the provisions of the Pennsylvania Nonprofit Corporation Law of 1988, as amended.

Robert F. Blanck
Solicitor
Schubert, Bellwoar, Cahill & Quinn
1500 John F. Kennedy Blvd.
Suite 1400
Philadelphia, PA 19102-1890

7/23

FICTITIOUS NAME

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 June 28, 1999, an Application for Registration of Fictitious Name of CONFEDERATE STATES ARMORY & MUSEUM CONSULTANTS, the address of the principal place of business being 4263 Old Harrisburg Road, Gettysburg, Pennsylvania 17325. The names and addresses of the persons who are parties to said registration are: Nancy I. Edmunds, of 4263 Old Harrisburg Road, Gettysburg, Pennsylvania 17325; and Frederick R. Edmunds, of 4263 Old Harrisburg Road, Gettysburg, Pennsylvania 17325.

Puhl, Eastman & Thrasher
Attorneys

7/23

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

To: TIMOTHY N. HINCHMAN

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for August 5, 1999, at 9 o'clock a.m., prevailing time, at the Courthouse at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

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

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone number: 717-337-9846
or 1-888-337-9846

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

7/16, 23 & 30

DOSCH VS. HUBBELL, INC. ET AL

1. Under Pa.R.C.P. 1035.2, summary judgment is appropriate if a party fails to meet his or her burden of producing evidence of facts essential to a cause of action or defense which in a jury trial would require the issue to be submitted to a jury.

2. The purpose of the fair scope rule is to inform opposing parties of expected testimony and prevent surprise.

3. While the purpose of Pa.R.C.P. 1035.3 is to prevent trial in cases where plaintiff cannot establish a prima facie right of recovery by the time discovery is completed, the rule provides plaintiff with the right to supplement the record after the motion is filed.

4. Defendants are ordinarily responsible for a pro rata share of damages in a products liability case.

5. An assembler or supplier whose liability is based solely on incorporation of a defective component into its product, may be entitled to indemnity from the component manufacturer.

6. A seller who is an assembler of component parts is strictly liable to a plaintiff injured by a defective component part. This liability is based upon what has been termed a social adjustment.

7. To the extent that dictum suggests that a manufacturer may be entitled to indemnification regardless of its failure to inspect, it lacks support in Pennsylvania law.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 95-S-539, FRANCIS LAWRENCE DOSCH VS. HUBBELL, INC., DELTONA TRANSFORMER CORP. & DELTONA LIGHTING PRODUCTS, INC.

William P. Douglas, Esq., for Plaintiff
C. Kent Price, Esq., for Defendant
Dean F. Murtagh, Esq., for Defendant

OPINION ON MOTION FOR SUMMARY JUDGMENT

Spicer, P.J., June 23, 1998.

In his complaint filed on June 14, 1995, Plaintiff alleged that he went to a residence in Adams County on June 14, 1993 to repair a dusk-to-dawn outdoor lighting fixture. After taping the photocell to simulate darkness, he ascended a fiberglass ladder, removed the old photocell and replaced it with a new one. About a minute later, a malfunction occurred, believed to have been "caused by a bare wire coming into contact with the metal casing, where the ballast had failed." ¶ 16. Plaintiff alleged that he was thrown to the ground and suffered injuries.

The complaint alleged, ¶ 15, that the "lighting fixture in question was defective in either its design and/or manufacturer." (sic).

Defendant Hubbell, Inc. (Hubbell), was identified as the designer, manufacturer and supplier of the fixture. Hubbell filed preliminary objections to the complaint, including a motion for more specific pleading, arguing that it lacked sufficient information to prepare an

intelligent response. This Court, after reviewing the elements of an action under Restatement, 2d Torts, §402A, determined that the complaint sufficiently pleaded all elements and dismissed preliminary objections, by order and opinion dated September 29, 1995.

Although the complaint contained counts in negligence, breach of warranty and strict liability, the parties have presented only arguments pertaining to strict liability.

Hubbell subsequently filed an answer that contained a cross-claim for indemnity against Deltona Transformer Corporation and Deltona Lighting Products, Inc. (Deltona), the manufacturer of the component part, ballast. The case was ultimately set for trial, with a jury to be selected December 15, 1997. The parties appeared on that date and the Court was informed that plaintiff had settled with Deltona. Hubbell argued that it was entitled to judgment, since the report of plaintiff's expert indicated that the sole basis for liability was the defective component supplied by Deltona. Arguing that it was secondarily liable, Hubbell maintained that plaintiff's releasing Deltona effectively extinguished his claim against Hubbell.

After informal discussion, trial was continued by stipulation of counsel pending resolution of this issue. On January 26, 1998, Hubbell filed a motion for summary judgment.

Plaintiff responded by filing a motion to compel Hubbell to answer interrogatories and produce documents. Included was a request for contracts and other documents between Hubbell and Deltona. Hubbell refused to comply, citing provisions in the pre-trial order that no discovery could be pursued past the call date (August 25, 1997) without Court approval. By order, which was prepared by plaintiff, a rule was issued on Hubbell to show cause why the motion should not be granted. Although the rule was returnable March 23, 1998 in Courtroom 1, neither hearing nor argument was ordered. Neither party has sought a resolution of the motion.

Plaintiff argues that Hubbell has no right of indemnification from Deltona absent a contract. Accordingly, plaintiff requests that the Court defer ruling on the motion for summary judgment until the motion to compel has been determined.

We learned, during argument on the request for summary judgment, that plaintiff's expert has changed his report and now asserts another basis for liability. In addition to stating that the ballast was defective, the expert now opines that the lighting fixture was defective because it was not properly grounded.

Hubbell argues that this is a new theory, dredged up after the motion for summary judgment was filed, and that it would be improper for the

Court to allow the expert to testify in accordance with it.

After oral argument, counsel requested additional time to consider whether assertion of liability based upon the amended report is time-barred.

Standards governing summary judgment are well established.

> Summary judgment is properly granted where 'the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law.' Pa. R.C.P. 1035(b). 'The record must be viewed in a light most favorable to the nonmoving party, and all doubts as to the existence of a genuine issue of material fact must be resolved against the moving party.' Marks v. Tasman, 527 Pa. 132, 135, 589 A.2d 205, 206 (1991). Summary judgment may be entered only in those cases where the right is clear and free from doubt. Musser v. Vilsmeier Auction Co. Inc., 522 Pa. 367, 369, 562 A.2d 279, 280. (1989).
>
> Pennsylvania State University v. County of Centre, 532 Pa. 142, 615 A.2d 303, 304 (1992).

Quoted in Kapres v. Heller, 536 Pa. 551, 555, 640 A.2d 888, 890 (1994).

Further, under Pa.R.C.P. 1035.2, summary judgment is appropriate if a party fails to meet his or her burden of producing evidence of facts essential to a cause of action or defense which in a jury trial would require the issue to be submitted to a jury. Ertel v. Patriot-News Co., 544 Pa. 93, 674 A.2d 1038 (1996).

With these principles in mind, we will consider the various issues that have been presented.

Motion to compel. While the Court may have been remiss in signing an order complying with neither Pa. R.C.P. 206.5 nor 206.6, neither counsel asked for resolution of this matter. Argument has not occurred. Even so, it is apparent that the specific objection raised by Hubbell has only technical merit. Restrictions imposed on discovery in the pre-trial order were intended only to expedite trial. Since trial was continued, the reason for the restriction vanished. Accordingly, we rule that Hubbell may not refuse to comply with the request for production simply because of the time limit imposed by the pre-trial order.

However, as will be discussed infra, we do not agree with plaintiff's contention that Hubbell's right to indemnity rests solely on contractual undertakings between it and Deltona. Such provisions may be important, of course. If Hubbell's liability is later determined to be primary,

a contractual arrangement may still extinguish plaintiff's right to recover. Hubbell has given no indication that such a contract exists, either in its cross-claim or otherwise, and it is not entitled to summary judgment based upon an agreement to indemnify.

Amendment of the expert's report. It is clear that, had this case proceeded to trial in December, plaintiff's expert would not have been permitted to testify beyond the fair scope of his report. Havasy v. Resnick, 415 Pa. Super. 480, 609 A.2d 1326 (1992); alloc gr. 533 Pa. 625, 620 A.2d 491 (1993). However, the case did not proceed to trial. The purpose of the fair scope rule is to inform opposing parties of expected testimony and prevent surprise. Id. Chanthavong v. Tran, 452 Pa. Super. 378, 682 A.2d 334 (1996). When and if this case is finally tried, Hubbell can hardly claim to be surprised by the expert's change in theory.

While the purpose of Pa. R.C.P. 1035.3 is to prevent trial in cases where plaintiff cannot establish a prima facie right of recovery by the time discovery is completed, the rule provides plaintiff with the right to supplement the record after the motion is filed, Eaddy v. Hamaty, Pa. Super. ___, 694 A.2d 639 (1997). Hubbell has filed a third supplemental brief, in which it takes issue with plaintiff's assertion that Hubbell requested the continuance of trial. In fact, Hubbell appears to be outraged at what has occurred. While we generally agree with Hubbell's recollection of discussions leading up to the order, the fact is that trial was continued by stipulation without any requests by Hubbell for conditions that confirmed that all aspects of this case were now "fixed in stone." Third supplemental brief, page 2. We can also agree that plaintiff's counsel gave the impression that he wanted to avoid further expense but all pertinent discussions occurred in chambers, off the record, and without any conditions established. From Hubbell's standpoint, it is indeed unfortunate that, once the case moved from trial to consideration of summary judgment, Rule 1035.3(b) gave plaintiff the right to supplement the record. Id.[1]

Limitations of actions. If we determine that the expert's most recent report introduces a new cause of action, plaintiff is time-barred from proceeding on the new theory. However, if it is merely an amplification of the cause pleaded in the complaint, it may be permitted. 3 Goodrich Amram 2d §1033:37.

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[1]Our reading of the rule leads us to the conclusion that plaintiff did not need Court permission to supplement the record with evidence unrelated to discovery. Subsection (c) grants the Court discretion "to permit affidavits to be obtained, depositions to be taken or other discovery to be had." Subsection (b), on the other hand, gives plaintiff the right to "supplement the record." Neither party has discussed the rule's provisions.

The expert report submitted by Roy D. Hoffer, P.E., dated 6/20/96, identified the fixture's defect as an improperly insulated ballast. A fair reading of the report indicates that Deltona's failure to provide a ballast that would fail in a safe manner was the sole cause of the accident. By contrast, Mr. Hoffer's supplementary report, dated 2/26/98, stated that the Hubbell fixture had no method for attaching a grounding wire, violated the National Electrical Code, and was therefore defective.

Allegations in the complaint support either theory, and technically we deal with an amplification of the cause or action described therein. However, we do not deal with a request to amend the complaint. The sole issue presented is whether Mr. Hoffer should be permitted to testify in accordance with his supplementary report, and there are no statute of limitation issues. Recognizing this, plaintiff complains that its preliminary objections were improperly overruled. If so, the issue has been preserved.

Indemnification. Plaintiff argues that Hubbell is not entitled to indemnification from Deltona, absent a contractual obligation to do so. We disagree. However, until plaintiff's settlement with Deltona, the issue of primary and secondary liability concerned only Hubbell and Deltona. Even if plaintiff were restricted to the scope of Mr. Hoffer's earlier report, Deltona would have had the right to contend that Hubbell was independently liable and to have a jury answer the question.

Law in this area may still be developing. From cases decided, we can conclude that defendants are ordinarily responsible for a pro rata share of damages in a products liability case. Walton v. Avco Corp. 530 Pa. 568, 610 A.2d 454 (1992). Under this rule, Hubbell's liability for damages awarded to plaintiff by a jury would be reduced by fifty percent because of the settlement with Deltona. We also conclude that an assembler or supplier, such as Hubbell, whose liability is based solely on incorporation of a defective component into its product, may be entitled to indemnity from the component manufacturer. Id. Burbage v. Boiler Engineering & Supply Company, Inc., 433 Pa. 319, 249 A.2d 563 (1969).

We said earlier that, initially, indemnity was an issue that involved Hubbell and Deltona, not Hubbell and plaintiff. This is so because Restatement, 2d Torts, §402A imposes liability on a seller of a defective product regardless of negligence or lack of contractual relationship. A seller who is an assembler of component parts is strictly liable to a plaintiff injured by a defective component part. This liability is based upon what has been termed a social adjustment. Hubbell, because it incorporated Deltona's ballast into its light fixture, is liable to plaintiff regardless of fault. However, fault may play a role in determining liability of Hubbell and Deltona, inter se.

Indemnity is a remedy, which shifts the entire loss from a defendant who is compelled to bear it to the shoulders of another who should bear it. Id. The few cases that have discussed the remedy in terms of §402A issue indicate that fault plays a part in this area as it does in all others. While plaintiff had no burden to show that Hubbell might have discovered the faulty insulation by reasonable inspection or tests, Deltona could have presented this issue. The question would be whether Hubbell had any part in causing the injury, other than incorporating the ballast into its lighting fixture. If its liability is based solely and exclusively on the defective ballast, it would be entitled to indemnification. If there was an independent basis for liability, it would be entitled to only contribution.

We form these legal conclusions based upon the last two cases cited. In Walton v. Avco Corp., supra, Supreme Court upheld a jury determination that a helicopter manufacturer was independently liable, based upon its failure to pass on warnings concerning a defective oil pump in an engine. The manufacturer was not entitled to indemnity. On the other hand, a boilermaker who replaced a pressure valve on a boiler already in use by a customer was entitled to indemnification from the valve maker in Burbage, supra. A jury determination to this effect was affirmed, the Court saying that the boiler manufacturer would be expected to test its product, with the valve attached, before but not after selling it to a customer.

To the extent that dictum in Tromza v. Tecumseh Products Company, 378 F.2d 601 (3rd Circuit 1967) suggests that a manufacturer may be entitled to indemnification regardless of its failure to inspect, we find it lacking support in Pennsylvania law.

We read Mr. Hoffer's earlier report as raising the possibility that the ballast's defective condition could have been ascertained by inspection before it was incorporated in the lighting fixture. Regardless of what plaintiff may have pleaded, a jury question was thus raised.

Although, in our opinion, Rule 1035.3 and the state of the record mandates a denial of Hubbell's motion for summary judgment, we do not want our decision to stamp an approval on plaintiff's tactics in this case.

ORDER OF COURT

AND NOW, this 23rd day of June, 1998, the motion for summary judgment filed by Hubbell, Inc., is denied. Hubbell's refusal to comply with plaintiff's interrogatories and request for documents is ruled improper insofar as it is based on the pre-trial order.

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 HAROLD G. RICHARDSON, DEC'D
Late of Berwick Township, Adams County, Pennsylvania
Executor: James T. Yingst, 40 York Street, Hanover, PA 17331
Attorney: James T. Yingst, Esq., Guthrie, Nonemaker, Guthrie, & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF FRANCENE SWIFT THORNE, a/k/a FRANCENE ELIZABETH THORNE, DEC'D
Late of Menallen Township, Adams County, Pennsylvania
Executrix: Geraldine Ann Swift Raub, P.O. Box 207, Bendersville, PA 17306
Attorney: Richard E. Thrasher, Esq., Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF JONATHAN E. BARNES, DEC'D
Late of Germany Township, Adams County, Pennsylvania
Administrator: Julie B. Maher, RD1 Box 223T, Thomasville, PA 17364

ESTATE OF CHARLES M. BROTEMARKLE, DEC'D
Late of the Borough of New Oxford, Adams County, Pennsylvania
Executor: Charles M. Brotemarkle, II, c/o 230 York Street, Hanover, PA 17331
Attorney: John James Mooney, III, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF JOHN F. ENRIGHT, JR., DEC'D
Late of Reading Township, Adams County, Pennsylvania
Executrix: Therese M. Catching, 51 Schofield Drive, East Berlin, PA 17316
Attorney: Richard E. Thrasher, Esq., Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF DOLORES L. GRIM, DEC'D
Late of Reading Township, Adams County, Pennsylvania
Co-Executors: Keith M. Grimm and Kathy M. Julius, c/o 29 North Duke Street, York, PA 17401
Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

ESTATE OF MAURICE D. HOLSOPPLE, DEC'D
Late of Berwick Township, Adams County, Pennsylvania
Executors: Fred L. Holsopple, 203 W. King Street, Abbottstown, PA 17301; Terry D. Holsopple, 731 Elm Terrace, York, PA 17404
Attorney: Puhl, Eastman & Thrasher, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF MADELEINE PIHO, DEC'D
Late of Reading Township, Adams County, Pennsylvania
Executor: John David Piho, 56 Rife Road, East Berlin, PA 17316
Attorney: Clayton R. Wilcox, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ARTHUR W. SPAHR, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executrix: Margueritte S. Myers, c/o William W. Hafer, 215 Baltimore Street, Hanover, PA 17331
Attorney: William W. Hafer, Esq., 215 Baltimore Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF BETTY W. BAKER, a/k/a BETTY L. BAKER, DEC'D
Late of the Borough of Biglerville, Adams County, Pennsylvania
Executrix: Shelby Stone, 1745 Mummasburg Road, Gettysburg, PA 17325
Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF GUY W. HARNER, DEC'D
Late of Freedom Township, Adams County, Pennsylvania
Executor: Juanita A. Harner, 897 Middle Creek Road, Fairfield, PA 17320
Attorney: Vicky Ann Trimmer, Esq., Mette, Evans & Woodside, 3401 North Front Street, P.O. Box 5950, Harrisburg, PA 17110-0950

ESTATE OF GARRY H. HOFFHEINS, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Administratrix: Carlene G. Mason, a/k/a Carlene G. Hoffheins, 220 Mt. Misery Road, New Oxford, PA 17350
Attorney: Daniel M. Frey, Esq., Daniel M. Frey & Associates, a division of Barley, Snyder, Senft & Cohen, LLC., 14 Center Square, Hanover, PA 17331

ESTATE OF FLORENCE M. KENNEDY, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executor: Bank of Hanover
Attorney: William W. Hafer, Esq., 215 Baltimore Street, Hanover, PA 17331

ESTATE OF EMMA V. WILLS, a/k/a VIRGINIA E. WILLS, DEC'D
Late of Hamiltonban Township, Adams County, Pennsylvania
Co-Executors: Donald F. Wills, 2417 Iron Springs Road, Fairfield, PA 17320 or Terry F. Wills, 12902 Cathedral Avenue, Hagerstown, MD 21742
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

NOTICE

NOTICE is hereby given that a Certificate of Organization has been filed with the Department of State of the Commonwealth of Pennsylvania, with respect to a limited liability company which has been organized under the 15 Pa. C.S. §8913. The name of the limited liability company is SOLIDAY INCOME PARTNERS, LLC.

Wendy Weikal-Beauchat, Esq.
116 Baltimore Street
Gettysburg, Pennsylvania 17325
7/23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-124 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

THE description of the real estate is as described as follows: ALL that tract of land situate in Berwick Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING for the Northeast corner hereof at a steel pin at post, being a corner of lands now or formerly of Boris Leavitt and now or formerly of Kenneth Weld, et al.; thence by said land now or formerly of Kenneth Weld, et al., South 05 degrees 45 minutes 41 seconds East, 305 feet to a steel pin at post located at the southeast corner hereof; thence for the next two courses running through lands now or formerly of George A. O'Brien, South 67 degrees 42 minutes 01 second West, 200.97 feet to a steel pin at the southwest corner hereof, thence North 18 degrees 26 minutes 29 seconds West, 318.5 feet to a steel pin at the northwest corner hereof, on line of lands now or formerly of Boris Leavitt; thence by said last mentioned lands, North 73 degrees 02 minutes 55 seconds East, 267.55 feet to the above-described place of BEGINNING. CONTAINING 1.6509 acres.

THE above description was taken from a draft of survey prepared for George A. O'Brien and Beryl A. O'Brien by Frank H. Thomas, Jr., Registered Surveyor, dated May 5, 1977, his File No. D-8.

BEING the same which Michael O'Brien and Cynthia R. O'Brien, his wife, by deed dated December 14, 1995, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1122 at page 293, conveyed to Neal J. O'Brien and Mary L. O'Brien, husband and wife, the Defendants herein.

IMPROVED WITH a single 3-story dwelling unit with attached 2-car garage and detached 3-car pole building.

SEIZED and taken into execution as the property of **Neal J. & Mary L. O'Brien** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
May 26, 1999.

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 August 23, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-432 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a p.k. nail in the centerline of the intersection of Waynesboro Pike and Orchard Road; thence in the centerline of Waynesboro Pike, North 63 degrees 30 minutes 45 seconds West, 380.00 feet to a point in the centerline of said Waynesboro Pike at corner of Lot No. 2C on the hereinafter referred to Final Plan; thence by Lot 2C, and running through a reference rebar set back 35.0 feet from the beginning of this course, North 26 degrees 29 minutes 15 seconds East, 480.00 feet to a rebar set; thence by the same and by Lot Nos. 2B and 2A, North 63 degrees 30 minutes 45 seconds West, 565.57 feet to a rebar set at lands now or formerly of John B. Good, et al.; thence by same North 30 degrees 35 minutes 15 seconds East, 507.98 feet to a rebar; thence South 28 degrees 57 minutes 50 seconds East, 1,180.41 feet to a railroad spike in Orchard Road; thence in said Orchard Road, South 40 degrees 23 minutes 45 seconds West, 121.91 feet to a point; thence in same, South 36 degrees 05 minutes 45 seconds West, 201.74 feet to a p.k. nail in the centerline of the intersection of Waynesboro Pike and Orchard Road, the point and place of BEGINNING.

The above description was taken from a plan of lots prepared by Mark A. Kuntz, R.S. dated June 15, 1990, recorded in Plat Book 57, page 32 and designating the above as Lot No. 2.

IT BEING part of the same premises which Betty Mae Salone, individually and as Executrix of Douglas R. Piper, Sr., Douglas Ray Piper Jr., and Brenda Gessaman, individually and as Co-Trustees of The Piper Family Trust, by deed dated 1/16/93 and recorded 1/23/93 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 681, page 356, granted and conveyed unto Wayne W. Piper and Elaine L. Piper, husband and wife.

SEIZED and taken into execution as the property of **Wayne W. Piper & Elaine L. Piper** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
May 28, 1999.

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 August 23, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/9, 16 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-1053 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of August, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE RIGIHT, TITLE, INTEREST AND CLAIM OF STEVEN J. ZOLLERS AND CONNIE L. ZOLLERS OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN THE BOROUGH OF YORK SPRINGS, COUNTY OF ADAMS AND COMMONWEALTH OF PENNSYLVANIA. HAVING ERECTED THEREON A DWELLING BEING KNOWN AND NUMBERED AS 115 HARRISBURG ST., YORK SPRINGS, PA 17372. DEED BOOK VOLUME 1133, PAGE 246, AND PARCEL NUMBER MAP 5, PARCEL 43.

SEIZED and taken into execution as the property of **Steven J. Zollers and Connie L. Zollers** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
June 18, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 6, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/16, 23& 30

Adams County
Legal Journal

Vol. 41 July 30, 1999 No. 9, pp. 45-52

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-65 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, August 20, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel pin set at corner of land of Annie M. Brough, said steel pin being West of the Ball Town Road on line of land of Upper Bermudian Lutheran Church; thence by said land of Upper Bermudian Lutheran Church and crossing said Ball Town Road (T-589) North 58 degrees 0 minutes 0 seconds East 595.14 feet to a concrete monument; thence by Lot No. 2 on the hereinafter described subdivision plan and running through a concrete monument located 30 feet from the end of this line, South 10 degrees 20 minutes 30 seconds East 272.68 feet to a point located near the edge of the aforementioned Ball Town Road (T-589) and at land of Annie M. Brough; thence by said land of Brough, South 79 degrees 39 minutes 30 seconds West, 126.20 feet to a steel pin; thence by same South 77 degrees 9 minutes 30 seconds West 294.11 feet to a steel pin and stones; thence by same North 74 degrees 0 minutes 45 seconds West 148.50 feet to a steel pin at land of Upper Bermudian Lutheran Church, the place of BEGINNING. CONTAINING 2.050 acres.

BRT# 22-1404-20-000

BEING known as 108 Balltown Road, Gardners, PA 17324.

SEIZED and taken into execution as the property of **Rodney D. Hollabaugh & Tina Marie Hollabaugh** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
June 30, 1998.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 13, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/23, 30, & 8/6

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 334-6781 ext 336

Periodicals postage paid at Gettysburg, PA 17325.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-106 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of August, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land with improvements, situate on the West side of Cemetery Street, in the Borough of Littlestown, Adams County, Pennsylvania, adjoining land now or formerly of Samuel Althouse and formerly of J. Ernest Ohler, bounded and described as follows, to wit:

BEGINNING for a corner at lot now or formerly of Samuel Althouse and Cemetery Street, forty-four (44) feet and two (2) inches Southwest to corner of land formerly of J. Ernest Ohler; thence along said land one hundred and twenty-two (122) feet, more or less, Northwest to P.R.R. Co. right-of-way; thence along the said right-of way, forty-four (44) feet and two (2) inches Northeast to lands now or formerly of Althouse; thence one hundred and twenty-two (122) feet, more or less, Southeast along said last mentioned lands to the place of BEGINNING.

BEING the same tract of land which Jonathan E. Teal and Linda S. Teal, by deed dated July 9, 1998, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1618 at page 300, conveyed to Jonathan E. Teal, the Defendant herein.

IMPROVED with a two story single family residence with detached garage and shed.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
June 18, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 6, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/16, 23 & 30

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

To: TIMOTHY N. HINCHMAN

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for August 5, 1999, at 9 o'clock a.m., prevailing time, at the Courthouse at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

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

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone number: 717-337-9846
or 1-888-337-9846

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

7/16, 23 & 30

FICTITIOUS NAME

NOTICE IS HEREBY GIVEN pursuant to the provisions of Sec. 311 of the Act of Assembly of December 16, 1982, 54 PA C.S.A. 311, that an application for registration of a fictitious name was filed on June 24, 1999 with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the conducting of a business under the fictitious name of UNSUNG HERO with its principal office or place of business at 116 Carlisle Street, Gettysburg, PA 17325. The names and addresses of all persons owning or interested in said business are: Gregory P. Christianson, 116 Carlisle Street, Gettysburg, PA 17325; and Jason Piper, P. O. Box 489, Parkton, MD 21120.

7/30

ARTICLES OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation for FRONTLINE COMMUNICATIONS, INC., were filed with the Department of State of the Commonwealth of Pennsylvania on May 24, 1999, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker,
Guthrie & Yingst
Solicitor

7/30

ARTICLES OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, for the purpose of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the Business Corporation Law of the Commonwealth of Pennsylvania, 1988, December 21, P.L. 1444, No. 177, and its amendments and supplements. The name of the corporation is: INSURANCE SALES NETWORK OF AMERICA, INC.

Hursh & Hursh, P.C.
229 State Street
Harrisburg, PA 17101

7/30

ARTICLES OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on August 14, 1997.

The name of the corporation is SIXEAS FURNITURE GALLERIES, INC.

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

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

7/30

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

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

Notice is hereby given by the Tax Claim Bureau in and for the County of Adams under the Act of 1947, P.L. 1368, as amended, that the Bureau will expose at public sale in the Adams County Courthouse, fourth floor, Jury Assembly Room, 111–117 Baltimore Street, in the Borough of Gettysburg, Pennsylvania at 9:00 a.m. E.D.S.T. on September 16, 1999, or any date to which the sale may be adjourned, re-adjourned or continued, for the purpose of collecting unpaid 1997 and any prior real estate taxes, prior liens, municipal claims, and all costs thereto, the following described set forth.

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

There will be no Redemption Period after the date of the sale, but these taxes and costs can be paid up to the date of sale, September 16, 1999.

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

The property so struck down will be settled for before the next property is offered for sale. Deeds for the premises will be prepared by the Tax Claim Bureau and recorded. Buyer(s) will be required to pay, in addition to their bid, at the time the property is struck down to them, the basic sum for preparing and recording the deed, and the costs of such realty transfer stamps as required (assessed value x 2.53%). The Recorder of Deeds will mail the deeds to the address given by the purchaser.

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

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

NOTICE TO PROSPECTIVE TAX SALE BIDDERS

IN ACCORDANCE WITH ACT NO 133 P.L. 1368, NO 542, PROSPECTIVE PURCHASERS AT ALL TAX SALES ARE NOW REQUIRED TO CERTIFY TO THE TAX CLAIM BUREAU AS FOLLOWS:

1. A SUCCESSFUL BIDDER SHALL BE REQUIRED TO PROVIDE CERTIFICATION TO THE BUREAU THAT, WITHIN THE MUNICIPAL JURISDICTION, SUCH PERSON IS NOT DELINQUENT IN PAYING REAL ESTATE TAXES OWED TO TAXING BODIES WITHIN ADAMS COUNTY, AND

2. A SUCCESSFUL BIDDER SHALL BE REQUIRED TO PROVIDE CERTIFICATION TO THE BUREAU THAT, WITHIN THE MUNICIPAL JURISDICTION, SUCH PERSON IS NOT DELINQUENT IN PAYING MUNICIPAL UTILITY BILLS OWED TO MUNICIPALITIES WITHIN ADAMS COUNTY.

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

David K. James, III
Solicitor, Tax Claim Bureau
Danielle Asper
Director, Tax Claim Bureau

SALE #	OWNER(S) OR REPUTED OWNER(S)	DESCRIPTION	UPSET PRICE
		ABBOTTSTOWN BOROUGH	
3	Sterner, George O. & Shirley A.	004-0007---000	$248.94
4	Wentz, Grace G.	004-0029---000	$1,634.07
5	Wagaman, Bryan & Diana L.	005-0001B---000	$1,041.99
		ARENDTSVILLE BOROUGH	
7	Schweitzer, Glenn S. & Lynne	006-0059---	$40,854.94
8	Hays, Lawrence Walter & Bessie D.	004-0008---000	$4,812.59
		BENDERSVILLE BOROUGH	
9	Poland, Steven W. & Debra K.	004-002---	$2,440.57
		BERWICK TOWNSHIP	
10	Dehoff, Mary	K11-0047---000	$802.95
11	Lawrence, Joseph A. & Wanda J.	L11-0078A---000	$21,104.67
12	Miller, Joseph A. & Loretta P. J.	L10-0040---268 1985 Commodore	$935.09
13	Smith, Gary L.	L11-0091---000	$2,375.99
15	Wentz, Dennis E. & Null, Rosella L.	K11-0155---000	$4,196.56
16	Wolf, Jack & Tamera	L10-004---319 1979 Hallmark	$494.88
17	Bankert, Alvin F. & Theresa I.	K11-0048---	$607.86
18	Staub, Patrick J. & Susan A.	L10-0040---422 1985 Hauser	$769.55
19	Wolf, Stephen L. & Hope M.	L12-0065---000	$656.84
20	Hardy, Steven E. & Ruth E. Sr.	L11-0121A--000	$1,538.71
21	O'Brien, Neal J. & Mary L.	L11-0056A---000	$6,880.78
22	Teal, Cynthia A.	L11-0072B---000	$231.31
23	Lua, Ernest	L10-0040---224 1979 Suncrest	$386.50
		BIGLERVILLE BOROUGH	
24	Petrosky, David A. & Angela K.	003-0097---000	$3,399.70
25	Copenhaven, David M. & Debra K.	003-0116-000	$2,635.51
		BONNEAUVILLE BOROUGH	
26	Brashears, Robert L. & Susan M.	009-0039---000	$684.98
30	Hayes, Westley A. & Christine M.	009-0074---000	$5,625.25
31	Segraves, Helen L.	005-0088---000	$5,958.85
32	Zeiders, Lee A. & Melissa S.	009-0070---000	$3,057.54
		BUTLER TOWNSHIP	
33	Carroll, Michael & Lisa	F10-0038---084 1992 Imperial	$1,715.63
34	Darrell, Jeffrey	F10-0038---083 1991 Colony Keystone	$1,827.31
35	Harding, Blaine	F10-0038---036 1973 Hall	$340.20
37	Kauffman, David & Debbie	F09-0039---001 1968 Swiss Chalet	$195.86
38	Martin, John C.	F10-0038---037 1990 Redman	$1975.21
40	Myers, Ronald & Judith	F10-0038---048 1989 Windgate	$1,903.51
41	CIT	F10-0038---058 1989 Colony	$1,549.30
42	Shultz, Kenneth W. & Lisa D.	F08-0056---000	$1,807.50
44	Weible, Leslie O. & Margaret N.	F08-0081A---000	$5,519.81
45	Miller, George & Rose	F10-0038---13A 1993 Colony	$1,838.14
46	Heckendorn, James Jr.	F10-0038---044 1985 Heritage	$1,161.10
47	Cameron, Shirley & Brown, Jerry	F10-0038---005 1995 Skyline	$1,833.06

SALE #	OWNER(S) OR REPUTED OWNER(S)	DESCRIPTION	UPSET PRICE
48	Walls, Thomas Lee Sr. & Dorothy E.	E08-0043---000	$6,513.24
50	Roth, Jeffrey B. & Wenda S.	F10-0043---000	$3,732.35
51	Spring Valley Farms	F07-0073---	$7,569.27
52	Fouchei, John & Teri	F10-0038---076 1989 Colony	$2,143.77
		CONEWAGO TOWNSHIP	
55	Brendle, Terry Lee & Rosalind	K13-0023---	$3,646.36
56	Frederick, Matthew A. & Cynthia	008-0167---000	$1,511.21
57	Heintzelman, Charles H. Jr. & Joanna M. Heintzelman	005-0169---000	$2,155.05
58	Bankers Trust Comp of CA	L15-0024B---000	$3,216.89
59	Wildasin, Donald Lee & Patricia	008-0056---000	$3,123.99
61	Ocwen Federal Bank FSB	001-0194---000	$3,374.88
62	Hanover Scrap Processing Co. c/o First Union National Bank	L16-0001---000	$2,391.68
		CUMBERLAND TOWNSHIP	
64	Rodriquez, Christina M.	E12-0082---038 1989 Astro	$1,528.90
66	Eberhart, John W. Jr.	E17-0066A---000	$1,842.71
67	Martin, Colleen	E13-0025A---000	$4,619.65
69	Haulsee, Michael W.	E12-0082---060 1973 Vindale	$232.34
71	Fissel, Betty S. & Fissel, Curtis W., II	E16-0058---000	$4,083.83
72	Littrell, Leo	F15-0065---034 1995 Fleetwood	$1,478.82
73	Jersild, Sandra Sue	E17-0066E---000	$1,500.81
75	Bigham, James R. & Dorothy L.	F15-0067---000	$5,780.21
		FRANKLIN TOWNSHIP	
78	Beamer, William H. & Lynda M.	D08-0010---000	$2,679.09
79	Bolton, Rose B.	D12-0019---000	$3,296.20
80	Brett, Martha Elizabeth	C10-0101---000	$3,144.26
81	Brown, Schuyler M.	002-0121---000	$132.56
82	Brown, Schuyler M.	002-0124---000	$138.31
84	Cooper, Brenda L. & Eagle, Jerry L. & Margaret L.	D12-0018---000	$3,663.96
85	Dorsey, Howard R. & Janie L.	D12-0040---000	$2,235.37
86	Hahn, Eugene	C11-0029---	$2,964.13
87	Herring, Thomas James	B08-0047---001 1980 Liberty	$396.91
88	King, Robert & Marnel Jr.	D12-0014A---000	$551.88
89	Pritt, William C. & Pamela J.	C09-0054---000	$3,071.09
90	Rodriquez, Monica S.	C10-0027A---000	$1,157.33
92	Strausbaugh, Charles W. & Alverda	B09-0038G---000	$843.16
93	Verdier, Linwood R. & Karan S.	B09-0038E---000	$1,578.63
94	Wherley, Daniel C. & Susan A.	D12-0017---000	$600.51
95	Grant, Jeffrey	B07-0001---082 1940 Mobile Home	$249.65
96	Miller, Thomas J. & Florence E.	C11-0055---000	$536.19
97	Slee, John A. & Carol S.	A09-0047---000	$16,131.58
98	Helsley, James M. & Carol	B08-0009---000	$460.27
99	Lost Buck Camp	B07-0001---057 1940 MH/Cabin	$354.02
100	Gilbert, Doug & Diane	B07-0001---069 1950 MH	$702.76
101	Smith, Richard J., Jr.	002-0025---000	$300.25
102	Smith, Richard J., Jr.	002-0025A---	$111.25
103	Brown, Elizabeth	B08-0013---022 1971 MH	$228.67

SALE #	OWNER(S) OR REPUTED OWNER(S)	DESCRIPTION	UPSET PRICE
104	Ojanen, Eugene	B09-0038D---000	$3,134.44
105	Bittinger, Ronald J. & Elaine L.	D11-0029---000	$7,382.18
106	Brown, William C. & Melissa J.	B12-0012B---000	$5,944.75
107	Cassatt, Merle M. & Linda Jr.	C11-0034---001 1967 Patriot	$234.42
108	Cassatt, Merle M. Jr.	C11-0034B---000	$522.62
109	Smith, Richard J. Jr.	002-0024---000	$122.99
110	Johnson, L.G.	B07-0001---060 1975 Avion	$163.33
111	White Cloud Jay C.	B09-0102---000	$690.12
112	Wilt, Howard S. & Marguerite	002-0023---000	$109.92
113	Reaver, Stephan H. & Cindy L.	D11-0095A---000	$5,762.31
114	Wiatrak, Richard D. & Carol J.	B10-0052---000	$1,013.53
		FREEDOM TOWNSHIP	
115	Bowling, Mabel Marr	E17-0072---000	$4,149.65
116	Keckler, Bonnie J.	E17-0033---	$3,534.70
117	Olswfski, Michael A.	D15-0025---000	$5,286.03
118	Bigham, James R. & Dorothy L.	D15-0007A---000	$5,560.28
119	Bigham, James R. & Dorothy L.	D15-0022A---000	$953.71
		GERMANY TOWNSHIP	
122	Stambaugh, Charles E. Jr. & Judith Anne Stambaugh	H18-0062---000	$3,454.53
123	Wilson, Nancy W. a/k/a Nancy W. Rendo	I18-0085---000	$2,613.30
126	Smith, Donald J. & Chandra O.	I17-0052A---000	$6,506.80
129	Williams, Clarence H. & Diana L.	I17-0106---000	$3,776.53
		GETTYSBURG BOROUGH	
132	Flickinger, Carole L.	009-0146---000	$3,978.95
133	Harris, Richard A. & Rhonda L.	011-0002---000	$7,122.31
134	Harris, Richard A. & Rhonda L.	011-0001---000	$2,138.34
135	Ivey, Katherine E.	010-0325---000	$682.79
136	Jones, William H. & Cindy R.	010-0346---000	$2,272.12
137	King, Olia S.	010-0332---000	$3,016.51
142	Williams, Patricia Sarah	010-0228---000	$!,436.31
143	Baltimore Street Income Partners L.P.	010-0117---000	$15,913.06
144	Codori, Helen E.	004-0130---000	$7,644.38
145	Snyder, Barry & Shirley	010-0407---000	$6,471.53
146	Wallick, Glenn R.	007-0090---000	$169.60
147	Olinger, Mae E.	010-0158---000	$129.84
148	Sheaffer Brothers Inc.	007-0267---000	$17,721.29
		HAMILTON TOWNSHIP	
149	Bullock, Frank R. & Connie	L09-0015D---002 1987 Mobile Home	$1,285.76
151	Ness, John B. & Eleanor H.	K11-0012---000	$16,153.31
		HAMILTONBAN TOWNSHIP	
155	Fitzgerald, David B. & Kathleen	B17-0104---000	$6,818.59
156	Kauffman, Ronald D.	A12-0006---000	$2,727.52
157	Kline, Raymond Walter	C12-0130---000	$1,555.08
159	Noel, J. Richard	B13-0035A---000	$2,249.77
160	Sites, Judith E.	B16-0015---000	$2,126.70
161	Strang, Mikeal Lee	A12-0037---002 1976 Atlantic	$101.35
163	Gladhill, Richard	B17-0001---001 1983 Brigadier	$238.19
164	Mcbee, Emma M.	C15-0031---001 1984 Penthouse	$583.86

SALE #	OWNER(S) OR REPUTED OWNER(S)	DESCRIPTION	UPSET PRICE
169	Strausbaugh, Allen F. & Viola C.	B14-0037---000	$408.93
170	Andrew, Mitchell & Lavada	C14-0024---001 1985 Skyline	$934.77
171	Harlacher, Mark A.	A12-0014A---000	$4,623.27
171A	Nicholas, George W. & Mary A.	B16-0114	$5089.64
171B	Nicholas, George W. & Mary A.	B16-0061	$3634.88
172	Hazzard, Mary Elizabeth	BB0-0098---000	$178.52
173	Strawberry Hill Foundation, Inc.	B14-0011---000	$1,878.22
174	Strawberry Hill Foundation, Inc.	B14-0052---000	$652.53
175	Strawberry Hill Foundation, Inc.	B14-0077---000	$120.84
178	Murray, Patrick	C14-0055---000	$7,815.22
180	Harris, Richard A. & Ronda L.	D13-0075---000	$12,880.58
181	Shealer, Rebecca Ashley	C14-0034---000	$753.18
182	Fritz, Louis Edward Jr.	AB0-0076---	$269.94
183	Latham, Donald J. & Cheryl	D12-0006-000	$655.45
184	Latham, Donald J. & Cheryl	D12-0010---000	$5,317.04
185	Latham, Donald J. & Cheryl	D12-0013B---000	$4,091.58
186	Wolfe, Keller C.	D12-0001C---000	$1,521.24
		HUNTINGTON TOWNSHIP	
187	Bailor, Dale R.	H03-0025---000	$448.44
188	Felts, William G.	I07-0008A---002 1993 Fleetwood	$2,053.55
189	Kuhn, Donald C.	H06-0015---000	$2,964.44
193	Wolf, Larry M. & Linda M.	G03-0067---000	$2555.61
194	Leggo, Veronica	H04-0012---017 1972 Buddy	$206.03
195	Fair, Tina M. a/k/a Tina Fair Grim	I07-0017A---000	$4,470.24
197	Westbrook, Carl B. Jr.	G03-00070---000	$983.65
		LATIMORE TOWNSHIP	
198	Brown, Janet L.	I03-0024B---000	$1,667.04
199	Golden, Emory C. & Jacqueline	I04-0016B---000	$3,842.88
200	Golden, Doralyn S.	I04-0015---000	$6,785.14
201	Golden, Doralyn	I04-0002---000	$4,026.67
202	Golden Ridge Farms	I04-0065---000	$3,640.01
204	Krupp, Lawrence C.	K04-0006A---000	$1,919.79
205	Tracey, Raymond F.	I02-0070---003 1986 Commodore	$757.46
207	Knaub, Terry	I01-0031I--001 1977 Hillcrest	$370.48
208	Reem, Arlene I.	I01-0031C---000	$1,473.53
209	Sweigart, Alan	I01-0031C---001 1964 Fleetwood	$220.06
210	Golden, Doralyn	I04-0015B---000	$1,631.40
211	Golden, Doralyn S.	I04-0015D---000	$603.47
212	Golden Ridge Farms Golden, Kent E., Lynn & Emory C.	I04-0015A---000	$3,540.97
213	Clopper, Brian K.	J03-0009---000	$3,106.41
214	Golden Ridge Farms	I04-0015C---000	$15,903.84
		LIBERTY TOWNSHIP	
215	Cole, Mary Ellen	QQ0-0056---000	$452.83
218	Fritz, Louis E. Jr.	AA0-0185---000	$106.27
219	Gladhill, Richard L. & Deborah	A18-0044---000	$5,522.73
220	Hurley, Gary A. & Susan S.	D17-0027---001 1973 Atlantic	$395.56
221	Moore, Kendell E. & Janet L.	QQ0-0053---000	$852.40
223	Ott, Raymond J. & Dorothy M.	A18-0032---000	$5,906.29

SALE #	OWNER(S) OR REPUTED OWNER(S)	DESCRIPTION	UPSET PRICE
224	Schmidt, Marsha E. a/k/a Marsha Hummelbaugh	OO0-0003---000	$105.72
225	Sheldon, William Robert & Cheryl Ann	OO0-0064---000	$328.10
226	Sheldon, William Robert & Cheryl Ann	OO0-0061---000	$374.85
241	Aylor, Jean Miller Trustee for J.R.B. Aylor	AA0-0033---000	$181.39
242	Lease, Thomas S.	B17-0072---000	$1,631.36
250	Miller, Robert E. & Rhoda A.	AA0-0037---000 AA-0037	$315.31
251	Miller, Robert E. & Rhoda A.	AA0-0110---000	$315.31
253	Slowick, Evelyn S. c/o Kenneth M. Slowick	AB0-0098---000 AB-0098	$275.55
		LITTLESTOWN BOROUGH	
255	Bloom, James A.	012-0016---000	$3,343.01
258	Sheets, Martha C. Trustee	008-0I96---000	$15,602.14
259	Teal, Johnathan E.	011-0012---000	$4,745.09
260	Birtic Jr., Edward L., Et Al	012-0007---000	$4,535.81
262	Dennis, Edward F. & June E.	006-0011---000	$8,651.33
264	Morgan, Suzanne E.	011-0070---000	$2,711.14
		MENALLEN TOWNSHIP	
267	Slaybaugh, Patricia	B05-0057---000	$1,522.39
268	Harris, Tom & Kathy	E07-0033---003 1979 Sylran	$507.43
269	Musgrave, Robert S. & Susan G.	B05-0003---000	$928.19
270	Koser, Richard & Diane	B05-0055---000	$1,538.20
271	Showers, Jack D.	F05-0019A---000	$316.93
275	Hartman, Joseph E.	D05-0039---002 1973 Elcona	$247.62
277	Ramiraz, Jose G. & Norma Y.	D06-0005---000	$700.56
278	Schriver, Peter J.	F04-0024---000	$7,183.58
279	Hogan, James E.	F05-0110---001 1973 Shaffer	$252.01
280	Hostetter, Mark L. & Kelly P.	C05-0020---000	$3,184.11
281	Routsong, Leroy Et Al	F05-0038---000	$920.83
282	McQuay, William J. & Toni	E05-0031---000	$2,152.40
283	Mendez, Jose	D07-0039---001 1986 Skyline	$1,056.98
		MT. JOY TOWNSHIP	
284	Bloom, Linda L. & Payne, Sharon & Davis, Ralph Jr.	G15-0054---000	$311.68
285	Cecil, Harrison Ray	H16-0093---001 1993 Fleetwood MH	$2,702.30
286	Cecil, Harrison Ray	H16-0093---000	$3,717.51
287	Hartlaub, Robert A. Jr.	H16-0068---000	$6,507.92
288	Higgs, Gilbert & Mary O.	G14-0011---002 1972 Flamingo MH	$257.83
289	Mikesell, Paul M. Lois A.	H15-0064---000	$$7,083.74
290	Poole, Barry N. & Kelly A.	H15-0047---000	$8,173.55
291	Strausbaugh, William J. & Diane	009-0071---000 H-833	$3,088.93
292	Strausbaugh, William J. & Mary	G17-0038---000	$1,848.27
293	Whaley, Glenn D. & Ann M.	008-0005---000 H-0155	$425.89
294	Werdebaugh, Edward Melvin a/k/a M. Edward Werdebaugh	G17-0028---000	$1,028.74
296	Moran, Charles K. & Florence E.	G15-0088---000	$3,057.33
297	Shindledecker, Kermit R. & Martha	009-0012---000	$3,520.17
298	Donohue, Patrick J. & Kathleen	H15-0022---000	$697.28
299	Shindledecker, Kermit R. & Martha	009-0019---000 H-0952	$304.31

ZEFER OPERATIONS VS. EMERSON GEARING, ET AL

1. Although some decisions hold that administrative decisions do not collaterally estop plaintiffs in civil actions, the real test is whether (a) the issue litigated was essential to judgment, (b) the party against whom the claim is asserted had a full opportunity to litigate the issue, and (c) the party against whom the claim is asserted actually litigated the issue.

2. The identity of the entity rendering judgment is unimportant.

3. It appears that a difference between collateral estoppel and res judicata is that, while the latter binds parties as to issues that could have been litigated, the former applies only when an issue has actually been litigated. Consent and default judgments are not included.

4. When an issue is properly raised by pleadings or otherwise, and is actually submitted for determination and is determined, it has been litigated. A determination may be based on the failure of pleading or of proof as well as on the sustaining of the burden of proof.

5. It is possible that a breach of contract can give rise to a cause of action sounding in tort, but the wrong involved must be the gist of the action, with contract considerations collateral.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 98-S-94, ZEFER OPERATIONS, INC. VS. EMERSON GEARING, EMERSON POWER TRANSMISSION CORP., AND BROWN TRANSMISSION & BEARING CO.

Joseph A. Macaluso, Esq., for Plaintiff

Donald J. P. Sweeney, Esq., for Emerson, Gearing, Emerson Power Transmission Co.

Hanna A. Dunlap, Esq., for Brown Transmssion & Bearing Company

OPINION ON PRELIMINARY OBJECTIONS

Spicer, P.J., July 2, 1998.

Plaintiff describes itself as a Pennsylvania corporation maintaining its principal office at 2498 Iron Springs Road, Fairfield, Pennsylvania, which is in Adams County. It filed a complaint January 27, 1998, against Emerson Gearing, Emerson Power Transmission Corp. (collectively and individually referred to as Emerson), and Brown Transmission & Bearing Co., (Brown). Emerson manufactures gear boxes, among other things, and Brown distributes them, at least in this area of Pennsylvania. Brown maintains its offices in Lancaster County[1].

Plaintiff alleges that it makes and sells elevated work platforms, at least one model of which was a scissors lift. It states that it needed gear

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[1]The complaint recites that Emerson Gearing is located in Maysville, KT and Emerson Power in Ithaca, NY. We have unsuccessfully searched through the file to find for what state KT is an abbreviation.

boxes for its product and talked to Brown about supplying them. In May and June 1997, representatives of Brown and Emerson (Larry Reiber and Hans Fuller) visited plaintiff's plant and examined plaintiff's scissors lift product. The complaint goes on to state:

9. At about the second visit to Zefer's plant, Reiber and Fuller represented to Zefer that Emerson Gearing's gear boxes were indeed suitable and fit for use in its product.

10. Zefer relied on these representations and designed its scissors lift specifically to incorporate these gear boxes. Zefer informed Reiber and Fuller during these visits that it would design its scissors lift as such.

Plaintiff alleges that it purchased eight gear boxes, which were manufactured by Emerson and provided by Brown. On June 23, 1997, Emerson telefaxed a letter to plaintiff saying that it had recently been brought to Emerson's attention that plaintiff's products transported people, without any external fail-safe mechanism included in case of equipment overload. Emerson insisted that plaintiff immediately stop using Emerson gears because use without fail-safe protection presented risk of bodily harm.

The complaint recited that there was a pending action in Lancaster County, brought by Brown for the purchase price of the gears.

Plaintiff sues for Breach of Contract (Count I), Negligent Misrepresentation (Count II), Breach of Warranty for Particular Purpose (Count III), and Fraud (Count IV).

Plaintiff has filed preliminary objections raising res judicata, a demurrer, a motion for more specific pleading, and a challenge to venue. We will address these objections ad seriatim.

1. Res judicata: Although res judicata and collateral estoppel are affirmative defenses that should be raised in New Matter, Hopewell Estates, Inc. v. Kent, 435 Pa. Super. 471, 646 A.2d 1192 (1994), plaintiff has admitted that judgment was entered against it and in favor of Brown for the amount of the purchase price of the gears by a Lancaster County District Justice. It does not object to the issue being addressed through preliminary objections, but argues that it should not be precluded from bringing this suit because, 1): The judgment was entered by a District Justice and not by a Court; 2): Judgment was entered on a number of purchases, and the price of the gears amounted to only about one half of the total; and 3): Plaintiff unsuccessfully tried to appeal the judgment.

Although Emerson has described its objection in terms of res judicata, we think it is more appropriately analyzed under elements of collateral estoppel. Res judicata requires the concurrence of four conditions:

(1) identity of issues;

(2) identity of the cause of action;

(3) identity of the persons and parties to the action; and

(4) identity of the quality or capacity of the parties suing or being sued.

Collateral estoppel involves the following conditions:

(1) the issue decided in the prior adjudication was identical with the one presented in the later action;

(2) there was a final judgment on the merits;

(3) the party against whom the plea is asserted was a party or in privity with a party to the prior action;

(4) the party against whom the plea is asserted had a full and fair opportunity to litigate the critical issue in the prior action; and

(5) the determination in the prior proceeding was essential to the judgment.

City of Pittsburgh v. Zoning Board of Adjustment, 522 Pa. 44, 559 A.2d 896 (1989).

It is undisputed that Emerson was not a party to the Lancaster County action, so res judicata does not apply.

Although some decisions hold that administrative decisions do not collaterally estop plaintiffs in civil actions, Rue v. K-Mart Corp., 456 Pa. Super. 641, 691 A.2d 498 (1997), alloc. gr. 548 Pa. 682, 699 A.2d 735 (1997), the real test is whether (a), the issue litigated was essential to judgment, (b), the party against whom the claim is asserted had a full opportunity to litigate the issue, and (c), the party against whom the claim is asserted actually litigated the issue. If the first two parts of the test are met, Emerson may raise collateral estoppel as a shield, even though a stranger to the Lancaster County action. Mellon Bank v. Rafsky, 369 Pa. Super. 585, 535 A.2d 1090 (1987), alloc. gr. 518 Pa. 650, 544 A.2d 961 (1988)[2]. The identity of the entity rendering judgment is unimportant. McCullough v. Xerox Corp., 399 Pa. Super. 135, 581 A.2d 961 (1990), alloc. dn. 527 Pa. 624, 592 A.2d 45 (1991) (Workmen's Compensation);

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[2] We are unable to determine what happened in allocatur proceedings, but the case was cited with approval in City of Pittsburgh v. Zoning Board of Adjustment, supra.

Phillip v. Clark, 385 Pa. Super. 229, 560 A.2d 777 (1989), alloc. dn. 527 Pa. 649, 593 A.2d 421 (1991) (Arbitration).

Plaintiff has not argued that it was denied the opportunity of litigating the issue. Thus, we need to determine if plaintiff actually litigated the issue, and if liability for the purchase price is critical to a determination of plaintiff's right to recover in the case sub judice.

It appears that a difference between collateral estoppel and res judicata is that, while the latter binds parties as to issues that could have been litigated, the former applies only when an issue has actually been litigated. Consent and default judgments are not included. Martin v. Poole, 232 Pa. Super. 263, 336 A.2d 363 (1975); Matternas v. Stehman, 434 Pa. Super. 255, 642 A.2d 1120 (1994).

Policy reasons for this rule appear in comments to Restatement 2d. Judgments §27. Comment e, for example, recites considerations such as the former case involving such a small amount that litigation may cost more than liability. The comment goes on to say:

> It is true that it is sometimes difficult to determine whether an issue was actually litigated; even if it was not litigated, the party's reasons for not litigating in the prior action may be such that preclusion would be appropriate. But the policy considerations outlined above weigh strongly in favor of nonpreclusion, and it is in the interest of predictability and simplicity for such a result to obtain uniformly.

Another comment, d, indicates that when an issue is properly raised by pleadings or otherwise, and is actually submitted for determination and is determined, it has been litigated. A determination may be based on the failure of pleading or of proof as well as on the sustaining of the burden of proof.

We find that the issue of whether the gears conformed to the requirements of purchase is a critical issue in determining liability for purchase price. The reverse is obviously also true. Liability for payment of purchase price is dependent upon conformity of the goods. Diminution of the price is a remedy for nonconformity. 13 Pa. C.S.A.§2714. The Uniform Commercial Code provides that payment of the purchase price after reasonable opportunity to inspect may amount to acceptance of the goods. See id. §2512; 4 Anderson, Uniform Commercial Code §2-606.97 et seq. It would seem, therefore, that plaintiff would be precluded from suing for nonconformity if it

actually litigated the issue of price in the Lancaster County proceeding. While there is some indication plaintiff did litigate liability, the record does not establish this fact clearly enough to sustain the objection.

Because liability for payment of the purchase price is a necessary issue, the Lancaster County action is res judicata as between plaintiff and Brown. Apparently recognizing this, plaintiff has petitioned to drop Brown as a party defendant. That petition is presently pending.

We may be postponing a decision for summary judgment, but we overrule the preliminary objections based on collateral estoppel.

2. Demurrer and motion for more specific pleading:

A. Breach of contract and warranty for fitness for a specific purpose: As pleaded, we see no difference between the counts based upon contract and implied warranty. The Code, 13 Pa. C.S.A. §2315 establishes a warranty of suitability for a specific purpose. The oral representations described supra arguably amount to an express warranty. Both require more than is pleaded.

Superior Court has said:

> Concerning fitness for a specific purpose, 13 Pa.C.S. §2315 mandates that the seller can only be liable under this theory if he knew of the specific purpose the buyer would make of the product and recommended that particular good for such purpose, with the buyer relying on the seller's expertise in making that particular choice.

Keirs by Keirs v. Weber National Stores, Inc., 352 Pa. Super. 111, 119, 507 A.2d 406, 410 (1986).

Although we are admonished to read allegations in the complaint in a light most favorably to plaintiff, and to sustain a demurrer only if it is clear that plaintiff may not recover under the law. Solt v. Sandoz Pharmaceuticals Corporation, et al., 22 D&C 4th 299, 37 Adams Co. L.J. 5 (1994), it is clear that the complaint is fatally defective because of the absence of allegations that Emerson knew that plaintiff's platform was intended to transport people. It also lacks specificity to enable Emerson to prepare an intelligent response, which is the standard for judging motions for more specific pleadings. Arentz v. Arentz, 29 Adams Co. L.J. 209 (1988). Objections to counts based upon implied warranty and breach of contract are sustained.

B. Fraud and negligent misrepresentation:

Superior Court has said:

> The elements of fraudulent misrepresentation are (1) a misrepresentation; (2) a fraudulent utterance thereof; (3) an intention by the maker to induce the recipient thereby; (4) justifiable reliance by the recipient on the misrepresentation; and (5) damage to the recipient as a proximate result of the misrepresentation. (citations omitted) Moreover, averments of fraud must be alleged with particularity and must be sufficient to convince the court that the averments are not mere subterfuge. Pa.R.Civ.P. 1019(b). See also Bata v. Central-Penn National Bank, 423 Pa. 373, 379, 224 A.2d 174, 179 (1966) ("averments of fraud are meaningless epithets unless sufficient facts are set forth which will permit an inference that the claim is not without foundation"). The Bata Court clarified:
>
>> While it is impossible to establish precise standards as to the degree of particularity required in a given situation, two conditions must always be met. The pleadings must adequately explain the nature of the claim to the opposing party so *as to permit him to prepare a defense* and they must be sufficient to convince the court that the averments are not merely subterfuge.
>
> Id., 423 Pa. at 380, 224 A.2d at 179 (citations omitted) (emphasis added). Thus, appellant's allegations of fraud must consist of more than legal conclusions. (citation omitted)

Bash v. Bell Telephone Co., 411 Pa. Super. 347, 359, 601 A.2d 825, 831 (1992).

It is possible that a breach of contract can give rise to a cause of action sounding in tort, but the wrong involved must be the gist of the action, with contract considerations collateral. Id. See also McClellan v. Health Maintenance, 413 Pa. Super. 128, 604 A.2d 1053 (1992), alloc. dn. 532 Pa. 664, 616 A.2d 985 (1992).

Superior Court has also said:

> It is well settled that the scienter element of the tort of fraudulent misrepresentation may be satisfied by actual knowledge on the part of the tortfeasor of the falsity of the representation, reckless ignorance of the matter, or "mere false information where a duty to know is imposed on a person by reason of special circumstances." Reimer v. Tien, 356 Pa. Super. 192, 198-

200, 514 A.2d 566, 569 (1986) quoting Shane v. Hoffman, 227 Pa. Super. 176, 181-83, 324 A.2d 532, 536 (1974).

Noyes v. Cooper, 396 Pa. Super. 592, 601- 602, 579 A.2d 407, 412 (1990), alloc. dn. 527 Pa. 667, 593 A.2d 842 (1991).[3]

Allegations in Counts II and IV echo the themes expressed in the counts relating to warranties. As to negligent representation, plaintiff alleges:

30. Defendants made misrepresentations to Zefer, as described in Paragraphs 7 through 12, inclusive, above to the effect that the gear boxes were fit for use in Zefer's scissors lift product and that defendants would supply Zefer with the gear boxes.

32. Defendants' (sic) knew or should have known that the gear boxes were not fit for use in Zefer's scissors lift product; therefore, defendants breached their duty to Zefer and defendants' conduct constitutes negligent misrepresentation.

The following allegations appear in the count relating to fraud:

43. Defendants possessed knowledge at the time they represented to Zefer that the gear boxes were fit for use in Zefer's scissors lift product and that defendants would supply Zefer with same, that these statements were false.

44. Defendants made these misrepresentations intentionally.

45. Defendants' conduct constitutes fraud.

The time of events is interesting. Defendants' representatives inspected plaintiff's scissors lift product "in or about May and June, 1997". The complaint is silent about any discussions concerning how the product was to be used. Plaintiff purchased eight gear boxes May 29, 1997. Emerson notified plaintiff June 23, 1997, to discontinue use of the gear boxes without safety features being used. In the absence of allegations that would make it reasonable to Emerson to know that the platforms were actually intended to transport people, conclusions that misrepresentations were intentionally or negligently made carry little weight. In other words, plaintiff has failed to satisfy this court that allegations are not merely a subterfuge for overcoming a deficiency in a warranty action.

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[3] See also Restatement 2d. Torts §552, quoted in Six v. Cole, 32 Adams Co. L.J.157 (1990), which imposes liability upon a person who, in the course of his business or profession, provides erroneous information for the guidance of another in the latter's business transactions and fails to exercise care in obtaining and communicating the information.

We will sustain objections to Counts II and IV.

3. Venue: Emerson acknowledged, at oral argument, that transactions occurred in Adams County and that Pa.R.C.P. 2179(4) vests venue in this Court. However, it argued that venue should be moved, under principles of forum non conveniens.

Supreme Court has ruled that a defendant seeking a change of venue must show that plaintiff's choice was vexatious to defendant by establishing facts that plaintiff's choice was designed to harass defendant, even at some inconvenience to plaintiff itself. Defendant must show more than inconvenience. Cheeseman v. Lethal Exterminator, Inc. 549 Pa. 200, 701 A.2d 156 (1997).

We realized that Emerson's argument is grounded on preliminary objections, not a motion under Pa.R.C.P. 1006. Nonetheless, there is nothing on the record that supports either the request for a change or Emerson's challenge to plaintiff's choice of venue.

ORDER OF COURT

AND NOW, this 2nd day of July, 1998, preliminary objections based upon res judicata and/or collateral estoppel are denied, as are those based upon venue. All other objections are sustained. Plaintiff may file either an amendment to the complaint, or an amended complaint, within twenty days.

SALE #	OWNER(S) OR REPUTED OWNER(S)	DESCRIPTION	UPSET PRICE
300	Baxter, Edmund N. & Audrey Anne	007-0119----000 H-0830+	$2,422.04
301	Country Builders & Smith, Philip D.	008-0010---000 H-0150	$378.54
		MT. PLEASANT TOWNSHIP	
305	Cyryca, Jeffrey & Ania J.	I14-0052---000	$4,622.07
306	Deatrick, Gates D.	I11-0042---001 1968 New Moon	$252.07
308	Laughman, Leo T. Jr.	J12-0061---070 1985 Liberty	$586.68
309	Chronister, George & Karen	J11-0052---005 1990 Derose	$1,895.79
310	Mullin, Richard P. & Mullin, Michael S.	J11-0006A---000	$3,360.06
311	Russell, Thomas A. III	J12-0061---145 1993 Fleetwood	$1,646.16
312	Sensenig, Joseph	J11-0052---062 1986 Redman	$883.42
313	Shuff, Susan	J12-0061---002 1984 Liberty	$1,164.45
314	Smith, Roger & Jane	J12-0061---060 1985 Liberty	$818.62
315	Wagner, Marlin R. & Rhonda L.	H13-0029---001 1989 West Ridge	$1,051.32
316	Yingling, Wendell & Mary	J12-0061---124	$798.55
317	Pamela Shrader	J11-0052---070 1997 Liberty	$832.92
318	Basehoar, Charles D. & Rubin L.	I13-0013---000	$742.25
319	Grothe, Stephen A.	J12-0061---014 1994 White Rose	$1,227.25
320	Hardman, Ralph E. & Frances S.	H13-0009A---000	$471.79
322	Groft, Gerald J. Jr.	I15-0037---001 1994 MH	$1,003.78
324	French, Joseph & Charlotte	J12-0061---134 1985 MH	$715.63
325	Bless, Richard E. & Barbara	J11-0052---026 1986 Redman	$200.83
326	Romberger, Paula	J12-0061---049 1977 Redman	$275.90
327	Baxter, Edmund N. & Audrey Anne	005-0150---000	$291.67
328	Baxter, Edmund N. & Audrey Anne	005-0149---000	$288.89
329	Eckenrode, Amy S.	H14-0032---009 1995 Wexford	$992.56
330	Gunzales, Ricardo & Triann	J11-0052---066 1985 Commodore	$745.42
331	Myers, Scott J.	J12-0061---050 1988 Forest Park	$835.83
333	Portuondo, Jose Javier & Dorothy Ann Portuondo	I15-00471---000	$4,142.16
334	Stoner, Virgie V.	I11-0068---	$1,398.94
335	Epley, Stephen A. & Pamela	J13-0035E---000	$2,257.31
336	Harner, Kenneth & Margaret	J12-0061---118 1982 Liberty	$532.83
337	McDannell, Roger & Sherry	J12-0061---041 1977 Liberty	$317.76
338	Tideman, Mary E.	H14-0032---034 1991 New Moon	$1,373.58
		NEW OXFORD BOROUGH	
339	Brock, Roy L. & Sandra L.	005-0172---000	$2,951.41
340	Halterman, Lorain D. & Martha A.	004-0028A---000	$6,293.16
342	AVCO Financial Services of MD	005-0134A---029	$3,419.39
343	Wolf, Sonja M.	007-0076---000	$3,039.30

SALE #	OWNER(S) OR REPUTED OWNER(S)	DESCRIPTION	UPSET PRICE
344	Halterman, Lorain D. & Martha A.	004-0012---000	$548.30
345	Blevins, Tammy D.	007-0097---	$932.83
346	Garland Construction	007-0104A---	$1,463.46
347	Garland Construction	007-0104A---001	$3,020.39
348	Belcher, Russell E. Sr. Et Al	007-0096---	$2,782.63
349	Slike, Donald E. & Rose Marie	004-0055---000	$4,991.22
		OXFORD TOWNSHIP	
351	Flickinger, Ellen I.	008-0194---000	$2151.31
352	Kamot, Sana E.	J11-0131M---000	$1,221.71
354	Rohrbaugh, Eugene	K11-0105F---007 1971 Skyline	$156.12
355	Rudolf, Patrick J. & Sara A.	K12-0055---000	$4,694.72
358	Despines, Joseph C. & Tracey A.	J12-0114---000	$3,441.21
359	Garrett, Bonnie	K11-0105F---020 1989 Fleetwood	$1,399.45
360	Bank America Housing Services	J13-0007J---001 1995 Imperial	$2,585.19
361	Salisbury, Katherine Y.	014-0021---	$2,441.87
362	Becker, Timothy	J10-0058B---001	$250.89
363	Becker, Timothy L.	J10-0082---000	$1,941.70
364	Klunk, Tracey	K11-0026C---010	$2,761.21
		READING TOWNSHIP	
367	Altland, Karelene A.	J08-0045---105 1979 Liberty Mobile	$442.53
369	Brashears, Charles	L07-0005---017 1988 Brigadier	$1692.62
370	Crone, Denise	J08-0045---135 1979 Hillcrest	$442.53
371	Groft, Michael & Brown, Hilda	J08-0045---032 1991 Skyline	$1,533.79
372	Harris, Paul R. & Priscilla	L07-0005---057 1987 Forest Park	$1,044.67
373	Hulse Family Properties Inc.	J08-0057---000	$478.93
374	Hynson, David L. & Debra J.	005-0083---000	$2,830.46
375	Jarrett, Edward & Diane	J08-0045---117 1976 Metamora	$284.91
377	Miller, Charles M. & Belinda L.	001-0038---000	$2,112.66
378	Myers, Kenneth E.	J08-0045---008 1985 Skyline	$814.82
379	Poole, John	J08-0075---001	$2,953.63
380	Reese, Steven	J08-0045---108 1992 Skyline	$2,303.47
381	Ruth, Scott A.	L07-0005---052 1988 Liberty	$1,050.63
382	Seaman, Leona H.	J06-0012---000	$5,915.03
383	Sullivan, Ronald W.	J09-0070F---000	$2,828.51
384	Hertz, Crystal D. & Starner, Cornelius & Pearl	J08-0045---133 1992 Colony	$1,587.28
386	Spangler, Matthew W. & Alma	L07-0005---034 1990 Commodore	$1,533.79
388	Hynson, David & Debra	005-0082---000	$309.06
389	Stine, Rodger J.	L06-0017---002 1979 Fleetwood	$399.60
391	Meckley, Delphus & Robin Armstrong	L07-0005---016 1973 Homette	$120.79
394	McDougle, Randy L. & Patricia S.	002-0111A---000	$2,045.81
395	Miner, Steven	L07-0005---018 1972 Sheraton	$191.00
396	Grover, Rickey & Michelle	L07-0005---026	$1,395.79

SALE #	OWNER(S) OR REPUTED OWNER(S)	DESCRIPTION	UPSET PRICE
397	Ash-Mel, Inc.	J08-0121---	$8,127.23
		STRABAN TOWNSHIP	
398	Ashley, Rebecca S. a/k/a Rebecca S. Ashley Shealer	004-0052---000	$4,823.06
399	Chapman, Samuel	G12-0124---025 1977 Homette	$307.94
400	Dubbs, Donald L.Sr.	H12-0095B---000	$1,772.35
401	Grimes, George E.	G12-0124---77 1977 Lagrande	$346.58
402	Harris, Richard A. & Ronda L.	001-0079---000	$1,398.88
403	Hulse Family Properties Inc.	H11-0057---000	$8,846.74
404	Powell, Judy	G12-0124---023 1966 Schult	$208.83
405	Klinefelter, James & Dawn	H10-0017---102 1985 Skyline	$1,077.68
406	Loder, Gary L.	H12-0069---000	$11,114.97
407	Magara, Michael E. & Michelle	G12-0124---086 1988 Fleetwood	$919.32
408	McKenna, Edward J. & Patricia E.	G10-0013---000	$20,254.24
409	Oberlin, Kathy P.	I11-0018---000	$14,758.72
410	Plank, Donna J.	H12-0021---004 1974 Redman	$226.36
411	Cruz, Marcus & Sharon	G12-0124---044	$346.79
412	Wyatt Investors, Inc.	H11-0079---000	$5,654.62
413	Shaffer, Janet K.	G12-0007---000	$6,313.72
414	Shealer, Frederick M. & Faye M.	G09-0040---000	$2,817.82
415	Shelleman, John R. & Katherine	G12-0124---064	$1,251.13
416	Shindledecker, Kermit R. & Martha	F12-0150---000	$7,934.90
417	Shipley, Dorothy	G12-0124---054 1973 Zimmer	$226.36
418	Aliff, Leonard	G12-0124---084 1977 Classic	$301.57
419	Taughinbaugh, Jere W.	H10-0061---000	$995.53
420	Taughinbaugh, Jere W. & Sue E.	H10-0062---000	$481.68
421	Mejia, Hernan & Theresa	G12-0125---00I 1973 Mark IV	$237.86
422	Simmons, Lawrence M.	G11-0034---000	$10,591.51
423	Toot, Richard G.	H11-0041---001 1969 Homemaker	$226.36
424	Uber, Howard	G12-0125---00A 1965 Marlette	$112.67
425	Monahan, Carrie M.	H10-0017---162 1995 Skyline	$4,217.42
426	Lawver, Tammy	G12-0124---042 1977 Liberty	$297.73
427	Mahalage, Michael W.	G10-0013---001 1970 Pride Estate	$226.36
428	Zartman, Gerald J.	H11-0014---001 1975 Newport	$243.06
429	Mann, Gregory A. & Sharon Lee	G10-0030A---000	$3,091.85
430	Skalka, Deanna E.	G11-0002A---000	$7,234.61
431	Van Metre, Diane	G10-0013---002 1965 New Moon	$226.36
432	Ayers, Bobby	G10-0013---005 1982 Fun Time	$241.29
433	Holyfield, David & Wilda	G12-0124---039 1994 Redman	$955.91
434	Kyle, Timothy H.	G12-0124---83	$1,089.07
435	Riley, George	H10-0017---146 1987 Skyline	$225.69

SALE #	OWNER(S) OR REPUTED OWNER(S)	DESCRIPTION	UPSET PRICE
436	Bank America	G12-0124---89A	$164.45
437	Martin, Maurice & Sylvia	G12-0124---117	$104.67
438	Yingling, Robert	G10-0013---004 1969 Buddy	$209.77
439	Smith, Gregory D.	021-0074---000	$871.81
440	Slick, Miriam L.	H10-0017---103 1996 Liberty	$1,509.61
442	Defoe, Gary J.	H12-0023A---000	$7,355.54
443	Rinehart, Daniel	H10-0017---113 1985 Imperial	$1,332.73
444	Jacoby, Karyl M.	004-0096---000	$2,478.90
		TYRONE TOWNSHIP	
448	Miller, Nancy S.	F03-0011C---000	$3,256.27
449	Taylor, Danny E. & Shelley R.	G04-0033---	$4,917.57
450	Bank of New York	G04-0107A---000	$3,227.61
451	Rudolph, Patrick J. & Sara A.	I09-0016A---013 1970 MH	$160.98
452	Stambaugh, Richard	I09-0016A---017 1984 Cabin	$177.97
		UNION TOWNSHIP	
454	Hayes, Robert M. & Connie M.	K17-0036---	$5,125.03
455	Sterner, Eric J.	K17-0081---	$1,962.89
456	Rill, Van Thomas & Linda Kay	K17-0161---	$1,701.03
457	Aberdeen Holdings	J16-0007A---	$1,263.43
458	GWC Properties Inc.	J16-0007---000	$796.91
		YORK SPRINGS BOROUGH	
460	Real Estate Diversified Assoc.	005-0046---000	$5,743.60
461	Harter, Forrest J.	005-0040---000	$1,272.39
462	Slike, Donald E. & Rose Marie	001-0025---000	$2,177.24
		CARROL VALLEY BOROUGH	
463	Boothe, Louise M.	022-0119---000	$599.03
465	Helmke, Thomas W.	046-0111---000	$871.11
466	Moore, Kendall E.	025-0076---000	$251.84
467	Moore, Kendall E. & Janet L.	024-0021---000	$523.59
468	Moore, Kendall E. & Janet L.	025-0111---000	$189.49
469	Moore, Kendall E. & Janet L.	045-0094---000	$1,045.84
470	McKean, William L. & Cynthia L.	025-0110---000	$233.44
471	McKean, William L. & Cynthia L.	025-0109---000	$239.19
472	Nickles, Howard J. & Nancy L.	047-0060---000	$480.37
473	Prichard, Todd D.	011-0007---000	$381.43
474	Schaffner, John C. & Lorena A.	034-0052---000	$188.62
481	Virostek, Frank E. & Geraldine	018-0017---000	$656.28
482	Wachter, Edward Ray	035-0113---000	$13,720.34
483	Bankers Trust Co. of California	034-0164---000	$761.77
484	Cottrell, Joseph & Philomena	027-0139---000	$699.72
489	Robinson, Robert E. & Susan C.	041-0202---000	$5,181.41
491	Tippen, Jeffrey Lynn & Janet L.	007-0088---000	$3,314.93
492	Zeller, Patricia F. a/k/a Patricia F. Frazer	017-0012---000	$265.22
494	Reed, Bruce E. & Kimberly E.	027-0011---000	$9,562.99
501	Smith, Joel	013-0034---000	$530.32
504	Castronova, Mafaldo F. & Brenda	041-0204---	$7,813.38
505	Gabsch, Karl E.	005-0023---000	$628.92
506	Gerhart, Hugh M. III, Romano, Susan L.	007-0082---000	$1,254.68
507	Wills, Everett & Gina	007-0002---000	$5,898.16
510	Toms, Larry E. Jr. & Carper, Janet E.	023-0075---000	$1,014.57

SALE #	OWNER(S) OR REPUTED OWNER(S)	DESCRIPTION	UPSET PRICE
511	Wong, Benjamin Y.W. & Grace	034-0044---000	$523.59
512	Long, R. Charles & Marguerite	021-0030---000	$775.87
514	Zounis, Nicholas T.	028-0099---000	$102.31

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF KENNETH M. BENNER, DEC'D
Late of the Borough of Littlestown, Adams County, Pennsylvania
Executrix: Ruth Ann Peart, 730 Bollinger Road, Littlestown, PA 17340
Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF AMBER LOUISE GROFT, DEC'D
Late of the Borough of Fairfield, Adams County, Pennsylvania
Administratrix: Lisa Diane Groft, 5 Upper Trail, Fairfield, PA 17320
Attorney: Chester G. Schultz, Esq., 145 Baltimore Street, Gettysburg, PA 17325

ESTATE OF DOROTHY CAROLYN KNACKSTEDT, DEC'D
Late of Huntington Township, Adams County, Pennsylvania
Executor: Fred B. Knackstedt, 550 Ground Oak Church Road, Gardners, PA 17324
Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RICHARD W. WAGAMAN, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Executrix: Rita Wagaman, 2796 York Road, Gettysburg, PA 17325
Attorney: Wendy Weikal-Beauchat, Esq., 116 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ALANSON F. WICK, DEC'D
Late of Conewago Township, Adams County, Pennsylvania
Executor: Judith Beth Rapp, 601 N. George St., Hanover, PA 17331
Attorney: G. Steven McKonly, 119 Baltimore Street, Hanover, PA 17331

ESTATE OF PAUL F. WORCESTER, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executor: G. Steven McKonly, 119 Baltimore Street, Hanover, PA 17331
Attorney: G. Steven McKonly, Esq., 119 Baltimore Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF HAROLD G. RICHARDSON, DEC'D
Late of Berwick Township, Adams County, Pennsylvania
Executor: James T. Yingst, 40 York Street, Hanover, PA 17331
Attorney: James T. Yingst, Esq., Guthrie, Nonemaker, Guthrie, & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF FRANCENE SWIFT THORNE, a/k/a FRANCENE ELIZABETH THORNE, DEC'D
Late of Menallen Township, Adams County, Pennsylvania
Executrix: Geraldine Ann Swift Raub, P.O. Box 207, Bendersville, PA 17306
Attorney: Richard E. Thrasher, Esq., Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF JONATHAN E. BARNES, DEC'D
Late of Germany Township, Adams County, Pennsylvania
Administrator: Julie B. Maher, RD1 Box 223T, Thomasville, PA 17364

ESTATE OF CHARLES M. BROTEMARKLE, DEC'D
Late of the Borough of New Oxford, Adams County, Pennsylvania
Executor: Charles M. Brotemarkle, II, c/o 230 York Street, Hanover, PA 17331
Attorney: John James Mooney, III, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF JOHN F. ENRIGHT, JR., DEC'D
Late of Reading Township, Adams County, Pennsylvania
Executrix: Therese M. Catching, 51 Schofield Drive, East Berlin, PA 17316
Attorney: Richard E. Thrasher, Esq., Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF DOLORES L. GRIM, DEC'D
Late of Reading Township, Adams County, Pennsylvania
Co-Executors: Keith M. Grimm and Kathy M. Julius, c/o 29 North Duke Street, York, PA 17401
Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

ESTATE OF MAURICE D. HOLSOPPLE, DEC'D
Late of Berwick Township, Adams County, Pennsylvania
Executors: Fred L. Holsopple, 203 W. King Street, Abbottstown, PA 17301; Terry D. Holsopple, 731 Elm Terrace, York, PA 17404
Attorney: Puhl, Eastman & Thrasher, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF MADELEINE PIHO, DEC'D
Late of Reading Township, Adams County, Pennsylvania
Executor: John David Piho, 56 Rife Road, East Berlin, PA 17316
Attorney: Clayton R. Wilcox, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ARTHUR W. SPAHR, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executrix: Margueritte S. Myers, c/o William W. Hafer, 215 Baltimore Street, Hanover, PA 17331
Attorney: William W. Hafer, Esq., 215 Baltimore Street, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-1053 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of August, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE RIGIHT, TITLE, INTEREST AND CLAIM OF STEVEN J. ZOLLERS AND CONNIE L. ZOLLERS OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN THE BOROUGH OF YORK SPRINGS, COUNTY OF ADAMS AND COMMONWEALTH OF PENNSYLVANIA. HAVING ERECTED THEREON A DWELLING BEING KNOWN AND NUMBERED AS 115 HARRISBURG ST., YORK SPRINGS, PA 17372. DEED BOOK VOLUME 1133, PAGE 246, AND PARCEL NUMBER MAP 5, PARCEL 43.

SEIZED and taken into execution as the property of **Steven J. Zollers and Connie L. Zollers** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
June 18, 1999.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 6, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/16, 23& 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-1154 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, August 20, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the State Highway leading from Hanover to Gettysburg; thence by other lands now or formerly of Joel D. Musselman, et ux., and through an iron pin, North 25 degrees East, 258 feet to an iron pin; thence by land now or formerly of A. E. Hutchison, North 35 degrees East, 110 feet to lands now or formerly of Robert Paris; thence by said last mentioned lands South 67 degrees East, 57 feet to an iron pin at lands now or formerly of Trondle; thence by said last mentioned lands South 24 degrees West, 366 feet to a point in the aforesaid State Highway; thence by said State Highway North 66 degrees West, 81.9 feet to the place of BEGINNING. CONTAINING 105 Perches.

The above description was taken from a draft of survey prepared by LeRoy H. Winebrenner, C.S., dated February 6, 1962.

The address of this tract of land is 1508 Hanover Road Gettysburg, Adams County, Pennsylvania.

SEIZED and taken into execution as the property of **Hector Lua Garcia and Brenda Doris Garcia** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
September 19, 1998.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 13, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

Patrick W. Quinn, Esq.
47 West High Street
Gettysburg, PA 17325

7/16, 23, & 30

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

To: CHARLOTTE ANN POST

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for August 5, 1999, at 9 o'clock a.m., prevailing time, at the Courthouse at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

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

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone number: 717-337-9846, or
1-888-337-9846

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

7/16, 23 & 30

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

NO.99-S-429
ACTION TO QUIET TITLE

RICHARD A. TROSTLE, Plaintiff

vs.

ABRAHAM SENFT, his heirs and assigns, HARRY SENFT, his heirs and assigns, MILDRED TROSTLE, her heirs and assigns, THEODORE GEBHART, his heirs and assigns, NORMAN GEBHART, his heirs and assigns,and UNKNOWN DEFENDANTS, Defendants

TO: ALL UNKNOWN DEFENDANTS

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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

By: John C. Zepp, III, Esq.
P.O. Box 204
York Springs, PA 17372
Phone: (717) 528-8900

7/30

NOTICE

NOTICE is hereby given that a hearing has been scheduled for August 23, 1999, in the Orphans' Court Division of the Court of Common Pleas of Adams County to review the Transfer of Property Petition of Family Planning Agency of Adams County, Inc., Family Health Council of Central Pennsylvania, Inc. and Planned Parenthood of Central Pennsylvania, Inc.

Theresa Melchiorre
Barley, Snyder, Senft & Cohen, LLC
126 East King Street
Lancaster, PA 17602

7/30, 8/6 & 13