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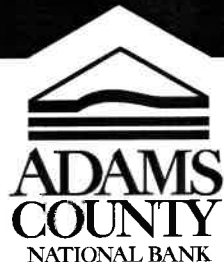
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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-S-1175 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point at Berlin Road and lands now or formerly of Joseph L. Hockensmith; thence along said lands of Hockensmith, South forty-one (41) minutes twenty-four (24) seconds East, one hundred fifty (150.00) feet to a point at Lot No. 53; thence along Lot No. 44, South forty-eight (48) degrees thirty-four (34) minutes twelve (12) seconds West, eighty-five (85.00) feet to a point at lands now or formerly of Dale E. Shultz; thence along said lands of Shultz, formerly of Dale E. Shultz; thence along said lands of Shultz, North forty-one (41) degrees forty-one (41) minutes twenty-four (24) seconds West, one hundred fifty (150.00) feet to a point at Berlin Road; thence along Berlin Road, North forty-eight (48) degrees eighteen (18) minutes thirty-six (36) seconds East, eighty-five (85.00) feet to the point and place of BEGINNING.

Being the same premises which Charles E. Frey Sr. by deed dated 9/10/01 and recorded on 9/14/01 in the Recorder of Deeds in and for Adams County in book 2404, Page 0227 granted and conveyed unto David Dark and Edmee Dark h/w.

Premises Being: 255 Berlin Road, New Oxford, PA 17350

SEIZED and taken into execution as the property of **David Dark & Edmee Dark** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 14, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after

the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/18, 25 & 2/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-624 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land located in Germany Township, Adams County, Pennsylvania, described as follows, to-wit:

BEGINNING for a point on the Eastern edge of Tyoaka Drive at Lot No. 24 of the hereinafter referenced subdivision plan; thence along said Eastern edge of Tyoaka Drive North 38 degrees 47 minutes 46 seconds East, 183.21 feet to a point at Lot No. 22 of said Plan: thence along same the following same four courses and distance: 1) South 64 degrees 43 minutes 20 seconds East 249.28 feet to a point thence, 2) North 46 degrees 50 minutes 48 seconds East, 100.82 feet to a point thence; 3) North 7 degrees 8 minutes 53 seconds East, 112.18 feet to a point thence, 4) South 83 degrees 44 minutes 15 seconds East, 121.84 feet to a point at lands now or formerly of Ronald J. Beck thence along same, South 6 degrees 15 minutes 45 seconds West, 594.73 feet to a point at Lot No. 24 of said plan, thence along same North 51 degrees 17 minutes 21 seconds West, 620.19 feet to a point on the Eastern edge of Tyoaka Drive the point and place of BEGINNING.

Identified as Lot No. 23 on a plan of lots prepared by Worley Surveying on May 24, 2004 as revised on June 8, 2004 and known as Hunter's Ridge, Phase III. Said Plan is recorded in the Recorder of Deeds in and for Adams

County, Pennsylvania in Plan Book 87, at page 26.

Tax Parcel: (15) H18-I30

Property Address: 145 Tyoaka Drive, Littlestown, PA 17340

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 14, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/18, 25 & 2/1

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Monday, February 11, 2008, at 9:00 a.m.

HESS—Orphans' Court Action Number OC-31-2007. The First and Partial Account of Dean K. Hess, Executor of the Estate of Laurie H. Hess, deceased, late of Menallen Township, Adams County, Pennsylvania.

Kelly A. Lawver
Clerk of Courts

2/1 & 8

COMMONWEALTH VS. HILLIARD

1. When counsel is claimed to be ineffective in connection with a guilty plea, relief is proper only if the ineffectiveness caused an involuntary and unknowing plea.

2. The standard to be met by a defendant challenging the effectiveness of his counsel following a plea of guilty is similar to the “manifest injustice” standard applicable to all post-sentence attempts to withdraw a guilty plea.

3. The test for entrapment is an objective one to determine whether there is a substantial risk that the conduct of law enforcement caused the offense to be committed by one who was innocently disposed.

4. Merely affording the opportunity, through police artifice and stratagem, for the commission of a crime by a person who already has a requisite intent, is not entrapment.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CP-01-CR-135-2005, COMMONWEALTH OF PENNSYLVANIA VS. REUBEN TODD HILLIARD.

Brian R. Sinnett, Esq., Assistant District Attorney, for Commonwealth
David McGlaughlin, Esq., for Defendant

George, J., January 23, 2007

OPINION

Reuben Todd Hilliard (“Hilliard”) timely filed a Post Conviction Relief Petition on June 26, 2006 challenging his conviction for delivery of a controlled substance which resulted in he being sentenced on July 11, 2005 to serve no less than two (2) years nor more than five (5) years in a state correctional institution.¹ Following the filing of his petition, counsel was appointed to represent Hilliard. Although his initial petition raised a smorgasbord of issues, the petition has subsequently been refined limiting the issues to the voluntariness of the guilty plea which resulted in his conviction and trial counsel’s ineffectiveness. At the heart of both issues is Hilliard’s allegation that trial counsel’s ineffectiveness in investigating, pursuing, and advising Hilliard concerning the defense of entrapment resulted in Hilliard’s entry of an involuntary guilty plea. After hearing held on November 21, 2006, the following factual background is found:

On August 26, 2004, Trooper Craig Ammons of the Pennsylvania State Police charged Hilliard with a number

¹ As part of the sentence, Hilliard was further directed to pay a fine in the amount of \$450.00 and given credit against the sentence in the amount of four (4) days for time previously spent incarcerated. Pursuant to agreement, the Court made Hilliard boot camp eligible. It appears, however, that a medical issue has precluded Hilliard from boot camp participation.

of criminal charges, including delivery of a controlled substance, based upon an incident occurring on August 13, 2004. The Complaint alleged that on that date, a confidential informant contacted Hilliard by telephone and made arrangements for the purchase of one-half ounce of cocaine. During the telephone conversations, the C.I. and Hilliard agreed to meet at the Wal-Mart parking lot on State Route 30, Straban Township, Adams County, Pennsylvania. Trooper Ammons provided the C.I. with seven hundred dollars (\$700.00). The C.I., thereafter, proceeded to the meeting location. At the time arranged for the meeting, Hilliard arrived in a vehicle which he was driving. He was accompanied by an unknown person. After Hilliard's arrival, the C.I. entered Hilliard's vehicle. Shortly thereafter, the C.I. exited the vehicle and met with Trooper Ammons. The C.I. provided the trooper with a white powder substance which he claimed he received from Hilliard. The powder subsequently tested positive for cocaine. The transaction was conducted in a "controlled" atmosphere wherein the C.I. was searched both prior to and subsequent to his interaction with Hilliard and surveillance was conducted during the course of the transaction.

Subsequent to arrest, Hilliard was appointed counsel and, following his waiver of preliminary hearing, was arraigned on March 9, 2005. On April 25, 2005, Hilliard appeared before this Court and entered a counseled plea of guilty to possession with intent to deliver a controlled substance as an ungraded felony. Hilliard's plea was entered pursuant to a negotiated plea agreement which was specific in regard to the length of incarceration. Prior to the entry of his plea, the Court conducted an oral colloquy with Hilliard. Additionally, Hilliard provided the Court with a written plea colloquy. In paragraph 10 of the written colloquy, Hilliard acknowledged, among other things, that he fully discussed his case with his attorney including the facts and possible defenses which may be available to him. He further indicated that his lawyer has done everything that he asked her to do and

has investigated every source of evidence of which advised. During oral colloquy, Hilliard indicated that it was true that he had delivered controlled substances to a third party. Satisfied that his plea was voluntarily entered, the Court accepted the same. At Hilliard's request, sentencing was delayed until July 11, 2005 at which time Hilliard appeared and was sentenced pursuant to his agreement.

Prior to the entry of his plea, Hilliard met with trial counsel and discussed the background involving the charges against him. During the discussions, Hilliard advised counsel that the C.I. claimed that he "owed" a third party and needed around a half-ounce of cocaine which the C.I. requested Hilliard to obtain for him. Hilliard advised counsel that he was a sophomore at Shippensburg University and that the C.I. was a classmate of his. Though Hilliard advised counsel that the C.I. had contacted him on several occasions, he never elaborated this interaction with the C.I. as being a repeated series of telephone calls. PCRA Hearing Transcript, page 28. Hilliard confirmed to counsel that he had committed the delivery at Wal-Mart. PCRA Transcript, page 28. During their discussions, Hilliard indicated to counsel his willingness to fabricate testimony concerning the Wal-Mart incident, however, counsel properly rejected this notion. Importantly, during the course of their discussions, Hilliard indicated to counsel that he had been involved in other drug deliveries to people other than the C.I. PCRA Transcript, pages 28-29.²

In order to prevail on a claim of ineffectiveness of counsel, a defendant "must demonstrate (1) that the underlying claim is of arguable merit; (2) that counsel's course of conduct was without a reasonable basis designed to effectuate his client's interest; and (3) that he was prejudiced by counsel's ineffectiveness."

²Although the record is not fully developed, there are indications that, in addition to the charge upon which Hilliard was prosecuted, the Commonwealth had made a prior purchase of cocaine from him which went uncharged. See Order of Court dated October 23, 2006. Trial counsel, however, was unaware of this purchase as apparently this information had not been shared with counsel by Hilliard.

Commonwealth v. Wallace, 724 A.2d 916, 921 (Pa. 1999). When counsel is claimed to be ineffective in connection with a guilty plea, relief is proper only if the ineffectiveness caused an involuntary and unknowing plea. *Commonwealth v. Diaz*, 2006 Pa. Super. 340. The law does not require that a defendant be pleased with the outcome of his decision to enter a plea of guilty. Rather, “[all that is required is that] the decision to plead guilty be knowingly, voluntarily and intelligently made.” *Id.* A.2d at 500-501. Where the defendant enters his plea on the advice of counsel, “the voluntariness of the plea depends on whether counsel’s advice ‘was within the range of competence demanded of attorneys in criminal cases.’” *Commonwealth v. Hickman*, 799 A.2d 136, 141 (Pa. Super. 2002). It is the defendant’s burden to prove that he is entitled to post conviction relief. *Commonwealth v. Travaglia*, 661 A.2d 352 (Pa. 1995). The standard to be met by a defendant challenging the effectiveness of his counsel following a plea of guilty is similar to the “manifest injustice” standard³ applicable to all post-sentence attempts to withdraw a guilty plea. *Commonwealth v. Lewis*, 708 A.2d 497 (Pa. Super. 1998).

A claim of counsel’s ineffectiveness in failing to investigate or pursue a possible defense is clearly a challenge to the voluntariness of the guilty plea. *Commonwealth v. Unger*, 432 A.2d 146 (Pa. 1980). In *Unger*, the Supreme Court addressed an ineffectiveness claim based upon counsel’s failure to investigate an intoxication defense to first degree murder. Recognizing that competent counsel is expected to explore all possible defenses in representation of a client, the Supreme Court offered the following insight:

The decision making process leading to a knowing guilty plea involves exploring any viable defenses, an entry of a plea is made only after all possible defenses have been discussed. The client cannot be expected to understand the significance of facts which may constitute a defense. Consequently, whenever facts which indicate a possible intoxication defense are brought to counsel’s attention, failure to discuss the significance of these facts may

³ A showing of “manifest injustice” to justify withdrawal of a guilty plea requires a showing that the “plea was not voluntary or that the plea was entered without knowledge of the charge such that refusing to allow the petitioner to withdraw his plea would amount to a manifest injustice.” *Commonwealth v. Best*, 480 A.2d 1245 (Pa. Super. 1984).

cause the client to enter an unknowing plea. Therefore, in conjunction with a guilty plea, if it is alleged that trial counsel was ineffective in failing to pursue an intoxication defense, the issue must be addressed on the merits.

Id. A.2d at 147-148. I find this reasoning to be equally applicable as it relates to alleged claims of ineffectiveness of counsel in failing to explore an entrapment defense. Accordingly, further discussion is merited as Hilliard has alleged that trial counsel was aware of facts which warranted exploration of an entrapment defense.

The test for entrapment is an objective one to determine whether there is a substantial risk that the conduct of law enforcement caused the offense to be committed by one who was innocently disposed. *Commonwealth v. Joseph*, 848 A.2d 934 (Pa. Super. 2004). The burden of proof is on the defendant to establish entrapment and the focus of the inquiry is on the conduct of the police, not the predisposition of the defendant. *Id.* Merely affording the opportunity, through police artifice and stratagem, for the commission of a crime by a person who already has a requisite intent, is not entrapment. *Id.* Rather, entrapment is aimed at condemning certain impermissible conduct which falls below standards for the proper use of governmental power. *Id.* Impermissible activity may include “appeals to sympathy, friendship, the possibility of exorbitant gain, ...extreme pleas of desperate illness, appeals based primarily on sympathy, pity or close personal friendship, and offers of inordinate sums of money.” *Commonwealth v. Thompson*, 484 A.2d 159, 165 (Pa. Super. 1984). Ultimately, whether entrapment exists requires a case by case evaluation of the factual background. *Id.*

During the PCRA hearing, Hilliard testified that the C.I. pled with him “on our friendship saying that he owed somebody and that he needed somewhere around a half-ounce of cocaine and asked me if I could get that for him.” PCRA Transcript 3. Hilliard indicated that the C.I. attended Shippensburg University with him and, on occasion, would come over to his house and “party.” Although his testimony referenced numerous contacts, his testimony is silent in regard to the nature of those contacts or, in fact, whether they were drug related. Hilliard indicated specifically that he did not raise the issue of entrapment with counsel. Moreover, Hilliard’s testimony was unconvincing in regard to the extent of the information he claims to have shared with trial counsel.

Trial counsel indicated that she could not recall any direct representation or inference by Hilliard of compulsion by the C.I. in initiating the transaction. Although counsel acknowledged that Hilliard indicated that the C.I. was a friend and a classmate, counsel did not remember, nor make note of, any reference by Hilliard that the transaction was necessary to pay off a debt. Similarly, although Hilliard referenced other contacts with the C.I., counsel does not remember those being described as a repeated series of persistent requests. On the other hand, Hilliard informed counsel of other drug deliveries involving a person other than the C.I. These transactions involved persons other than friends from school and prompted counsel to initially explore the viability of her client cooperating with the Commonwealth in exchange for a more lenient sentence. After these efforts proved fruitless, counsel negotiated a plea agreement which avoided a mandatory minimum three (3) year sentence in favor of a two (2) year minimum sentence with boot camp eligibility. I found trial counsel's testimony to be credible.

Clearly, counsel who fails to raise non-existent defenses is not ineffective. *Commonwealth v. Skurkis*, 348 A.2d 894 (Pa. 1975). Accepting counsel's testimony as true, the information Hilliard provided to counsel relative to a claim of entrapment was extremely limited. Essentially, the information provided by Hilliard described a phone call from a friend who requested to purchase a half-ounce of cocaine. Thus, a reasonable basis for counsel's course of conduct was Hilliard's failure to disclose any facts which would indicate a viable entrapment defense. *Unger, supra*.

Furthermore, Hilliard's current claim of entrapment is belied by facts known to counsel concerning the nature of the transaction, i.e. meeting in a public parking lot to exchange a large quantity of cocaine for cash in the presence of an unknown person who accompanied Hilliard to the scene. These circumstances describe a quite different scenario than that of college friends exchanging a small amount in the solitude of a dorm room. Moreover, any exploration of an entrapment defense presented obvious hurdles in light of Hilliard's involvement in other drug transactions.⁴ Hilliard's claim of

⁴While I recognize that the test for entrapment is an objective one, *Joseph, supra*, presentation of Hilliard's current claim at trial risks opening the door to the admission of other uncharged conduct. See generally *Commonwealth v. Boyle*, 733 A.2d 633 (Pa. Super. 1999).

ineffectiveness essentially amounts to the imposition of an absolute duty on trial counsel to expend resources and energy to explore the defense of entrapment in any drug related case regardless of whether a defendant provides factual support for the same to counsel or counsel otherwise has reason to suspect the viability of such a defense. I find this position unsupported by Pennsylvania law and without merit.

For the foregoing reasons, the attached Order is entered.

ORDER

AND NOW, this 23rd day of January, 2007, the Defendant's Petition for Post Conviction Relief is denied. The Defendant is advised that he has the absolute right to file an appeal with the Pennsylvania Superior Court challenging this Court's denial of his petition. If he chooses to do so, he must file his appeal, in writing, with the Pennsylvania Superior Court, within thirty (30) days of the date of this Order. Failure to file an appeal will constitute a waiver of any issues related to this Opinion. The Defendant is advised that he has the absolute right to be represented by an attorney in all post conviction relief appeal proceedings and that Attorney David McGlaughlin will represent him on appeal, free of charge, however, will not take any act on his behalf unless specifically requested to do so. The Defendant is further advised that he has absolute right to proceed in forma pauperis on appeal.

A copy of this Order shall be sent by certified mail to the Defendant.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1107 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of land situated in Latimore Township, Adams County, Pennsylvania, being more particularly described as Lot No. 1122 on a plan of lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 1, at Page 7, and subject to all legal highways, easements, rights-of-way and restrictions of record.

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

For title reference see Deed recorded August 28, 2003 Book 3272, Page 155.

TITLE TO SAID PREMISES IS VESTED IN Karen M. Samento, an unmarried woman, by Deed from Kenneth L. Samento, an unmarried man and Karen M. Samento, an unmarried woman, who acquired title as husband & wife as tenants by the entireties, dated 12/09/2005, recorded 12/16/2005, in Deed Book 4248, page 169.

Premises being: 251 Lake Meade Drive, East Berlin, PA 17316

Tax Parcel No. (24) 009-0031

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 14, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the

purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

1/18, 25 & 2/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1158 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a p.k. nail, in the center line of Legislative Route 01052, Pumping Station Road, at a corner of lands now or formerly of F. Williams; thence along said same lands now or formerly of F. Williams through a pipe set back 25 feet from the beginning reference point, and also running through a corner marker set 29.10 feet from the next reference point, South 76 degrees 14 minutes 00 seconds East, 319.50 feet to a pipe along line of lands now or formerly of Paul M. French and Patrice S. French; thence along said same lands, South 13 degrees 46 minutes 00 seconds West, 150 feet to a pipe at corner of lands now or formerly of Paul M. French and Patrice S. French, also designated as Lot No. 3 on the hereinafter mentioned survey; thence by same lands, and designated as Lot No. 3 as heretofore mentioned, North 76 degrees 14 minutes 00 seconds West, 319.50 feet to a p.k. nail located in the center line of Legislative Route 01052, Pumping Station Road, at corner of lands now or formerly of Paul M. French and Patrice S. French; thence continuing along the center line of Legislative Route 01052, Pumping Station Road, North 13 degrees 46 minutes 00 seconds East, 150 feet to a p.k. nail located in the center line of Legislative Route 01052, Pumping Station Road, at corner of lands now or formerly of F. Williams, the place of BEGINNING. CONTAINING 1.100 Acres (47,925 square feet).

The foregoing description was obtained from a draft of survey prepared by J. Riley Redding, Registered Surveyor, t/a Adams County Surveyors, dated January 6, 1987, which is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 47, page 97. The property described above is designated as Lot No. 2 on the heretofore mentioned survey.

BEING the same tract of land which Lawrence H. Lawson and Linda Y. Lawson, husband and wife, by deed dated June 24, 1996 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1219 at page 193, granted and conveyed unto Kenneth H. Cooper and Georgianne K. Cooper, husband and wife, Grantors herein.

UNDER AND SUBJECT to all applicable zoning, sewer, subdivision or other ordinances, regulations and laws and to all other applicable conditions, restrictions, easements and rights-of-way of record or apparent on or in the premises; provided, however, that none of the foregoing shall be revived hereby if the same shall have expired by limitation violation, agreement or otherwise howsoever.

BEING Known As: 2110 Pumping Station Road, Fairfield (Freedom Township), PA 17320

PROPERTY ID NO.: (13) D 16-0073

TITLE TO SAID PREMISES IS VESTED IN L. John Mohan and Amanda B. Mohan, husband and wife, as tenants of an estate by the entireties by deed from Kenneth H. Cooper and Georgianne K. Cooper, husband and wife dated 3/9/07 recorded 3/12/07 in Deed Book 4766 Page 156.

SEIZED and taken into execution as the property of **Georgianne K. Cooper, Kenneth H. Cooper, L. John Mohan & Amanda B. Mohan** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 14, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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1/18, 25 & 2/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-107 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stone at corner of land now or formerly of William Smith Heirs; thence along land now or formerly of William Smith Heirs, South 45 degrees West, 519 feet to a stone at corner of land now or formerly of Grace E. Fox and Raymond B. Fox; thence along land on or formerly of Grace E. Fox and Raymond B. Fox, crossing State Highway Route 01015 leading from Fairfield to Greenstone and crossing Tom's Creek, North 36-1/2 degrees West, 250 feet to a center of a big rock at line of land now or formerly of William Smith Heirs; thence by land now or formerly of William Smith Heirs, North 45 degrees East, 519 feet to a stone; thence by land now or formerly of same, crossing Tom's Creek and crossing the aforesaid State Highway, South 36-1/2 degrees East, 250 feet to a stone; the place of BEGINNING.

Excepting, however, therefrom, that certain lot or piece of land otherwise conveyed by Warren R. Dannelley and Laura M. Dannelley, husband and wife, to Paul C. McLaughlin and wife, dated April 9, 1963 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 243 at Page 1023.

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

BEGINNING at the corner of lands of Grantors and said land known as Lot No. 2 on a certain subdivision, thence South 45 degrees 00 minutes seconds East, 50.00 feet to a point; thence South 45 degrees 03 minutes 21 seconds West, 435.05 feet to a point; thence North 45 degrees 00 minutes 00 seconds West, 50.00 feet to a point at the corner of Lot No. 5 thence continuing along Lot No. 5 North 45 degrees 06 minutes 51 seconds East, 213.05 feet to a point at the corner of Lots No. 4 and 5; thence continuing by Lot No. 4 North 45 degrees 00 minutes 00 seconds East, 70.00 feet to a point at the corner of Lots No. 3 and 4; thence continuing by Lot No. 3 North 45 degrees 00 minutes 00 seconds East, 100.00 feet to a point at the corner of

Lots No. 2 and 3; thence continuing by Lot No. 2 North 45 degrees 00 minutes 00 seconds East, 52.00 feet to the place of BEGINNING.

The above description is known as Lot No. 7 and was taken from a plan of survey prepared by J. Rex Benchoff, Registered Surveyor, dated October 10, 1989 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 55 at Page 66.

Being Known As 1604 Iron Springs/Indian Trail Inn, Fairfield, PA 17320

SEIZED and taken into execution as the property of **Mary Nicholas & George W. Nicholas** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 14, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

1/18, 25 & 2/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1167 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stake at the Eastern side of a public alley on line of land now or formerly of Clair Tate, and extending thence along said alley, North 9 degrees East, 244.6 feet to an iron pin at corner of land now or formerly of Bruce Winter; thence along land now or formerly of Bruce Winter, South 81 degrees 45 minutes East, 45.4 feet; thence by same, North 12 degrees 10 minutes East, 133.9 feet to a spike in the center of the State Highway leading to Gulden's Station; thence in and along said Highway, South 62 degrees 25 minutes East, 115.6 feet to a spike in the center of said highway;

thence by land now or formerly of Neely Taughinbaugh and through a stake, which stake is 28.4 feet from said spike, South 7 degrees 40 minutes West, 335.5 feet to a stake on line of land now or formerly of Clair Tate; thence by land now or formerly of Clair Tate, North 83 degrees 30 minutes West, 170.5 feet to the stake, the place of BEGINNING. CONTAINING 1 Acre and 20 Perches, more or less.

LESS, HOWEVER, that that tract of land containing 35 perches which George M. Smith, unmarried, and his sister, Ruth A. Smith, unmarried, by their deed dated September 18, 1967, and recorded in the Office of the Recorder of Deeds in Deed Book 263 at Page 950, sold and conveyed unto Jacob S. Smith and Bonnie R. Smith, husband and wife.

TITLE TO SAID PREMISES IS VESTED IN Gregory D. Smith, by Deed from Randall B. Inskip and Judith G. Inskip, his wife, dated 02/16/2000, recorded 02/23/2000, in Deed Book 2004, page 1.

Premises being: 69 Hunterstown Hampton Road, Gettysburg, PA 17325

Tax Parcel No. (38) 021-0074

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 14, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/18, 25 & 2/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1280 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an iron pin on the Western edge of the paved area of Legislative Route 01002, at the Northernmost corner of land now or formerly of James R. Bigham; thence by said land of James R. Bigham and passing through a reference iron pin set back 12.50 feet from the last mentioned point, South 47 degrees 45 minutes 00 seconds West, 484.00 feet to an iron pin on the line of land now or formerly of Donald G. Mason; thence by said land of Donald G. Mason, North 42 degrees 15 minutes 00 seconds West, 180.00 feet to an iron pin; thence by same, North 47 degrees 45 minutes 15 seconds East, 487.26 feet to an iron pin on the line of land now or formerly of It's a New Dawn, Inc.; thence by said land of It's a New Dawn, Inc., passing through a 5/8-inch rebar marking the corner of land now or formerly of James W. Bigham, and by said land of James W. Bigham, and reentering the right of way of Legislative Route 01002, South 41 degrees 12 minutes 40 seconds East, 180.00 feet to an iron pin, the place of BEGINNING.

CONTAINING 2.008 acres, more or less.

The above description was taken from a draft of survey prepared by Boyer Surveys, dated April 29, 1982, designating the above as Lot No. 1.

TITLE TO SAID PREMISES IS VESTED IN Douglas R. Caskey and Lori A. Caskey, husband and wife by Deed from Paul E. Miller, Jr. and Melva Eileen Miller, husband and wife dated 9/17/1998, recorded 9/17/1998, in Record Book 1663 Page 230.

Tax Parcel: (13) D 15-0022 C

Premises Being: 745 Camp Gettysburg Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Douglas R. Caskey & Lori A. Caskey** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 20, 2008,

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

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

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

1/25, 2/1 & 8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-897 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground, situated in Huntington Township, Adams County, Pennsylvania, bounded and described as follows, together with the dwelling erected thereon:

BEGINNING at a point where Leg. Route No. 01012 intersects with the Still House Road; thence in the center of the Still House Road South 38 degrees 25 minutes 40 seconds West, 244.0 feet to a point in the center line of such road at other land now or formerly of Frank Hamilton; thence along other land now or formerly of Frank Hamilton North 61 degrees 33 minutes 30 seconds West, 180.18 feet to a point; thence along land of same North 21 degrees 36 minutes 40 seconds East 200.00 feet to a point in the center of Leg. Route No. 01012 aforesaid; thence in said road South 68 degrees 23 minutes 20 seconds East, 105.46 feet to a spike in said road; thence in such road South 73 degrees 12 minutes 20 seconds East 144.54 feet to a point at the intersection of the aforesaid roads, the place of BEGINNING.

THE above description was taken from draft of survey prepared by Gettysburg Engineering Co., Inc., dated September 3, 4, 1969.

TITLE TO SAID PREMISES IS VESTED IN Fred J. Rogers and Melissa A. Rogers, his wife, by Deed from Vicki L. Arndt, single woman, dated 5/29/1998, recorded 6/8/1998 in Record Book 1596 Page 132

Tax Parcel: H2-27A

Premises Being: 210 Goodyear Road, Gardners, PA 17324

SEIZED and taken into execution as the property of **Fred J. Rogers &**

Melissa A. Rogers and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 14, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/18, 25 & 2/1

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Pennsylvania Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on or about January 1, 2008 for the purposes of obtaining a Certificate of Incorporation of a proposed 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 ZAR - 1 TRUCKING, LLC.

2/1

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for TNC, INC. on January 16, 2008. The said corporation has been incorporated under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

McNees Wallace & Nurick LLC
Attorneys at Law
100 Pine Street
Harrisburg, PA 17101

2/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1276 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in the Borough of McSherrystown, Adams County, Pennsylvania, being shown as Lot No. 13 on a Final Subdivision Plan for Adams County Interfaith Housing Corporation, dated August 10, 1999, prepared by Wm. F. Hill & Assoc., Inc. and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 79 at page 2 and 2A, more particularly bounded and described as follows:

BEGINNING at a steel pin set at corner of Lot No. 11 and Water Street; thence continuing along Water Street by a curve to the right having a radius of 481.67 feet, arc of 52.73 feet and a chord bearing and distance of North 09 degrees 34 minutes 17 seconds West 52.70 feet to a point as shown on said plan; then continuing along Water Street by a curve to the left having a radius of 698.46 feet, an arc of 85.75 feet and a chord bearing and distance of North 09 degrees 57 minutes 08 seconds West 85.70 feet to a steel pin set on the edge of Saint Joseph Lane; thence continuing along the edge of Saint Joseph Lane North 75 degrees 25 minutes 00 seconds East 68.22 feet to a point; thence continuing along Saint Joseph Lane by a curve to the right having a radius of 125.00 feet, an arc of 86.46 feet and a chord bearing and distance of South 84 degrees 48 minutes 03 seconds East 84.75 feet to a steel pin set at corner of Lot No. 12; thence continuing along Lot No. 12 South 29 degrees 45 minutes 54 seconds West 152.69 feet to a steel pin set at corner of Lot No. 11; thence continuing along Lot No. 11 South 75 degrees 25 minutes 00 seconds West 52.74 feet to a steel pin set, the place of BEGINNING. CONTAINING 14,583 square feet.

FURTHERMORE, this conveyance is subject to the express restriction that the property shall be utilized only for low and very low income housing purposes as those terms are established under guidelines promulgated by the United States Department of Housing and Urban Development for its Section 8 Housing Subsidy Program, as modified by that agency or its department or agencies.

The improvements thereon being known as 6 St. Joseph Lane.

BEING the same premises which Cheryl L. Taylor, a single person, by Deed dated February 28, 2006 and recorded in the Adams County Recorder of Deeds Office on June 16, 2006 in Deed Book 4457, page 196, granted and conveyed unto Chad J. Grimes and Tina M. Wentz.

SEIZED and taken into execution as the property of **Chad J. Grimes & Tina M. Wentz** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 20, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/25, 2/1 & 8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1210 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a concrete nail in the right-of-way limits of Township Road T-394 at corner of land now or formerly of Fred Hartman; thence by said land, North 74 degrees 14 minutes 00 seconds West, 331.45 feet to an iron pipe at lands now or formerly of Pitzer Bros. Fruit Farms, Inc.; thence by same, North 36 degrees 20 minutes 30 seconds East, 288.00 feet to an iron pipe; thence by same, South 88 degrees 11 minutes 00 seconds East, 305.65 feet to a spike in the right-of-way limits of Township Road T-394; thence in same, South 30 degrees 34 minutes 30 seconds West, 103.15 feet to a point; thence in same, South 25 degrees 06 minutes 30 seconds West, 2346.85 feet to a concrete nail, the place of BEGINNING. CONTAINING 2.1100 acres.

BEING the same premises which Ray C. Gee and Beatrice M. Gee, by Raymond W. Newman, Sheriff of Adams County, in the Commonwealth of Pennsylvania, by his deed dated May 28, 2002, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 2675 at page 248, granted and conveyed unto Conesco Finance Servicing Corporation.

Parcel Identification No.: (29) F 05-0009D-000

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Lillian M. Armon, by Deed from Conesco Finance Consumer Discount Company, dated 10/22/2002, recorded 10/29/2002, in Deed Book 2854, page 83.

Premises being: 40 Clines Church Road, Aspers, PA 17304

SEIZED and taken into execution as the property of **Lillian Loubier f/k/a Lillian M. Armon** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 20, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/25, 2/1 & 8

CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN that an Application for a Certificate of Authority under the provisions of the Pennsylvania Business Corporation Law of 1988 has been filed with the Department of State by MAZTECH, INC., a Maryland corporation, whose principal registered office address is 10 Surrey Lane, Rising Sun, MD 21911. The address of its registered office in this Commonwealth is 80 Progress Avenue, New Oxford, PA 17350.

Barley Snyder LLC
Attorneys

2/1

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF JEAN E. FINNEGAN, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Judy E. Geist, 108 Edgewood Road, York, PA 17402

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

ESTATE OF MAE L. MORNINGSTAR, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Judi A. Thibault McGlynn, c/o Thomas M. Shultz, Esq., Shultz Law Firm, LLC, 215 Baltimore Street, Hanover, PA 17331

Attorney: Thomas M. Shultz, Esq., Shultz Law Firm, LLC, 215 Baltimore Street, Hanover, PA 17331

ESTATE OF BETTY JANE MOUL, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executor: Brian E. Moul, 3045 Brookfield Drive, York, PA 17404

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

ESTATE OF THEODORE P. SMITH a/k/a THEODORE PAUL SMITH, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Darlene M. Smith, 100 Linden Avenue, Hanover, PA 17331

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

ESTATE OF WELDON R. SNIVELY, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executors: Christopher Norman Snively and Michael David Snively, c/o Patterson, Kiersz & Murphy, PC, 239 East Main Street, Waynesboro, PA 17268-1681

Attorney: R. Thomas Murphy, Esq., Patterson, Kiersz & Murphy, PC, 239 East Main Street, Waynesboro, PA 17268-1681

ESTATE OF NADINE A. STULLER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Michael J. Stuller, 309 Vincent Dr., McSherrystown, PA 17344

Attorney: G. Patrick O'Connor, Esq., 3105 Old Gettysburg Rd., Camp Hill, PA 17011

ESTATE OF EUGENE J. ZANNETTI, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrices: Cheryl Zannetti-Wenck, 17148 Magic Mountain Drive, Round Hill, VA 20141; Gina C. Krug, 17417 Masemore Road, Parkton, MD 21120

Attorney: George W. Swartz, II, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF MARY JANE BENTZEL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Richard W. Bentzel, Jr., 163 Meadowbrook Lane, Abbottstown, PA 17301; Carole A. Diehl, 34 Amanda Ave., Hanover, PA 17331

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

ESTATE OF LAWRENCE H. ECKERT, JR., DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Richard Patrick Eckert, c/o Fenstermacher and Associates, P.C., 5115 East Trindle Road, Mechanicsburg, PA 17050

Attorney: John R. Fenstermacher, Esq., Fenstermacher and Associates, P.C., 5115 East Trindle Road, Mechanicsburg, PA 17050

ESTATE OF MILDRED IRENE HENNINGER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Thomas P. Henninger, 1844 Whitehall Road, Littlestown, PA 17340

Attorney: Jeffery M. Cook, Esq., 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF MARGARET A. REBERT, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executors: Toni L. Battiste and Eric A. Rebert, c/o Blakinger, Byler & Thomas, P.C., 28 Penn Square, Lancaster, PA 17603

Attorney: Blakinger, Byler & Thomas, P.C., 28 Penn Square, Lancaster, PA 17603

ESTATE OF DOLORES CHARLOTTE RISSO, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Administrator/Executor: Linda Risso, 1312 Rutter Street, Baltimore, MD 21217

ESTATE OF HELEN L. SELL, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Administrator: Homer R. Sell, Jr., 5210 Baltimore Pike, Littlestown, PA 17340

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

ESTATE OF MARY C. WOLFE, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executrix: Sara J. Chase, 518 Carlisle Road, Hanover, PA 17331

Attorney: Gary L. James, Esq., James, Smith, Dieterick & Connelly, LLP, 134 Sipe Avenue, Hummelstown, PA 17036

THIRD PUBLICATION

ESTATE OF ANNE L. FABER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: W. Russell Faber, 4717 Galen Road, Harrisburg, PA 17110

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

ESTATE OF K. KENNETH KITTINGER, SR., DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Gladys L. Masoner, 726 Willow Valley Lakes Drive, Willow Street, PA 17584

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

ESTATE OF LAWRENCE J. RIORDAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: John Kenneth Riordan, 9039 Sunni Shade Ct., Perry Hall, MD 21128; Eugene Patrick Riordan, 9009 Sudbury Rd., Silver Spring, MD 20901

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

(continued on page 8)

THIRD PUBLICATION (continued)

ESTATE OF HAZEL E. SPAHR, DEC'D
Late of Reading Township, Adams
County, Pennsylvania

Co-Executors: Diane L. Baker, 121
Smeach Drive, Hanover, PA 17331;
Lloyd A. Spahr, 890 Stoney Point
Road, East Berlin, PA 17316

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

ESTATE OF ELIZABETH JEAN
SPENCE, DEC'D

Late of Franklin Township, Adams
County, Pennsylvania

Co-Executors: Cloyd W. Spence, 2170
Mount Hope Road, Fairfield, PA
17320; Joyce R. Spence, 2170
Mount Hope Road, Fairfield, PA
17320; Jeffrey W. Spence, 2112
Mount Hope Road, Fairfield, PA
17320

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

ESTATE OF CLARENCE R. THOMP-
SON a/k/a CLARENCE R. THOMPSON,
JR., DEC'D

Late of Butler Township, Adams
County, Pennsylvania

Executor: Larry E. Thompson, 5
Winding Brook Road, Biglerville, PA
17307

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

**CERTIFICATE OF LIMITED
PARTNERSHIP NOTICE**

NOTICE IS HEREBY GIVEN that a
Certificate of Limited Partnership was filed
with the Corporation Bureau of the
Pennsylvania Department of State, at
Harrisburg, Pennsylvania, for the purpose
of forming a Limited Partnership under the
Pennsylvania Business Law of 2001, 15
P.A.C.S.A. §8511, to engage in and do any
lawful act permitted thereunder.

The name of the Limited Partnership
is: PAUL V. DAVIS, II FAMILY LIMITED
PARTNERSHIP, 75 Knoxlyn-Ortanna
Road, Gettysburg, Pennsylvania 17325.

Wendy Weikal-Beauchat
Beauchat & Beauchat, L.L.C.
63 West High Street
Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execu-
tion, Judgment No. 07-S-1089 issuing
out of Court of Common Pleas Adams
County, and to me directed, will be
exposed to Public Sale on Friday, the
29th day of February, 2008, at 10:00
o'clock in the forenoon at the Sheriff's
Office located in the Courthouse,
Borough of Gettysburg, Adams County,
PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situat-
ed in Mt. Pleasant Township, Adams
County, Pennsylvania, being more par-
ticularly described as Lot No. 818 on a
Plan of Lots of Lake Heritage
Subdivision, duly entered and appearing
of record in the Office of the Recorder of
Deeds of Adams County in Misc. Deed
Book 4 Page 665, and subject to all legal
highways, easements, rights of way and
restrictions of record.

UNDER AND SUBJECT, NEVERTHE-
LESS, to conditions, restrictions, ease-
ments and rights-of-way of record.

BEING the same premises which
Virginia M. Grewe, single person, by
Deed dated April 14, 2006 and recorded in
the Adams County Recorder of Deeds
Office on June 3, 2006 in Deed Book
4401, page 145, granted and conveyed
unto DeJuan Cromer, single person.

Premises Being: 818 Hancock Drive,
Gettysburg, PA 17325

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

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

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on March 20, 2008,
and distribution will be made in accor-
dance with said schedule, unless excep-
tions are filed thereto within 20 days after
the filing thereof. Purchaser must settle
for property on or before filing date.

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

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

1/25, 2/1 & 8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execu-
tion, Judgment No. 07-S-1024 issuing
out of Court of Common Pleas Adams
County, and to me directed, will be
exposed to Public Sale on Friday, the
29th day of February, 2008, at 10:00
o'clock in the forenoon at the Sheriff's
Office located in the Courthouse,
Borough of Gettysburg, Adams County,
PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situ-
ate, lying and being in Menallen
Township, Adams County, Pennsylvania,
more particularly bounded and described
as follows:

BEGINNING at an existing P.K. nail in
the center line of Center Mills Road (S.R.
#4003) at a corner of land now or former-
ly of Scott Breighner; thence in said road
South 28 degrees 11 minutes 55 seconds
East 55.17 feet to a cotton gin spindle in
the center of said road; thence by land
now or formerly of Timothy Werner South
72 degrees 30 minutes 25 seconds West
166.77 feet to a steel rod set over an
existing large old iron pin two feet below
grade; thence by land now or formerly of
Paul Wetzel North 26 degrees 45 min-
utes West 35 feet to an existing steel rod
at a steel post; thence by land now or for-
merly of Scott Breighner North 62
degrees 34 minutes 55 seconds East 26
feet to a steel rod, thence by the same
South 26 degrees 13 minutes 20 seconds
East 5.82 feet to a street road; thence by
the same North 67 degrees 31 minutes
20 seconds East 70.33 feet to a chain link
fence post; thence by the same North 59
degrees 31 minutes East 69.25 feet to an
existing P.K. nail in the Center Mills Road
the place of BEGINNING.

Tax Parcel No: 29-1-3

Premises Being: 1634 Center Mills
Rd., Aspers, PA 17304

SEIZED and taken into execution as
the property of **Jerry L. Derita, Sr.** and
to be sold by me.

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

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on March 20, 2008,
and distribution will be made in accor-
dance with said schedule, unless excep-
tions are filed thereto within 20 days after
the filing thereof. Purchaser must settle
for property on or before filing date.

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

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

1/25, 2/1 & 8

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DOUBLE B.B. VS. ATKINS ET AL

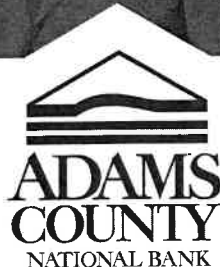
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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1089 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Mt. Pleasant Township, Adams County, Pennsylvania, being more particularly described as Lot No. 818 on a Plan of Lots of Lake Heritage Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County in Misc. Deed Book 4 Page 665, and subject to all legal highways, easements, rights of way and restrictions of record.

UNDER AND SUBJECT, NEVERTHELESS, to conditions, restrictions, easements and rights-of-way of record.

BEING the same premises which Virginia M. Grewe, single person, by Deed dated April 14, 2006 and recorded in the Adams County Recorder of Deeds Office on June 3, 2006 in Deed Book 4401, page 145, granted and conveyed unto DeJuan Cromer, single person.

Premises Being: 818 Hancock Drive, Gettysburg, PA 17325

SEIZED and taken into execution as the property of DeJuan Cromer and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 20, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/25, 2/1 & 8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1024 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an existing P.K. nail in the center line of Center Mills Road (S.R. #4003) at a corner of land now or formerly of Scott Breighner; thence in said road South 28 degrees 11 minutes 55 seconds East 55.17 feet to a cotton gin spindle in the center of said road; thence by land now or formerly of Timothy Werner South 72 degrees 30 minutes 25 seconds West 166.77 feet to a steel rod set over an existing large old iron pin two feet below grade; thence by land now or formerly of Paul Wetzel North 26 degrees 45 minutes West 35 feet to an existing steel rod at a steel post; thence by land now or formerly of Scott Breighner North 62 degrees 34 minutes 55 seconds East 26 feet to a steel rod, thence by the same South 26 degrees 13 minutes 20 seconds East 5.82 feet to a street road; thence by the same North 67 degrees 31 minutes 20 seconds East 70.33 feet to a chain link fence post; thence by the same North 59 degrees 31 minutes East 69.25 feet to an existing P.K nail in the Center Mills Road the place of BEGINNING.

Tax Parcel No: 29-1-3

Premises Being: 1634 Center Mills Rd., Aspers, PA 17304

SEIZED and taken into execution as the property of Jerry L. Derita, Sr. and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 20, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after

the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/25, 2/1 & 8

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Monday, February 11, 2008, at 9:00 a.m.

Hess—Orphans' Court Action Number OC-31-2007. The First and Partial Account of Dean K. Hess, Executor of the Estate of Laurie H. Hess, deceased, late of Menallen Township, Adams County, Pennsylvania.

Kelly A. Lawver
Clerk of Courts

2/1 & 8

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on January 1, 2008.

The name of the corporation is: GALLAGHER'S PERFECTLY PAMPERED, INC. The corporation has been incorporated under the Pennsylvania Business Corporation Law of 1988.

Gallagher's Perfectly Pampered, Inc.
6338 York Street
Spring Grove, PA 17362

2/8

DOUBLE B.B. VS. ATKINS ET AL

1. When determining whether a pleading is sufficiently specific with regard to damage claims, a distinction must be made between special and general damages. Special damages are not directly related to plaintiff's cause of action and are not the usual and ordinary consequences of the wrong done.

2. The great majority of courts require general damages to be particularized insofar as reasonably practical when such is requested in the form of a preliminary objection.

3. The modern trend of Pennsylvania's new liberal discovery rules permits the lumping of damages without requiring an itemization of damages where discovery is available.

4. Preliminary objections that seek the dismissal of a cause of action should be sustained only in cases in which it is clear and free from doubt that the pleader will be unable to prove facts legally sufficient to establish a right to relief.

5. Although defendants' general damages may be proved without being specifically pleaded, they should be particularized insofar as reasonably practicable.

6. The UTPCPL is to be liberally construed to effectuate its purpose, which is to protect the public from fraud and unfair or deceptive business practices.

7. The United States District Court for the Eastern District of Pennsylvania predicted that Pennsylvania law on the question of whether all claims of a violation of the UTPCPL must be pleaded with the same specificity as a common-law fraud claim is unsettled.

8. The Pennsylvania Supreme Court would conclude that all claims of 'unfair methods of competition' or 'unfair or deceptive acts or practices' under the UTPCPL must be pled with the same specificity as common-law fraud claims.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 05-S-1327, DOUBLE B.B., INC., T/D/B/A ZIMMERMAN HOMES, VS. LARRY A. ATKINS AND TINA L. MILLER

Arthur Becker, Esq., for Plaintiff

Jeffrey Evans, Esq., for Defendants

Kuhn, P.J., January 29, 2007

OPINION PURSUANT TO PLAINTIFF'S PRELIMINARY OBJECTIONS TO DEFENDANTS' AMENDED ANSWER, NEW MATTER, AND COUNTERCLAIMS

Before this Court are Preliminary Objections of Double B.B. Inc. t/d/b/a Zimmerman Homes (hereinafter "Plaintiff") to the Amended Answer, New Matter, and Counterclaims of Larry A. Atkins and Tina L. Miller (hereinafter "Defendants"). For the reasons set forth herein, said objections are granted in part and denied in part.

FACTUAL AND PROCEDURAL BACKGROUND

The factual and procedural background set forth in this Court's June 22, 2006 Opinion is incorporated herein. After this Court sustained

Plaintiff's Preliminary Objections, Defendants filed an Amended Answer, New Matter, and Counterclaims on July 17, 2006. Therein, Defendants aver (1) in paragraph 43 that the cost to repair, reconstruct, and/or complete items in paragraph 42 (a)-(h), (k), (l), and (o)-(q) is \$92,516.00; (2) in paragraph 44 that the cost to correct, repair, and/or complete items in paragraph 42 (f), (i), and (j) is \$13,000.00; and (3) in paragraph 45 that the cost to correct, repair, and/or reinstall the item in paragraph 42 (m) is \$6,500.00.¹ Consequently,

¹ Paragraph 42 of Defendants' Amended New Matter alleges that the following work was incomplete, not finished and/or performed in a negligent and/or unworkmanlike manner or of substandard materials:

- a. Kitchen countertops were scratched, nicked and gouged, particularly the island;
- b. Kitchen cupboards were installed such that the opening for the refrigerator cannot accommodate a standard refrigerator;
- c. Kitchen cabinets contain holes or openings that serve no apparent purpose, such that said cabinets are open in the interior of same;
- d. Kitchen floor is uneven, not level and warped;
- e. Basement walls were improperly sealed, and/or inadequate draining was installed around and/or in same such that the basement is damp and water collects in same;
- f. Drywall in the home is poorly finished such that seams are visible throughout;
- g. Entry doors are not sealed such that air and weather infiltrates home around same;
- h. Windows throughout the home are not set, sealed, or insulated sufficiently such that air flow can be felt around the windows, and is such that it will move curtains or window treatments, even when same are closed and locked;
- i. Painting throughout the home is unfinished, incomplete or substandard and performed such that paint blotches appear on hardwood flooring, countertops, window sills and flooring in several rooms;
- j. Staining of trim and stairway is unfinished, incomplete or substandard and performed such that stain appears on walls and flooring;
- k. The area around the entrance to the sunken living room is framed inadequately such that walls and flooring material have developed significant cracks;
- l. Trim throughout the home has been improperly installed and/or finished such that nail holes are not puttied;
- m. The heating and air conditioning units were improperly sized and installed incorrectly such that the fan hits the housing when one of the units is in operation;
- n. Plumbing has been improperly installed such that same is leaking over the kitchen and breakfast nook and staining the ceiling;
- o. Bifold doors in one of the bedrooms cannot be opened or closed without same collapsing;
- p. Exterior siding is misaligned and gapping in areas;
- q. The final grading of the yard was not completed nor done in a manner to move surface water away from the home.

Defendants amended Counterclaims Counts I², II³, and III⁴ to seek damages “in excess of \$112,016.00” or “in an amount not less than \$112,016.00.”

On July 27, 2006, Plaintiff filed Preliminary Objections to Defendants’ Amended Answer, New Matter, and Counterclaims wherein two issues were raised. The first argues that Defendants’ specific damage claim is inadequate because it remains open-ended. The second focuses on whether Defendants properly averred a violation of the UTPCPL when they allegedly failed (again) to cite any example of an alleged misrepresentation by Plaintiff. All briefs were submitted by September 22, 2006. The Court did not hold oral argument.

DISCUSSION

Plaintiff first objects that Defendants’ Amended Counterclaims Counts I, II, and III contain insufficient specificity in violation of Pa. R.C.P. 1028(a)(3) and/or are legally insufficient in violation of Pa. R.C.P. 1028(a)(4) because Defendants’ specified damage claim remains open-ended.⁵ Defendants counter that their averments are more than sufficient to provide Plaintiff with knowledge of the claims made against it to allow it to plead and present any applicable

²Breach of Contract.

³Breach of Warranties.

⁴Violation of Unfair Trade Practices and Consumer Protection Law (hereinafter “UTPCPL”). Furthermore, Defendants also amended Counterclaim Count III to include the following averments:

- (a) Plaintiff warranted the workmanship and quality of the work to be performed on behalf of Defendants under the cost estimate dated December 10, 2004;
- (b) Plaintiff represented that it would construct a custom home in a workmanlike manner and that the construction would conform with the cost estimate;
- (c) Plaintiff’s misrepresentations were made to have Defendants contract with Plaintiff for the construction of a custom home on Defendants real estate;
- (d) Defendants justifiably relied upon the representations of the Plaintiff and entered into a contract for construction of a custom home; and
- (e) Plaintiff failed to complete the construction in a good and workmanlike manner.

⁵Specifically, Plaintiff contends that Defendants ignored this Court’s June 22, 2006 Opinion when they filed Amended Counterclaims Counts I, II, and III, which request damages “in excess of \$112,016.00” or “not less than \$112,016.00.” Consequently, Plaintiff argues that the counts are in violation of Pa. R.C.P. 1028(a)(3) and/or (4) and must be dismissed.

defense in conformity with Pa. R.C.P. 1019(f) and this Court's June 22, 2006 Opinion.⁶

Pa. R.C.P. 1028(a)(3) and (4) states:

(a) Preliminary objections may be filed by any party to any pleading and are limited to the following grounds:

...

(3) insufficient specificity in a pleading;

(4) legal insufficiency of a pleading (demurrer);

Pa. R.C.P. 1019(f) provides:

(f) Averments of time, place and items of special damage shall be specifically stated.

A preliminary objection made on the ground of insufficient specificity in a pleading raises the sole question of whether the pleading is sufficiently clear to enable the defendant to prepare a defense. *Paz v. Com., Dept. of Corrections*, 580 A.2d 452, 456 (Pa. Commw. 1990). Under such an objection, the pleading is tested as to whether it fully summarizes material facts essential to support the claim or whether it informs defendant, with accuracy and completeness, of the specific basis on which recovery is sought. *Credit Alliance Corp. v. Metrick*, 38 Pa. D. & C.3d 9, 13 (Luzerne Co. 1983).

When determining whether a pleading is insufficiently specific with regard to damage claims, a distinction must be made between special and general damages. Special damages are not directly related to plaintiff's cause of action and are not the usual and ordinary consequences of the wrong done. *Weingrad v. Fischer & Porter Co.*, 47 Pa. D. & C.2d 244, 249 (Bucks Co. 1968). In contrast, general damages flow directly from the breach and are the usual and ordinary consequences of the wrong done. *LBL Skysystems (USA), Inc. v. APG-America, Inc.*, 319 F. Supp. 2d 515, 523 (E.D. Pa. 2004).

While Pa. R.C.P. 1019(f) requires items of special damage to be specifically stated, general damages may be proved without being

⁶Specifically, Defendants argue that their Amended Counterclaims Counts I, II, and III include paragraphs that set forth precise amounts (in paragraphs 43, 44, and 45 of the Amended New Matter) to repair and/or replace specific items in paragraph 42 of Defendants' Amended New Matter. Finally, Defendants maintain that Plaintiff cannot dismiss the matter based upon the damage claim contained in the demand statement (WHEREFORE clause) because it is not part of the pleadings to which Plaintiff needs to respond.

specifically pleaded or they may be pleaded generally. 21 P. L. E., Damages, § 142. However, “the great majority of courts require general damages to be particularized insofar as reasonably practicable when such is requested in the form of a preliminary objection.” *Masters v. Karivalis*, 73 Pa. D. & C.2d 40, 41 (Philadelphia Co. 1975) (citing *Fahrney v. Food Fair Stores, Inc.*, 81 Dauph. 1, 6 (1963).

Moreover, the Commonwealth Court ruled that a pleading is insufficiently specific where the complaint does not allege itemized damages consisting of the cost of repair of each type or class of property damaged. *Com., Dept. of Transp. V. Shipley Humble Oil Co.*, 370 A.2d 438, 441 (Pa. Commw. 1977). Nevertheless, the modern trend of Pennsylvania’s new liberal discovery rules permits the lumping of damages without requiring an itemization of damages where discovery is available. *Seruga v. Tuskes*, 21 Pa. D. & C.3d 111, 114 (Northampton Co. 1981). While an itemization of damages is not required, a Chester County Court found an allegation that damages were “in excess” of a given figure was clearly insufficient and failed to give defendant adequate notice of what he must defend. *Huguet v. Foodsales, Inc.*, 3 Pa. D. & C.3d 136, 138 (Chester Co. 1977).⁷

Finally, preliminary objections in the nature of a demurrer test the legal sufficiency of a complaint. *Hykes v. Hughes*, 835 A.2d 382, 383 (Pa. Super. 2003) (citing *White v. PennDOT*, 738 A.2d 27, 31 (Pa. Commw. 1999)). When considering preliminary objections, all material facts set forth in the challenged pleadings are admitted as true, as well as all inferences reasonably deducible therefrom. Preliminary objections should be sustained only in cases in which it is clear and free from doubt that the pleader will be unable to prove facts legally sufficient to establish the right to relief. *Hykes*, 835 A.2d at 383 (citations omitted). Preliminary objections that seek the dismissal of a cause of action should be sustained only in cases in which it is clear and free from doubt that the pleader will be unable to prove facts legally sufficient to establish a right to relief. *Id.* (citing *Pacurariu v. Commonwealth*, 744 A.2d 389, 391 n.1 (Pa. Commw. 2000); *White*, 738 A.2d at 31). If any doubt exists as to whether a demurrer should be sustained, it should be resolved in favor of overruling the preliminary objections. *Hykes*, 835 A.2d at

⁷In *Huguet*, the Commonwealth Court sustained a preliminary objection in the nature of a motion for a more specific pleading when the complaint alleged damages “in excess of \$250,000.00.”

383 (citing *Edwards v. Germantown Hosp.*, 736 A.2d 612, 614 (Pa. Super. 1999)).

Here, Defendants allege 17 items concerning Defendants' home that Plaintiff either failed to complete or did not complete correctly. Consequently, Defendants aver damages in their Amended New Matter and Counterclaims Counts I, II, and III "in excess of \$112,016.00" or "in an amount not less than \$112,016.00" for the costs to repair, replace, or complete the 17 items. Because Defendants aver damages as the direct consequences of the alleged wrongs done to them, their alleged damages should be considered general damages.⁸ Therefore, although Defendants' general damages may be proved without being specifically pleaded, they should be particularized insofar as reasonably practicable pursuant to *Masters*.

In Defendants' Amended New Matter and Counterclaims, Defendants laid out the cost to repair, replace, or complete some of the 17 items by lumping the cost of several of the items together.⁹ The original Complaint was filed on December 6, 2005. Seven months later Defendants still have not averred the cost of repairing all the alleged deficiencies. These types of damages are not difficult to ascertain. One simply engages an expert to estimate the cost of repair and avers damages consistent therewith. Defendants have offered no explanation supporting their inability to itemize those costs at this point. Certainly a more accurate cost of each item can be flushed out in discovery; however, failure to properly plead, after warning, should not be rewarded. Defendants' averments of general damages do not meet the standard established in *Masters*, but dismissal is too harsh of a remedy. Therefore, the Court will limit Defendants' claim to the amount averred as damages instead of "an amount in excess" of that figure.

Thus, Plaintiff's Preliminary Objection to Defendants' Amended New Matter and Counterclaims Count I, II, and III based on Pa. R.C.P. 1028(a)(3) and (4) is denied, except as suggested by way of limitation.

⁸Since Pa. R.C.P. 1019(f) only concerns items of special damage, that rule is not at issue.

⁹Specifically, Defendants aver (1) in paragraph 43 that the cost to repair, reconstruct, and or complete items in paragraph 42 (a)-(h),(k),(l), and (o)-(q) is \$92,516.00; (2) in paragraph 44 that the cost to correct, repair, and/or complete items in paragraph 42 (f), (i), and (j) is \$13,000.00; and (3) in paragraph 45 that the cost to correct, repair, and/or reinstall the item in paragraph 42 (m) is \$6,500.00.

Notably, Defendants include the cost of the item in paragraph 42 (f) in the cost of the items lumped together in paragraphs 43 and 44. Moreover, Defendants do not reveal the cost of the item in paragraph 42 (n).

Next, Plaintiff contends that pursuant to Pa. R.C.P. 1028(a)(4)¹⁰, Defendants' Amended Counterclaim Count III is legally insufficient to entitle Defendants to obtain a judgment against Plaintiff under the UTPCPL because Defendants failed to cite any examples of an alleged misrepresentation.¹¹ Defendants counter that their Amended Counterclaim Count III is legally sufficient to entitle them to obtain a judgment against Plaintiff under the UTPCPL.¹²

The UTPCPL permits private civil actions to be filed where a person purchases goods or services primarily for personal, family, or household purposes and suffers any ascertainable loss as a result of an act or practice declared unlawful under this statute. 73 P.S. § 210-9.2 (2006). Unlawful acts are those acts described in 73 P.S. § 201-2(4)(i)-(xxi).¹³

¹⁰The legal standards for a preliminary objection based on Pa. R.C.P. 1028(a)(4) are incorporated from pages three and five of this Opinion.

¹¹Additionally, Plaintiff argues that there is no indication in Defendants' pleading that Plaintiff made any representation pertaining to having any special skills as a builder and that therefore, it is not enough to establish a violation of the UTPCPL that Plaintiff failed to fulfill Defendants' expectations regarding the quality of their work.

¹²Specifically, Defendants contend that they sufficiently alleged common-law fraud in Amended Counterclaim Count III in that they alleged (1) that Plaintiff made promises to Defendants as set forth in the estimate of cost and contract between the parties solely for the purpose of having Defendants enter into a contract for the construction of a home; (2) that they justifiably relied on said promises and documents (which were specific regarding the type of home to be constructed in terms of scope of work, workmanship, and materials) provided by Plaintiff to enter into the contract; (3) that Plaintiff breached the terms set forth in paragraph 42 of Defendants' Amended New Matter; (4) that Plaintiff failed to complete punch list items; and (5) that they have been harmed by virtue of the fact that the workmanship promised was not received, the skill promised was not provided, particularly given that at least one area of the home is improperly framed, and quality materials were not provided, i.e., the undersized and improperly installed heating and cooling systems. As a result, Defendants maintain that the reasonable inference from their pleadings is that Plaintiff promised to construct a home for Defendants that was beyond either its ability or capacity to provide and knew or should have known same when it provided Defendant with the estimate of cost, construction plans, and contract.

Furthermore, Defendants maintain that Plaintiff violated the terms of a written warranty and failed to complete work in accordance with the standards established in the contract, the cost estimate, and the construction plans.

¹³In this case, Defendants allege unlawful acts under 73 P.S. § 201-2(4)(vii) and (xvi), which state:

(vii) "Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are another;" (xvi) "Making repairs, improvements or replacements on tangible, real or personal property of a nature or quality inferior to or below the standard of that agreed to in writing;"

The UTPCPL is to be liberally construed to effectuate its purpose, which is to protect the public from fraud and unfair or deceptive business practices. *Keller v. Volkswagen of Am., Inc.*, 733 A.2d 642, 646 (Pa. Super. 1999). Under the UTPCPL, two kinds of fraud are at issue. The first kind of fraud is statutorily defined in 73 P.S. § 201-2(4)(i)-(xx). See *DiLucido v. Terminix Intern.*, 676 A.2d 1237, 1240-41 (Pa. Super. 1996). The second kind of fraud is common-law fraud, which must be proven to satisfy the catchall provision of the UTPCPL, 73 P.S. § 201-2(4)(xxi).¹⁴ *Booze v. Allstate Ins. Co.*, 750 A.2d 877, 880 (Pa. Super. 2000).

Pennsylvania law on the question of whether all claims of a violation of the UTPCPL must be pleaded with the same specificity as a common-law fraud claim is unsettled. *Grant v. Kingswood Apts.*, 2001 U.S. Dist. LEXIS 23927, 8 (E.D. Pa. 2001). Compare *Lindstrom v. Pennswood Village*, 612 A.2d 1048, 1052 (Pa. Super. 1992)(finding that all claims of violations of the UTPCPL must be plead with the same specificity required of common-law fraud) with *DiLucido*, 676 A.2d at 1241 (finding that plaintiffs are not required to prove elements of common-law fraud for all claims of “unfair methods of competition” and “unfair or deceptive acts or practices” under the UTPCPL). However, the United States District Court for the Eastern District of Pennsylvania predicted how the Pennsylvania Supreme Court would decide the issue, stating “the Pennsylvania Supreme Court would conclude that all claims of ‘unfair methods of competition’ or ‘unfair or deceptive acts or practices’ under the UTPCPL must be pled with the same specificity as common-law fraud claims.”¹⁵ *Grant*, 2001 U.S. Dist. LEXIS 23927 at 8.

Moreover, in *Weinberg v. Sun Co., Inc.*, 777 A.2d 442, 446 (Pa. 2001), the Pennsylvania Supreme Court held that a private plaintiff must prove reliance and causation in false advertising claims under the

¹⁴ 73 P.S. 201-2(4)(xxi) states “Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstandings.”

¹⁵ The following elements must be pled with particularity to prove common-law fraud: (1) material misrepresentation of a material fact; (2) scienter; (3) intention by the declarant to induce action; (4) justifiable reliance by the party defrauded by the misrepresentation; and (5) damages to the party defrauded as a proximate result. *Heller v. Shaw Industries, Inc.*, 1997 U.S. Dist. LEXIS 12399, 65-66 (E.D. Pa. 1997).

UTPCPL.¹⁶ The court also found that the underlying foundation of the UTPCPL is fraud prevention and “[n]othing in the legislative history suggests that the legislature ever intended statutory language directed against consumer fraud to do away with the traditional common-law elements of reliance and causation.” *Id.* Furthermore, pleading requirements under the UTPCPL require a plaintiff to show that he “justifiably relied on the defendant’s wrongful conduct or representation and that he suffered harm as a result of that reliance.” *Yocca v. Pittsburgh Steelers Sports, Inc.*, 854 A.2d 425, 438 (Pa. 2004).

Here, Defendants entered into a contract with Plaintiff in which Defendants purchased Plaintiff’s services for the construction of their home. In their Amended Counterclaim Count III, Defendants allege that they suffered loss and damages to their real and personal property “in an amount not less than \$112,016.00” because Plaintiff violated 73 P.S. § 201-2(4)(vii) and (xvi) of the UTPCPL.

Furthermore, Defendants allege in Count III of their Amended Counterclaims that Plaintiff materially misrepresented the quality and condition of the new home it was constructing for Defendants and further made misrepresentations¹⁷ concerning the quality of the products used in the construction and the quality of the workmanship which would be provided by Plaintiff pursuant to the contract to support their claims that Plaintiff violated 73 P.S. § 201-2(4)(vii) and (xvi) of the UTPCPL.

Although Defendants amended Count III of their Amended Counterclaims and allege a material misrepresentation, this Court again finds that beyond stating a mere legal conclusion, they fail to cite any examples or evidence of an alleged misrepresentation by Plaintiff. Since *Heller* requires that the elements of fraud be pled with particularity, Defendants’ mere legal conclusions used to support an averment of a material misrepresentation are clearly insufficient.

¹⁶This decision overruled the Pennsylvania Superior Court, which concluded that plaintiffs who allege false advertising under the UTPCPL, as opposed to fraud, did not have to show individual reliance and causation. *Weinberg v. Sun Co., Inc.*, 740 A.2d 1152, 1168-69 (Pa. Super. 1999). The Superior Court based its holding on *DiLucido*, 676 A.2d at 1237, which differentiated between claims of false advertising and fraud-based claims under the UTPCPL, and found that the elements of proof differed for the two causes of action.

¹⁷Defendants allege that Plaintiff represented in writing that it would construct the home in a workmanlike manner and that the construction would conform to the plans, specifications, and the cost estimate.

As for the other elements of common-law fraud, Defendants sufficiently allege that they (1) justifiably relied upon Plaintiff's representations and entered into the contract to build their home and (2) sustained damages proximately caused by Plaintiff's alleged violations of the UTPCPL. Nevertheless, this Court still finds that Defendants do not allege scienter¹⁸ or that Plaintiff had the intention of misleading Defendants into relying on its alleged misrepresentation. Therefore, Defendants have failed to plead all of the elements of common-law fraud to support their allegations that Plaintiff violated 73 P.S. § 201-2(4)(vii) and (xvi) of the UTPCPL.¹⁹

Because Defendants did not plead their violations of the UTPCPL with the same specificity as common-law fraud claims pursuant to *Grant*, *Weinberg*, and *Yocca*, Plaintiff's Preliminary Objection to Count III of Defendants' Amended Counterclaims based on Pa. R.C.P. 1028(a)(4) is granted and Count III of Defendants' Amended Counterclaims is dismissed.

Accordingly, the attached Order is entered.

ORDER

AND NOW, this 29th day of January, 2007, Plaintiff's Preliminary Objections to Defendants' Amended Answer, New Matter, and Counterclaims, filed July 27, 2006, are granted in part and denied in part in accordance with the attached Opinion.

¹⁸The Seventh Edition of Black's Law Dictionary defines "scienter" as "a mental state consisting in an intent to deceive, manipulate, or defraud."

¹⁹Plaintiff cites *Commonwealth v. Burns*, 663 A.2d 308, 311 (Pa. Commw. 1995) for its holding that 73 P.S. § 201-2(4)(xvi) of the UTPCPL was violated "where a contractor agreed in writing to perform a contract with workmanship of good quality but is shown to have performed with substandard and inferior work...." However, this holding no longer appears to be valid because the Pennsylvania Supreme Court in *Grant* and *Weinberg* ruled that all claims brought under the UTPCPL must be pleaded with the same specificity as common-law fraud claims. Notably, common-law fraud was not pleaded in *Burns* to support the contention that 73 P.S. § 201-2(4)(xvi) was violated.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1276 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in the Borough of McSherrystown, Adams County, Pennsylvania, being shown as Lot No. 13 on a Final Subdivision Plan for Adams County Interfaith Housing Corporation, dated August 10, 1999, prepared by Wm. F. Hill & Assoc., Inc. and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 79 at page 2 and 2A, more particularly bounded and described as follows:

BEGINNING at a steel pin set at corner of Lot No. 11 and Water Street; thence continuing along Water Street by a curve to the right having a radius of 481.67 feet, arc of 52.73 feet and a chord bearing and distance of North 09 degrees 34 minutes 17 seconds West 52.70 feet to a point as shown on said plan; then continuing along Water Street by a curve to the left having a radius of 698.46 feet, an arc of 85.75 feet and a chord bearing and distance of North 09 degrees 57 minutes 08 seconds West 85.70 feet to a steel pin set on the edge of Saint Joseph Lane; thence continuing along the edge of Saint Joseph Lane North 75 degrees 25 minutes 00 seconds East 68.22 feet to a point; thence continuing along Saint Joseph Lane by a curve to the right having a radius of 125.00 feet, an arc of 86.46 feet and a chord bearing and distance of South 84 degrees 48 minutes 03 seconds East 84.75 feet to a steel pin set at corner of Lot No. 12; thence continuing along Lot No. 12 South 29 degrees 45 minutes 54 seconds West 152.69 feet to a steel pin set at corner of Lot No. 11; thence continuing along Lot No. 11 South 75 degrees 25 minutes 00 seconds West 52.74 feet to a steel pin set, the place of BEGINNING. CONTAINING 14,583 square feet.

FURTHERMORE, this conveyance is subject to the express restriction that the property shall be utilized only for low and very low income housing purposes as those terms are established under guidelines promulgated by the United States Department of Housing and Urban Development for its Section 8 Housing Subsidy Program, as modified by that agency or its department or agencies.

The improvements thereon being known as 6 St. Joseph Lane.

BEING the same premises which Cheryl L. Taylor, a single person, by Deed dated February 28, 2006 and recorded in the Adams County Recorder of Deeds Office on June 16, 2006 in Deed Book 4457, page 196, granted and conveyed unto Chad J. Grimes and Tina M. Wentz.

SEIZED and taken into execution as the property of **Chad J. Grimes & Tina M. Wentz** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 20, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/25, 2/1 & 8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1210 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of February, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a concrete nail in the right-of-way limits of Township Road T-394 at corner of land now or formerly of Fred Hartman; thence by said land, North 74 degrees 14 minutes 00 seconds West, 331.45 feet to an iron pipe at lands now or formerly of Pitzer Bros. Fruit Farms, Inc.; thence by same, North 36 degrees 20 minutes 30 seconds East, 288.00 feet to an iron pipe; thence by same, South 88 degrees 11 minutes 00 seconds East, 305.65 feet to a spike in the right-of-way limits of Township Road T-394; thence in same, South 30 degrees 34 minutes 30 seconds West, 103.15 feet to a point; thence in same, South 25 degrees 06 minutes 30 seconds West, 2346.85 feet to a concrete nail, the place of BEGINNING. CONTAINING 2.1100 acres.

BEING the same premises which Ray C. Gee and Beatrice M. Gee, by Raymond W. Newman, Sheriff of Adams County, in the Commonwealth of Pennsylvania, by his deed dated May 28, 2002, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 2675 at page 248, granted and conveyed unto Conseco Finance Servicing Corporation.

Parcel Identification No.: (29) F 05-0009D-000

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Lillian M. Armon, by Deed from Conseco Finance Consumer Discount Company, dated 10/22/2002, recorded 10/29/2002, in Deed Book 2854, page 83.

Premises being: 40 Clines Church Road, Aspers, PA 17304

SEIZED and taken into execution as the property of **Lillian Loubier f/k/a Lillian M. Armon** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 20, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/25, 2/1 & 8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1265 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of March, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or piece of ground situate in Littlestown Borough, County of Adams, Commonwealth of Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point along the Westerly edge of Apple Grove Lane at a corner of Lot No. 421 on the subdivision plan hereinafter referred to; thence along Lot No. 421, North 61 degrees 18 minutes 33 seconds East, 115.00 feet to a point along lands now or formerly of Hayward E. Wogan; thence along lands now or formerly of Hayward E. Wogan, South 28 degrees 41 minutes 27 seconds East, 35.00 feet to a point at a corner of Lot No. 423; thence along Lot No. 423, South 61 degrees 33 minutes West, 115.00 feet to a point along the westerly edge of Apple Grove Lane; thence along the westerly edge of Apple Grove Lane, North 28 degrees 41 minutes 27 seconds West, 35.00 feet to a point at a corner of Lot No. 421, the place of BEGINNING.

Being Lot No. 422 on a plan of lots prepared by Group Hanover, Inc. for Appler, dated January 22, 1999, recorded in Adams County Plan Book 77 at Page 94-C.

RECORD OWNER

Vested by Warranty Deed, dated 10/06/2006, given by Mark D. Kurtz, joined by his wife, Carrie N. Kurtz to Steven Burroughs, unmarried, and Chastity Fomey, unmarried, as joint tenants with right of survivorship and recorded 10/16/2006 in Book 4605 Page 282.

Premises Being: 134 Apple Grove Lane, Littlestown, PA 17340-1158

Tax Parcel No. (27) 004-0140-000

SEIZED and taken into execution as the property of **Steven Burroughs & Chastity Fomey** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 28, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1258 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of March, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the right-of-way line of the cul-de-sac of Judy Way at corner of Lot No. 16 on the hereinafter referred to subdivision plan; thence along said Lot No. 16, North eighty-five (85) degrees, thirty-one (31) minutes, thirty-two (32) seconds East, one hundred twenty-one and twelve hundredths (121.12) feet to a point on line of land designated as the 'well lot: and at corner of Lot No. 20; thence along Lot No. 20, South twenty-five (25) degrees, five (05) minutes, forty-seven (47) seconds West, one hundred forty-one and thirty-four hundredths (141.34) feet to a point on Lot No. 20A; thence along Lot No. 20A, North sixty-four (64) degrees, fifty-seven (57) minutes, eleven (11) seconds West, one hundred eleven and twenty hundredths (111.20) feet to a point on line of Lot No. 14; thence along Lot No. 14, North twenty-eight (28) degrees, fifteen (15) minutes, twenty-two (22) seconds East, twenty-five and eighty hundredths (25.80) feet to a point on the right-of-way line of Judy Way; thence along the cul-de-sac of Judy Way by a curve to the left, the radius of which is fifty (50.00) feet, for an arc distance of 59.53 feet, the long chord of which is North twenty-nine (29) degrees, thirty-eight (38) minutes, five (05) seconds East, fifty-six and eight hundredths (56.08) feet to the point and place of BEGINNING.

The above description was taken from a final plan of Nobles Ridge by Worley Surveying dated December 18, 2000 and recorded in Adams County Plat Book 79, page 57, being Lot No 15 thereon.

Together with all buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments and appurtenances, to the same belonging, or in any wise appertaining, and any reversions,

remainders, rents, issues and profits thereof, and of every part and parcel thereof, including any interests specifically set forth, if any. And also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, both in law and equity, of the Grantor of, in and to the same.

To Have And To Hold the same premises, and the appurtenances, hereby granted to Grantee and Grantee's heirs, successors and assigns, to and for the only proper use, benefit and behalf of the said Grantee and Grantee's heirs, successors and assigns forever, under and subject to the conditions set forth, if any.

And The Said Grantor hereby covenants and agrees that Grantor will warrant specially the property hereby conveyed.

Under And Subject, nevertheless to the same condition, restrictions, exceptions and reservations as exist by virtue of prior recorded instruments, deeds and conveyances.

It Being The Same Premises which John Teel and Frank Gebhart, CO-Partners t/d/b/a New Oxford Enterprises, by their deed dated November 14, 2002 and recorded in the Office of The Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 2907, Page 295, granted and conveyed unto Smokehouse, LLLP, Grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Thomas E. Bell, Sr. and Carmen H. Bell, by Deed from Smokehouse, LLLP, dated 07/11/2003, recorded 08/29/2003, in Deed Book 3274, page 121.

Premises being: 15 Judy Way, Gettysburg, PA 17325

Tax Parcel No: (06) 005-0136-000

SEIZED and taken into execution as the property of **Thomas E. Bell, Sr. & Carmen H. Bell** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 28, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/8, 15 & 22

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 J. RICHARD FELIX, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Donna G. Bixler, 2774 Fairfield Road, Gettysburg, PA 17325

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

ESTATE OF RODNEY J. LITTLE, DEC'D
Late of Oxford Township, Adams County, Pennsylvania

Executor: Alan J. Little, 110 Bragg St., Hanover, PA 17331

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

ESTATE OF ETHEL M. WETZEL, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania

Executor: Brian Cole, 7331 Mount Ash Drive SE, Grand Rapids, MI 49546-9674

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

SECOND PUBLICATION

ESTATE OF JEAN E. FINNEGAN, DEC'D
Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Judy E. Geist, 108 Edgewood Road, York, PA 17402

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

ESTATE OF MAE L. MORNINGSTAR, DEC'D
Late of Oxford Township, Adams County, Pennsylvania

Executrix: Judi A. Thibault McGlynn, c/o Thomas M. Shultz, Esq., Shultz Law Firm, LLC, 215 Baltimore Street, Hanover, PA 17331

Attorney: Thomas M. Shultz, Esq., Shultz Law Firm, LLC, 215 Baltimore Street, Hanover, PA 17331

ESTATE OF BETTY JANE MOUL, DEC'D
Late of Hamilton Township, Adams County, Pennsylvania

Executor: Brian E. Moul, 3045 Brookfield Drive, York, PA 17404

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

ESTATE OF THEODORE P. SMITH a/k/a THEODORE PAUL SMITH, DEC'D
Late of Conewago Township, Adams County, Pennsylvania

Executrix: Darlene M. Smith, 100 Linden Avenue, Hanover, PA 17331

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

ESTATE OF WELDON R. SNIVELY, DEC'D
Late of Franklin Township, Adams County, Pennsylvania

Executors: Christopher Norman Snively and Michael David Snively, c/o Patterson, Kiersz & Murphy, PC, 239 East Main Street, Waynesboro, PA 17268-1681

Attorney: R. Thomas Murphy, Esq., Patterson, Kiersz & Murphy, PC, 239 East Main Street, Waynesboro, PA 17268-1681

ESTATE OF NADINE A. STULLER, DEC'D
Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Michael J. Stuller, 309 Vincent Dr., McSherrystown, PA 17344

Attorney: G. Patrick O'Connor, Esq., 3105 Old Gettysburg Rd., Camp Hill, PA 17011

ESTATE OF EUGENE J. ZANNETTI, DEC'D
Late of Oxford Township, Adams County, Pennsylvania

Executrixes: Cheryl Zannetti-Wenck, 17148 Magic Mountain Drive, Round Hill, VA 20141; Gina C. Krug, 17417 Masemore Road, Parkton, MD 21120

Attorney: George W. Swartz, II, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF MARY JANE BENTZEL, DEC'D
Late of Oxford Township, Adams County, Pennsylvania

Executors: Richard W. Bentzel, Jr., 163 Meadowbrook Lane, Abbottstown, PA 17301; Carole A. Diehl, 34 Amanda Ave., Hanover, PA 17331

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

ESTATE OF LAWRENCE H. ECKERT, JR., DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Richard Patrick Eckert, c/o Fenstermacher and Associates, P.C., 5115 East Trindle Road, Mechanicsburg, PA 17050

Attorney: John R. Fenstermacher, Esq., Fenstermacher and Associates, P.C., 5115 East Trindle Road, Mechanicsburg, PA 17050

ESTATE OF MILDRED IRENE HENNINGER, DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania

Thomas P. Henninger, 1844 Whitehall Road, Littlestown, PA 17340

Attorney: Jeffery M. Cook, Esq., 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF MARGARET A. REBERT, DEC'D
Late of the Borough of Littlestown, Adams County, Pennsylvania

Executors: Toni L. Battiste and Eric A. Rebert, c/o Blakinger, Byler & Thomas, P.C., 28 Penn Square, Lancaster, PA 17603

Attorney: Blakinger, Byler & Thomas, P.C., 28 Penn Square, Lancaster, PA 17603

ESTATE OF DOLORES CHARLOTTE RISSO, DEC'D
Late of the Borough of Littlestown, Adams County, Pennsylvania

Administrator/Executor: Linda Risso, 1312 Rutter Street, Baltimore, MD 21217

ESTATE OF HELEN L. SELL, DEC'D
Late of Germany Township, Adams County, Pennsylvania

Administrator: Homer R. Sell, Jr., 5210 Baltimore Pike, Littlestown, PA 17340

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

ESTATE OF MARY C. WOLFE, DEC'D
Late of Latimore Township, Adams County, Pennsylvania

Executrix: Sara J. Chase, 518 Carlisle Road, Hanover, PA 17331

Attorney: Gary L. James, Esq., James, Smith, Dietterick & Connelly, LLP, 134 Sipe Avenue, Hummelstown, PA 17036

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1263 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of March, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in Storms Store Road (T-428) thence running in said right-of-way line of Storms Store Road, North thirty-five (35) degrees thirty (30) minutes twenty-four (24) seconds West, twenty-five and zero hundredths (25.00) feet to a point on the right-of-way line of Storms Store Road (T-428) at Lot No. 12 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 12, North thirty-five (35) degrees thirty (30) minutes twenty-four (24) seconds West, two hundred nine and two hundredths (209.02) feet to a point at Lots No. 21 and 22 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 21, North fifty-four (54) degrees twenty-nine (29) minutes thirty-six (36) seconds East, one hundred thirty and zero hundredths (130.00) feet to a point at Lots No. 20 and 14 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 14, South thirty-five (35) degrees thirty (30) minutes twenty-four (24) seconds East, two hundred eight and sixty-one hundredths (208.61) feet to a point on the dedicated right-of-way line of Storms Store Road (T-428); thence running through said right-of-way line South thirty-five (35) degrees thirty (30) minutes twenty-four (24) seconds East, twenty-five and zero hundredths (25.00) feet to a point in Storms Store Road (T-428); thence running in said Storms Store Road (T-428) South fifty-four (54) degrees twenty-nine (29) minutes thirty-six (36) seconds West, one hundred thirty and zero hundredths (130.00) feet to a point and place of BEGINNING.

CONTAINING 30,550 square feet

The above description being Lot No. 13 on the 'Final Subdivision Plan for Simme Valley Estates-Phase I, by Group Hanover, Inc. dated February 26, 2001, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 80, at page 84.

SUBJECT NEVERTHELESS, to the Protective Covenants of Simme Valley which are recorded in the Office of the Recorder of Deeds in and for Adams

County, Pennsylvania, in Record Book 2866, at page 277.

Also subject to all easements which may be shown on the subdivision plan above recited.

IT BEING part of a larger tract of land with Larry E. Hughes, unmarried, by his deed dated August 15, 2001, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 2376 at page 86, granted and conveyed unto Simme Valley L.P., a Pennsylvania Limited Partnership, Grantor herein. New Age Associates, Inc. signs this deed by virtue of having constructed the improvements on the tract of land herein conveyed.

Being the same property in Deed Dated July 9, 2004 in Book 3636 page 328 recorded July 13, 2004 in Oxford Township, Adams County Between SIMME VALLEY L.P. a Pennsylvania Limited Partnership, having a business address of 209 Locust Street Box 644, East Berlin, Pennsylvania, 17316 -AND- NEW AGE ASSOCIATES, INC., A Pennsylvania Corporation, with its principal office at 209 Locust Street, East Berlin, Pennsylvania, 17316 Grantors, and Louise W. Lange and Kelly M. Lange, husband and wife, of Frederick, Maryland, as Tenants by the Entireties, Grantee.

TITLE TO SAID PREMISES IS VESTED IN Louis W. Lange, by Deed from Louis W. Lange and Kelly M. Lange, husband and wife, as tenants by the entireties, dated 06/23/2005, recorded 07/14/2005, in Deed Book 4043, page 100.

The Improvement being known as: 2110 Storms Store Road, New Oxford, PA 17350

Tax ID# J12-2C1

SEIZED and taken into execution as the property of **Louis W. Lange** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 28, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/8, 15 & 22

LIMITED LIABILITY COMPANY NOTICE

NOTICE IS HEREBY GIVEN that in compliance with the requirements of 15 Pa.C.S. § 8913, a Certificate of Registration - Domestic Limited Liability Company was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg for the purpose of registering a limited liability company.

The name of the limited liability company is PETRAFOOSE, LLC with the principal place of business at 50 Old Mill Road, New Oxford, PA.

The purpose for which the limited liability company was organized is: To engage in and do any lawful act concerning any and all lawful business for which limited liability companies may be formed in accordance with the laws of the Commonwealth of Pennsylvania.

Wendy Weikal-Beauchat, Esq.
Beauchat & Beauchat, L.L.C.
63 W. High Street
Gettysburg, PA 17325

2/8

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of Sec. 311 of the Act of Assembly of December 16, 1982, 54 PA C.S.A. 311, that an application for registration of a fictitious name was filed on January 30, 2008 with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the conducting of a business under the fictitious name of THOMAS WELLS, III, ASPHALT PAVING with its principal office or place of business at 45 Hoffman Road, Gettysburg, PA 17325. The names and addresses of all persons owning or interested in said business are: Thomas Wells, III and Ronda Wells of 45 Hoffman Road, Gettysburg, PA 17325.

Matthew R. Battersby, Esq.
Battersby Law Office
20 W. Main St., P.O. Box 215
Fairfield, PA 17320
Attorney for Applicant

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Adams County Legal Journal

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February 15, 2008

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SHULTZ VS. WALLS

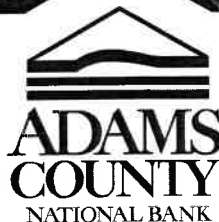
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Trust Officer



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SHERIFF'S SALE

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

BEGINNING at a point in Storms Store Road (T-428) thence running in said right-of-way line of Storms Store Road, North thirty-five (35) degrees thirty (30) minutes twenty-four (24) seconds West, twenty-five and zero hundredths (25.00) feet to a point on the right-of-way line of Storms Store Road (T-428) at Lot No. 12 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 12, North thirty-five (35) degrees thirty (30) minutes twenty-four (24) seconds West, two hundred nine and two hundredths (209.02) feet to a point at Lots No. 21 and 22 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 21, North fifty-four (54) degrees twenty-nine (29) minutes thirty-six (36) seconds East, one hundred thirty and zero hundredths (130.00) feet to a point at Lots No. 20 and 14 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 14, South thirty-five (35) degrees thirty (30) minutes twenty-four (24) seconds East, two hundred eight and sixty-one hundredths (208.61) feet to a point on the dedicated right-of-way line of Storms Store Road (T-428); thence running through said right-of-way line South thirty-five (35) degrees thirty (30) minutes twenty-four (24) seconds East, twenty-five and zero hundredths (25.00) feet to a point in Storms Store Road (T-428); thence running in said Storms Store Road (T-428) South fifty-four (54) degrees twenty-nine (29) minutes thirty-six (36) seconds West, one hundred thirty and zero hundredths (130.00) feet to a point and place of BEGINNING.

CONTAINING 30,550 square feet

The above description being Lot No. 13 on the 'Final Subdivision Plan for Simme Valley Estates-Phase I, by Group Hanover, Inc. dated February 26, 2001, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 80, at page 84.

SUBJECT NEVERTHELESS, to the Protective Covenants of Simme Valley which are recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 2866, at page 277.

Also subject to all easements which may be shown on the subdivision plan above recited.

IT BEING part of a larger tract of land with Larry E. Hughes, unmarried, by his deed dated August 15, 2001, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 2376 at page 86, granted and conveyed unto Simme Valley L.P., a Pennsylvania Limited Partnership, Grantor herein. New Age Associates, Inc. signs this deed by virtue of having constructed the improvements on the tract of land herein conveyed.

Being the same property in Deed Dated July 9, 2004 in Book 3636 page 328 recorded July 13, 2004 in Oxford Township, Adams County Between SIMME VALLEY L.P. a Pennsylvania Limited Partnership, having a business address of 209 Locust Street Box 644, East Berlin, Pennsylvania, 17316 -AND- NEW AGE ASSOCIATES, INC., A Pennsylvania Corporation, with its principal office at 209 Locust Street, East Berlin, Pennsylvania, 17316 Grantors, and Louise W. Lange and Kelly M. Lange, husband and wife, of Frederick, Maryland, as Tenants by the Entireties, Grantee.

TITLE TO SAID PREMISES IS VESTED IN Louis W. Lange, by Deed from Louis W. Lange and Kelly M. Lange, husband and wife, as tenants by the entireties, dated 06/23/2005, recorded 07/14/2005, in Deed Book 4043, page 100.

The Improvement being known as: 2110 Storms Store Road, New Oxford, PA 17350

Tax ID# J12-2C1

SEIZED and taken into execution as the property of **Louis W. Lange** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 28, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/8, 15 & 22

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on or about January 30, 2008 for the incorporation of KEN ADAMS MECHANICAL, INC., under the Pennsylvania Corporation Law of 1988. The initial registered office of the corporation is 3424 York Road, Gettysburg, PA 17325.

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

2/15

SHULTZ VS. WALLS

1. The presumption is strong that the appropriate amount of support in each case is the amount as determined from the support guidelines. Where the facts demonstrate the inappropriateness of such an award, the trier of fact may deviate therefrom.

2. A deviation from the amount of support may be made on the grounds of "unusual fixed obligations." Downward deviations are to be granted where there are exceptional circumstances. Voluntary incurrence of debt does not reduce the divorcing spouse's support obligations under the Uniform Support Guidelines.

3. In a request for support reduction, the voluntary choice to forego current employment in order to further one's education is an employment decision that should be treated no differently than a decision to change jobs and salary.

4. This Court finds that a school loan obligation in this day and age would not be considered an "exceptional circumstance," nor would it be considered an "unusual fixed obligation" that would require a deviation from the amount of support determined by the guidelines.

In the Court of Common Pleas of Adams County, Pennsylvania,
Domestic Relations, No. 06-DR-494, DWAYNE R. SHULTZ VS.
AUDREY E. WALLS.

Christina M. Simpson, Esq., for Plaintiff

John J. Mooney, III, Esq., for Defendant

Bigham, J., February 1, 2007

OPINION

STATEMENT OF FACTS

On June 16, 2006, Dwayne R. Shultz ("Father") filed a Petition to modify his support order for three children in the case *Audrey E. Shultz (n/k/a Audrey E. Walls) v. Dwayne R. Shultz*, DR-606-98 on the basis of material changes in circumstances¹. A conference was held and a Modified Support Order was entered on July 27, 2006. At the conference, Audrey E. Walls' ("Mother") net income was determined to be \$2,968.52 and Father's monthly income was calculated to be \$3,296.90. Father continued to be the obligor with a modified support guideline of \$151.00 per month. Father filed a Demand for Hearing citing several different grounds for review and a *de novo* hearing was held on September 21, 2006.

The Adams County Domestic Relations Office discovered that the guideline support amount had been miscalculated due to a

¹These material changes include a change in Mother's income and a change in the child custody arrangement. Mother and Father share equal physical custody of two of the parties' children and Father has primary custody of the parties' third child.

Pennsylvania Automated Child Support Enforcement System (“PACSES”) system malfunction in performing the basic support calculation. The system failed to apply the combination of the substantially shared custody calculation as well as an income equalization calculation, both of which were applicable to that particular case.² Upon correction of the error, the support order in DR-606-98 was terminated and a new support order was created in the above-captioned case in which Mother became the Obligor.

Mother became obligated to pay the guideline amount calculated to be \$348.00 per month. Mother filed a Demand for Hearing raising a number of issues for review, including a request for the Court to deviate from her guideline payment amount on the basis of her student loan obligation. A *de novo* hearing was held on November 30, 2006. The parties stipulated that the sole issue is whether the Court can award a downward deviation in the guideline support amount to Mother due to her monthly student loan payment obligation of \$316.62. The attorneys have filed Memoranda of Law on the issue.

DISCUSSION

Mother’s incurrence of a student loan payment obligation for her pursuit of a higher education does not entitle her to a downward deviation of the child support guideline amount previously determined.

Mother asserts that her school loan obligation is an unusual fixed obligation and therefore, the amount of support she pays should be reduced to reflect such an extraordinary expense. Mother argues that the Order of Court dated October 5, 2006, ordering her to pay \$348.00 per month to Father for child support operates as a penalty for pursuing a higher education. Mother argues that because her education is now complete and her income is nearly the same as Father’s income, all of the children benefit directly from her increased income. Mother can now provide more direct support to the children and they have a better standard of living than they did when she was making \$1,000.00 per month, while in school. Mother is therefore requesting a downward deviation from \$348.00 per month to zero.

Father argues that Mother has failed to put forth any evidence to justify a downward deviation in her support obligations other than her student loan obligation. Father asserts that the debt Mother

²Pa. R.C.P. Rule 1910.16-4, 42 Pa. C.S.A.

incurred for her education was a post-divorce debt and that he did not acquiesce in, nor participate in, Mother's decision to pursue a higher education. Father argues that a school loan is not a unique or unusual expense and therefore cannot be qualified as an "exceptional circumstance" that would warrant a downward deviation of support. The Court agrees.

[T]here shall be a rebuttable presumption that the amount of the award determined from the guidelines is the correct amount of support to be awarded. The support guidelines are a rebuttable presumption and must be applied taking into consideration the special needs and obligations of the parties. The trier of fact must consider the factors set forth in Rule 1910.16-5. The presumption shall be rebutted if the trier of fact makes a written finding, or a specific finding on the record, that an award in the amount determined from the guidelines would be unjust or inappropriate.

Pa. R.C.P. 1910.16-1(d)

"The presumption is strong that the appropriate amount of support in each case is the amount as determined from the support guidelines." *Ball v. Minnick*, 648 A.2d 1192, 1196 (Pa. 1994). However, the Pennsylvania Supreme Court in the same case also stated that, "where the facts demonstrate the inappropriateness of such an award, the trier of fact may deviate therefrom." *Id.*

Pennsylvania Rules of Civil Procedure Rule 1910.16-5 governs deviations to the amount of support as follows:

- (a) **Deviation.** If the amount of the support deviates from the amount of support determined by the guidelines, the trier of fact shall specify, in writing, the guideline amount of support, and the reasons for, and findings of fact justifying, the amount of the deviation.
- (b) **Factors.** In deciding whether to deviate from the amount of support determined by the guidelines, the trier of fact shall consider:
 - (1) Unusual needs and unusual fixed obligations;
 - (2) Other support obligations of the parties;
 - (3) Other income in the household;
 - (4) Ages of the children;

- (5) Assets of the parties;
- (6) Medical expenses not covered by insurance;
- (7) Standard of living of the parties and their children;
- (8) In a spousal support or alimony pendent elite case, the period of time during which the parties lived together from the date of marriage to the date of final separation; and
- (9) Other relevant and appropriate factors, including the best interests of the child or children.

Pa. R.C.P. 1910.16-5

According to Rule 1910.16-5(b)(1), a deviation from the amount of support may be made on the grounds of “unusual fixed obligations.” “Downward deviations are to be granted where there are exceptional circumstances.” *Erie County Office of Juvenile Probation v. Shroeck*, 721 A. 2d 799, 805 (Pa. Super. 1998). Voluntary incurrence of debt does not reduce the divorcing spouse’s support obligations under the Uniform Support Guidelines. *Terpack v. Terpack*, 697 A.2d 1006, 1009 (Pa. Super. 1997). The Superior Court in *Shroeck* held that credit card debt and loan charges of the obligor did not constitute exceptional circumstances to warrant a downward deviation. The obligation of support must take priority over other financial obligations, including credit card and loan charges. *Shroeck* at 805.

Father has cited numerous cases that show the refusal of Courts throughout the Commonwealth to deviate downward from the guideline amount of support. In *Ricco v. Novitski*, the Superior Court reversed the decision of the Trial Court to deviate downward on the basis of a special needs or disability trust for the child’s benefit. 874 A.2d 75 (Pa. Super. 2005). The Court in *Horst v. Horst*, found a downward deviation inappropriate when an obligor sought credit for monies contributed toward an emancipated child’s college tuition. 593 A.2d 1299 (Pa. Super. 1991). Also, in *Coffey v. Coffey*, when an obligor sought credit for the cost of social, political, or charitable expenses to create or perpetuate existing or prospective clients to reduce an obligor’s spousal or child support payments, even though the monies were automatically deducted from his pay to preserve his position with the firm, the Court found it improper to deviate downward from support obligations. 575 A.2d 587, 590 (Pa. Super. 1990). A deviation has also been found to be unsuitable when an obligor

sought credit for payment of a monthly premium to maintain an irrevocable life insurance trust for his emancipated children. *Terpak*, 697 A.2d 1006.

Another case where the Superior Court has refused to deviate downward from the support guideline amount is *Kersey v. Jefferson*. In that case, the Superior Court determined that father's decision to return to medical school and only work part time was not enough to justify a downward deviation in his support obligation. 791 A.2d 419 (Pa. Super. 2002). The Superior Court concluded that, "in a request for support reduction, the voluntary choice to forego current employment in order to further one's education is an employment decision that should be treated no differently than a decision to change jobs and salary." *Id.* at 423. The choice of one parent to continue his/her education in order to seek a change in employment status is an employment decision; therefore that parent's incurrence of a student loan obligation in order to fund such an education does not justify a departure from that parent's responsibility to support his/her child.

This Court finds that a school loan obligation in this day and age would not be considered an "exceptional circumstance," nor would it be considered an "unusual fixed obligation" that would require a deviation from the amount of support determined by the guidelines. The amount Mother pays in her student loan obligation (\$316.62) is equal to approximately 10.65% of Mother's net monthly income (\$2,968.52). This percentage is not enough to justify a downward deviation to Mother's support obligation. Mother has not set forth any facts that would lead to the conclusion that an award of support equal to the guideline amount is inappropriate. Therefore, the Court sees no reason to deviate Mother's support obligation from the amount determined by the guidelines.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 1st day of February 2007, in accordance with the attached Opinion, IT IS ORDERED THAT the Order of Court dated October 5, 2006, will remain in full force and effect.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-836 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of March, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner at a stone at the property of Stewart P. Mehring, (formerly John Wolf); thence along a public road leading from the Carlisle Road to the Abbottstown Road North 43 degrees East one hundred and seventy-five and thirty-five hundredths feet (175.35) to a stake at property now or formerly owned by LeRoy E. Wolf and Mabel K. Wolf, his wife; thence by lands now or formerly of LeRoy E. Wolf and Mabel K. Wolf, his wife, South 31-1/2 degrees East, one hundred seventy-three and twenty-five hundredths feet (173.25) to a stake at lands now or formerly of Charles Y. Brough and Louise H. Brough, his wife; thence along lands now or formerly of Charles Y. Brough and Louise H. Brough, his wife, South 43 degrees West one hundred and seventy-five and thirty-five hundredths feet (175.35) to a post at lands now or formerly of Stewart P. Mehring (formerly John Wolf); thence by lands of said Stewart P. Mehring North 31-1/2 degrees West, one hundred seventy-three and twenty-five hundredths feet (173.25) to the place of BEGINNING. It being part of Lot #8 as shown on a draft of lots made by A. E. Kohr December 1, 1908 and sold by Maria Slagle, Administratrix of the Estate of Jacob Q. Slagle, deceased, to John H. Brough on March 19th, 1910 and recorded in Deed Book Vol. 157, page 159, in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

LESS HOWEVER, all that certain tract of land identified as Tract No. 2 on a deed dated June 8, 1964 and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 247, page 1096 containing 11,461 square feet.

IT BEING the same premises which Linda Harman, single, by her Deed dated May 16, 2005, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 3970, Page 32, granted and conveyed unto David A. Byers, II, single.

Parcel ID#: 04-L12-0068

Premises Being: 365 Green Springs Road Hanover, PA 17331

SEIZED and taken into execution as the property of David A. Byers, II and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 18, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-420 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of March, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situated, lying, and being in Franklin Township, Adams County, Commonwealth of Pennsylvania, being Lot No. 1 in the Subdivision Plan for Dorcas G. Chamey dated August 30, 1993, revised July 20, 1995 and September 25, 1995, prepared by Adams County Surveyors, which Plan is recorded in the Office of the Recorder of Deeds, Adams County, Pennsylvania in Plat Book 68, at Page 15, more particularly bounded and described as follows:

BEGINNING at an existing railroad spike near the Western right-of-way line of Mt. Carmel Road (T-312) at the Northeast corner of land now or formerly of Connie Reamer North 68° 07' 00" West, 176.62 feet to an existing steel rod; thence by the same and through an existing pipe set back 12 feet from the end of this course South 43° 04' 00" West, 134.82 feet to a point in run on line of land now or formerly of Harry Jenkins, Sr.; thence in and along said run and along land now or formerly of Harry Jenkins, Sr. North 77° 44' 20" West, 138.44 feet to an existing pipe in run; thence by same North 68° 08' 30" West, 186.77 feet to an existing pipe in run; thence by same North 81° 53' 00" West, 85.72 feet to a steel rod at corner of Lot No. 2 on the aforementioned subdivision plan; thence by said Lot No. 2 North 20°

59' 40" East, 147.67 feet to a steel rod; thence by same North 89° 41' 35" East, 195 feet to a railroad spike; thence by same South 77° 54' 15" East, 276.21 feet to a steel rod; thence by same South 62° 13' 10" East, 165 feet to a steel rod on line of land now or formerly of El Vista Orchards, Inc. South 03° 35' 50" West, 19.07 feet to a steel rod near the Western right-of-way line of Mt. Carmel Road (T-312), the point of BEGINNING.

Tax Parcel No: C12-17A

Being the same premises which Mark H. Miller and Anna C. Miller, husband and wife by Deed dated June 30, 2004 and recorded July 7, 2004 in Adams County in Deed Book Volume 3632 Page 249 conveyed unto Cynthia K. Raines, single, as sole owner, in fee.

Premises Being: 619 Mount Carmel Road, Orrtanna, PA 17353

SEIZED and taken into execution as the property of Cynthia K. Raines and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 18, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1258 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of March, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the right-of-way line of the cul-de-sac of Judy Way at corner of Lot No. 16 on the hereinafter referred to subdivision plan; thence along said Lot No. 16, North eighty-five (85) degrees, thirty-one (31) minutes, thirty-two (32) seconds East, one hundred twenty-one and twelve hundredths (121.12) feet to a point on line of land designated as the 'well lot'; and at corner of Lot No. 20; thence along Lot No. 20, South twenty-five (25) degrees, five (05) minutes, forty-seven (47) seconds West, one hundred forty-one and thirty-four hundredths (141.34) feet to a point on Lot No. 20A; thence along Lot No. 20A, North sixty-four (64) degrees, fifty-seven (57) minutes, eleven (11) seconds West, one hundred eleven and twenty hundredths (111.20) feet to a point on line of Lot No. 14; thence along Lot No. 14, North twenty-eight (28) degrees, fifteen (15) minutes, twenty-two (22) seconds East, twenty-five and eighty hundredths (25.80) feet to a point on the right-of-way line of Judy Way; thence along the cul-de-sac of Judy Way by a curve to the left, the radius of which is fifty (50.00) feet, for an arc distance of 59.53 feet, the long chord of which is North twenty-nine (29) degrees, thirty-eight (38) minutes, five (05) seconds East, fifty-six and eight hundredths (56.08) feet to the point and place of BEGINNING.

The above description was taken from a final plan of Nobles Ridge by Worley Surveying dated December 18, 2000 and recorded in Adams County Plat Book 79, page 57, being Lot No 15 thereon.

Together with all buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments and appurtenances, to the same belonging, or in any wise appertaining, and any reversions, remainders, rents, issues and profits thereof, and of every part and parcel thereof, including any interests specifically set forth, if any. And also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, both in law and equity, of the Grantor of, in and to the same.

To Have And To Hold the same premises, and the appurtenances, hereby granted to Grantee and Grantee's heirs, successors and assigns, to and for the only proper use, benefit and behalf of the said Grantee and Grantee's heirs, successors and assigns forever, under and subject to the conditions set forth, if any.

And The Said Grantor hereby covenants and agrees that Grantor will warrant specially the property hereby conveyed.

Under And Subject, nevertheless to the same condition, restrictions, exceptions and reservations as exist by virtue of prior recorded instruments, deeds and conveyances.

It Being The Same Premises which John Teel and Frank Gebhart, Co-Partners t/d/b/a New Oxford Enterprises, by their deed dated November 14, 2002 and recorded in the Office of The Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 2907, Page 295, granted and conveyed unto Smokehouse, LLLP, Grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Thomas E. Bell, Sr. and Carmen H. Bell, by Deed from Smokehouse, LLLP, dated 07/11/2003, recorded 08/29/2003, in Deed Book 3274, page 121.

Premises being: 15 Judy Way, Gettysburg, PA 17325

Tax Parcel No: (06) 005-0136-000

SEIZED and taken into execution as the property of **Thomas E. Bell, Sr. & Carmen H. Bell** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 28, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/8, 15 & 22

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 MAZIE M. BARKER, DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania

David F. Kelly, 312 Baltimore Street, Gettysburg, PA 17325

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

ESTATE OF ROY E. CHRONISTER, DEC'D

Late of the Borough of East Berlin, Adams County, Pennsylvania

Co-Executors: Dorothy L. Whitehead, 105 Water St., East Berlin, PA 17316; Sandra Hershey, 910 Baltimore Road, Shippensburg, PA 17257

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

ESTATE OF PAUL L. CROWL, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Tony E. Crowl, 68 Maple Avenue, Littlestown, PA 17340

Attorney: George W. Swartz, II, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF NANCY M. HEYSER-ORNER, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: William T. Heyser, 202 Buford Avenue, Gettysburg, PA 17325

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

ESTATE OF LUCINDA V. PETERS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Sharon A. Spangler, 2005 Pineview Drive, York, PA 17408

Attorney: Michael P. Bianchini, Esq., Griffith Strickler Leman Solymos & Calkins, 110 South Northern Way, York, PA 17402-3737

ESTATE OF BRIAN CHRISTOPHER PRITCHARD a/k/a BRIAN C. PRITCHARD, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Administratrix: Christine E. Pritchard, c/o Douglas H. Gent, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

Attorney: Douglas H. Gent, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

ESTATE OF VERA E. RHINE a/k/a VERA ELIZABETH RHINE a/k/a VERA RHINE, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Bonnie Sharon Gross, 1338 Hughes Shop Road, Westminster, MD 21158

Attorney: Henry O. Heiser, III, Esq., 104 Baltimore St., Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF J. RICHARD FELIX, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Donna G. Bixler, 2774 Fairfield Road, Gettysburg, PA 17325

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

ESTATE OF RODNEY J. LITTLE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Alan J. Little, 110 Bragg St., Hanover, PA 17331

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

ESTATE OF ETHEL M. WETZEL, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Brian Cole, 7331 Mount Ash Drive SE, Grand Rapids, MI 49546-9674

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

THIRD PUBLICATION

ESTATE OF JEAN E. FINNEGAN, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Judy E. Geist, 108 Edgewood Road, York, PA 17402

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

ESTATE OF MAE L. MORNINGSTAR, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Judi A. Thibault McGlynn, c/o Thomas M. Shultz, Esq., Shultz Law Firm, LLC, 215 Baltimore Street, Hanover, PA 17331

Attorney: Thomas M. Shultz, Esq., Shultz Law Firm, LLC, 215 Baltimore Street, Hanover, PA 17331

ESTATE OF BETTY JANE MOUL, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executor: Brian E. Moul, 3045 Brookfield Drive, York, PA 17404

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

ESTATE OF THEODORE P. SMITH a/k/a THEODORE PAUL SMITH, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Darlene M. Smith, 100 Linden Avenue, Hanover, PA 17331

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

ESTATE OF WELDON R. SNIVELY, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executors: Christopher Norman Snively and Michael David Snively, c/o Patterson, Kiersz & Murphy, PC, 239 East Main Street, Waynesboro, PA 17268-1681

Attorney: R. Thomas Murphy, Esq., Patterson, Kiersz & Murphy, PC, 239 East Main Street, Waynesboro, PA 17268-1681

ESTATE OF NADINE A. STULLER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Michael J. Stuller, 309 Vincent Dr., McSherrystown, PA 17344

Attorney: G. Patrick O'Connor, Esq., 3105 Old Gettysburg Rd., Camp Hill, PA 17011

ESTATE OF EUGENE J. ZANNETTI, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrices: Cheryl Zannetti-Wenck, 17148 Magic Mountain Drive, Round Hill, VA 20141; Gina C. Krug, 17417 Masemore Road, Parkton, MD 21120

Attorney: George W. Swartz, II, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

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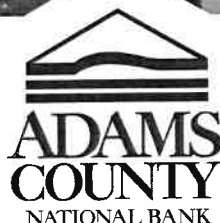
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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1263 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of March, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in Storms Store Road (T-428) thence running in said right-of-way line of Storms Store Road, North thirty-five (35) degrees thirty (30) minutes twenty-four (24) seconds West, twenty-five and zero hundredths (25.00) feet to a point on the right-of-way line of Storms Store Road (T-428) at Lot No. 12 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 12, North thirty-five (35) degrees thirty (30) minutes twenty-four (24) seconds West, two hundred nine and two hundredths (209.02) feet to a point at Lots No. 21 and 22 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 21, North fifty-four (54) degrees twenty-nine (29) minutes thirty-six (36) seconds East, one hundred thirty and zero hundredths (130.00) feet to a point at Lots No. 20 and 14 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 14, South thirty-five (35) degrees thirty (30) minutes twenty-four (24) seconds East, two hundred eight and sixty-one hundredths (208.61) feet to a point on the dedicated right-of-way line of Storms Store Road (T-428); thence running through said right-of-way line South thirty-five (35) degrees thirty (30) minutes twenty-four (24) seconds East, twenty-five and zero hundredths (25.00) feet to a point in Storms Store Road (T-428); thence running in said Storms Store Road (T-428) South fifty-four (54) degrees twenty-nine (29) minutes thirty-six (36) seconds West, one hundred thirty and zero hundredths (130.00) feet to a point and place of BEGINNING.

CONTAINING 30,550 square feet

The above description being Lot No. 13 on the 'Final Subdivision Plan for Simme Valley Estates-Phase I, by Group Hanover, Inc. dated February 26, 2001, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 80, at page 84.

SUBJECT NEVERTHELESS, to the Protective Covenants of Simme Valley which are recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 2866, at page 277.

Also subject to all easements which may be shown on the subdivision plan above recited.

IT BEING part of a larger tract of land with Larry E. Hughes, unmarried, by his deed dated August 15, 2001, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 2376 at page 86, granted and conveyed unto Simme Valley L.P., a Pennsylvania Limited Partnership, Grantor herein. New Age Associates, Inc. signs this deed by virtue of having constructed the improvements on the tract of land herein conveyed.

Being the same property in Deed Dated July 9, 2004 in Book 3636 page 328 recorded July 13, 2004 in Oxford Township, Adams County Between SIMME VALLEY L.P. a Pennsylvania Limited Partnership, having a business address of 209 Locust Street Box 644, East Berlin, Pennsylvania, 17316 -AND- NEW AGE ASSOCIATES, INC., A Pennsylvania Corporation, with its principal office at 209 Locust Street, East Berlin, Pennsylvania, 17316 Grantors, and Louise W. Lange and Kelly M. Lange, husband and wife, of Frederick, Maryland, as Tenants by the Entireties, Grantee.

TITLE TO SAID PREMISES IS VESTED IN Louis W. Lange, by Deed from Louis W. Lange and Kelly M. Lange, husband and wife, as tenants by the entireties, dated 06/23/2005, recorded 07/14/2005, in Deed Book 4043, page 100.

The Improvement being known as: 2110 Storms Store Road, New Oxford, PA 17350

Tax ID# J12-2C1

SEIZED and taken into execution as the property of **Louis W. Lange** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 28, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/8, 15 & 22

HESS VS. KUHN

1. The principal mandating that all indispensable parties be joined is based upon the need to protect the due process rights of absent parties as well as to finally and completely determine the rights which any person may have in the subject matter decided.

2. A necessary party is a party whose presence is essential if the court is to completely resolve the controversy before it by rendering complete relief.

3. A court may not make a finding of unjust enrichment where a written or express contract between the parties exists.

4. Where there is no agreement as to any of the essential terms of the bargain such as time or manner of performance, the "agreement" is too indefinite for a party to reasonably believe that it could be enforced in an action at law.

5. A claim for unjust enrichment is an equitable remedy that permits the court to imply a contract in order to require a defendant to pay to the plaintiff the value of a benefit conferred.

6. In considering whether the doctrine of unjust enrichment applies, the focus is not on the intention of the parties, but rather on whether the defendant has been unjustly enriched.

7. A promise to do something in the future, which promise is not kept, is not fraud. On the other hand, a statement of intention which does not, when made, represent one's true state of mind is a misrepresentation for which an action in fraud may be appropriate.

8. A cause of action for fraud is only appropriate where it is averred with particularity, and includes specific allegations of an intentional misrepresentation.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 06-S-1425, NANCY M. HESS VS. RICKY R. KUHN.

John A. Wolfe, Esq., for Plaintiff

Arthur J. Becker, Jr., Esq., for Defendant

George, J., February 5, 2007

OPINION

This matter comes before the Court on Preliminary Objections filed by the Defendant, Ricky R. Kuhn, seeking to strike the Complaint for failure to join an indispensable party and demurring to the causes of action based upon unjust enrichment and fraud.

During late 2005 into early 2006, Ricky R. Kuhn lived with his wife, Kimberly L. Kuhn, at a property located at 1939 Upper Bermudian Road, Gardners, Adams County, Pennsylvania. During this same period of time, Kimberly Kuhn's mother, Nancy M. Hess ("Hess"), moved in with the Kuhns at their residence. While residing there, Hess agreed to pay for improvements to the property with the understanding that she would be entitled to remain at the residence. The Kuhns subsequently undertook construction at their

residence of an addition at a cost of \$32,400.00. The cost of the construction was paid by Hess.

Unfortunately, in August, 2006, shortly after completion of the construction, the Kuhns' marriage disintegrated to the extent that Kimberly Kuhn vacated the residence. The Kuhns entered into a marriage settlement agreement wherein, inter alia, Ricky Kuhn received title to the real estate. A deed was subsequently entered between the Kuhns transferring title to Mr. Kuhn.¹

In October, 2006, Hess also vacated the property. She claims that she vacated the property based upon Ricky Kuhn's representation that he was going to repay her for the costs of the addition built at the residence. When payment was not forthcoming, Hess instituted suit alleging causes of action based on breach of contract, unjust enrichment, and fraud. As mentioned, Ricky Kuhn's Preliminary Objections challenge the viability of the unjust enrichment and fraud counts. Additionally, he alleges that the Complaint must be stricken for failure to join an indispensable party, Kimberly Kuhn.

It is beyond dispute that a plaintiff must join all indispensable parties as parties of record in a civil dispute. *Columbia Gas Transmission Corp. v. Diamond Fuel Co.*, 346 A.2d 788 (Pa. 1975). The requirement to join all indispensable parties is not one of convenience, nor a mere technicality, but rather goes absolutely to the jurisdiction of the court. *Sprague v. Casey*, 550 A.2d 184 (Pa. 1988). The principle mandating that all indispensable parties be joined is based upon the need to protect the due process rights of absent parties as well as to finally and completely determine the rights which any person may have in the subject matter decided. *Mechanicsburg Area School District v. Kline*, 431 A.2d 953 (Pa. 1981).

Following this guidance, I find that Kimberly Kuhn is not an indispensable party. Both the breach of contract action² and the fraud claim reference representations made by Ricky Kuhn to Hess. Although Kimberly Kuhn may be a material witness, her rights are

¹It is unclear from the pleadings whether or not the Kuhns ultimately obtained a divorce decree.

²The breach of contract claim in the Complaint appears to be based on an alleged agreement between Ricky Kuhn and Nancy Hess that Ricky Kuhn would pay Hess the cost of construction of the addition of the home in exchange for her vacating the residence. It does not appear to be based on an agreement entered between Hess and the Kuhns at the time Hess paid for the construction.

not so connected with the claims of the litigants that no decree can be made without impairing or infringing upon those rights. The same holds true in regard to Hess's claim for unjust enrichment.

Although Ricky Kuhn's Preliminary Objection will be denied to the extent it seeks dismissal of the Complaint for failure to join an indispensable party, I Order the Plaintiff to join Kimberly Kuhn as she is a necessary party. Although not indispensable to the litigation, a necessary party is a party whose presence is essential if the court is to completely resolve the controversy before it by rendering complete relief. *York-Adams County Constables Association v. The Court of Common Pleas of York County*, 474 A.2d 79 (Pa. Cmwlth. 1984). While the causes of action based upon fraud and breach of contract are not material to this discussion as they involve alleged representations made solely by Ricky Kuhn, the nature of Hess's unjust enrichment claim causes concern. In essence, the Complaint summarizes a history wherein Hess bestowed benefits to both of the Kuhns in exchange for an informal understanding that she would be entitled to reside at the property. The fact that the Kuhns have now separated and entered into a marriage settlement agreement is of little import. It does not negate the fact that the benefit, which is at the heart of the unjust enrichment claim, was bestowed upon both Kimberly and Ricky Kuhn. Presumably, the value of that benefit was part of the quid pro quo which formulated the basis for the marriage settlement agreement. To now suggest that it was Ricky Kuhn who solely received the benefit of the construction due to his having sole title to the property is to ignore the existence of consideration in execution of the marriage settlement agreement.

Interestingly, Kimberly Kuhn has filed a concurrent action challenging the validity of the marriage settlement agreement.³ In doing so, she seeks to claim a greater share of the marital estate. If she is successful in overturning the marriage settlement agreement, it is conceivable that she may claim an interest in the improved property while avoiding the risks presented by Hess's unjust enrichment suit for the improvements rendered to that property. Such a result would be inconsistent with equity and good conscience. Accordingly, in

³ A court may, sua sponte, take judicial notice of public record. *In re Girard's Estate*, 423 A.2d 297 (Pa. 1966). In 06-S-973, Kimberly Kuhn has filed a Petition for Emergency Special Relief which is currently pending before the Honorable Judge Bigham.

order to provide consistent and complete relief, Plaintiff will be directed to file an Amended Complaint within twenty (20) days of the date of this Order joining Kimberly Kuhn as a necessary party to the cause of action for unjust enrichment. Failure to do so will result in dismissal of that claim.

The Preliminary Objection of Ricky Kuhn also demurs to the cause of action based upon unjust enrichment. In support of his demurrer, Ricky Kuhn claims that Hess may not proceed on an unjust enrichment claim where an express or written contract exists. He concludes that since Hess's cause of action is based upon an alleged oral agreement, the claim for unjust enrichment must be stricken.

Ricky Kuhn accurately cites Pennsylvania law in suggesting that a court may not make a finding of unjust enrichment where a written or express contract between the parties exists. *Mitchell v. Moore*, 729 A.2d 1200 (Pa. Super. 1999). His argument, however, misreads Hess's Complaint. In her Complaint, Hess seeks damages for benefits which she conferred to Kuhn pursuant to an informal understanding which provided that she would be permitted to continue to reside at the property.

In order to maintain a cause of action for breach of an express or written contract, the plaintiff must establish: (1) the existence of a contract, including its essential terms; (2) a breach of duty imposed by the contract; and (3) resulting damages. *Lackner v. Glosser*, 892 A.2d 21 (Pa. Super. 2006). For a contract to be enforceable, nature and extent of the mutual obligations must be certain, and the parties must have agreed on the material and necessary details of their bargain. *Id.* A.2d at 23. Where, however, there is no agreement as to any of the essential terms of the bargain such as time or manner of performance, the "agreement" is too indefinite for a party to reasonably believe that it could be enforced in an action at law. *Lombardo v. Gasparini Excavating Co.*, 123 A.2d 663, 666 (Pa. 1956).

On the other hand, a claim for unjust enrichment is an equitable remedy that permits the court to imply a contract in order to require a defendant to pay to the plaintiff the value of a benefit conferred. *Schenck v. K. E. David, Ltd.*, 666 A.2d 327 (Pa. Super. 1995). The elements necessary to prove unjust enrichment are: (1) benefits conferred on the defendant by the plaintiff; (2) appreciation of such benefits by the defendant; and (3) acceptance and retention of such

benefits under such circumstances that it would be inequitable for the defendant to retain the benefit without payment of value. *Mitchell*, 729 A.2d at 1203. In considering whether the doctrine of unjust enrichment applies, the focus is not on the intention of the parties, but rather on whether the defendant has been unjustly enriched. *Id.* at 1204.

Hess's claim for reimbursement for money contributed to the improvement of Kuhn's real estate lies not upon an express contract but, rather, upon the equitable theory of unjust enrichment. Although it is true that Hess's Complaint references an "arrangement" agreed to by the parties, the arrangement, as described in Hess's Complaint, lacks any certainty or clarity in regard to time, manner of performance, length of performance, or other material and necessary details. Moreover, since the arrangement at issue arguably involves the purchase of an interest in real estate, an enforceable express contract must meet the requirements of the statute of frauds. See 33 P.S. 1 et al. Currently, Hess is not seeking recovery on the breach of such a formal agreement. Rather, her Complaint seeks recovery of a benefit bestowed on Kuhn which would be unconscionable for Kuhn to retain. Accordingly, Ricky Kuhn's demurrer to a cause of action based on unjust enrichment will be denied.⁴

Finally, Ricky Kuhn demurs to Hess's cause of action based upon fraud. In order to sustain a cause of action for fraud, a party must succinctly plead: (1) a representation; (2) which is material to the transaction at hand; (3) made falsely with knowledge of its falsity or recklessness as to whether it is true or false; (4) with the intent of misleading another into relying on it; (5) justifiable reliance on a misrepresentation; and (6) the resulting injury was proximately caused by the reliance. *Gibbs v. Ernest*, 647 A.2d 882 (Pa. 1994). A promise to do something in the future, which promise is not kept, is not fraud. *Neale v. American Motorists Fire Insurance Co.*, 138 A.2d 290 (Pa. 1958). It is well established that a cause of action for fraud must allege a misrepresentation of a past or present material fact. *Krause v. Great Lakes Holdings, Inc.*, 563 A.2d 1182 (Pa. Super. 1989). On

⁴There is no inconsistency in Hess proceeding with the separate causes of action based upon breach of contract and unjust enrichment. As previously noted, the breach of contract action references a subsequent oral agreement wherein Hess agreed to vacate the property upon a promise of payment by Ricky Kuhn of funds she had invested in the property.

the other hand, a statement of intention which does not, when made, represent one's true state of mind is a misrepresentation for which an action in fraud may be appropriate. *College Watercolor Group, Inc. v. William H. Newbauer, Inc.*, 360 A.2d 200, 206 (Pa. 1976).

I find that Hess's Complaint lacks critical information in order to establish a cause of action for fraud. Essentially, the Complaint paints a picture of a mother contributing to improvements at the home of her daughter and son-in-law in exchange for the security of a residence. The Complaint does not, in any way, suggest that Ricky Kuhn entered this arrangement with intentions of divorcing his wife, evicting his mother-in-law, and scrupulously obtaining the benefits of the improvements. Rather, the Complaint describes an all too common, but no less unfortunate, scenario of domestic difficulties arising in a relationship thereby resulting in the parties coping with the economic issues that surround such an event. The Complaint further alleges that Hess vacated the residence based upon Ricky Kuhn's assurances of payment for the improvements. I fail to read anything in the Complaint indicating fraud. To impute such an intent on the part of Ricky Kuhn would essentially be a tacit acknowledgement that a cause of action for fraud is inherent in every breach of contract where the promised performance is not forthcoming. Such a result is inconsistent with Pennsylvania law. Rather, a cause of action for fraud is only appropriate where it is averred with particularity, Pennsylvania Rules of Civil Procedure Rule 1019(b), and includes specific allegations of an intentional misrepresentation. I find Hess's Complaint insufficient in this regard. For the foregoing reasons, the attached Order is entered.

ORDER

AND NOW, this 5th day of February, 2007, Defendant's Preliminary Objection for failure to join an indispensable party is denied. The Defendant's demurrer to the count of unjust enrichment is denied. The Defendant's demurrer to Count III, fraud, is granted. Plaintiff is directed to file an Amended Complaint within twenty (20) days of the date of this Order joining Kimberly L. Kuhn as a Defendant on Count I, unjust enrichment. Failure to do so will result in Count I of the Complaint being stricken upon praecipe of the Defendant.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-836 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of March, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner at a stone at the property of Stewart P. Mehring, (formerly John Wolf); thence along a public road leading from the Carlisle Road to the Abbottstown Road North 43 degrees East one hundred and seventy-five and thirty-five hundredths feet (175.35) to a stake at property now or formerly owned by LeRoy E. Wolf and Mabel K. Wolf, his wife; thence by lands now or formerly of LeRoy E. Wolf and Mabel K. Wolf, his wife, South 31-1/2 degrees East, one hundred seventy-three and twenty-five hundredths feet (173.25) to a stake at lands now or formerly of Charles Y. Brough and Louise H. Brough, his wife; thence along lands now or formerly of Charles Y. Brough and Louise H. Brough, his wife, South 43 degrees West one hundred and seventy-five and thirty-five hundredths feet (175.35) to a post at lands now or formerly of Stewart P. Mehring (formerly John Wolf); thence by lands of said Stewart P. Mehring North 31-1/2 degrees West, one hundred seventy-three and twenty-five hundredths feet (173.25) to the place of BEGINNING. It being part of Lot #8 as shown on a draft of lots made by A. E. Kohr December 1, 1908 and sold by Maria Slagle, Administratrix of the Estate of Jacob Q. Slagle, deceased, to John H. Brough on March 19th, 1910 and recorded in Deed Book Vol. 157, page 159, in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

LESS HOWEVER, all that certain tract of land identified as Tract No. 2 on a deed dated June 8, 1964 and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 247, page 1096 containing 11,461 square feet.

IT BEING the same premises which Linda Harman, single, by her Deed dated May 16, 2005, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 3970, Page 32, granted and conveyed unto David A. Byers, II, single.

Parcel ID#: 04-L12-0068

Premises Being: 365 Green Springs Road Hanover, PA 17331

SEIZED and taken into execution as the property of **David A. Byers, II** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 18, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-420 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of March, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situated, lying, and being in Franklin Township, Adams County, Commonwealth of Pennsylvania, being Lot No. 1 in the Subdivision Plan for Dorcas G. Chamey dated August 30, 1993, revised July 20, 1995 and September 25, 1995, prepared by Adams County Surveyors, which Plan is recorded in the Office of the Recorder of Deeds, Adams County, Pennsylvania in Plat Book 68, at Page 15, more particularly bounded and described as follows:

BEGINNING at an existing railroad spike near the Western right-of-way line of Mt. Carmel Road (T-312) at the Northeast corner of land now or formerly of Connie Reamer North 68° 07' 00" West, 176.62 feet to an existing steel rod; thence by the same and through an existing pipe set back 12 feet from the end of this course South 43° 04' 00" West, 134.82 feet to a point in run on line of land now or formerly of Harry Jenkins, Sr.; thence in and along said run and along land now or formerly of Harry Jenkins, Sr. North 77° 44' 20" West, 138.44 feet to an existing pipe in run; thence by same North 88° 08' 30" West, 186.77 feet to an existing pipe in run; thence by same North 81° 53' 00" West, 85.72 feet to a steel rod at corner of Lot No. 2 on the aforementioned subdivision plan; thence by said Lot No. 2 North 20°

59' 40" East, 147.67 feet to a steel rod; thence by same North 89° 41' 35" East, 195 feet to a railroad spike; thence by same South 77° 54' 15" East, 276.21 feet to a steel rod; thence by same South 62° 13' 10" East, 165 feet to a steel rod on line of land now or formerly of El Vista Orchards, Inc. South 03° 35' 50" West, 19.07 feet to a steel rod near the Western right-of-way line of Mt. Carmel Road (T-312), the point of BEGINNING.

Tax Parcel No: C12-17A

Being the same premises which Mark H. Miler and Anna C. Miler, husband and wife by Deed dated June 30, 2004 and recorded July 7, 2004 in Adams County in Deed Book Volume 3632 Page 249 conveyed unto Cynthia K. Raines, single, as sole owner, in fee.

Premises Being: 619 Mount Carmel Road, Orrtanna, PA 17353

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 18, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1258 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of March, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the right-of-way line of the cul-de-sac of Judy Way at corner of Lot No. 16 on the hereinafter referred to subdivision plan; thence along said Lot No. 16, North eighty-five (85) degrees, thirty-one (31) minutes, thirty-two (32) seconds East, one hundred twenty-one and twelve hundredths (121.12) feet to a point on line of land designated as the 'well lot; and at corner of Lot No. 20; thence along Lot No. 20, South twenty-five (25) degrees, five (05) minutes, forty-seven (47) seconds West, one hundred forty-one and thirty-four hundredths (141.34) feet to a point on Lot No. 20A; thence along Lot No. 20A, North sixty-four (64) degrees, fifty-seven (57) minutes, eleven (11) seconds West, one hundred eleven and twenty hundredths (111.20) feet to a point on line of Lot No. 14; thence along Lot No. 14, North twenty-eight (28) degrees, fifteen (15) minutes, twenty-two (22) seconds East, twenty-five and eighty hundredths (25.80) feet to a point on the right-of-way line of Judy Way; thence along the cul-de-sac of Judy Way by a curve to the left, the radius of which is fifty (50.00) feet, for an arc distance of 59.53 feet, the long chord of which is North twenty-nine (29) degrees, thirty-eight (38) minutes, five (05) seconds East, fifty-six and eight hundredths (56.08) feet to the point and place of BEGINNING.

The above description was taken from a final plan of Nobles Ridge by Worley Surveying dated December 18, 2000 and recorded in Adams County Plat Book 79, page 57, being Lot No 15 thereon.

Together with all buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments and appurtenances, to the same belonging, or in any wise appertaining, and any reversions, remainders, rents, issues and profits thereof, and of every part and parcel thereof, including any interests specifically set forth, if any. And also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, both in law and equity, of the Grantor of, in and to the same.

To Have And To Hold the same premises, and the appurtenances, hereby granted to Grantee and Grantee's heirs, successors and assigns, to and for the only proper use, benefit and behalf of the said Grantee and Grantee's heirs, successors and assigns forever, under and subject to the conditions set forth, if any.

And The Said Grantor hereby covenants and agrees that Grantor will warrant specially the property hereby conveyed.

Under And Subject, nevertheless to the same condition, restrictions, exceptions and reservations as exist by virtue of prior recorded instruments, deeds and conveyances.

It Being The Same Premises which John Teel and Frank Gebhart, Co-Partners t/d/b/a New Oxford Enterprises, by their deed dated November 14, 2002 and recorded in the Office of The Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 2907, Page 295, granted and conveyed unto Smokehouse, LLLP, Grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Thomas E. Bell, Sr. and Carmen H. Bell, by Deed from Smokehouse, LLLP, dated 07/11/2003, recorded 08/29/2003, in Deed Book 3274, page 121.

Premises being: 15 Judy Way, Gettysburg, PA 17325

Tax Parcel No: (06) 005-0136-000

SEIZED and taken into execution as the property of **Thomas E. Bell, Sr. & Carmen H. Bell** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 28, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/8, 15 & 22

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

(No Estate Notices Submitted)

SECOND PUBLICATION**ESTATE OF MAZIE M. BARKER, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

David F. Kelly, 312 Baltimore Street, Gettysburg, PA 17325

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

ESTATE OF ROY E. CHRONISTER, DEC'D

Late of the Borough of East Berlin, Adams County, Pennsylvania

Co-Executors: Dorothy L. Whitehead, 105 Water St., East Berlin, PA 17316; Sandra Hershey, 910 Baltimore Road, Shippensburg, PA 17257

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

ESTATE OF PAUL L. CROWL, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Tony E. Crowl, 68 Maple Avenue, Littlestown, PA 17340

Attorney: George W. Swartz, II, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF NANCY M. HEYSER-ORNER, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: William T. Heyser, 202 Buford Avenue, Gettysburg, PA 17325

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

ESTATE OF LUCINDA V. PETERS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Sharon A. Spangler, 2005 Pineview Drive, York, PA 17408

Attorney: Michael P. Bianchini, Esq., Griffith Strickler Lerman Solymos & Calkins, 110 South Northern Way, York, PA 17402-3737

ESTATE OF BRIAN CHRISTOPHER PRITCHARD a/k/a BRIAN C. PRITCHARD, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Administratrix: Christine E. Pritchard, c/o Douglas H. Gent, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

Attorney: Douglas H. Gent, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

ESTATE OF VERA E. RHINE a/k/a VERA ELIZABETH RHINE a/k/a VERA RHINE, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Bonnie Sharon Gross, 1338 Hughes Shop Road, Westminster, MD 21158

Attorney: Henry O. Heiser, III, Esq., 104 Baltimore St., Gettysburg, PA 17325

THIRD PUBLICATION**ESTATE OF J. RICHARD FELIX, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Donna G. Bixler, 2774 Fairfield Road, Gettysburg, PA 17325

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

ESTATE OF RODNEY J. LITTLE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Alan J. Little, 110 Bragg St., Hanover, PA 17331

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

ESTATE OF ETHEL M. WETZEL, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Brian Cole, 7331 Mount Ash Drive SE, Grand Rapids, MI 49546-9674

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

Adams County Legal Journal

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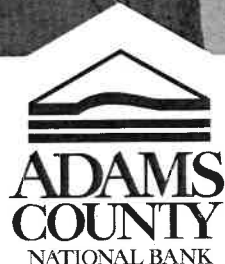
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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-668 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of April, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a railroad spike in the center of Township Road T-348, known as Belmont Road, which railroad spike is located North 3-1/2 degrees East 106 feet from an original of the tract of land referred to in Deed Book 189 at page 159; thence by land now or formerly of Arnold H. Woerner and wife, and running through a reference pipe located 22.70 feet from the place of beginning, South 89 degrees 33 minutes 20 seconds West 200.48 feet to a pipe, thence by the same and running through a reference iron pin located 16 feet from the end of this line, North 03 degrees 30 minutes 00 seconds East 125 feet to a belt along the Southern edge of a 10 feet private drive, thence along the Southern edge of said 10 feet private drive located on land now or formerly of Arnold H. Woerner and wife, North 89 degrees 33 minutes 20 seconds East 200.48 feet to a railroad spike in the center of Belmont Road, thence in the center of Belmont Road, South 03 degrees 30 minutes 00 seconds West 125 feet to a railroad spike in the center of said road, the place of BEGINNING.

CONTAINING 25,000 square feet

Tax Parcel E-I 1-35

Premises Being: 490 Belmont Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Jennifer M. Deckert, Anna Marie Deckert & William H.H. Monroe** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 25, 2008, and

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

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

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

2/29, 3/7 & 14

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1414 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of April, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being on the East side of North Queen Street, in the Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the inside line of the sidewalk on the East side of North Queen Street aforesaid at other lands now or formerly of Lorraine A. Mellott; thence by said lands and through a center line of the center wall of double dwelling (the Southern portion of which double dwelling is on the lot hereby conveyed) North 60 degrees 18 minutes East, 184.5 feet to a point on the Western side of a 20 foot alley; thence by said alley South 29 degrees 42 minutes East, 29.4 feet to a point at lands now or formerly of P. Emory Weaver; thence by said lands South 60 degrees 18 minutes West, 184.5 feet to a point on the inside line of the sidewalk aforesaid; thence along the inside line of the sidewalk North 29 degrees 42 minutes West, 29.4 feet to a point, the place of BEGINNING.

HAVING erected thereon a dwelling known as 327 N. Queen Street, Littlestown, PA 17340.

PARCEL NO. (27) 5-51A

BEING the same premises which Troy P. Brawner and Sandra K. Brawner, hus-

band and wife, by Deed dated 03/31/2006 and recorded 04/03/2006 in the Recorder's Office of Adams County, Pennsylvania, Deed Book Volume 4366, Page 12, granted and conveyed unto Timothy C. Howell.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 25, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/29, 3/7 & 14

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 311 of the Act of December 16, 1982, P.L. 1309, No. 295, codified as amended (54 Pa. C.S.A. §311), there was filed in the Office of the Secretary of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on February 1, 2008, an Application for Registration of Fictitious Name of KIME'S CIDER MILL, the address of the principal place of business being 171 Church Street, Box 419, Bendersville, PA 17306. The name and address of the entity that is a party to said registration is: Kime's Cider Mill, Inc., 171 Church Street, Box 419, Bendersville, PA 17306.

Puhl, Eastman & Thrasher
Attorneys

2/29

COMMONWEALTH VS. FREDERICKS

1. There are two types of contraband; contraband per se and derivative contraband. The former is property that is inherently illegal and subjects its possessor to criminal sanction and, the latter, is property that itself is legal but nonetheless constitutes the fruit of a criminal enterprise or is used to perpetrate an unlawful act.

2. The Commonwealth must establish a specific connection or nexus between the property and the criminal activity.

3. The mere use of an item to facilitate a crime does not transform the item into an instrument of crime for purposes of the PIC statute.

4. A person whose vehicle is subject to forfeiture includes one who is required to register under Megan's Law. Property may be seized incident to arrest where there is probable cause to believe that the property is "material" to the charges for which the individual was arrested.

In the Court of Common Pleas of Adams County, Pennsylvania,
Criminal, No. CR-971-2006, COMMONWEALTH VS. LEON
WILLIS FREDERICKS

Sarah Castillo, Esq., for Commonwealth

Steve Rice, Esq., for Defendant

Kuhn, P.J., February 7, 2007

OPINION

Before the Court is Defendant's Motion for Return of Property, filed November 7, 2006. For reasons set forth herein, said Motion is denied.

On September 22, 2006, Defendant was arrested while in possession of a 2000 Ford Expedition. The vehicle was seized and has been maintained by the Liberty Township Police Department. Defendant seeks return of the vehicle.¹

Pursuant to Pa. R.Crim. P. 588, a person may move for return of property seized by police pursuant to or in the absence of a warrant. In such a proceeding, the moving party has the initial burden of demonstrating lawful possession of the property and, if successful, the burden then shifts to the Commonwealth to establish, by a preponderance of the evidence, that the property is contraband or derivative contraband. *Commonwealth v. Howard*, 713 A.2d 89, 92 (Pa. 1998); *Commonwealth v. Wintel, Inc.*, 829 A.2d 753, 756 (Pa. Commw. 2003). There is no dispute that Defendant owns the vehicle. Commonwealth contends that it is derivative contraband.

¹ Defendant's Motion also seeks return of a cell phone and a laptop computer seized at the same time. During hearing on the Motion held December 27, 2006, Defendant abandoned claim to those items at this time.

James Haller is Chief of Police of Liberty Township Police Department and also an investigator for the Internet Crime Victim's Children's Network. On July 23, 2006, Chief Haller engaged in an internet computer chat session with an individual who Commonwealth contends was Defendant. Chief Haller identified himself as "Kim," a 14-year-old female from Pennsylvania. The responder identified himself as a 45-year-old male from Maryland. Within several minutes, the responder began discussing several issues and "Kim's" interests. The responder also encouraged "Kim" to engage in masturbatory conduct and of his interest in having sex with her. The conversation lasted approximately 80 minutes (CX 1).

A second chat conversation occurred on July 24, 2006, during which the responder indicated that he was from the Baltimore area. Quickly the responder turned the conversation to sexual activity and possibly meeting to have sex. The responder also indicated that he drove a truck and expressed concern about getting himself into trouble with the police (CX 2). A third conversation occurred on July 26, 2006 (CX 3) and then there was a break for several weeks.

On September 7, 2006, the responder suggested that "Kim" be his "slut" or "sex toy." He repeated his interest in having sex with her. He also indicated that his name was "Lee" (CX 4). Similar conversations with discussions of sexual activity followed on September 10, 13, 18, 20, 21, and 22 (CX 5-10). On September 10, there was a discussion about meeting in two weeks and having sex. The responder provided his telephone number as 443-742-1726 and "Kim" provided him with a number used by Chief Haller for undercover operations. Finally, a time and place to meet was arranged (CX 9-10). Chief Haller determined that the aforementioned cell phone number belonged to Defendant who resided in Glen Burnie, Maryland. He then, in turn, secured a copy of Defendant's photograph through the Maryland Department of Transportation.

Defendant was arrested when he drove his vehicle to the pre-arranged location. Defendant was charged with Criminal Attempt to commit Involuntary Deviate Sexual Intercourse, Statutory Sexual Assault, Unlawful Contact with Minor, and Indecent Assault, eight counts of Criminal Use of Communication Facility, and one count of Possession an Instrument of Crime. The last offense related to the vehicle.

There are two types of contraband; contraband per se and derivative contraband. The former is property that is inherently illegal and subjects its possessor to criminal sanction and, the latter, is property that itself is legal but nonetheless constitutes the fruit of a criminal enterprise or is used to perpetrate an unlawful act. *Commonwealth v. One 2001 Toyota Camry*, 894 A.2d 207, 210 (Pa. Commw. Ct. 2006). The Commonwealth argues that Defendant's vehicle was used to perpetrate an unlawful act. However, property may not be considered derivative contraband merely because it was owned or used by someone who has been engaged in criminal conduct. *Id.* Instead, the Commonwealth must establish a specific connection or nexus between the property and the criminal activity. *Id.* Here, the Commonwealth argues that such a connection exists because Defendant used his vehicle with the intent to pick up "Kim" and take her to his home in Maryland where they would engage in unlawful sexual conduct.

Defendant, relying upon *One 2001 Toyota Camry* and *Commonwealth v. One 1999 BMW 300i*, 143 Montgomery Co. v. Law Rptr. 289 (2006), argues that he used his vehicle merely for transportation and that because such use is so tenuously related to the alleged inchoate crimes, forfeiture is not warranted.²

In *One 2001 Toyota Camry*, the vehicle's owner (Sandler) on two occasions drove the vehicle to meet with Echevarria, a police officer who was posing as a contract killer for hire. Sandler desired to have his wife killed. Negotiations took place in the vehicle. After Sandler expressed concern that Echevarria was a policeman, he was arrested for solicitation to commit murder. Following conviction, the Commonwealth filed a petition to forfeit the vehicle which the trial court eventually denied. That decision was affirmed on appeal. Commonwealth Court concluded that the vehicle was used as a means of transportation but was not used as an instrument of the crime. The Court distinguished this situation from *Commonwealth v.*

²Despite express language in Pa. R.Crim. P. 588(b), a discussion of forfeiture at this point may be premature. The rule states that if a motion for return of property is denied and the court finds that it is contraband, the court "may" order the property to be forfeited. However, appellate authority cautions that forfeiture should not be granted absent a written or oral motion by the Commonwealth for forfeiture. *Commonwealth v. Perin*, 722 A.2d 227, 229 (Pa. Commw. 1998), *Commonwealth v. Cox*, 637 A.2d 757 (Pa. Commw. 1994). Here, no such motion has been advanced.

One 1990 Dodge Ram Van, 751 A.2d 1235 (Pa. Commw. 2000) (where defendant kidnapped the victim, stabbed her in the van, and then used the van to transport her body) and *Commonwealth v. Crosby*, 568 A.2d 233 (Pa. Super. 1990) (where defendant used his vehicle in committing the offense of driving under the influence). The Court stated,

As the trial court aptly noted: “Given the pervasiveness of vehicles in our modern society, almost every crime would produce a forfeitable vehicle. Such result does not further the intended purpose of common law forfeiture and would be unreasonable.” . . . Because the Commonwealth’s evidence failed to establish a specific connection, or nexus, between the Vehicle and Sandler’s criminal activity, the Court agrees that the Vehicle is not derivative contraband subject to common law forfeiture.

Crosby, 894 A.2d at 212.

In *One 1999 BMW 300i*, the Commonwealth filed a petition for forfeiture of the vehicle in circumstances strikingly similar to the matter sub judice. There, the defendant, David Krause, while in possession of two condoms, drove the vehicle to an intended meeting with a 12-year-old girl to engage in illegal sexual activity pre-arranged by on-line conversations. In reality, “the girl” was a county detective. The Commonwealth claimed that the vehicle was derivative contraband. The trial court relied on *One 2001 Toyota Camry* (which had arisen from the same jurisdiction) in denying the petition. The court noted,

In *One 2001 Toyota Camry*, . . . the crime involved was the inchoate crime of solicitation to commit murder. In our case, the crimes the car was allegedly used to facilitate, criminal attempts, are also inchoate crimes. This Court can draw no meaningful distinction between *One Toyota Camry*, in which forfeiture was found to be inappropriate, and the present case. In each case, the vehicle provided nothing more than transportation to the scene of the alleged inchoate (that is, incomplete) crime. Additionally, the alleged perpetrator used the vehicle either as the situs in which to commit the crime (solicitation to commit murder in *One Toyota Camry*), or as a

vehicle for getting implements (condoms) intended to be used in the alleged crime to the scene of the crime (attempt to have sex with an underage female in BMW.) In neither case was the vehicle essential to establish any element of, nor was the vehicle itself related in any important way to, the crime alleged.

One 1999 BMW 300i, 143 Montgomery Co. v. Law Rptr at 289.

Although the instant case is remarkably similar to the circumstances in *One 1999 BMW 300i*, there is at least one distinguishing aspect that compels a different result. Here, the evidence suggests that Defendant, unlike Krause, not only transported himself to the location where he would meet “Kim,” but there is every indication that he also intended to use his vehicle to transport her into Maryland to commit sexual acts. Obviously, he did not succeed in accomplishing that goal. However, it is difficult to imagine that simply because one’s criminal conduct is thwarted it follows that the subject property automatically loses its status as derivative contraband. For example, in *Commonwealth v. Cox*, 37 A.2d 757 (Pa. Commw. 1994), it was alleged that Cox’s vehicle was derivative contraband because Cox used it as a getaway car for a robbery committed by an accomplice.³ If the robbery had been stopped by police before Cox and his accomplice had escaped, would not the vehicle have been considered property used to perpetrate an unlawful act? Although one might argue that the robbery and the escape could have been committed without the vehicle, there was more involved than simply transporting the robber to and from the scene of the crime. Likewise, Defendant’s conduct is compelling because one can infer that he intended to transport his “victim” to the scene of the intended crime, but was only thwarted by his arrest.

Accordingly, this Court concludes that return of the vehicle to Defendant at this time will be denied. Whether forfeiture follows will be determined at a later date.

³Cox filed a motion for return of the vehicle. The trial court found it to be derivative contraband and ordered that it be forfeited. On appeal, Commonwealth Court reversed, not on the basis that the vehicle was not derivative contraband, but because it concluded that the trial court erred in ordering forfeiture where the Commonwealth had not moved for forfeiture.

I do note that Defendant has been charged⁴ with violating Section 907(c) of the Crimes Code, i.e. possessing an instrument of crime, more specifically, the vehicle itself. However, that fact lends no support to the Commonwealth's position. This section provides,

- (a) Criminal Instruments Generally. – A person commits a misdemeanor of the first degree if he possesses any instrument of crime with an intent to employ it criminally.

An "instrument of crime" is defined as

- (1) Anything specially made or specially adapted for criminal use; or
- (2) Anything commonly used for criminal purposes and possessed by the actor under circumstances not manifestly appropriate for lawful uses it may have.

My research has uncovered no cases where a vehicle has been held to be an instrument of crime.⁵ However, there is authority that "the mere use of an item to facilitate a crime does not transform the item into an instrument of crime for purposes of the PIC statute." *Commonwealth v. Williams*, 808 A.2d 213, 215 (Pa. Super. 2002) (walkie-talkie used to facilitate drug transaction not an instrument of crime). Applying the same reasoning to the instant case would suggest that a vehicle used to facilitate the commission of sexual offenses by transporting a potential victim to the perpetrator's home does not make it an instrument of crime. Therefore, the mere fact that the Commonwealth has alleged that Defendant's vehicle is an instrument of crime does not lend support to the argument that it is derivative contraband.

Finally, the Commonwealth brings to our attention that on November 11, 2006 the Legislature enacted Act 178 of 2006, Senate Bill 944, also referred to as "Jessica's Law," effective January 1, 2007 which allows for forfeiture of vehicles used by certain sex offenders to facilitate their crimes. A person whose vehicle is subject to forfeiture includes one who is required to register under 42 Pa. C.S.A. § 9795.2 ("Megan's Law"). Property may be seized incident

⁴Count 21.

⁵I acknowledge that the Court is not addressing the sufficiency of this PIC charge and, therefore, any discussion does not automatically result in dismissal of this count. This discussion is limited solely to the relevancy it has to the request for return of property.

to arrest where there is probable cause to believe that the property is “material” to the charges for which the individual was arrested.

Obviously, Defendant’s vehicle was seized prior to the enactment of Act 178. Applicability of the Act to the instant matter must be scrutinized through the lens of constitutional constraints. More specifically, the Court must determine whether application of Act 178 would violate the ex-post facto clause.

Based upon the decision to deny Defendant’s motion set forth in the first part of the Opinion, I will not specifically discuss the applicability of Act 178 at this point. The parties have not briefed the ex-post facto constitutional issue and the Commonwealth has not moved for forfeiture pursuant to the Act.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 7th day of February, 2007, in accordance with the attached Opinion, the Motion for Return of Property filed by Defendant on November 7, 2006, is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-836 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of March, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner at a stone at the property of Stewart P. Mehring, (formerly John Wolf); thence along a public road leading from the Carlisle Road to the Abbottstown Road North 43 degrees East one hundred and seventy-five and thirty-five hundredths feet (175.35) to a stake at property now or formerly owned by LeRoy E. Wolf and Mabel K. Wolf, his wife; thence by lands now or formerly of LeRoy E. Wolf and Mabel K. Wolf, his wife, South 31-1/2 degrees East, one hundred seventy-three and twenty-five hundredths feet (173.25) to a stake at lands now or formerly of Charles Y. Brough and Louise H. Brough, his wife; thence along lands now or formerly of Charles Y. Brough and Louise H. Brough, his wife, South 43 degrees West one hundred and seventy-five and thirty-five hundredths feet (175.35) to a post at lands now or formerly of Stewart P. Mehring (formerly John Wolf); thence by lands of said Stewart P. Mehring North 31-1/2 degrees West, one hundred seventy-three and twenty-five hundredths feet (173.25) to the place of BEGINNING. It being part of Lot #8 as shown on a draft of lots made by A. E. Kohr December 1, 1908 and sold by Maria Slagle, Administratrix of the Estate of Jacob Q. Slagle, deceased, to John H. Brough on March 19th, 1910 and recorded in Deed Book Vol. 157, page 159, in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

LESS HOWEVER, all that certain tract of land identified as Tract No. 2 on a deed dated June 8, 1964 and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 247, page 1096 containing 11,461 square feet.

IT BEING the same premises which Linda Harman, single, by her Deed dated May 16, 2005, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 3970, Page 32, granted and conveyed unto David A. Byers, II, single.

Parcel ID#: 04-L12-0068

Premises Being: 365 Green Springs Road Hanover, PA 17331

SEIZED and taken into execution as the property of **David A. Byers, II** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 18, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/15, 22 & 29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-420 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of March, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situated, lying, and being in Franklin Township, Adams County, Commonwealth of Pennsylvania, being Lot No. 1 in the Subdivision Plan for Dorcas G. Chamey dated August 30, 1993, revised July 20, 1995 and September 25, 1995, prepared by Adams County Surveyors, which Plan is recorded in the Office of the Recorder of Deeds, Adams County, Pennsylvania in Plat Book 68, at Page 15, more particularly bounded and described as follows:

BEGINNING at an existing railroad spike near the Western right-of-way line of Mt. Carmel Road (T-312) at the Northeast corner of land now or formerly of Connie Reamer North 68° 07' 00" West, 176.62 feet to an existing steel rod; thence by the same and through an existing pipe set back 12 feet from the end of this course South 43° 04' 00" West, 134.82 feet to a point in run on line of land now or formerly of Harry Jenkins, Sr.; thence in and along said run and along land now or formerly of Harry Jenkins, Sr. North 77° 44' 20" West, 138.44 feet to an existing pipe in run; thence by same North 88° 08' 30" West, 186.77 feet to an existing pipe in run; thence by same North 81° 53' 00" West, 85.72 feet to a steel rod at corner of Lot No. 2 on the aforementioned subdivision plan; thence by said Lot No. 2 North 20°

59° 40' East, 147.67 feet to a steel rod; thence by same North 89° 41' 35" East, 195 feet to a railroad spike; thence by same South 77° 54' 15" East, 276.21 feet to a steel rod; thence by same South 62° 13' 10" East, 165 feet to a steel rod on line of land now or formerly of El Vista Orchards, Inc. South 03° 35' 50" West, 19.07 feet to a steel rod near the Western right-of-way line of Mt. Carmel Road (T-312), the point of BEGINNING.

Tax Parcel No: C12-17A

Being the same premises which Mark H. Miller and Anna C. Miller, husband and wife by Deed dated June 30, 2004 and recorded July 7, 2004 in Adams County in Deed Book Volume 3632 Page 249 conveyed unto Cynthia K. Raines, single, as sole owner, in fee.

Premises Being: 619 Mount Carmel Road, Orrtanna, PA 17353

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 18, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/15, 22 & 29

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed business corporation to be 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 GLASS FLAGG, INC.

Robert L. McQuaide
McQuaide Law Office
Suite 204
18 Carlisle Street
Gettysburg, PA 17325

2/29

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 06-N-423 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of April, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate on the East side of North Queen Street in the Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the Eastern property line of North Queen Street, at a mark in the concrete 2 feet from the foundation wall on the building line at lands now or formerly of William V. Sneeringer; thence by the same in an Easterly direction for a distance of 181.5 feet to a stake at a public alley; thence by said alley in a Northerly direction for a distance of 40 feet to a stake at other land now or formerly of William V. Sneeringer; thence by the same in a Westerly direction for a distance of 181.5 feet to a point on the Eastern property line of said Street; thence by the same in a Southerly direction for a distance of 40 feet to the above described place of BEGINNING.

And the said Grantors do hereby covenant, promise and agree to and with the said Grantees their heirs and assigns, by these presents, that they, the said Grantors, have not done, committed, or knowingly or willingly suffered to be done or committed, any act, matter or thing whatsoever whereby the premises granted or and part thereof is, are, shall or may be impeached, charged or encumbered, in title, charge, estate or otherwise howsoever.

Parcel Identification No. 27-005-0052-000

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Ronald L. Ogburn and Barbara J. Ogburn, husband and wife, as tenants by entirety, by Deed from Judy Lee Brownholtz Porter and Ronald Lewis Ogburn, executors of the last will and testament of Levi A. Ogburn, deceased, dated 02/21/1990, recorded 05/23/1990, in Deed Book 556, page 276.

Premises being: 323 North Queen Street, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Ronald L. Ogburn & Barbara J. Ogburn** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 25, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/29, 3/7 & 14

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-306 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 4th day of April, 2008, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate on the East side of North Queen Street in the Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the Eastern property line of North Queen Street, at a mark in the concrete 2 feet from the foundation wall on the building line at lands now or formerly of William V. Sneeringer; thence by the same in an Easterly direction for a distance of 181.5 feet to a stake at a public alley; thence by said alley in a Northerly direction for a distance of 40 feet to a stake at other land now or formerly of William V. Sneeringer; thence by the same in a Westerly direction for a distance of 181.5 feet to a point on the Eastern property line of said Street; thence by the same in a Southerly direction for a distance of 40 feet to the above described place of BEGINNING.

And the said Grantors do hereby covenant, promise and agree to and with the said Grantees their heirs and assigns, by these presents, that they, the said Grantors, have not done, committed, or knowingly or willingly suffered to be done or committed, any act, matter or thing whatsoever whereby the premises granted or and part thereof is, are, shall or may be impeached, charged or encumbered, in title, charge, estate or otherwise howsoever.

Parcel Identification No. 27-005-0052-000

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Ronald L. Ogburn and Barbara J. Ogburn, husband and wife, as tenants by entirety, by Deed from Judy Lee Brownholtz Porter and Ronald Lewis Ogburn, executors of the last will and testament of Levi A. Ogburn, deceased, dated 02/21/1990, recorded 05/23/1990, in Deed Book 556, page 276.

Premises being: 323 North Queen Street, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Ronald L. Ogburn & Barbara J. Ogburn** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 25, 2008, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

2/29, 3/7 & 14

CERTIFICATE OF REGISTRATION

NOTICE IS HEREBY GIVEN that in compliance with the requirements of 15 Pa.C.S. § 8913, a Certificate of Registration - Domestic Limited Liability Company was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg for the purpose of registering a limited liability company.

The name of the limited liability company is SHARON AND CATHY'S, LLC with the principal place of business at 116 Heritage Drive, Gettysburg, PA.

The purpose for which the limited liability company was organized is: To engage in and do any lawful act concerning any and all lawful business for which limited liability companies may be formed in accordance with the laws of the Commonwealth of Pennsylvania.

Wendy Weikal-Beauchat, Esq.
Beauchat & Beauchat, L.L.C.
63 W. High Street
Gettysburg, PA 17325

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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 LUDWIG KANZLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Maria Beyale, c/o The Law Offices of Joseph D. Buckley, 1237 Holly Pike, Carlisle, PA 17013

Attorney: Joseph D. Buckley, Esq., The Law Offices of Joseph D. Buckley, 1237 Holly Pike, Carlisle, PA 17013

ESTATE OF CHARLOTTE ANN KEPNER a/k/a CHARLOTTE A. KEPNER, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Co-Executrices: Marcy A. VanMetre, 33 Fruitwood Trail, Fairfield, PA 17320; Tracy Leigh Sebold, 116 Thunder Trail, Fairfield, PA 17320

Attorney: Matthew R. Battersby, Esq., Battersby Law Office, P.O. Box 215, Fairfield, PA 17320

ESTATE OF JOY N. MARA, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Daniel N. Mara, 1550 Table Rock Road, Gettysburg, PA 17325

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

ESTATE OF ANNA L. MUMMERT, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executor: Carl M. Coulson, 173 Town Hill Road, York Springs, PA 17372

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

ESTATE OF LORETTA K. NEIDERER, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executrix: Beverly Miller, 605 Lancelot Drive, Florence, SC 29505

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

ESTATE OF LYNN T. RINKE, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Mark Rinke, 1497 Ashton Drive, Rochester Hills, MI 48309

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

ESTATE OF HUEY BEN SMITH, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Co-Executors: Judy Ann Houser and Huey David Smith, Jr., c/o Sharon E. Myers, Esq., CGA Law Firm, PC, 135 North George St., York, PA 17401

Attorney: Sharon E. Myers, Esq., CGA Law Firm, PC, 135 North George Street, York, PA 17401

ESTATE OF RAYMOND M. SMITH, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: David M. Bell, 4820 Old Harrisburg Rd., Lot 160, Gettysburg, PA 17325

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

ESTATE OF RICHARD P. SNYDER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Nora Lee Sandruck and Margie Ann Stover, c/o Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

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

ESTATE OF ROBERT W. WEANER, SR., DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Robert W. Weaner, Jr., 35 N. Hay St., Gettysburg, PA 17325

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

ESTATE OF BETTY J. WILDASIN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Mary Ann White, 70 Oaklyn Lane, Coatesville, PA 19320

Attorney: Larry W. Wolf, Esq., Larry W. Wolf, P.C., 215 Broadway, Hanover, PA 17331

ESTATE OF JOYCE WILLIAMS, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Administrators: Ralph J. Williams, Jr., 164 Oak Grove Road, New Oxford, PA 17350; Janet E. Groat, 592 Poplar Rd., New Oxford, PA 17350

Attorney: Larry W. Wolf, Esq., Larry W. Wolf, P.C., 215 Broadway, Hanover, PA 17331

SECOND PUBLICATION

(No Estate Notices Submitted)

THIRD PUBLICATION

ESTATE OF MAZIE M. BARKER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

David F. Kelly, 312 Baltimore Street, Gettysburg, PA 17325

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

ESTATE OF ROY E. CHRONISTER, DEC'D

Late of the Borough of East Berlin, Adams County, Pennsylvania

Co-Executors: Dorothy L. Whitehead, 105 Water St., East Berlin, PA 17316; Sandra Hershey, 910 Baltimore Road, Shippensburg, PA 17257

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

ESTATE OF PAUL L. CROWL, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Tony E. Crowl, 68 Maple Avenue, Littlestown, PA 17340

Attorney: George W. Swartz, II, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF NANCY M. HEYSER-ORNER, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: William T. Heyser, 202 Buford Avenue, Gettysburg, PA 17325

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

ESTATE OF LUCINDA V. PETERS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Sharon A. Spangler, 2005 Pineview Drive, York, PA 17408

Attorney: Michael P. Bianchini, Esq., Griffith Strickler Lerman Solymos & Calkins, 110 South Northern Way, York, PA 17402-3737

(continued on page 6)

THIRD PUBLICATION (continued)

ESTATE OF BRIAN CHRISTOPHER PRITCHARD a/k/a BRIAN C. PRITCHARD, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Administratrix: Christine E. Pritchard, c/o Douglas H. Gent, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

Attorney: Douglas H. Gent, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

ESTATE OF VERA E. RHINE a/k/a VERA ELIZABETH RHINE a/k/a VERA RHINE, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Bonnie Sharon Gross, 1338 Hughes Shop Road, Westminster, MD 21158

Attorney: Henry O. Heiser, III, Esq., 104 Baltimore St., Gettysburg, PA 17325

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Corporation Bureau of the Pennsylvania Department of State, at Harrisburg, Pennsylvania, for the purpose of forming a domestic business corporation under the Pennsylvania Business Corporation Law of 1988 (P.L. 1444, No. 177), 15 Pa.C.S.A. §1301 *et seq.*, as amended, having unlimited power to engage in and do any lawful act permitted thereunder.

The name of the corporation is MORNING GLORY ASSISTED LIVING, INC. with the principal place of business at 419 North Queen Street, Littlestown, Pennsylvania.

Wendy Weikal-Beauchat, Esq.
Beauchat & Beauchat, LLC
63 West High Street
Gettysburg, PA 17325

2/29

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION NO. 08-S-220

IN RE: Kyle Phillip Stewart

NOTICE OF HEARING ON PETITION FOR CHANGE OF NAME

NOTICE IS HEREBY GIVEN that on February 12, 2008, a Petition for Change of Name was filed on behalf of Kyle Phillip Stewart in the above named Court praying for a decree to change his name from Kyle Phillip Stewart to Phill Stewart Pepple.

The Court has fixed April 1, 2008 at 9:00 a.m. in Courtroom No. 2, Adams County Courthouse, 111 Baltimore Street, Gettysburg, PA 17325 as the time and place for the hearing of said Petition, when and where all persons interested may appear and show cause, if any they have, why the prayer of said Petition should not be granted.

Puhl, Eastman & Thrasher
/s/Richard E. Thrasher, Esq.
Attorney for Petitioner
220 Baltimore Street
Gettysburg, PA 17325

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