

Adams County Legal Journal

Vol. 39

November 7, 1997

No. 24, pp. 133-136

IN THE
COURT OF COMMON PLEAS
OF ADAMS COUNTY,
PENNSYLVANIA
CIVIL DIVISION
NO. 97-S-221

NOTICE OF ACTION IN
MORTGAGE FORECLOSURE

TRANSAMERICA FINANCIAL
CONSUMER DISCOUNT COMPANY,
PLAINTIFF

vs.

CLYDE E. OSBORNE, DEFENDANT.

TO: The above named Defendant, whose last known address is 59 Hemlock Trail, Orrtanna, PA 17353:

YOU ARE HEREBY NOTIFIED that Plaintiff, TRANSAMERICA FINANCIAL CONSUMER DISCOUNT COMPANY, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Adams County, docketed to 97-S-221, wherein Plaintiff seeks to foreclose its mortgage secured on your property de-

scribed as premises: Gettysburg Mountain Camp Sites (numerous lots) Premises "A," "B," and "C," Township of Franklin, Adams County, PA (a more detailed description is contained in said Complaint), whereupon your property would be sold by the Sheriff of Adams County.

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the above, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance, personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

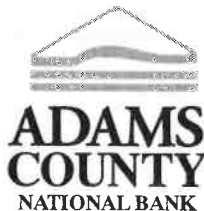
YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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

Frank Federman
Attorney for Plaintiff
Federman and Phelan
Two Penn Center Plaza, Suite 900
Philadelphia, PA 19102

11/7

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-519 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 5th day of December, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the Northern right-of-way of South Lincoln Drive, a 60 feet wide right-of-way, at corner of Lot No. 31, on the subdivision plan hereinafter referred to; thence along the Northern right-of-way line of South Lincoln Drive, by a curve to the right, having a radius of 125 feet the long chord bearing and distance of which is North 20 degrees 17 minutes 46 seconds South 155.14 feet for an arc distance of 167.37 feet to a point at Lot No. 33 on the subdivision plan hereinafter referred to; thence along Lot No. 33, and through the center partition wall of a double dwelling house South 63 degrees 39 minutes 32 seconds East 121.13 feet to a point at Lot No. 30 on the subdivision plan hereinafter referred to; thence along Lots No. 30 and 31, South 30 degrees 49 minutes 03 seconds West, 106.35 feet to a point on the Northern right-of-way line of South Lincoln Drive, the point and place of beginning; containing 9,309 square feet and being Lot No. 32 on final subdivision plan for Diller's Village, Phase Three, prepared by Donald E. Worley, Registered Surveyor, dated August 14, 1987, revised October 8, 1987, designated as File No. G-97, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 48, Page 44.

IT BEING THE SAME PREMISES WHICH Constance Anne Mortenson n/k/a Constance Anne Wright and Trent Wright, her husband, by their Deed, dated June 28, 1993, and recorded July 2, 1993, in the Office of Recorder of Deeds in and for Adams County, Pennsylvania, at Deed Book Volume 747, Page 202, granted and conveyed unto Daniel J. Hoke and Angela M. Hoke, his wife.

PARCEL MAP #10-94.

SEIZED and taken into execution as the property of **Daniel J. Hoke and Angela M. Hoke** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
October 7, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on December 29, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/24, 31 & 11/7

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 September 30, 1997, for the purpose of obtaining a Certificate of Incorporation of a business corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is **FROGTOWN, INC.**

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

Frogtown, Inc.
3830 Baltimore Pike
Littlestown, PA 17340

11/7

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 August 15, 1997, for the purpose of obtaining a Certificate of Incorporation of a business corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is **DISTELFINK DRIVE IN & BAKERY, INC.**

The purpose for which the corporation has been organized is: restaurant and bakery sales. The corporation shall have unlimited power to engage in and do any law act concerning any or all lawful business for which corporations may be organized under the Pennsylvania Business Corporation Law.

Distelfink Drive In & Bakery, Inc.
2710 Old Harrisburg Road
Gettysburg, PA 17325

11/7

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN a certificate on July 3, 1997 an application for registration was filed under the Fictitious Name Act of 1982-295 (54 PA. C.S. Sec. 311) in the Office of the Secretary of the Commonwealth of Pennsylvania, setting for that Albert H. Oussoren of 32 E. Main St., Fairfield, PA and George G. Rummel of 320 Winding Brook Rd., Biglerville, PA are the individuals owning or interested in a business, the character of which is selling power equipment and lawn mowers and that the name, style and designation under which said business is and will be conducted is Staub's Lawnmower Service, and the location where said business is and will be conducted is 118 Chambersburg Street, Arendtsville, PA.

Katherman & Heim, P.C.
Solicitor

11/7

**WEIKERT VS. ADAMS COUNTY BOARD OF
ASSESSMENT APPEALS**

1. Under the Pennsylvania Farmland and Forest Land Assessment Act of 1974 split-off transfers clearly subject the owner to roll-back taxes except where the split-off is no greater than two acres in any one year but roll-backs are not required for separations.
2. The Court cannot pursue what it might conceive as the spirit of the law and ignore its clear language.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 96-S-31, MICHAEL S. WEIKERT VS. ADAMS COUNTY BOARD OF ASSESSMENT APPEALS.

Robert G. Teeter, Esq., for Plaintiff
Thomas R. Campbell, Esq., for Defendant

MEMORANDUM OPINION

Spicer, P.J., November 25, 1996.

We deal with an appeal under the Pennsylvania Farmland and Forest Land Assessment Act of 1974, (the Act), specifically 72 P.S. §5490.9, and The Fourth to Eighth Class County Assessment Law, 72 P.S. §5453.704. Mr. Weikert appeals from a decision of the Adams County Board of Assessment Appeals, which revoked a preferential assessment and ordered roll-back taxes. The Court conducted a hearing on November 21, 1996.

Prior to July 21, 1995, Mr. Weikert owned 30.1855 acres of land in Cumberland Township, which adjoined the Gettysburg National Military Park. For a number of years, the National Park Service (NPS) was intensely interested in acquiring some or all of this land, but because Mr. Weikert had no plans of developing or selling it, assigned only a medium priority to its acquisition. Following the making of the movie "Gettysburg" interest in the land increased. It was the site of action involving Joshua Chamberlain and the 20th Maine. NPS pursued acquisition of restrictive easements until a private donor informed Friends of the National Parks at Gettysburg, Inc. (Friends) of his willingness to provide money to buy a portion of the property.

Friends is a non-profit corporation with no official ties with NPS. However, it acts, as have other organizations, to acquire land and easements for the NPS. It entered into negotiations with Weikert and agreed to buy 6.2855 acres. Mainly through donated services, a subdivision plan was prepared and submitted to Cumberland Township authorities. It was forwarded to the County planning office for approval, which was obtained. The township then approved the subdivision. The plan recited that Friends would donate the acreage to

NPS and that the land would become part of lands owned by the Gettysburg National Military Park. The acreage was conveyed on July 21, 1995 to Friends for \$95,000.00. At the time of the hearing, the land was being used as other land within the park boundaries, but was still held by Friends. Visitors walked through the tract, without paying for the privilege.

Perhaps in a sense, the land belongs to the Park. However, this is not true in the legal sense. We must, unfortunately for Mr. Weikert, uphold the board's decision for the following reasons:

1. The conveyance was a split-off, as defined by §5490.2 of the Act.

It does not qualify as a separation, because the definition of that term includes all requirements of §5490.3.

Roll-backs are not required for separations. The term is defined as a division by conveyance or other action of the owner into two or more tracts, continuation of use qualifying for preferential assessment, "and all tracts so formed meet the requirements of section 3."

Section three (§5490.3) contains a requirement that the conveyed tract contain a minimum of ten acres.

2. Split-off transfers clearly subject the owner to roll-back taxes, except when the split-off is no greater than two acres in any one year. §5490.6. That provision states that split-offs "...shall, except when the split-off occurs through condemnation, subject the land so divided and the entire parcel from which the land was divided to liability for roll-back taxes..." Generally, "shall" makes legislative provisions mandatory. *Oberneder v. Link Computer Corporation*, 449 Pa.Super. 528, 674 A.2d 720 (1996).

3. Another subsection, §5490.8, affects neither revocation of preferential assessment nor roll-back liability. The legislature has provided that "[n]othing in this section shall be construed to require the taxing body of a taxing district in which land enrolled in preferential use is situated to accept roll-back taxes and accrued interest due and payable to that taxing district if the preferential use is abandoned for the purpose of granting or donating such land to:

(6) a not-for-profit corporation,...

Subsection (6) requires an agreement between the corporation and the municipality in which the land is situated that the land be used for recreational purposes and be open to the public.

Mr. Weikert has argued that the recital on the subdivision plan qualifies as an agreement. This may be, but the clear wording of the last mentioned subsection indicates that it is not an assessment provision at all. The language merely authorizes each of the three taxing districts

involved to forego acceptance of roll-back taxes and interest. The decision of those entities is beyond the controversy properly before this Court.

We can agree that the decision reached may discourage transfers to NPS, and that justice might be better served by reversing the board's decision. However, we cannot pursue what we might conceive as the spirit of the law and ignore clear language. 1 Pa. C.S.A. §1921; Commonwealth v. Delgado, ___ Pa. ___, 679 A.2d 223 (1996). Neither can we ignore that Friends is a separate legal entity. Kosor v. Harleysville Mutual Insurance Company, 407 Pa.Super. 68, 595 A.2d 128 (1991). It received fee title to the premises. The deed was not in lieu of condemnation. In short, there is nothing in the background of this case that exempts it from the mandatory provisions of the Act.

ORDER OF COURT

AND NOW, this 25th day of November, 1996, the decision by the Adams County Board of Assessment Appeals is affirmed.

J & J RECYCLING OF PA, INC. VS. UNION TOWNSHIP BOARD OF SUPERVISORS

Where the Court deals with a cold record case, it must affirm the Township's action in denying appellant a junkyard license if its action is supported by substantial evidence and comports with applicable law.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 96-S-714, J & J RECYCLING OF PA, INC. VS. UNION TOWNSHIP BOARD OF SUPERVISORS.

Victor A. Neubaum, Esq., for Plaintiff
James T. Yingst, Esq., for Defendant

OPINION ON APPEAL FROM LICENSE DENIAL

Spicer, P.J., November 25, 1996.

On October 12, 1995, this court considered the appeal of J & J Recycling of Pa., Inc. (appellant) from an action by the Union Township Board of Supervisors (township), which denied appellant's junkyard license. Because the township conceded that its ordinance was unreasonably restrictive, the case was remanded with instructions to reconsider appellant's application. J & J Recycling of Pa., Inc. v. Union Township Board of Supervisors, 37 Adams County L.J. 263 (1995). On remand, the township amended its ordinance and invited

appellant to submit an application. It did so, and was again denied a license. The present appeal resulted.

We again deal with a cold record case and must affirm the township's action if it is supported by substantial evidence and comports with applicable law. *Id.*

Initially, appellant argued that township may not deny an application because of failure to comply with standards applicable to licensed businesses. It contended that it would be foolish to invest money without assurances that its application will be favorably viewed. However, counsel now concedes that this position is untenable. *Earhart v. Board of Supervisors of West Cocalico Township*, 6 Pa.Cmwlt. 455, 296 A.2d 284 (1972).

This court has reviewed the record and considered exhibits. All findings are supported by substantial evidence, and conclusions of law are proper. The township relied upon seven deficiencies in rejecting the application. Findings 4, 5, 6, 7, 8, 9 and 12. Appellant argues with several findings, but it is clear that denial was proper. Much of the discussion in the 1995 opinion is still relevant. We see no need to exhaustively analyze evidence and arguments, but will offer a few comments concerning exceptions.

The complaint that the township classified appellant's establishment as a retail business (Finding 2) is irrelevant, since it was not a basis for the refusal. A close reading of the record indicates only a finding that appellant engages in a business which includes selling. Nothing classified the business as retail.

The real estate in question is irregularly shaped. Appellant disputes the township determination of the rear line, as it relates to set back requirements. We agree with township's argument that none of the set-back requirements have been met. The identification of a rear boundary appears reasonable.

Appellant equates "standing" with "stagnant," and argues that it should not be responsible for run off water from neighboring properties. There is ample support for the classification of stagnant. Photographs taken about a month apart show accumulations of liquid in the same places, some of them open containers. One witness said some of the liquid originated in soft-drink cans, which appellant shredded.

The attached order is entered.

ORDER

AND NOW, this 25th day of November, 1996, the action by the Union Township Board of Supervisors, denying appellant's application for a junkyard license, is affirmed.

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 KATHRYN I. HERSHEY, DEC'D

Late of Conewago Township, Adams County, Pennsylvania
 Executors: Charles A. Hershey, 303 Oxford Avenue, Hanover, PA 17331
 Attorney: Keith A. Hassler, Attorney at Law, 9 North Beaver Street, York, PA 17401

ESTATE OF FREDERICK G. KAUFFMAN, DEC'D

Late of Butler Township, Adams County, Pennsylvania
 Executor: Adams County National Bank, Attn: Nancy L. Reichart, Sr. Vice President, Lincoln Square Office, P.O. Box 4566, Gettysburg, PA 17325
 Attorney: John A. Wolfe, Esquire, Wolfe & Rice, 47 West High Street, Gettysburg, PA 17325

ESTATE OF FRANCES E. McGLAUGHLIN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
 Co-Executors: Robert L. McGlaughlin, 380 Blacksmith Shop Road, Gettysburg, PA; Emily A. Matthews, 2330 Granite Station Road, Gettysburg, PA

ESTATE OF CLYDE L. MUMMERT, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania
 Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325
 Attorney: Donald E. Albright, Esquire, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF MARGUERITE A. SHOPF, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania
 Executors: Larry E. Wiseman, 67 West Hanover Street, Gettysburg, PA 17325; Faye J. King, 2375 Granite Station Road, Gettysburg, PA 17325
 Attorney: Keith R. Nonemaker, Esquire, Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF BEVERLY E. HARNER, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania
 Administrator: William R. Harner, 723 White Hall Road, Littlestown, PA 17340

Attorney: Bernard A. Yannetti, Jr., Esquire, Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF PAMELA JEAN MILLER, DEC'D

Late of New Oxford, Adams County, Pennsylvania

Administrator: Jerry Morningstar, 2995 Fifth Avenue, York, PA 17430

Attorney: John James Mooney, III, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF RICHARD L. VITEK, JR., DEC'D

Late of the Borough of Fairfield, Pennsylvania

Executor: Richard L. Vitek, Sr., 6 Skyline Trail, Fairfield, PA 17320

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

ESTATE OF PAULINE F. WILDASIN, DEC'D

Late of the Borough of Abbottstown, Adams County, Pennsylvania

Executor: George Morrell Wildasin, 371 West High Street, Abbottstown, PA 17301

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

ESTATE OF MELBA B. WOJTKOWIAK, DEC'D

Late of Mount Joy Township, Adams County, Pennsylvania

Executors: Raymond A. Wojtkowiak, 560 Dellinger Road, Mt. Wolf, PA 17347; Jesse D. Wojtkowiak, 1299 Harney Road, Littlestown, PA 17340

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

THIRD PUBLICATION

ESTATE OF RALPH J. GROUP, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executors: Roger B. Irwin; Donald A. Group

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

ESTATE OF GARFIELD G. STERNER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Gladys C. Sterner, P.O. Box 44, 2830 Chambersburg Road, Cashtown, PA 17310

Attorney: Harold A. Eastman, Jr., 16 Lincoln Square, Gettysburg, PA 17325

BANKERS TRUST COMPANY,
AS TRUSTEE

vs.

GORDONS M. SACHS
LISA H. SACHS

ADAMS COUNTY COURT
OF COMMON PLEAS

CIVIL DIVISION
NO. 96-S-724

NOTICE OF SHERIFF'S SALE
OF REAL PROPERTY

October 9, 1997

TO: GORDONS M. SACHS
LISA H. SACHS
361 S.E. 53RD COURT
OCALA, FL 34471-3406

THIS NOTICE IS SENT TO YOU IN AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE.

Your house (real estate) at 3 CROSSLAND TRAIL, FAIRFIELD, PA 17320, is scheduled to be sold at the Sheriff's Sale on December 5, 1997 at 10:00 a.m. in the Sheriff's Office in the Adams County Courthouse, 111 Baltimore Street, Gettysburg, PA, 17325 to enforce the court judgment of \$126,247.85 obtained by BANKERS TRUST COMPANY, AS TRUSTEE (the mortgagee) against you.

NOTICE OF OWNER'S RIGHTS

YOU MAY BE ABLE TO PREVENT THIS SHERIFF'S SALE

To prevent this Sheriff's Sale, you must take immediate action:

1. The sale will be cancelled if you pay to the mortgagee the back payments, late charges, costs and reasonable attorney's fees due. To find out how much you must pay, you may call: (215) 563-7000.

2. You may be able to stop the sale by filing a petition asking the Court to strike or open the judgment, if the judgment was improperly entered. You may also ask the Court to postpone the sale for good cause.

3. You may also be able to stop the sale through other legal proceedings.

You may need an attorney to assert your rights. The sooner you contact one, the more chance you will have of stopping the sale. (See notice on page two on how to obtain an attorney.)

YOU MAY STILL BE ABLE TO SAVE YOUR PROPERTY AND YOU HAVE OTHER RIGHTS EVEN IF THE SHERIFF'S SALE DOES TAKE PLACE.

1. If the Sheriff's Sale is not stopped, your property will be sold to the highest bidder. You may find out the price bid by calling (215) 563-7000.

2. You may be able to petition the Court to set aside the sale if the bid price was grossly inadequate compared to the value of your property.

3. The sale will go through only if the buyer pays the Sheriff the full amount due in the sale. To find out if this has

happened, you may call (215) 563-7000.

4. If the amount due from the Buyer is not paid to the Sheriff, you will remain the owner of the property as if the sale never happened.

5. You have the right to remain in the property until the full amount due is paid to the Sheriff and the Sheriff gives a deed to the buyer. At that time, the buyer may bring legal proceedings to evict you.

6. You may be entitled to a share of the money which was paid for your house. A schedule of distribution of the money bid for your house will be filed by the Sheriff on December 29, 1997. This schedule will state who will be receiving that money. The money will be paid out in accordance with this schedule unless exceptions (reasons why the proposed distribution is wrong) are filed with the Sheriff within ten (10) days after December 29, 1997.

7. You may also have other rights and defenses, or ways of getting your home back, if you act immediately after the sale.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE LISTED BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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

11/7

BANK UNITED OF TEXAS, FSB

vs.

ALLEN SCHAEFFER
SANDRA SCHAEFFER

ADAMS COUNTY COURT

OF COMMON PLEAS

CIVIL DIVISION

NO. 97-S-142

NOTICE OF SHERIFF'S SALE
OF REAL PROPERTY

May 13, 1997

TO: ALLEN SCHAEFFER
SANDRA SCHAEFFER
33 COMMERCE STREET
NEW OXFORD, PA 17350

THIS NOTICE IS SENT TO YOU IN AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE.

Your house (real estate) at 33 COMMERCE STREET, NEW OXFORD, PA 17350, is scheduled to be sold at the Sheriff's Sale on Friday December 5, 1997, at 10:00 a.m. in the Sheriff's Office in the Adams County Courthouse, 111 Baltimore Street, Gettysburg, PA 17325 to enforce the court judgment of \$67,412.29 obtained by BANK UNITED OF TEXAS, FSB (the mortgagee) against you.

NOTICE OF OWNER'S RIGHTS

YOU MAY BE ABLE TO PREVENT THIS SHERIFF'S SALE

To prevent this Sheriff's Sale, you must take immediate action:

1. The sale will be cancelled if you pay to the mortgagee the back payments, late charges, costs and reasonable attorney's fees due. To find out how much you must pay, you may call: (215) 563-7000.

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Adams County Court Administrator
Adams County Courthouse
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(717) 334-6781, Ext. 213

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Adams County Legal Journal

Vol. 39

November 14, 1997

No. 25, pp. 137-142

IN THE
COURT OF COMMON PLEAS
OF ADAMS COUNTY,
PENNSYLVANIA

CIVIL ACTION—LAW
NO. 97-S-764
Action to Quiet Title

TERRY L. SHRINER AND SANDRA D.
SHRINER, Plaintiffs,

vs.

WFA CONTRACTORS, its successors
and assigns, Defendants.

NOTICE OF PUBLICATION

TO: WFA Contractors, its successors
and assigns:

TAKE NOTICE that on August 11,
1997, Terry L. Shriner and Sandra D.
Shriner filed their Complaint against the
above-named Defendant in an Action to
Quiet Title docketed to No. 97-S-764
with reference to a tract of land bounded
and described as follows:

ALL those two (2) tracts of land situ-
ate, lying and being in the Borough of
Marroll Valley, Adams County, Pennsyl-
vania, bounded and described as follows:

TRACT NO. 1: (Lot No. 42, Section
RA)

BEGINNING at a point in the center of
Ranch Trail where it is intersected by
Blue Spruce Trail; thence in said Ranch
Trail, North 23 degrees 29 minutes 40
seconds East, 204.37 feet to a point at

corner of Lot No. 41 on the hereinafter
referred to draft of survey; thence by said
Lot No. 41, South 66 degrees 30 minutes
20 seconds East, 225 feet to a point on
line of Lot No. 40; thence by said lot No.
40 and re-entering Blue Spruce Trail,
South 23 degrees 29 minutes 40 sec-
onds West, 137.58 feet to a point in the
center of said Blue Spruce Trail, afore-
said; thence in said Blue Spruce Trail,
North 83 degrees 02 minutes 20 seconds
West, 234.70 feet to a point in the center
of Ranch Trail, the place of BEGINNING.

TRACT NO. 2: (Lot No. 43, Section RA)

BEGINNING at a point in the center of
Ranch Trail where it is intersected by
Blue Spruce Trail; thence in the center of
said Blue Spruce Trail, South 83 degrees
02 minutes 20 seconds East, 97.80 feet
to a point at corner of Lot No. 44 on the
hereinafter referred to draft of survey;
thence by said lot No. 44, South 6 de-
grees 57 minutes 40 seconds West, 225
feet to a point at corners of Lot Nos. 85
and 86; thence by said Lot No. 86, and re-
entering Ranch Trail, North 75 degrees
26 minutes 20 seconds West, 191.54
feet to a point in the center of said Ranch
Trail, aforesaid; thence in said Ranch
Trail, North 31 degrees 43 minutes 00
seconds East, 219.88 feet to a point in
the center of Ranch Trail where it is
intersected by Blue Spruce Trail, the place
of BEGINNING.

The above description was taken from
a plan of lots labeled "Section RA,

Charnita," dated September 3, 1968, and
prepared by Gordon L. Brown, E.S., and
recorded in Plat Book 1 at page 33.

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

YOU SHOULD TAKE THIS NOTICE
TO YOUR LAWYER AT ONCE. IF YOU
DO NOT HAVE A LAWYER OR CANNOT
AFFORD ONE, GO TO OR TELEPHONE
THE OFFICE SET FORTH BELOW TO
FIND OUT WHERE YOU CAN GET LE-
GAL HELP.

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone: (717) 334-6781, ext. 213

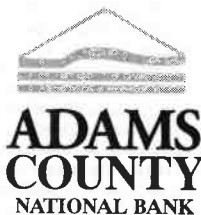
ORDER OF COURT

AND NOW, this 3rd day of November,
1997, upon consideration of the attach
Motion, it is hereby ORDERED AND DE-
CREED that Plaintiff may serve the Com-
plaint filed to the above-captioned action
on Defendant WFA Contractors, its suc-
cessors or assigns, by publication pursu-
ant to Pa. R.C.P. 430(b)

Oscar F. Spencer

11/14

Helping families achieve
their long-range
financial goals
is our business.



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices. Published every Friday by Adams County Bar Association, Donald G. Oylar, Esq., Editor and Business Manager.

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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, November 24, 1997, at 10:30 a.m.

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YODER—Orphans' Court Action Number OC-169-96. The First and Final Account of Barbara Yoder Spicer, Executrix of the Estate of Elmer J. Yoder, deceased, late of Cumberland Township, Adams County, Pennsylvania.

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BURGER—Orphans' Court Action Number OC-130-97. The First and Final Account of Jeanne Rice Sponseller, Executrix of the Last Will and Testament of Nadene R. Burger, deceased, late of Oxford Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

11/14 & 21

CERTIFICATE OF AUTHORIZATION

NOTICE IS HEREBY GIVEN that on November 7, 1997, an Application For Permission to Establish a State-chartered Banking Institution was filed with the Department of Banking of the Commonwealth of Pennsylvania at Harrisburg, for the purpose of obtaining a Certificate of Authorization under the Pennsylvania Banking Code of 1965, as amended.

The name of the institution is PSB INTERIM BANK. The institution is to be incorporated, pursuant to the provisions of the Pennsylvania Banking Code of 1965, as amended, for the purpose of merging PEOPLES STATE BANK OF EAST BERTLIN with and into the institution.

Names and addresses of the incorporators:

Ernest L. Lowe
P.O. Box 430
101 Berry Mountain Rd.
Millersburg, PA 17061

Terry L. Burrows
915 May Drive
Millersburg, PA 17061

Robert W. Rissinger
900 Manor Drive
Millersburg, PA 17061

Names and addresses of the initial directors:

Ernest L. Lowe
P.O. Box 430
101 Berry Mountain Rd.
Millersburg, PA 17061

Terry L. Burrows
915 May Drive
Millersburg, PA 17061

Robert W. Rissinger
900 Manor Drive
Millersburg, PA 17061

James A. Ulsh
8 Dawn Dr.
Millersburg, PA 17061

Thomas L. Miller
475 Schoolhouse Ln.
Millersburg, PA 17061

This notice is given pursuant to Section 1006 of the Pennsylvania Banking Code of 1965, as amended.

11/14

NOTICE

NOTICE IS HEREBY GIVEN that Christina M. Simpson, Esquire, and Paul T. Dean, Esquire, intend to apply in open Court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 22nd day of December, 1997, and that both candidates are practicing law full-time as Assistant District Attorneys at the Office of the District Attorney of Adams County at the Adams County Courthouse at 111-117 Baltimore Street, Gettysburg, Pennsylvania, 17325.

11/14, 21 & 28

CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN that application has been made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, by GETTYSBURG RAILWAY COMPANY, INC., a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at P.O. Box 151, Georgetown, DE 19947, County of Sussex, for a Certificate of Authority to do business within the Commonwealth of Pennsylvania under the provisions of the Business Corporation Law of 1988. The proposed registered office of said corporation in the Commonwealth of Pennsylvania will be located at 1150 Rosewood Drive, Blue Bell, PA 19422, County of Montgomery.

Geoffrey N. Zeh
1150 Rosewood Drive
Blue Bell, PA 19422

11/14

CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN that application has been made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, by DELAWARE TRANSPORTATION GROUP, INC., a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at P.O. Box 151, Georgetown, DE 19947, County of Sussex, for a Certificate of Authority to do business within the Commonwealth of Pennsylvania under the provisions of the Business Corporation Law of 1988. The proposed registered office of said corporation in the Commonwealth of Pennsylvania will be located at 1150 Rosewood Drive, Blue Bell, PA 19422, County of Montgomery.

Geoffrey N. Zeh
1150 Rosewood Drive
Blue Bell, PA 19422

11/14

TAYLOR VS. KEMPER NATIONAL
INSURANCE CO. INC., ET AL.

1. Contribution is available if the parties have contracted for it; otherwise, it must arise out of a statute.
2. Indemnification is a common law equitable remedy which shifts the entire loss from one defendant to another and if the person seeking indemnity had any part in causing the injury, indemnity is not available.
3. Pa.R.C.P. §2253 provides that the Court may allow late joinder "upon cause shown" and the trial court has discretion in deciding whether to punish violation of the rules by dismissing the joinder complaint.
4. Since the statute of limitations does not begin to run on an action for indemnity or contribution until judgment is entered in favor of the original plaintiff, subsequent suits are always possible.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 92-S-1024, HENRY L. TAYLOR, D/B/A HENRY TAYLOR TRUCKING AND STORAGE SERVICES VS. KEMPER NATIONAL INSURANCE CO., INC., WILLIAM M. THERIT, JR. INSURANCE AGENCY AND EASTERN SHORE CORPORATION.

Matthew Battersby, Esq. and Bruce McLaughlin, Esq. for Plaintiff
David L. Rohde, Esq., for Defendant

G. Thomas Miller, Esq., for Additional Defendant Eastern Shore Corporation

Roann Pope Brown, Esq., for Additional Defendant Lumbermans Mutual Casualty Company

OPINION ON OBJECTIONS TO JOINDER

Spicer, P.J., December 2, 1996.

This case has a rather long and complicated history. Plaintiff filed its original complaint November 3, 1992, seeking to recover for damages sustained when industrial grade potato starch was damaged by moisture. Named as defendant was Kemper National Insurance Company. However, it was agreed that the real defendant was Lumbermans Mutual Casualty Company (LMC), which insured plaintiff's business operation. On June 14, 1994, plaintiff filed an amended complaint adding an insurance broker, Eastern Shore Corporation and the agency arranging insurance, William M. Therit, Jr. trading as William M. Therit, Jr. Insurance Agency (Therit). LMC's motion for summary judgment was granted, when

the court determined that the policy did not cover the type of loss sustained.

Therit filed an answer, containing new matter, to the amended complaint July 28, 1994. Perhaps because LMC was still included as a party defendant, Therit did not allege liability or liability over on the part of LMC.

Eastern Shore's preliminary objections were sustained October 12, 1995, but the court allowed plaintiff to amend. Amendment concerned the rule, expressed in this court's statement, concerning a broker's liability to a client, "[w]hen a broker neglects to procure insurance, after agreeing to do so, or if a policy is materially defective or void through the broker's fault, liability may be assessed. *Laventhol & Horwath v. Dependable Insurance Associates Inc.*, 396 Pa.Super. 553, 579 A.2d 388 (1990)." (slip opinion p. 3)

On November 6, 1995, plaintiff filed its second amended complaint. Although Kemper/LMC were included in the caption and identified in the pleadings, the sole cause pursued was against Eastern Shore and Therit and was based on the rule reflected the statement quoted from the October 12, 1994 opinion. Therit filed preliminary objections, attempting to raise an affirmative defense (statute of limitations), which were denied April 2, 1996. Apparently acting on agreement, Therit waited until July 5, 1996 to file an answer to the second amended complaint.

Under Pa.R.C.P. 2253, Therit had sixty days after service on him of the second amended complaint to join LMC as an additional defendant. The rule provides that the court may allow later joinder "upon cause shown." Also, the rule has been interpreted as having the period run from the time preliminary objections are overruled, *Jonas v. Wiesmeth Construction Company*, 360 Pa.Super. 173, 520 A.2d 40 (1987). Therefore, the deadline for joining LMC was extended to June 1, 1996.

Despite the fact that the time for joining LMC expired in June, Therit filed a complaint joining LMC as an additional defendant on August 19, 1996. LMC filed preliminary objections on September 5, 1996, prompting Therit to move for leave to file the complaint, *nunc pro tunc*.

A variety of issues are involved in the objections. This court feels constrained to deal with all of them, in case there is an appeal.

LMC has moved to strike the joinder complaint in its entirety, because of tardy filing, has demurred to it and has moved to strike general allegations of misrepresentation and negligence. Therit concedes that ¶14 (f), which alleges “such other negligence that may become apparent during discovery or at the time of trial,” should be stricken. LMC has made its objection because of the holding in *Connor v. Allegheny General Hospital*, 501 Pa. 306, 461 A.2d 600 (1983). Broad, vague allegations of fault can sometimes become the basis for newly discovered theories at trial. We find that 14 (e) is subject to the same problem. It reads, “in making such other inaccurate representations to improperly collect premiums for coverage contrary to explicit requests for coverage of products held in temporary storage.” Both subparagraphs will be stricken.

We recited the proper standards for ruling on demurrers in the October 12, 1995 opinion. Suffice it to say that such objections will not be sustained unless it is clear that Therit cannot recover, as a matter of law.

LMC argues that joinder is improper because none of the requirements of Rule 2252 are met in this case. That rule permits joinder if LMC is solely liable on the plaintiff’s cause of action, liable over to Therit on the plaintiff’s cause of action, jointly or severally liable with Therit, or liable on any cause of action arising out of the transaction or occurrence, or series or transactions or occurrences upon which plaintiff’s cause of action is based. As applied to the case before us, such liability would be based upon either a duty of contribution or indemnification.

Contribution is available if the parties have contracted for it, *Gould, Inc. v. Continental Casualty Company*, 401 Pa.Super. 219, 585 A.2d 16 (1991). Otherwise, it must arise out of a statute. *Kemper National P & C Companies v. Smith*, 419 Pa.Super. 295, 615 A.2d 372 (1992). The only such statute with which this judge is familiar is Uniform Tortfeasors Act, 42 Pa.C.S.A. 8322. This statute makes contribution available whenever two or more persons are jointly or severally liable in tort, irrespective of the theory by which tort liability is imposed. *Svetz for Svetz v. Land Tool Co.*, 355 Pa.Super. 230, 513 A.2d 403 (1986) alloc dn 515 Pa. 584, 527 A.2d 542 (1986). In that case, Superior Court allowed contribution between defendants held liable on negligence and strict liability. See also, *Walton v. AVCO Corp.*, 530 Pa. 568, 610 A.2d 454 (1992).

On the other hand, indemnification is a common law, equitable remedy which shifts the entire loss from one defendant to another. The operative test is whether the person seeking indemnity had any part in causing the injury. If he did, indemnity is not available. *Id. Svetz for Svetz v. Land Tool Co.*, supra.; *Young v. Dart*, 428 Pa.Super 43, 630 A.2d 22 (1993).

Therit has alleged that an LMC agent was familiar with plaintiff's practices and needs and represented that proper insurance would be provided to guard against the risks peculiar to plaintiff's storage practices. LMC argues that plaintiff's action against Therit is based upon a contract, and that there was no agreement between plaintiff and LMC. Therit responds that its action against LMC clearly is based on negligence.

We are in an area where concepts of contract and tort are sometimes blurred. Since cases, such as *Laventhol & Horwath v. Dependable Insurance Associates*, supra., and authority cited therein, speak of neglect, a cause against the broker certainly could be classified as sounding in negligence as easily as in contract. We think that, whatever the particular theory, the essence of Therit's claim is negligence and contribution may be available. Whether indemnification is also available will have to await determination at trial of Therit's fault.

The demurrer is overruled.

Unfortunately, Therit cannot fare as well with respect to his late filing of his joinder complaint and the request for approval, nunc pro tunc, of the filing.

Superior Court decisions in this area have presented interesting contrasts. On the one hand, in interpreting the rule's requirement of cause shown, that court has required the moving party to show, 1) some reasonable justification for the delay, 2) statement of facts to render the proposed defendant liable and, 3) an allegation that the late joinder will not prejudice the additional defendant. *Consul v. Burke*, 403 Pa.Super. 400, 589 A.2d 246 (1991). Mere press of work in the law firm has been rejected as a reasonable justification, and therefore, good cause. *id.* Procedural confusion, which is essentially what Therit has claimed, has suffered the same fate. *Prime Properties Development Corporation v. Binns*, 397 Pa.Super. 492, 580 A.2d 405 (1990).

On the other hand, the same court has considered Pa.R.C.P. 126, and its objective of avoiding a multiplicity of suits, and has reversed dismissal of joinders when the additional defendant could show no prejudice. *Bianculli v. Turner Construction Co.*, 433 Pa.Super. 237, 640 A.2d 461 (1994) alloc dn 539 Pa. 655, 651 A.2d 541 (1994). Since the statute of limitations does not begin to run on an action for indemnity or contribution until judgment is entered in favor of the original plaintiff, subsequent suits are always possible. *id.* Thus, it might be concluded that an additional defendant is rarely, if ever, prejudiced. This, unfortunately, renders the rule meaningless.

Supreme Court has now made it clear that prejudice is not required. *Paden v. Baker Concrete Construction, Inc.*, 540 Pa. 409, 658 A.2d 341 (1995). The trial court has discretion in deciding whether to punish violation of the rules by dismissing the joinder complaint. The exercise of discretion involves our careful consideration of the facts and background of this case, and arguments presented by the parties. *id.*

On balance, we conclude that the joinder complaint must be stricken and that Therit has failed to show good cause. There are no reasonable excuses or justifications for the delay.

It might seem that only a month and a half delay is involved, but that must be considered against the background of the case. This proceeding is now four years old, and we are essentially still in the pleading stage. Allowing the joinder would prolong that portion of the case.

We can understand why Therit might want to keep LMC in this case. Chances of settlement may be improved with greater numbers of parties. Furthermore, Therit may be reluctant to settle unilaterally, since that would doom any claim for indemnity. *Kemper National v. Smith*, *supra*.

On the other hand, the conclusion is unavoidable that Therit has been fully aware of facts justifying LMC's joinder for years. He has produced no justifiable reason to excuse his tardiness. LMC has already been required to litigate this case on a contract theory. The case is of long standing, and adding LMC will complicate issues and procedure. Transactions between plaintiff and Therit are easily separated from those between Therit and LMC. Resolution of liability issues between plaintiff and Therit may avoid subsequent

litigation. In the alternative, if Therit is liable, that finding may simplify any subsequent proceedings against LMC.

The attached order is entered.

ORDER OF COURT

AND NOW, this 2nd day of December, 1996, the following rulings and orders are entered:

- (a) The motion to strike subparagraphs 7(e) and 17(f) is granted.
- (b) The demurrer to the joinder complaint is overruled.
- (c) The motion to strike the joinder complaint is granted.
- (d) The motion for leave to file the joinder complaint nunc pro tunc is denied.

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF JAMES M. YINGLING, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Julie A. Cromer, 32 West Locust Lane, New Oxford, PA 17350

Attorney: John James Mooney, III, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF KATHRYN I. HERSHEY, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executors: Charles A. Hershey, 303 Oxford Avenue, Hanover, PA 17331

Attorney: Keith A. Hassler, Attorney at Law, 9 North Beaver Street, York, PA 17401

ESTATE OF FREDERICK G. KAUFFMAN, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Adams County National Bank, Attn: Nancy L. Reichart, Sr. Vice President, Lincoln Square Office, P.O. Box 4566, Gettysburg, PA 17325

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

ESTATE OF FRANCES E. MCGLAUGHLIN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: Robert L. McGlaughlin, 380 Blacksmith Shop Road, Gettysburg, PA; Emily A. Matthews, 2330 Granite Station Road, Gettysburg, PA 17325

ESTATE OF CLYDE L. MUMMERT, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325
Attorney: Donald E. Albright, Esquire, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF MARGUERITE A. SHOPF, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executors: Larry E. Wiseman, 67 West Hanover Street, Gettysburg, PA 17325; Faye J. King, 2375 Granite Station Road, Gettysburg, PA 17325

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

THIRD PUBLICATION

ESTATE OF BEVERLY E. HARNER, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Administrator: William R. Harner, 723 White Hall Road, Littlestown, PA 17340

Attorney: Bernard A. Yannetti, Jr., Esquire, Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF PAMELA JEAN MILLER, DEC'D

Late of New Oxford, Adams County, Pennsylvania

Administrator: Jerry Morningstar, 2995 Fifth Avenue, York, PA 17430

Attorney: John James Mooney, III, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF RICHARD L. VITEK, JR., DEC'D

Late of the Borough of Fairfield, Pennsylvania

Executor: Richard L. Vitek, Sr., 6 Skyline Trail, Fairfield, PA 17320

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

ESTATE OF PAULINE F. WILDASIN, DEC'D

Late of the Borough of Abbottstown, Adams County, Pennsylvania

Executor: George Morrell Wildasin, 371 West High Street, Abbottstown, PA 17301

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

ESTATE OF MELBA B. WOJTKOWIAK, DEC'D

Late of Mount Joy Township, Adams County, Pennsylvania

Executors: Raymond A. Wojtkowiak, 560 Dellinger Road, Mt. Wolf, PA 17347; Jesse D. Wojtkowiak, 1299 Harney Road, Littlestown, PA 17340

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

CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN that an application has been made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, by PENNSYLVANIA LAND COMPANY L.L.C., a foreign limited liability partnership formed under the laws of the State of Delaware, where its principal office is located at P.O. Box 151, Georgetown, DE 19947, County of Sussex, for a Certificate of Authority to do business within the Commonwealth of Pennsylvania under the provisions of the Business Corporation Law of 1988. The proposed registered office of said corporation in the Commonwealth of Pennsylvania will be located at 1150 Rosewood Drive, Blue Bell, PA 19422, County of Montgomery.

Geoffrey N. Zeh
1150 Rosewood Drive
Blue Bell, PA 19422

11/14

NOTICE

NOTICE IS HEREBY GIVEN that the Abbottstown-Paradise Joint Sewer Authority of York County, Pennsylvania, has adopted a resolution to amend its Articles of Incorporation permitting the joinder of Hamilton Township as a municipality participating in the joint sewer authority.

An Amendment to the Articles of Incorporation of Abbottstown-Paradise Joint Sewer Authority shall be executed by the proper officers of the Authority, Hamilton Township, Paradise Township and Abbottstown Borough, and on November 26, 1997 shall be filed with the Secretary of the Commonwealth of Pennsylvania pursuant to Section 304 of the Municipality Authorities Act of 1945, approved May 2, 1945, P.L. 382, as amended (53 P.S. Section 301, as amended). The said Amendment shall authorize the joinder of Hamilton Township to the Abbottstown-Paradise Joint Sewer Authority and shall authorize one additional member of the Board to be appointed by Hamilton Township.

s Jon C. Countess, Esquire
Solicitor—Abbottstown-Paradise
Joint Sewer Authority

11/14

NOTICE BY THE ADAMS COUNTY
CLERK OF COURTS

NOTICE IS HEREBY GIVEN that Adams County National Bank, Guardian of Anna M. Yeager, an incapacitated person, has filed a First and Final Account with Schedule of Distribution attached to Orphans' Court Action No. OC-7-97. The Account and Schedule of Distribution has 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, Pennsylvania, Orphans' Court Division, Gettysburg, Pennsylvania, for confirmation on Monday, November 24, 1997 at 10:30 A.M.

Peggy J. Breighner
Clerk of Courts

11/14 & 21

Adams County Legal Journal

Vol. 39

November 21, 1997

No. 26, pp. 143-150

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Peggy J. Breighner
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11/14 & 21

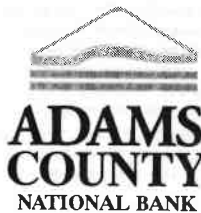
FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application For Registration of Fictitious Name under the Fictitious Names Act (54 Pa. C.S.A. §311) was filed October 27, 1997 in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that Dean H. Norwich and Ann E. Norwich, of 2206 Old Route 30, Orrtanna, PA 17353 are the individuals interested in the business to be conducted and known as ANN'S JUGS, and the location where said business will be carried on is 2206 Old Route 30, Orrtanna, PA 17353.

Bulleit, Schultz & Thrasher
16 Lincoln Square
Gettysburg, PA 17325

11/21

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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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Peggy J. Breighner
Clerk of Courts

NOTICE OF ACTION IN MORTGAGE FORECLOSURE

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA
CIVIL ACTION—LAW

G.E. CAPITAL MORTGAGE SERVICES, INC., 2000 West Loop South, Suite 1300, Houston, TX 77027, Plaintiff,

vs.

A.K. JOHNSTON a/k/a ALVA K. JOHNSTON and MARY V. HOILMAN a/k/a MARY VIRGINIA HOILMAN, 974 Overlook Drive, Columbus, GA 31906, Defendants.

MORTGAGE FORECLOSURE NO. 96-S-951

TO: A.K. Johnston a/k/a Alva K. Johnston:

YOU ARE HEREBY NOTIFIED that on November 04, 1996, Plaintiff, G.E. Capital Mortgage Services Inc., 2000 West Loop South, Suite 1300, Houston, TX 77027, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Adams County, Pennsylvania, docketed to No. 96-S-951 wherein Plaintiff seeks to foreclose its mortgage securing your property located at 66 Fruitwood Trail, Fairfield PA 17320 whereupon your property would be sold by the Sheriff of Adams County.

YOU ARE HEREBY NOTIFIED to plead to the above referenced Complaint on or before 20 DAYS from the date of this publication or a Judgment will be entered against you.

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend, you must enter a written appearance personally or by attorney, and file your defenses of objections in writing with the Court. You are warned that if you fail to do so, the case may proceed without you and a Judgment may be entered against you without further notice for the relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CAN-

NOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Adams County Courthouse
117 Baltimore Street
Gettysburg, PA 17325
(717) 334-6781 ext. 213

Leon P. Haller, Esquire
1719 North Front Street
Harrisburg, PA 17102

11/21

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 the purpose of obtaining a Certificate of Incorporation of a Business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is PLUMMER BROS. SERVICES, INC. The purpose for which the corporation shall have unlimited power to engage in and to do any lawful act concerning any or all lawful business for which corporations may be organized under the Pennsylvania Business Corporation Law.

Plummer Bros. Services, Inc.
42 Spring Creek Circle
Gettysburg, PA 17325

11/21

HIMMELREICH VS. HOSTETTER FARM SUPPLY, INC.

Where Defendant petitions to open a Default Judgment, the attached Pleading which he seeks leave to file must set forth a meritorious defense in precise, specific and clear terms sufficient to justify relief if proven.

Charles I. Himmelreich, Esq., for Plaintiff
Paul W. Grego, Esq., for Defendant

OPINION ON PETITION TO OPEN DEFAULT JUDGMENT

Spicer, P.J., November 26, 1996.

Defendant seeks to open a judgment taken by default on October 22, 1996. Because this court determines that the controlling issue involves the interplay between Pa. R.C.P. 237.3 and 1029 (e), we do not recite a great deal of the procedural background of the case. However, that background raises some interesting questions about defendant's philosophy and strategy concerning this case.

Defendant failed to file its answer to an amended complaint after receiving proper notice of plaintiff's intention to take a default judgment. Such judgment resulted.

In 1994, the two rules were amended to streamline procedures involving, (a) suits which sought money damages for bodily injury, death or property damages and (b) opening default judgments. This court is unaware of any appellate cases dealing with either rule.

Rule 1029(e) provides, in part,:

In an action seeking monetary relief for bodily injury, death or property damage, averments in a pleading to which a responsive pleading is required may be denied generally except...

Three exceptions, none of which is pertinent to the present proceedings, are listed.

Rule 237.3 provides:

(a) A petition for relief from a judgment of non pros or of default entered pursuant to Rule 237.1 shall have attached thereto a verified copy of the complaint or answer which the petitioner seeks leave to file.

(b) If the petition is filed within ten days after the entry of the judgment on the docket, the court shall open the judgment if the proposed complaint or answer states a meritorious cause of action or defense.

Comments to the rule state, in part, "Rule 237.3 does not change the law of opening judgments. Rather, the rule supplies two of the three requisites for opening such judgments by presupposing that a petition filed as provided by the rule is timely and with reasonable explanation or legitimate excuse for the inactivity or delay resulting in the entry of the judgment."

Defendant filed its petition within the ten day period and attached an unverified answer. Apparently realizing its mistake, it filed a separate verification which referred to an answer to a complaint, rather than an answer to an amended complaint. The answer generally denied the allegations of that pleading and, in *New Matter*, alleged in conclusory fashion several matters, including that defendant was not negligent, that the plaintiff may have failed to state a cause of action, that the action may have been time barred, that plaintiff may have been contributorily negligent and may have assumed the risk.

Plaintiff points to the requirements of Rule 237.3(a) and argues that the petition should be dismissed because of defendant's failure to comply. It is obvious that this is true, since the answer attached to the petition was not verified, but we decline to dismiss the request based upon this ground.

Rule 237.3 continues the requirement of a meritorious defense. We do not read this requirement as being satisfied by a general denial. First, comments quite clearly indicate the intent of the drafters to continue present practice. Although this is not dispositive, it is helpful. *Commonwealth v. Reeb*, 406 Pa.Super. 28, 593 A.2d 853 (1991) alloc dn 530 Pa. 665, 610 A.2d 45 (1991). Second, the clear meaning of the rule is that defendant must state a meritorious defense, which we interpret as entailing more than saying it is not liable.

Traditional tests for opening default judgment are described in *Castings Condominium Association, Inc. v Klein*, 444 Pa.Super. 68, 663 A.2d 220 (1995). In holding that summarily denying wrong doing does not meet the requirement of showing a meritorious defense, Superior Court said:

Finally, Klein must plead an arguable meritorious defense sufficient to justify relief if proven. *Miller Block Company v. United States National Bank in Johnstown*, 389 Pa.Super. 461, 471, 567 A.2d 695, 700

(1989), alloc. den., 525 Pa 658, 582 A.2d 324 (1990).
The defendant does not have to prove every element of her defense, however, she must set forth the defense in precise, specific and clear terms.

663 A.2d at 224

Speedy administration of justice may be served by simplifying pleading requirements for defendants. The sufficiency of general denials also makes it difficult to heed arguments, advanced by defaulting defendants, about complicated issues and the need for discovery. Once a party has failed to file even a simple denial, the rule's policy is no longer served. We hold that traditional requirements of particularity are then triggered.

ORDER

AND NOW, November 26, 1996, the rule issued at the request of defendant is discharged and the petition to open judgment is denied.

VIOLA BROTHERS, INC. VS. FENTIMAN

1. One who contracts with a corporation cannot ordinarily recover from shareholders or officers of the corporation and bald allegations that the creditor dealt with individuals, or that such individuals used the corporation as alter egos, will not extricate a suit from the rule.
2. Summary judgment should be entered only in clear cases and may not be used to resolve questions of credibility.
3. A guaranty is construed according to the same rules applicable to contracts with the primary focus being on the intent of the parties and any ambiguities are to be resolved against the drafter.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 94-S-1027, VIOLA BROTHERS, INC. VS. BRIAN FENTIMAN I/T/A TILE-TECH ROOFING.

Michael Kennedy, Esq., for Plaintiff
Janice Repka, Esq., for Defendant

OPINION

Spicer, P.J., December 6, 1996.

This is an action for goods sold and delivered. Specifically, plaintiff alleges it sold roofing materials to defendant and has not been paid. The complaint, filed November 21, 1994, identifies

plaintiff as a New Jersey business corporation and defendant as an individual residing in Adams County. However, exhibits attached to the complaint indicate that the parties engaged in business dealings in New Jersey. The nature of those dealings is in dispute. Defendant claims that he dealt with plaintiff only as an officer of a corporation, Tile-Tech Roofing Corporation. Plaintiff, on the other hand, asserts that it dealt with defendant as an individual.

Defendant has moved for partial summary judgment, seeking dismissal of all claims against him except those covered by a personal guaranty. Plaintiff has filed an answer. The record supports the following assertions, contained in defendant's brief:

In or about the year 1990, the Defendant entered into a business relationship with Roddy ("Rod") Munyon. At all relevant times rod (sic) Munyon was the president of and sole shareholder of plaintiff Viola Brothers, Inc., and had authority to bind the corporation. On March 27, 1990, Brian Fentiman, Rod Munyon and a third party, Duan Park, went into business together as equal shareholders in Tile-Tech Roofing Corporation, an entity which was duly incorporated under the laws of the State of New Jersey on that date. Viola Brothers agreed to and did supply materials for projects to be jointly accomplished through the efforts of Munyon, Fentiman and Parks. Subsequently all shares in Tile-Tech Roofing Corp. were transferred to the defendant.

The last sentence of the paragraph, which appears on defendant's brief, page one, concludes with, "Viola Brothers, Inc. continued to supply materials to Tile-Tech Roofing Corp." Plaintiff disputes this contention, maintaining that at all times it dealt with Fentiman as an individual, and not with the corporation.

Defendant's brief continues as follows:

On October 16, 1992, Brian Fentiman signed the "credit application and guarantee" attached to the complaint as Exhibit B. Subsequently, Plaintiff brought this action to recover an amount Plaintiff alleges that Brian Fentiman owes to Viola Brothers, Inc. for materials supplied. id.

Plaintiff concedes that it was fully aware of the corporate status of Tile-Tech, but insists that it dealt personally with Mr. Fentiman.

A review of the record indicates that invoices, attached to the complaint, were billed in the names of "Tile-Tech Roofing and/or Brian Fentiman." In ¶25 of New Matter, Fentiman alleges "In reliance of Rod Munyon's/Viola Brothers, Inc.'s promise to supply roofing materials through Viola Brothers, Inc. by an unsecured line of credit, Brian Fentiman entered into numerous contracts for roofing work."

These parts of the pleadings could be construed as supporting plaintiff's contention.

On the other hand, the Credit Application and Guarantee, attached to the complaint as Exhibit B, contains the following:

NAME OF COMPANY OR INDIVIDUAL Tile-Tech Roofing and/or Brian Fentiman.

LIST NAMES OF ALL OWNERS OR PRINCIPAL CORPORATE (Sic) OFFICERS

a) NAME Brian Fentiman TITLE President

This exhibit supports conclusions that: a) plaintiff knew it dealt with Tile-Tech Roofing Corporation and not Fentiman, trading under a fictitious business name; and b) plaintiff dealt with Fentiman, prior to the date of the guarantee, as an officer of the cooperation.

The only signature appearing in the exhibit is that of Mr. Fentiman, who signed in his individual capacity. This could support an inference that: a) the document was intended solely as a guaranty, not a credit application, which obviated the necessity of formal corporate execution; or b) the parties regarded the business arrangement as being between plaintiff and Fentiman, individually.

Exhibit B appears under plaintiff's letterhead and was presumably prepared by it.

The law in this area is settled. One who contracts with a corporation cannot ordinarily recover from shareholders or officers of the corporation. Bald allegations that the creditor dealt with individuals, or that such individuals used the corporation as alter egos will not extricate a suit from the rule. *First RealVest, Inc. v. Avery Builders, Inc.*, 410 Pa. Super 572, 600 A.2d 601 (1991). There, as in the case before us, a plaintiff alleged that it had contracted with corporate officers and attempted to collect a debt from them. A demurrer to the complaint was sustained.

Our case presents somewhat different facts, but the question remains whether they require a result different than that reached in

First RealVest, *supra*. Before we address that problem, we should point out that there are no issues involving the general requirement that guarantees must be in writing. Thus, we do not have to determine whether exceptions, such as that presented in *Webb Manufacturing Co. v. Sinoff*, 449 Pa. Super 534, 674 A.2d 723 (1996), apply. Nor are there questions involving piercing the corporate veil, such as were discussed in *Village at Camelback v. Carr*, 371 Pa. Super 452, 538 A.2d 528 (1988), affirmed *per curiam*, 524 Pa. 330, 572 A.2d 1 (1990). Instead, the sole issue is whether plaintiff has presented sufficient facts to bolster general allegations that it contracted with Fentiman and not the corporation. It has this obligation, even when dealing with summary judgment, because it bears the burden of proof on this point. *Ertel v. Patriot-News Co.*, 544 Pa. 93, 674 A.2d 1038 (1996).

We are mindful that summary judgment should be entered only in clear cases, and may not be used to resolve questions of credibility. *RTC v. Urban Redevelopment Authority*, 536 Pa. 219, 638 A.2d 972 (1994).

At first glance, with plaintiff saying it dealt with Fentiman and Fentiman countering that plaintiff dealt with Tile-Tech Roofing Corporation, it would seem that issues of credibility preclude summary judgment. On the other hand, merely saying that the contract was with an individual will not sustain plaintiff's burden. *First RealVest, supra*.

A guaranty is construed according to the same rules applicable to contracts, with the primary focus being on the intent of the parties. Any ambiguities are to be resolved against the drafter. *Meeting House Lance, Ltd. v. Melso*, 427 Pa. Super 118, 628 A.2d 854 (1993). Although Exhibit B purports to be an application for credit, as well as a "guarantee," it is clear the parties construed it as a guaranty. Paragraph 11, of the complaint, alleges: "Defendant BRIAN FENTIMAN, hereinafter referred to as "Guarantor," executed a written person guarantee, wherein guarantor personally guaranteed the repayment of any and all extensions of credit Plaintiff would advance to Defendant herein." If plaintiff did, in fact, deal with Fentiman as an individual, and not as a corporate officer, there would have been no need for the guaranty.

The manner in which plaintiff has responded to arguments about the effect of the guaranty is enlightening. Defendant seeks to limit

liability on the action alleged in Count II to sales occurring after the guaranty was executed. Since Count II is expressly based upon the document, defendant is clearly correct in his position. 17 P.L.E. Guaranty §6. Plaintiff argues that summary judgment should not be granted because of issues of credibility. It has not enlightened us on why this is true. Generally, interpretation of a contract is a matter of law, for the court to determine. Meeting House Lance, Ltd. v. Melso, supra. Plaintiff has not pointed to any ambiguities which would make this rule inapplicable. Defendant is clearly entitled to partial judgment concerning Count II, with exposure being limited to transactions occurring after the guaranty was signed.

Plaintiff's approach also raises questions about other arguments it has propounded. These also amount to assertions that it contracted with defendant, not the corporation, and that credibility issues preclude summary judgment. The only factual basis in the record for these assertions are the invoices and, perhaps, defendant's statement in New Matter, supra. Several observations are justified. First, the invoices reflect the same wording as the guaranty, which is "Tile-Tech Roofing and/or Brian Fentiman." Since the record clearly indicates that Exhibit B represents an effort to make Fentiman personally liable for corporate debt, the invoice wording loses much of its significance. We cannot expect every commercial document to reflect sophisticated legal niceties. We know, from experience, that invoices are often written to identify a corporate or business representative with whom seller has dealt. Therefore, Fentiman's name on invoices is not really persuasive.

However, deciding that the invoices, alone, do not justify the imposition of personal liability does not end the matter. The question becomes whether repeated allegations by plaintiff that it dealt only with Fentiman have received enough support to require trial. Although Fentiman may be entitled to exoneration from the business debt, except to the extent of the guaranty, doubt glimmers. In light of the procedural posture of the case, we see no need to agonize over a decision, at this point. This case is scheduled for a bench trial in the near future. As a practical matter, little would be gained by granting the motion. Fentiman may properly be held liable for purchases subject to the guaranty and will be required to participate in the trial whether or not relief is granted as requested. Little inconvenience should be caused by litigating general issues of personal liability, at trial.

This opinion is issued this 6th day of December, 1996, to explain the order entered December 6, 1996.

ORDER OF COURT

AND NOW, this sixth day of December, 1996, partial summary judgment is granted in favor of defendant and against plaintiff on Count II, to the extent that defendant shall not be liable, on the guaranty, for goods sold and delivered before October 16, 1992. Otherwise, the motion for partial summary judgment is refused. The Court Administrator is directed to schedule this case for a day and a half bench trial during the Civil Term beginning December 16, 1996.

An opinion will be issued in due course.

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 MARION H. CULP, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Administrator: David C. Houck, P.O. Box 595, Arendtsville, PA 17303-0595

ESTATE OF DELBERT H. DAVISSON, DEC'D

Late of Liberty Township, Adams County, Pennsylvania
 Executor: Jack Blake, 6 Frederick Road, Thurmont, MD 21788
 Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF FRANCES M. FRANCIS, a/k/a FRANCES FRANCIS, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania
 Executrix: Carol Jean Brandewie, a/k/a Carol J. Brandewie, 200 Longstreet Drive, Gettysburg, PA 17325
 Attorney: Swope, Heiser & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF FANNIE LARUE GOSNELL, DEC'D

Late of Germany Township, Adams County, Pennsylvania
 Co-Administrators: Mr. Arthur M. Stonesifer, 8 Stull Drive, Thurmont, MD 21788; Mr. John Luther Stonesifer, 3965 Littlestown Pike, Westminster, MD 21158
 Attorney: David K. James, III, Esquire, 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF ALMA M. MYERS, DEC'D

Late of the Borough of Fairfield, PA, Adams County, Pennsylvania
 Executor: Lloyd G. Myers, 38540 West 319th, Paola, KS 66071
 Attorney: Robert E. Campbell, Esq., Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF BOYD L. OLLER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania
 Executor: Donald B. Oller, 1281 New Road, Orrtanna, PA 17353
 Attorney: Harold A. Eastman, Jr., Phul & Eastman, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF PAULINE MARY POIST, DEC'D

Late of Hanover, Adams County, Pennsylvania
 Executrices: Linda Becker and Brenda Kopp, c/o 250 York Street, Hanover, PA 17331
 Attorney: Samuel K. Gates, 250 York Street, Hanover, PA 17331

ESTATE OF ELIZABETH G. VANLIER, DEC'D

Late of 208 Latimore Creek Rd., York Springs, Adams County, Pennsylvania
 Executrices: Francisca E. Eperthener and/or Gabriella E. Higgins, 208 Latimore Creek Road, York Springs, PA 17372
 Attorney: Jan M. Wiley, Esquire, One South Baltimore Street, Dillsburg, PA 17019

ESTATE OF RUBY L. WETZEL, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania
 Executors: P. Wendell Wetzal, P.O. Box 55, Aspers, PA 17304; Genevieve Weigle, 915 Flesham Mill Road, New Oxford, PA 17350
 Attorney: Robert E. Campbell, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF JAMES M. YINGLING, DEC'D

Late of Conewago Township, Adams County, Pennsylvania
 Executrix: Julie A. Cromer, 32 West Locust Lane, New Oxford, PA 17350
 Attorney: John James Mooney, III, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF KATHRYN I. HERSHEY, DEC'D

Late of Conewago Township, Adams County, Pennsylvania
 Executors: Charles A. Hershey, 303 Oxford Avenue, Hanover, PA 17331
 Attorney: Keith A. Hassler, Attorney at Law, 9 North Beaver Street, York, PA 17401

ESTATE OF FREDERICK G. KAUFFMAN, DEC'D

Late of Butler Township, Adams County, Pennsylvania
 Executor: Adams County National Bank, Attn: Nancy L. Reichart, Sr. Vice President, Lincoln Square Office, P.O. Box 4566, Gettysburg, PA 17325
 Attorney: John A. Wolfe, Esquire, Wolfe & Rice, 47 West High Street, Gettysburg, PA 17325

ESTATE OF FRANCES E. McGLAUGHLIN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
 Co-Executors: Robert L. McGlaughlin, 380 Blacksmith Shop Road, Gettysburg, PA; Emily A. Matthews, 2330 Granite Station Road, Gettysburg, PA 17325

ESTATE OF CLYDE L. MUMMERT, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania
 Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325
 Attorney: Donald E. Albright, Esquire, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF MARGUERITE A. SHOPP, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania
 Executors: Larry E. Wiseman, 67 West Hanover Street, Gettysburg, PA 17325; Faye J. King, 2375 Granite Station Road, Gettysburg, PA 17325
 Attorney: Keith R. Nonemaker, Esquire, Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

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 October 16, 1997, for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is WILDASIN TOOL SALES, INC.

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

11/21

LEGAL NOTICE

THE Annual meeting of the policyholders of Protection Mutual Insurance Company of Littlestown will be held at the office at 101 South Queen Street, Littlestown, Pennsylvania between the hours of 1:00 and 2:00 P.M. on January 10, 1998 to elect directors and to transact any other business properly presented.

ATTEST, Marilyn Q. Butt
Secretary-Treasurer

11/21, 28, 12/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-636 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of December, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 92 on a Plan of Lots of Lake Meade Subdivision duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, in Plat Book 1, page 1 which description is incorporated herein by reference.

UNDER AND SUBJECT to all legal highways, easements, rights of way and restrictions of record.

IT BEING the same premises which Alvin H. Ruby and Helen M. Ruby, husband and wife, by their deed dated October 29, 1993 and recorded on November 4, 1993 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 803, page 52, granted and conveyed unto Douglas Gayman and Deborah Gayman.

TAX MAP NO. 8, PARCEL 87.

SEIZED and taken into execution as the property of **Douglas Gayman and Deborah Gayman** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
November 4, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 12, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/21

IN THE
COURT OF COMMON PLEAS
OF ADAMS COUNTY,
PENNSYLVANIA
CIVIL ACTION—DIVORCE
NO. 95-S-445

George N. Jing, Plaintiff,

vs.

Rosa Wilkerson Jing, Defendant.

NOTICE TO DEFEND
AND CLAIM RIGHTS

YOU ARE BEING SUED IN COURT. Your husband has claimed that you have been separated from him for two years and he is seeking divorce on that basis. If you wish to defend against the divorce action, you must take prompt action. You are warned that if you fail to do so, the case may proceed without you and a decree of divorce or annulment may be entered against you by the court. A judgment may also be entered against you for any other claim or relief requested in the divorce by the plaintiff. You may lose money or property or other rights important to you, including custody or visitation of your children.

When the ground for the divorce is indignities or irretrievable breakdown of the marriage, you may request marriage counseling. A list of marriage counselors is available in the Office of the Prothonotary at the Adams County Courthouse, First Floor, Gettysburg, Pennsylvania.

IF YOU DO NOT FILE A CLAIM FOR ALIMONY, DIVISION OF PROPERTY, LAWYER'S FEES OR EXPENSES BEFORE A DIVORCE OR ANNULMENT IS GRANTED, YOU MAY LOSE THE RIGHT TO CLAIM ANY OF THEM.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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

11/21

Adams County **Legal Journal**

Vol. 39

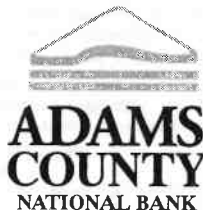
November 28, 1997

No. 27, pp. 151-156

IN THIS ISSUE

FITZPATRICK VS. PENN ADVERTISING, INC.

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices. Published every Friday by Adams County Bar Association, Donald G. Oyler, Esq., Editor and Business Manager.

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Business Office - 112 Baltimore Street, Gettysburg, PA 17325. Telephone: (717) 334-1193

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NOTICE

NOTICE IS HEREBY GIVEN that Christina M. Simpson, Esquire, and Paul T. Dean, Esquire, intend to apply in open Court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 22nd day of December, 1997, and that both candidates are practicing law full-time as Assistant District Attorneys at the Office of the District Attorney of Adams County at the Adams County Courthouse at 111-117 Baltimore Street, Gettysburg, Pennsylvania, 17325.

11/14, 21 & 28

LEGAL NOTICE

THE Annual meeting of the policyholders of Protection Mutual Insurance Company of Littlestown will be held at the office at 101 South Queen Street, Littlestown, Pennsylvania between the hours of 1:00 and 2:00 P.M. on January 10, 1998 to elect directors and to transact any other business properly presented.

ATTEST, Marilyn Q. Butt
Secretary-Treasurer

11/21, 28, 12/5 & 12

CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN that Application for Certificate of Authority was filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on or about October 22, 1997, on behalf of JOHNS HOPKINS PHARMAQUIP, INC., under the provisions of the Nonprofit Corporation Law of 1988. JOHNS HOPKINS PHARMAQUIP, INC. is incorporated under the jurisdiction of the State of Maryland. The address of the principal office under the laws of the jurisdiction in which it is incorporated is 2400 Broening Highway, Baltimore, MD 21224. The initial registered office of the corporation in this Commonwealth is 126 Baltimore Street, Gettysburg, PA 17325.

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

11/28

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 October 1, 1997, for the purpose of incorporating a Domestic Non-Profit Business Corporation organized under the Pennsylvania Non-Profit Corporation Law of 1988, as amended. The name of the Corporation is MANAGED IMAGING NETWORK, LTD.

The corporation is a not for profit corporation organized exclusively for the purpose of conducting lawful business activities relating to health.

Kegel, Chesters & Miller LLP

11/28

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-636 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of December, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 92 on a Plan of Lots of Lake Meade Subdivision duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, in Plat Book 1, page 1 which description is incorporated herein by reference.

UNDER AND SUBJECT to all legal highways, easements, rights of way and restrictions of record.

IT BEING the same premises which Alvin H. Ruby and Helen M. Ruby, husband and wife, by their deed dated October 29, 1993 and recorded on November 4, 1993 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 803, page 52, granted and conveyed unto Douglas Gayman and Deborah Gayman.

TAX MAP NO. 8, PARCEL 87.

SEIZED and taken into execution as the property of **Douglas Gayman and Deborah Gayman** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
November 4, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 12, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/21, 28, 12/5

FITZPATRICK VS. PENN ADVERTISING, INC.

1. When a non-moving party must adduce sufficient evidence on an issue essential to his case and on which he bears the burden of proof such that a jury could return a verdict in his favor and he fails to do so, there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

2. Time is always of the essence in an option contract and, in addition, notice of intent to exercise the option must be given in compliance with the provisions of the contract.

3. Punitive damages may be awarded for conduct that is outrageous, because of the Defendant's evil motive or his reckless indifference to the rights of others.

4. In determining whether punitive damages should be awarded, the state of mind of the actor is vital since the act, or the failure to act, must be intentional, reckless or malicious.

5. Punitive damages are appropriate only where there has been conduct more egregious than that which establishes the underlying tort.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 95-S-271, WILLIAM FITZPATRICK AND BARBARA FITZPATRICK VS. PENN ADVERTISING, INC.

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

George T. Cook, Esq., for Defendant

OPINION ON CROSS MOTIONS FOR SUMMARY JUDGMENT

Kuhn, J., December 18, 1996.

Plaintiffs, William and Barbara Fitzpatrick, filed an Amended Complaint against Defendant, Penn Advertising, Inc., setting forth a count for declaratory judgment and a count in trespass. The controversy focuses on the validity of a lease. Both parties have filed motions for summary judgment.

Pa. R.C.P. 1035.2(2) allows a court to enter summary judgment

if, after the completion of discovery relevant to the motion, including the production of experts reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

Therefore, when a non-moving party must adduce sufficient evidence on an issue essential to his case and on which he bears the burden of proof such that a jury could return a verdict in his favor and he fails to do so there is no genuine issue of material fact and the moving party

is entitled to judgment as a matter of law. *Ertel v. Patriot-News Company*, ___ Pa. ___, ___, 647 A.2d 1038, 1042 (1996).

With this standard in mind the record has revealed the following background. On March 14, 1985, Mrs. Melvin M. Nace, Sr. entered into a written lease with Defendant for the leasing of advertising billboard space. The term of the lease was April 1, 1985 - April 1, 1990 for a fee of \$2,000.00 payable in \$400.00 advance annual installments. The lease contained a renewal provision which stated,

... with the right of the Lessee to renew this lease for an additional ten year term upon the same terms and conditions. It is agreed that such right of renewal shall be considered as having been exercised by the Lessee by continued occupancy of the premises and payment of rent in the manner herein provided for, at the expiration of the term of this lease or any extension thereof.

Annual lease payments were made in April of each year from 1985-1989. Mrs. Nace died in January, 1988, and thereafter her estate was attempting to sell the real estate upon which the billboards were erected. Mrs. Nace's son, Dean, was the person primarily involved with the real estate after his mother's death.

On March 27, 1990, several days before the expiration of the lease, Stewart S. Olewiler, III, Defendant's Real Estate Manager, wrote a letter to Mrs. Nace which contained a copy of a proposed new lease for a five year term at \$600.00 per year. Dean Nace contacted Mr. Olewiler and rejected the offer. Subsequently, on April 26, 1990, Mr. Olewiler wrote to Mr. Nace. This correspondence contained a \$400 check payable to Mrs. Nace and the following language in reference to the 1985 lease.

One of the conditions of this lease is an automatic renewal clause. Although this is a seldom used clause, I feel that in this instance the invoking of this clause would benefit both Penn Advertising and you in resolving the lease at this time. Therefore, Penn Advertising is exercising its (sic) option to invoke this automatic renewal clause, at least to cover the April 1990 - April 1991 period. When the situation of the land sale is cleared up we can hopefully negotiate a new lease with whomever is in possession of the land.

Mr. Nace accepted and deposited the \$400 check. Furthermore, it appears that annual \$400 payments were made through April, 1993. Mr. Nace reported believing that the lease agreement was year-to-year during this period.

In January, 1994, Plaintiffs entered into a written agreement to purchase the Nace real estate. By mid March, 1994, Plaintiffs made inquiry of the real estate listing agent regarding the status of the advertising billboards. At that time Mr. Nace spoke to Defendant's representative, Thomas Rende, indicated that there was a buyer for the real estate and he wanted a month-to-month lease for the billboards from that point forward. Mr. Nace testified that Mr. Rende agreed to this proposal. Beginning in April, 1994, Defendant began forwarding monthly checks to Mr. Nace in the amount of \$33.33.

Plaintiffs settled for the real estate on July 7, 1994, and five days later notified Defendant in writing to remove the billboards. On August 8, 1994, Mr. Rende was verbally notified not to forward any additional rent checks. Defendant refused to remove the billboards so Plaintiffs reissued the July 12, 1994, letter and on August 30, 1994, their attorney also notified Defendant in writing to remove the signs.

Subsequently, over the following 3-4 months Defendant attempted unsuccessfully to negotiate a new lease arrangement with Plaintiffs. Defendant's efforts to post new advertising and to make certain repairs were also resisted.

It is clear from a reading of the lease that Defendant had a right of renewal at the end of the 1985 lease for a ten year period upon the same terms and conditions as the original lease. Defendant's March 27, 1990, offer to enter into a new lease is of no import in the resolution of this matter because that offer was rejected by Mr. Nace. Our initial concern must focus on Defendant's April 26, 1990, letter which Defendant claims invoked the renewal clause.

The 1985 lease by its terms expired on April 1, 1990. The lease contained no specific date by which Defendant had a unilateral right to renew the lease. The question then becomes whether the attempt to renew was timely. As stated in *Bantam Four Cinemas, Inc. v. Zamias*, 375 Pa. Super. 311, 544 A.2d 487 (1988).

It is well-settled law that an option will expire unless it is timely exercised...Moreover, it is equally well-settled that time is always of the essence in an option contract...In addition, notice of intent to exercise the option must be given in compliance with provisions of the contract...

375 Pa. Super. at 316, 544 A.2d at 489.

That Court went on to further add that the timely notice requirement may be waived by agreement or by conduct of the parties.

Here, renewal seems to be contingent upon continued occupancy by Defendant and "payment of rent in the manner herein provided for."

The first contingency is not disputed. The second contingency is questioned. Payment under the lease is to be in "equal \$400.00 advance annual installments." The payment tendered on April 26, 1990, was 26 days into the alleged renewal period rather than in advance. A close reading of this lease suggests to the Court that time was of the essence and that Defendant needed to tender the payment before April 1, 1990, in order to timely invoke the automatic renewal clause.

However, there appears to be a factual question whether Mr. Nace then waived the timeliness requirement when he accepted the \$400.00 payment tendered in the April 26, 1990, correspondence. Whether a waiver occurred is a jury question. Mr. Nace has indicated that he believed the lease had become year-to-year. If Defendant's letter is interpreted to be an intent to renew for the full 10 year period allowed under the lease Mr. Nace's conduct may be determined to be an acceptance of that term and a waiver of any timeliness argument.

Moreover, a jury question arises as to the meaning of the April 26, 1990, letter. As stated above, a fact finder may well conclude the letter was intended as an attempt to effectuate a 10 year renewal. On the contrary, a fact finder may also conclude that Defendant was only invoking the renewal on a year-to-year basis by adding the phrase "at least to cover the April 1990 - April 1991 period."

Furthermore, by March, 1994, before the annual renewal date if the lease is determined to be year-to-year, Mr. Nace advised Defendant that he wanted to go month-to-month. Defendant's records could suggest to a jury that Defendant accepted this modification. That determination must await another day.

Without attempting to suggest an issue's insignificance the Court nevertheless dismisses Plaintiffs' claim that the lease is an adhesion contract without an in-depth discussion. Suffice it to say that the record fails to establish the requisite attributes of an adhesion contract. *Denlinger, Inc. v. Denlinger*, 415 Pa. Super. 164, 608 A.2d 1061 (1992).

In Count II Plaintiffs set forth a claim for trespass alleging that Defendant has wrongfully remained on the premises since July, 1994. They seek punitive damages. They argue that Defendant's refusal to remove the billboards is outrageous conduct. Both parties seek pre-trial disposition of Plaintiffs' right to an award of punitive damages.

The Superior Court in *Smith v. Celotex Corp.*, 387 Pa. Super. 340, 564, A.2d 209 (1989), discussed the guidelines for determining whether punitive damages are appropriate in a given set of circumstances.

It has long been the law of Pennsylvania that punitive damages are appropriate only in the most circumscribed

situations. Section 908 of the Restatement (Second) of Torts, which has been adopted in Pennsylvania, sets forth the governing principles for awards of punitive damages:

Punitive damages may be awarded for conduct that is outrageous, because of the defendant's evil motive or his reckless indifference to the rights of others. In assessing punitive damages, the trier of fact can properly consider the character of the defendant's act, the nature and extent of the harm to the plaintiff that the defendant caused or intended to cause and the wealth of the defendant.

Restatement (Second) of Torts, Section 908(2) (1965). See also *Rizzo v. Haines*, 520 Pa. 484, 555 A.2d 58, 69 (1989); *Kirkbride v. Lisbon Contractors, Inc.*, 521 Pa. 97, 555 A.2d 800 (1989); *Martin v. Johns Manville Corp.*, 508 Pa. 154, 168, 494 A.2d 1088, 1096 (1985) (plurality); *Chambers v. Montgomery*, 411 Pa. 339, 344, 192 A.2d 355, 358 (1963).

The reckless disregard of the rights of others that is required under Section 908 is further explained by Section 500 of the Restatement, which defines "reckless disregard" as follows:

The actor's conduct is in reckless disregard of the safety of another if he does an act or intentionally fails to do an act which it is his duty to the other to do, knowing or having reason to know of facts which would lead a reasonable man to realize, not only that his conduct creates an unreasonable risk of physical harm to another, but also that such risk is substantially greater than that which is necessary to make his conduct negligent.

Restatement (second) of Torts, Section 500 (1965).

Thus, as the Supreme Court opined in *Feld v. Merriam*, 506 Pa. 383, 485 A.2d 742 (1984), in determining whether punitive damages should be awarded. "(t)he state of mind of the actor is vital. The act, or the failure to act, must be intentional, reckless or malicious." *Id.* at 396, 485 A.2d at 748. See also *Rizzo v. Haines*, *supra*; *Thomas v. American Cytoscope Makers, Inc.*, 414 F.Supp. 255 (E.D.Pa. 1976); *Neal v. Carey Canadian Mines, Ltd.*, 548 F.Supp. 357, 374

(E.D.Pa. 1982). This focus is unquestionably proper, since the purpose of punitive damages is to punish the defendant's conduct and deter similar behavior in future. See Kirkbride, supra; Restatement (Second Torts, Section 908(1). Where the defendant has acted in a merely negligent manner, or even a grossly negligent manner, there is insufficient culpability and awareness by the defendant of the nature of his acts and of their potential results either to warrant punishment or effectively to deter similar future behavior. 387 Pa. Super. at 343-5; 564 A.2d at 210-11.

Furthermore, it is the conduct and not the results which make it outrageous. *Kebe v. Timeless Towns of America* (No. 2), 30 Ad. Co. L.J. 169, 175 (1988). Punitive damages are appropriate only where there has been conduct more egregious than that which establishes the underlying tort. *Geyer v. Sternbann*, 351 Pa. Super. 536, 562, 506 A.2d 901, 915 (1986).

Obviously, if Defendant is found to have a valid lease for its billboards no trespass, and thus no punitive damages, would result. The trespass would only occur if the lease was expired and Defendant refused to depart. If Defendant was acting in a good faith but erroneous reliance upon its belief that a valid lease existed punitive damages would not be appropriate. It is only upon a finding that Defendant knew it did not have a valid lease and refused to depart that any consideration could be given to punitive damages, and even then one might well question whether that conduct was more egregious than the underlying tort.

Under the circumstances here presented we find that punitive damages would not be appropriate. Even viewed in a light most favorable to Plaintiffs the record shows conduct no worse than Defendant's refusal to remove its billboards. This is no more egregious than the underlying trespass. This conduct differs significantly from the destruction of one's property by reckless indifference. *Kirkbride v. Lisbon Contractors, Inc.*, 385 Pa. Super. 292, 560 A.2d 809 (1989).

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 18th day of December, 1996, the motion for summary judgment filed by each party is denied.

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 GRACE L. BIGELOW, DEC'D

Late of Gettysburg Borough, Adams County, Pennsylvania
Administrators c.t.a.: Rita Marie Gibbons, 155 White Church Road, Gettysburg, PA 17325; Lois Morningred, 19 Green Hill Road, Newport, PA 17074
Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF CATHARINE V. DEITZ, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Executor: Herbert E. Spangler
Attorney: Stephen P. Linebaugh, Esquire, 119 East Market Street, York, PA 17401

ESTATE OF HERBERT ELI GRIEST, a/k/a HERBERT E. GRIEST AND H. E. GRIEST, DEC'D

Late of Huntington Township, Adams County, Pennsylvania
Executor: Alvin Griest, 1170 Upper Bermudian Road, Gardners, PA 17324
Attorney: John C. Zepp, III, Esquire, P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF FRANCES A. HUFNAGEL, DEC'D

Late of Conewago Township, Adams County, Pennsylvania
Executors: Peter T. Hufnagel, 5473 Hanover Road, Hanover, PA 17331; Julia Ann Neiderer, 1090 Water Drive, Hanover, PA 17331; Benjamin F. Hufnagel, Sr., 80 Witmer Road, Hanover, PA 17331
Attorney: Ronald J. Hagaman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF WALTER A. WHISLER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania
Executrix: Lois E. Whisler, 539 Oxford Ave., Hanover, PA 17331
Attorney: G. Steven McKonly, 119 Baltimore Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF MARION H. CULP, DEC'D

Late of Straban Township, Adams County, Pennsylvania
Administrator: David C. Houck, P.O. Box 595, Arendtsville, PA 17303-0595

ESTATE OF DELBERT H. DAVISSON, DEC'D

Late of Liberty Township, Adams County, Pennsylvania
Executor: Jack Blake, 6 Frederick Road, Thurmont, MD 21788
Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF FRANCES M. FRANCIS, a/k/a FRANCES FRANCIS, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania
Executrix: Carol Jean Brandewie, a/k/a Carol J. Brandewie, 200 Longstreet Drive, Gettysburg, PA 17325
Attorney: Swope, Heiser & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF FANNIE LARUE GOSNELL, DEC'D

Late of Germany Township, Adams County, Pennsylvania
Co-Administrators: Mr. Arthur M. Stonesifer, 8 Stull Drive, Thurmont, MD 21788; Mr. John Luther Stonesifer, 3965 Littlestown Pike, Westminster, MD 21158
Attorney: David K. James, III, Esquire, 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF ALMA M. MYERS, DEC'D

Late of the Borough of Fairfield, PA, Adams County, Pennsylvania
Executor: Lloyd G. Myers, 38540 West 319th, Paola, KS 66071
Attorney: Robert E. Campbell, Esq., Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF BOYD L. OLLER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania
Executor: Donald B. Oller, 1281 New Road, Orrtanna, PA 17353
Attorney: Harold A. Eastman, Jr., Phul & Eastman, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF PAULINE MARY POIST, DEC'D

Late of Hanover, Adams County, Pennsylvania
Executrices: Linda Becker and Brenda Kopp, c/o 250 York Street, Hanover, PA 17331
Attorney: Samuel K. Gates, 250 York Street, Hanover, PA 17331

ESTATE OF ELIZABETH G. VANLIER, DEC'D

Late of 208 Latimore Creek Rd., York Springs, Adams County, Pennsylvania
Executrices: Francisca E. Eperthener and/or Gabriella E. Higgins, 208 Latimore Creek Road, York Springs, PA 17372
Attorney: Jan M. Wiley, Esquire, One South Baltimore Street, Dillsburg, PA 17019

ESTATE OF RUBY L. WETZEL, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania
Executors: P. Wendell Wetzell, P.O. Box 55, Aspers, PA 17304; Genevieve Weigle, 915 Fleshman Mill Road, New Oxford, PA 17350
Attorney: Robert E. Campbell, Esquire, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF JAMES M. YINGLING, DEC'D

Late of Conewago Township, Adams County, Pennsylvania
Executrix: Julie A. Cromer, 32 West Locust Lane, New Oxford, PA 17350
Attorney: John James Mooney, III, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

