

Adams County Legal Journal

Vol. 37

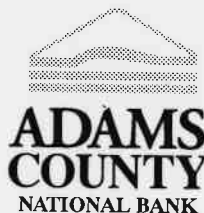
October 6, 1995

No. 19, pp. 97-100

IN THIS ISSUE

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

LEGAL NOTICE
NO. 95-S-860
Action to Quiet Title

GARY M. MARKOE, Plaintiff,
vs.

ALEXANDER MELNICHAK, MILDRED
B. MELNICHAK and LOUISE PITTMAN,
their heirs, successors or assigns, De-
fendants.

TO: Alexander Melnichak, Mildred B.
Melnichak and Louise Pittman

TAKE NOTICE that on September 18,
1995, Gary M. Markoe filed a Complaint
in Action to Quiet Title against Alexander
Melnichak, Mildred B. Melnichak and
Louise Pittman, averring that Gary M.
Markoe is the owner of the real property
described herein. The Complaint requests
the Court to extinguish any possible inter-
est you may have in said real estate.
The subject property is a tract of land
situate in the Borough of Carroll Valley
(formerly Liberty Township), Adams
County, Pennsylvania, being Lot No. 10
in Section IW, bounded and described as
follows:

BEGINNING at a point in the center of
Dora Trail at Lot No. 9; thence by said lot
South 37 degrees 35 minutes 40 sec-
onds West, 225.18 feet to Lot No. 6;
thence by said lot North 54 degrees 43
minutes 20 seconds West, 102.07 feet to
Lot No. 11; thence by said lot North 37
degrees 35 minutes 40 seconds East,
225.18 feet to a point in the center of said
Dora Trail; thence in said Dora Trail South
54 degrees 43 minutes 20 seconds East,
102.07 feet to the place of BEGINNING.

The above description was taken from
a plan of lots labeled "Section IW,
Charnita" dated September 19, 1969,
prepared by Gordon L. Brown, R.S., and
recorded in Adams County Plat Book 1 at
Page 58.

BEING THE SAME WHICH Louise
Pittman, single woman, by deed dated
March 14, 1980, and recorded in the
Office of the Recorder of Deeds of Ad-
ams County, Pennsylvania, in Deed Book
351 at Page 141, sold and conveyed unto
Gary M. Markoe, Plaintiff herein.

The Complaint requested the Court to
enter a Decree and Order that the title of
the property described above is in the
Plaintiff and that the Defendants be for-
ever barred from asserting any right, lien,
title or interest in the said land inconsis-
tent with the interests of the Plaintiff as

set forth in his Complaint.

WHEREFORE, the Court of Common
Pleas of Adams County, Pennsylvania,
has ordered that service of the Com-
plaint be made on the Defendants,
Alexander Melnichak, Mildred B.
Melnichak and Louise Pittman, their heirs,
personal representatives, successors or
assigns, by publication. Plaintiff will re-
quest the Court to enter a final judgment
ordering that any possible legal interest
the Defendants might have had in the
property be extinguished.

NOTICE TO DEFEND

You have been sued in Court. If you
wish to defend against the claims set
forth in the following pages, you must
take action within twenty (20) days after
the Complaint is served, by entering a
written appearance personally, or by at-
torney 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 CAN-
NOT AFFORD ONE, GO TO OR TELE-
PHONE THE OFFICE SET FORTH BE-
LOW TO FIND OUT WHERE YOU CAN
GET LEGAL HELP:

Court Administrator's Office
Adams County Courthouse
Gettysburg, PA 17325
Telephone: (717) 334-6781

Hartman & Yannetti
Gary E. Hartman
126 Baltimore Street
Gettysburg, PA 17325

10/6

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Ar-
ticles of Incorporation were filed with the
Department of State, Commonwealth of
PA, on September 5, 1995, by JUBI-
LATE, a Pennsylvania non-profit corpora-
tion, with its registered office at 1805
Biglerville Road, Gettysburg, PA 17325,
pursuant to the provisions of Article VII of
the Nonprofit Corporation Law of the Com-
monwealth of PA, as amended.

Wm. D. Schrack, III
Solicitor

10/6

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that
WILLIAMS TRUCKING, INC. has filed
Articles of Incorporation in the Depart-
ment of State of the Commonwealth of
Pennsylvania and has been incorporated
under the provisions of the Business Cor-
poration Law of 1988.

10/6

NOTICE

In Re: Estate of Ima R. Shaffer, an
incapacitated person - Adams County
Orphans' Court No. OC-33-95.

NOTICE IS HEREBY GIVEN that Ad-
ams County National Bank, plenary
guardian of the above estate, has filed a
petition requesting permission to sell the
incapacitated person's real estate lo-
cated at 256 Peakview Road, Latimore
Township, Adams County, Pennsylvania,
at public sale. The Orphans' Court of
Adams County, by decree dated Sep-
tember 28, 1995, has authorized the
plenary guardian to expose the real es-
tate for public sale through C. David
Redding, Auctioneer, at 12:30 p.m. on
October 21, 1995 at the premises. The
Conditions of Sale will be read immedi-
ately prior to the sale. If no objections are
filed to the decree of the Court, or objec-
tions made to the sale, and the real
estate is struck down as sold, a return of
public sale will be made to the Court and
the Court will be asked to approve and
confirm the sale on November 20, 1995
at 9:00 a.m. in Courtroom No. 1 of the
Adams County Courthouse, Gettysburg,
Pennsylvania.

Teeter, Teeter & Teeter
108 West Middle Street
Gettysburg, PA 17325
Attorneys for the Guardian

10/6, 13, 20

J.C.P. INC. VS. SNEERINGER, ET AL.

1. Summary judgment may be entered only in cases that are clear and free from doubt and the moving party has the burden of proving that no material issue of fact exists.

2. Official immunity is not a protection from damages being sought in a mandamus action.

3. While a person who fails or refuses to perform a duty required by law without lawful justification is liable for damages in a mandamus action to the person aggrieved by that failure or refusal, such damages are not plenary but are those incidental to the specific relief being sought.

4. Pursuant to the doctrine of res judicata, a final judgment on the merits by a court of competent jurisdiction will bar any future suit between the parties or their privies in connection with the same cause of action.

5. The application of the doctrine of res judicata requires the concurrence of four conditions between the present and prior actions: 1) identity of issues; 2) identity of causes of action; 3) identity of parties or their privies; and 4) identity of the quality or capacity of the parties suing or being sued.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 90-S-905, J.C.P. INC. VS. SAMUEL SNEERINGER, DWIGHT ADAMS, EVAN BUTLER, BEVERLY BREAM, RICHARD FUHRMAN, BOARD OF SUPERVISORS OF CONEWAGO TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA.

Glenn C. Vaughn, Esq., for Plaintiff

James W. Hennessey, Esq., for Defendants

OPINION ON DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT

Kuhn, J., May 1, 1995.

This is an action in mandamus filed by Plaintiff, J.C.P., Inc., against individual members of the Board of Supervisors of Conewago Township. Simply stated, it is conceded that the Board improperly enacted a moratorium regarding a proposed subdivision project being developed by Plaintiff. The improper moratorium covered the period from its enactment on January 22, 1990, until it was lifted by Court Order dated November 19, 1990.

Plaintiff now seeks damages caused by the delay in the Board's action. Plaintiff describes those damages in three parts. First, it claims that it was required to pay slightly in excess of \$50,000 more for the land it intended to develop than the original contract price due to a consumer price index clause. Second, it seeks recovery of \$176,000 which it claims represents the increase in cost of improvements such

as streets, curbs, sidewalks, sewer and water installations caused by the delay. Finally, Plaintiff demands \$2,500 in interest expense relating to development costs.

At issue is Defendants' Motion For Summary Judgment wherein they raised three issues: official immunity, *res judicata* and that Plaintiff's alleged damages are speculative.

As this Court stated in *Higgs v. Hanover Brick and Block Company*, 36 Ad. Co. L.J. 201, 202 (1994),

Summary judgment may be granted if the pleadings, depositions, answers to interrogatories and admissions on file show that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law...Summary judgment may be entered only in cases that are clear and free from doubt...The moving party...has the burden of proving that no material issue of fact exists...*Allstate Insurance Co. v. McFadden*, 407 Pa. Super. 537, 540, 595 A.2d 1277, 1278 (1991); *Alloc. den.* 602 A.2d 855 (1991) (citations omitted).

In addition, the record must be examined in a light most favorable to the non-moving party, accepting as true all well-pleaded facts in the pleadings and giving that party the benefit of all reasonable inferences drawn therefrom. *Godlewski v. Pars Manufacturing Company*, 408 Pa. Super. 425, 430, 597 A.2d 106, 109 (1991). Finally, pursuant to the *Nanty-Glo* rule, summary judgment is not available where the moving party relies exclusively upon oral affidavits or depositions to establish the absence of a genuine issue of material fact, except where that oral testimony consists of admissions of the opposing party or his witnesses. *Johnson v. Johnson*, 410 Pa. Super. 631, 637, 600 A.2d 965, 968 (1991).

Defendants now concede that official immunity is not a protection from damages being sought in a mandamus action. 42 Pa. C.S.A. §8303. *Stoner v. Township of Lower Merion*, 138 Pa. Comlth. Ct. 257, 587 A.2d 879 (1991), *Alloc. den.* 604 A.2d 252 (1992); *Simmons v. Cohen*, 111 Pa. Comlth. Ct. 267, 534 A.2d 140 (1987).

Regarding the issue of damages, Plaintiff relies upon *Stoner v. Township of Lower Merion*, *supra.*, and 42 Pa. C.S.A. §8303. Under the latter section a person who fails or refuses to perform a duty required by law without lawful justification is liable for damages in a

mandamus action to the person aggrieved by that failure or refusal. However, as Stoner indicates, such damages are not plenary but are those incidental to the specific relief being sought. Where a township wrongfully withholds preliminary subdivision approval, the landowner is entitled to damages suffered as a result of the delay in receiving approval and for loss of use of the premises during the period of delay but he is not entitled to recover consequential damages or damages arising in connection with transactions or potential transactions with other persons. *Id.* 138 Pa. Comlth. Ct. at 269-70, and 271-72, 587 A.2d at 885 and 886.

For purposes of a summary judgment motion, we cannot say at this point that Plaintiff's damage request is improper.

Finally, Defendants contend that Plaintiff's claim is barred by the doctrine of *res judicata*.¹ Apparently, on October 10, 1991, Plaintiff filed an action against Defendants in the United States District Court for the Middle District of Pennsylvania under 42 U.S.C. §1983 and 1985 seeking damages for increased land cost, increased cost of improvements, lost profit for 10 home sales, loss of use of money, interest on nonrecoverable development cost, attorneys fees and punitive damages. These damages are alleged to have been incurred from January 22, 1990, to the time of trial. Trial began June 2, 1992, and the following day a verdict was entered in favor of Defendants.

We find this issue to be governed by *McArdle v. Tronetti*, 426 Pa. Super. 607, 627 A.2d 1219 (1993), *Alloc. den.* 641 A.2d 587 (1994). First, that Court outlined the rationale for and elements of the doctrine of *res judicata* by stating,

Pursuant to the doctrine of *res judicata*, a final judgment on the merits by a court of competent jurisdiction will bar any future suit between the parties or their privies in connection with the same cause of action...The purposes behind the doctrine, which bars the relitigation of issues that either were raised or could have been raised in the prior proceeding...is to conserve limited judicial resources, establish certainty and respect for court judgments, and protect the party relying upon the judgment from vexatious litigation...In keeping with these purposes, the doctrine

¹In Defendants' Reply Brief they also argue collateral estoppel but that defense was not raised in the pleadings and will not be addressed.

must be liberally construed and applied without technical restriction. *Id.* Furthermore, we note that its application requires the concurrence of four conditions between the present and prior actions: 1) identity of issues; 2) identity of causes of action; 3) identity of parties or their privies; and 4) identity of the quality or capacity of the parties suing or being sued. 426 Pa. Super. at 611-12, 627 A.2d at 1222 (citations omitted).

In *McArdle* the plaintiff sued in state court for professional malpractice and negligence in connection with his psychiatric evaluation and treatment as an inmate. He had previously filed a federal claim for intentional deprivation of constitutional rights relating to the same underlying conduct. In reversing the trial court's dismissal on the basis of *res judicata* the Superior Court held that there was no identity of causes of action between the two suits because there, as here, the federal action was for intentional deprivation of constitutional rights which is significantly different in theory and burden of proof than the state court claim.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 1st day of May, 1995, Defendants' Motion For Summary Judgment is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 93-S-102 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of November, 1995, 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 of the following lots situate in Liberty Township, Adams County, Pennsylvania:

AD 1 AD 2 AD 3 AD 4 AD 14
AD 60 AD 117

All portions of the parcel shown as "Park Area" in Section AD.

The survey description of the lots in Section AD appears on a plan of lots labeled "Section AD, Charnita," dated January 12, 1970, prepared by Evans, Hagan & Holdefer, and recorded in Adams County Plat Book 1 at page 93, incorporated herein by reference.

The real estate from which lots 1, 2, 3, 4, and 14 were surveyed was conveyed to Charnita, Inc., by Louis S. Morgan and Betty Joyce Morgan, husband and wife, by their deed dated October 15, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 278 at page 676.

The real estate from which lots 60 and 117 were surveyed was conveyed to Charnita, Inc. by Robert Morgan and Willa June Morgan, his wife, and Louis S. Morgan and Betty Joyce Morgan, his wife, by their deed dated December 17, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 280 at page 941.

The Park Area is more particularly described:

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

BEGINNING at a point in Valley Trail at corner of Lot No. 102 of Section AE and Lot No. 85 of Section AD; thence in said Valley Trail and by said Lot No. 85 of Section AD North 67 degrees 3 minutes 45 seconds East, 38.31 feet to a point; thence continuing in said Valley Trail and by said lot and by Lots 86, 88 and 89 North 32 degrees 46 minutes 00 seconds East, 577.35 feet to a point; thence continuing in said Valley Trail and by said Lot No. 89 North 16 degrees 34 minutes 54 seconds West, 97.72 feet to a point; thence continuing in said Valley Trail and by said lot North 65 degrees 55 minutes 46 seconds West, 81.28 feet to a point at Lot No. 45; thence by said lot North 24 degrees 4 minutes 14 seconds East, 275 feet to a point; thence continuing by said lot North 65 degrees 55 minutes 46 seconds West, 100 feet to a point at Lot No. 46; thence continuing by said lot and by Lot No. 47 North 59 degrees 8 minutes

12 seconds West, 201.42 feet to a point at Lot No. 48; thence continuing by said lot and by Lots 49 and 50 North 71 degrees 2 minutes 1 second West, 259.28 feet to a point at Lot No. 51; thence by said lot and by Lots 52 and 53 North 44 degrees 9 minutes 47 seconds West, 226 feet to a point at Lot No. 54; thence by said lot North 26 degrees 00 minutes 47 seconds East, 100 feet to a point in Bullfrog Road; thence in said Bullfrog Road the following nine courses and distances: (1) South 72 degrees 00 minutes 17 seconds East, 204.04 feet to a point; (2) South 83 degrees 54 minutes 15 seconds East, 207.89 feet; (3) South 68 degrees 7 minutes 27 seconds East, 189.27 feet; (4) South 54 degrees 39 minutes 37 seconds East, 401.52 feet; (5) South 37 degrees 56 minutes 2 seconds East, 121.64 feet; (6) South 17 degrees 44 minutes 48 seconds East, 201.11 feet; (7) South 6 degrees 49 minutes 49 seconds East, 246.99 feet; (8) South 13 degrees 26 minutes 49 seconds East, 178.08 feet; and (9) South 29 degrees 22 minutes 41 seconds East, 122.17 feet to a point in Kemp Trail at Lot No. 31; thence in said Kemp Trail and by said lot South 53 degrees 5 minutes 18 seconds West, 286.93 feet to a point in said Kemp Trail at Lot No. 16; thence continuing in said Kemp Trail and by said lot and by Lots 15 and 14 South 32 degrees 46 minutes 6 seconds West, 424.17 feet to a point at lands now or formerly of Eugene Bostwick; thence by said lands North 9 degrees 2 minutes 17 seconds West, 150 feet to a point; thence continuing by said lands and by lands now or formerly of Chas. Weishaar North 69 degrees 40 minutes 46 seconds West, 194.63 feet to a point at Lot No. 102 of Section AE and Parcel C of Section AD; thence continuing by said Lot No. 102 of Section AE and Parcel C of Section AD North 57 degrees 14 minutes 00 seconds East, 285.98 feet to the place of BEGINNING. CONTAINING approximately 10 acres.

The foregoing description was taken from a plan of lots labeled "Section AD Charnita" dated January 12, 1970, prepared by Evans, Hagan & Holdefer, and recorded in Adams County Plat Book No. 1 at page 93, and from a plan of lots labeled "Section AE Charnita" dated March 3, 1970, prepared by Evans, Hagan & Holdefer, and recorded in Adams County Plat Book No. 1 at page 95.

Being part of the same which Robert Morgan and Willa June Morgan, his wife, and Louis S. Morgan and Betty Joyce Morgan, his wife, by their deed dated December 17, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 280 at page 941, sold and conveyed unto Charnita, Inc., and being part of the same which Louis S. Morgan and Betty Joyce Morgan, husband and wife, by their deed dated October 15, 1969, and recorded in the office of the Recorder of

Deeds of Adams County, Pennsylvania, in Deed Book 278 at page 676, sold and conveyed unto Charnita, Inc.

AE 5 AE 31

All portions of the Park Area in section AE.

The survey description of the lots in Section AE appears on a plan of lots labeled "Section AE, Charnita," dated March 3, 1970, prepared by Evans, Hagan & Holdefer, and recorded in Adams County Plat Book 1 at page 95, incorporated herein by reference.

The real estate from which lots 5 and 31 were surveyed was conveyed to Charnita, Inc., by Charles M. Weishaar and Annie R. Weishaar, his wife, by their deed dated December 30, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 280 at page 992.

The Park Area is described above.

The real estate from which the Park Area was surveyed was conveyed to Charnita, Inc., by Robert Morgan and Willa June Morgan, his wife, and Louis S. Morgan and Betty Joyce Morgan, his wife, by their deed dated December 17, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 280 at page 941.

Seized and taken into execution as the property of **Charnita, Inc.**, and to be sold by me.

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
September 28, 1995.

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 11, 1995, 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.

10/6, 13, 20

WRIT OF EXECUTION
(MORTGAGE FORECLOSURE)
IN THE
COURT OF COMMON PLEAS
OF ADAMS COUNTY, PENNSYLVANIA

Judgment No. 93-S-102
Writ No. 93-S-102
Security Pacific Financial Services,
Inc.—Judgment assigned to John F.
and Kathe Baker, Plaintiffs
vs.
Charnita, Inc., Defendant
COMMONWEALTH OF PENNSYLVANIA
COUNTY OF ADAMS

TO THE SHERIFF OF ADAMS COUNTY:
To satisfy the judgment, interest and
costs in the above matter you are di-
rected to levy upon and sell the following
described property:

ALL of the following lots situate in Lib-
erty Township, Adams County, Pennsyl-
vania:

AD 1 AD 2 AD 3 AD 4 AD 14
AD 60 AD 117

All portions of the parcel shown as
"Park Area" in Section AD.

The survey description of the lots in
Section AD appears on a plan of lots
labeled "Section AD, Charnita," dated
January 12, 1970, prepared by Evans,
Hagan & Holdefer, and recorded in Ad-
ams County Plat Book 1 at page 93,
incorporated herein by reference.

The real estate from which lots 1, 2, 3,
4, and 14 were surveyed was conveyed to
Charnita, Inc., by Louis S. Morgan and
Betty Joyce Morgan, husband and wife,
by their deed dated October 15, 1969,
and recorded in the office of the Recorder
of Deeds of Adams County, Pennsylvania,
in Deed Book 278 at page 676.

The real estate from which lots 60 and
117 were surveyed was conveyed to
Charnita, Inc., by Robert Morgan and
Willa June Morgan, his wife, and Louis S.
Morgan and Betty Joyce Morgan, his wife,
by their deed dated December 17, 1969,
and recorded in the office of the Recorder
of Deeds of Adams County, Pennsylva-
nia, in Deed Book 280 at page 941.

The Park Area appears on a plan of lots
labeled "Section AD Charnita" dated Janu-
ary 12, 1970, prepared by Evans, Hagan
& Holdefer, and recorded in Adams
County Plat Book No. 1 at page 93, and
from a plan of lots labeled "Section AE
Charnita" dated March 3, 1970, prepared
by Evans, Hagan & Holdefer, and re-
corded in Adams County Plat Book No. 1
at page 95.

Being part of the same which Robert
Morgan and Willa June Morgan, his wife,
and Louis S. Morgan and Betty Joyce
Morgan, his wife, by their deed dated
December 17, 1969, and recorded in the
office of the Recorder of Deeds of Adams
County, Pennsylvania, in Deed Book 280
at page 941, sold and conveyed unto
Charnita, Inc., and being part of the same
which Louis S. Morgan and Betty Joyce

Morgan, husband and wife, by their deed
dated October 15, 1969, and recorded in
the office of the Recorder of Deeds of
Adams County, Pennsylvania, in Deed
Book 278 at page 676, sold and con-
veyed unto Charnita, Inc.

AE 5 AE 31
All portions of the Park Area in Section
AE.

The survey description of the land in
Section AE appears on a plan of lots
labeled "Section AE, Charnita," dated
March 3, 1970, prepared by Evans,
Hagan & Holdefer, and recorded in Ad-
ams County Plat Book 1 at page 95,
incorporated herein by reference.

The real estate from which lots 5 and
31 were surveyed was conveyed to
Charnita, Inc., by Charles M. Weishaar
and Annie R. Weishaar, his wife, by their
deed dated December 30, 1969, and
recorded in the office of the Recorder of
Deeds of Adams County, Pennsylvania,
in Deed Book 280 at page 992.

The real estate from which the Park
Area was surveyed was conveyed to
Charnita, Inc., by Robert Morgan and
Willa June Morgan, his wife, and Louis S.
Morgan and Betty Joyce Morgan, his
wife, by their deed dated December 17,
1969, and recorded in the office of the
Recorder of Deeds of Adams County,
Pennsylvania, in Deed Book 280 at
page 941.

Amount Due \$69,033.16
Interest (from 8/12/94)
Total
Plus costs as endorsed heron.

Patricia A. Funt
Prothonotary of Adams County
Lori Showers
Deputy

June 15, 1995

AS DIRECTED by the within Writ of Ex-
ecution levy is hereby made on the inter-
est of Charnita, Inc. in a certain lot of
land, with improvements thereon erected,
situate in Liberty Township, Adams
County, Pennsylvania, as more specifi-
cally described by the description on or
attached to the within Writ of Execution.

Sheriff's sale of the real estate will be
held Friday, November 17, 1995, at 10:00
A.M. at the Sheriff's Office, Adams County
Courthouse, Baltimore Street, Gettys-
burg, Pennsylvania.

A schedule of distribution of the pro-
ceeds of the sale will be posted in the
office of the Sheriff on December 11,
1995, and distribution will be made in
accordance with the schedule unless
exceptions are filed thereto within ten
(10) days thereafter.

Bernard V. Miller
Sherriff

September 28, 1995

WRIT OF EXECUTION
(MORTGAGE FORECLOSURE)

Judgement No. 93-S-102

Writ No. 93-S-102
IN THE
COURT OF COMMON PLEAS
OF ADAMS COUNTY, PENNSYLVANIA
CIVIL

Security Pacific Financial Services,
Inc.—Judgment assigned to John F.
and Kathe Baker, Plaintiffs

vs.

Charnita, Inc., Defendant

COSTS

Amount Due	\$69,033.16
Interest	See Inside
Attorney	3.00
Atty.'s Comm.	
Copies	1.00
Prothy (PLF)	15.00
Sat.	5.00
Sheriff's Costs	
Forecasts (PLF)	95.50
Total	

Charles H. Field, Esq.
Attorney for Plaintiff
Pyle & Entwistle
33 West Middle Street
Gettysburg, PA 17325

September 22, 1995: Writ reissued.
Patricia A. Funt, Prothonotary
By: Wanda Y. Walter
Deputy Prothonotary

10/6

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF HAROLD F. KRAMER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executrix: Mildred L. Kramer, Hanover Station, 1157 Eichelberger St., Hanover, PA 17331
 Attorney: Douglas H. Gent, Esquire

ESTATE OF MARTHA LILLIAN OBENSTINE, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executor: James W. Obenstine, c/o McNees, Wallace & Nurick
 Attorney: McNees, Wallace & Nurick, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108

ESTATE OF HIRAM E. REX, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania
 Executors: Keith E. Rex, 575 Guernsey Road, Aspers, PA 17304; Janet L. Stegner, 148 Henry Road, Enola, PA 17025
 Attorney: Snelbaker & Brenneman, P.C., 44 West Main Street, P.O. Box 318, Mechanicsburg, PA 17055-0318

ESTATE OF HARRY E. SCOTT, a/k/a HARRY E. SCOTT, JR., DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Administrators: John H. Scott, 31 Barlow Street, Gettysburg, PA 17325; Carol A. Proctor, 455 Ewell Drive, Gettysburg, PA 17325
 Attorney: Larry W. Wolf, Esquire, 215 Broadway, Hanover, PA 17331

ESTATE OF VIOLET MAE SHOWERS, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania
 Executors: Anthony L. Showers, 640 Coon Rd., Gardners, PA 17324; MaryAnn S. Washington, Box 115, Springtown, PA 18081

ESTATE OF RICHARD W. WHITE, DEC'D

Late of Butler Township, Adams County, Pennsylvania
 Administrator: Robin L. Romero, 1743B Center Mills Road, Aspers, PA 17304
 Attorney: Ralph D. Oyler, Esquire, 31 S. Washington Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF MARVIN E. HEINDEL, DEC'D

Late of Reading Township, Adams County, Pennsylvania
 Co-Executrices: Barbara Price, 2328 Golf View Lane, Hampstead, MD 21074; Violet Myers, 116 Linden Avenue, Hanover, PA 17331; Judy DeVore, 665 Annette Drive, York, PA 17403; Janet M. Heindel, 135 Carnival Drive, Taneytown, MD 21787
 Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

ESTATE OF MARY K. OVERBAUGH, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executor: Steven A. Bankert, c/o Samuel A. Gates
 Attorney: Samuel A. Gates, Esquire, Gates & Mooney, 250 York Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF S. ALMA W. ECK, a/k/a S. ALMA ECK, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania
 Administratrix d.b.n.c.t.a.: Eva Cooley, 1026 Arendtsville Rd., Biglerville, PA 17307
 Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Sq., Gettysburg, PA 17325

ESTATE OF JOHN HENRY LYNN, DEC'D

Late of Roanoke, Virginia
 Administratrix: Diana L. Dillman, 509 Grant Street, Gettysburg, PA 17325
 Attorney: Swope, Heiser & McQuaide, 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JULIA ANN MILLER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania
 Administratrix: Suzanne L. White, 856 Orrtanna Road, Orrtanna, PA 17353
 Attorney: Mark David Frankel, Esquire, 14 West King Street, P.O. Box 1389, York, PA 17405-1389

ESTATE OF GENEVIEVE MILLER A/K/A I. GENEVIEVE MILLER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executrix: Geneva Miller, 17 Jacqueline Drive, New Oxford, Pennsylvania 17350
 Attorney: Stonesifer and Kelley, 209 Broadway, Hanover, PA 17331

ESTATE OF ROSELLA F. SMITH, DEC'D

Late of Conewago Township, Adams County, Pennsylvania
 Executor: Theodore P. Smith, Jr., 100 Linden Avenue, Hanover, PA 17331
 Attorney: Stonesifer and Kelley, 209 Broadway, Hanover, PA 17331

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of Sec. 311 of the Act of Assembly of December 16, 1982, 54 PA C.S.A. 311, that an application for registration of a fictitious name was filed on September 19, 1995, with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the conducting of a business under the fictitious name of HISTORIC ADAMS COUNTY TOURS, with its principal office or place of business at 304 York Street, Gettysburg, PA 17325. The name and address of the person owning or interested in said business is Robert E. Wagner, 304 York Street, Gettysburg, PA 17325.

10/6

FICTITIOUS NAME NOTICE

NOTICE IS GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on August 23, 1995, pursuant to the Fictitious Name Act, setting forth that Alan J. Naylor of 925 Kohler Mill Road, New Oxford, PA 17350 and David C. Naylor of 678 Green Springs Road, Hanover, PA 17331 are the only persons owning or interested in a business, the character of which is the operation of a machine shop and that the name, style and designation under which said business is and will be conducted is K & N MACHINE SHOP and the location where said business is and will be conducted is 925 Kohler Mill Road, New Oxford, PA 17350.

Rudisill, Guthrie, Nonemaker,
 Guthrie & Yingst
 Solicitor

10/6

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Fictitious Names Act, 54 Pa. C.S. 55311, et seq., and its amendments and supplements, of filing with the Secretary of the Commonwealth of Pennsylvania, Harrisburg, Pennsylvania on September 22, 1995, an application for conducting business under the assumed or fictitious name of G & S CONSTRUCTION, with its principal place of business at 113 East Middle Street, Gettysburg, Pennsylvania 17325. The names and addresses of all persons owning or interested in said business are: Gary Heller, 113 E. Middle Street, Gettysburg, PA 17325.

10/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-93 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of October, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land and improvements thereon, situate, lying and being in Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a post on the East side of a public road corner of this tract and on line of lands now or formerly of J.A. Tawney and this and other lands now or formerly of Frank M. Lott; thence by lands now or formerly of J.A. Tawney, North thirty-four and one-half (34 1/2) degrees East, eighty-six and five-tenths (86.5) feet to a stake; thence by other lands now or formerly of Frank M. Lott, of which this tract was a part; North fifty-five and one-half (55 1/2) degrees West, thirty-five (35.00) feet to a stake; thence by same, South fifty-seven (57) degrees West, sixty-five and eight-tenths (65.8) feet to a stake at said public road; thence along the East side of said public road, South thirty-three (33) degrees East, sixty-five (65.00) feet to the place of BEGINNING. CONTAINING 13.4 square perches of land.

SEIZED and taken into execution as the property of Anthony R. Baker, Leroy F. Baker and Jackie Baker, and to be sold by me.

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
August 24, 1995.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 13, 1995, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

9/22, 29 & 10/6

Adams County Legal Journal

Vol. 37

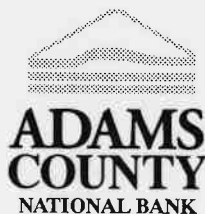
October 13, 1995

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IN THIS ISSUE

IN RE: ESTATE OF RAMER

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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NOTICE

In Re: Estate of Ima R. Shaffer, an incapacitated person - Adams County Orphans' Court No. OC-33-95.

NOTICE IS HEREBY GIVEN that Adams County National Bank, plenary guardian of the above estate, has filed a petition requesting permission to sell the incapacitated person's real estate located at 256 Peakview Road, Latimore Township, Adams County, Pennsylvania, at public sale. The Orphans' Court of Adams County, by decree dated September 28, 1995, has authorized the plenary guardian to expose the real estate for public sale through C. David Redding, Auctioneer, at 12:30 p.m. on October 21, 1995 at the premises. The Conditions of Sale will be read immediately prior to the sale. If no objections are filed to the decree of the Court, or objections made to the sale, and the real estate is struck down as sold, a return of public sale will be made to the Court and the Court will be asked to approve and confirm the sale on November 20, 1995 at 9:00 a.m. in Courtroom No. 1 of the Adams County Courthouse, Gettysburg, Pennsylvania.

Teeter, Teeter & Teeter
108 West Middle Street
Gettysburg, PA 17325
Attorneys for the Guardian

10/6, 13, 20

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that LITTLESTOWN DENTAL ASSOCIATES, P.C., has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988, on September 21, 1995.

Griffith, Strickler, Lerman,
Solymos, & Calkins

10/13

NOTICE

Adams County Tax Claim Bureau hereby gives notice that it presented a Consolidated Return of Sale to the Court of Common Pleas of Adams County, Pennsylvania on October 3, 1995, of the Sale of Real Estate for delinquent taxes made September 15, 1995. Objections or exceptions thereto may be filed by any owner or lien creditor within thirty (30) days after the Court has made a confirmation nisi of the Consolidated Return or the Return will be confirmed absolutely.

Adams County Tax Claim Bureau
By: Danielle Asper, Director

10/13

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that on September 19, 1995 a certificate was filed under the Fictitious Name Act approved December 16, 1982, in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that Cecil F. Artrip, 21 Cottage Avenue, Glen Rock, PA 17327 is the only person owning or interested in a business, the character of which is Video entertainment and related sale/rentals and that the name, style and designation under which said business is and will be conducted is INTERNATIONAL VIDEO and the location where said business is and will be located is 6335 York Road, New Oxford, PA 17350.

10/13

IN RE: ESTATE OF RAMER

1. In interpreting a Will, it must be construed according to the intent of the Testator and only if the Will is ambiguous or conflicting or the Testator's intent does not appear with reasonable certainty will the courts resort to canons of construction to assist in determining intent.

2. An ambiguity in a Will must be found without reliance on extrinsic evidence which is only used to resolve, not to create, ambiguities.

3. A statutory presumption is created by 20 Pa.C.S.A. §2514 which must be applied when construing testamentary language unless the Testator has expressed a contrary intent within his Will.

4. Where there is a bequest to Testator's "surviving relatives" without indicating in some fashion that the term "relatives" was to be more expansive than provided for in 20 Pa.C.S.A. §2514 (4) the Court must presume Testator intentionally and intelligently intended to give that technical term its legal meaning and intent.

In the Court of Common Pleas, Adams County, Pennsylvania, Orphans Court OC-75-94 IN RE: ESTATE OF P. ROSS RAMER, DECEASED.

D. Lloyd Reichard, II, Esq. and Lucy E. Kniseley, Esq., for Petitioners Objectors, pro se

MEMORANDUM OPINION

Kuhn, J., May 1, 1995.

Well known local photographer, P. Ross Ramer, died on February 12, 1994, leaving a holographic Will dated April 4, 1992. At issue presently is the interpretation of Paragraph Eleventh (b)(2) of said Will. That provision reads:

ELEVENTH: All the rest, residue and remainder of my estate of whatever nature and wherever situated is to be placed in a trust administered by the Adams County National Bank, with its trust office in the Borough of Gettysburg, Pennsylvania, its successor or successors, and Doris R. Large of Waynesboro, PA. I hereby give the trustees the power to sale (sic) my properties as necessary to to (sic) for the above personal bequests as well as to enhance income for the trust provided the proceeds are invested in U.S. Government Five to 30 years Notes or Bonds, investment grade corporate bonds or blue chip stocks. The principal of the trust shall remain intact. The trustees shall receive the standard fees for their services.

b. Following the death of Doris R. Large, the income from the above trust shall be distributed as (sic) follows:

...

2. Seventy-five (75) percent of the trust income shall be distributed for legitimate educational assistance to my surviving relatives on the basis of need.

The personal representatives of Decedent's estate, the trustees of the residuary trust together with Decedent's intestate heirs (hereinafter referred to as "Petitioners") have agreed to a Stipulation relative to the ultimate disposition of the funds passing under said Paragraph Eleventh (b)(2). That Stipulation provides that upon the death of Doris R. Large, 75% of the then existing trust principal would be distributed outright to the issue of Decedent's parents who are living at the death of Doris R. Large, per stirpes. The Stipulation makes no provision for the issue of Decedent's grandparents (other than the issue of Decedent's parents) and approximately 15 of these persons, for themselves or on behalf of their issue, (hereinafter "Objectors") object to the Stipulation.

The specific issue is the meaning of the term "my surviving relatives" in Paragraph Eleventh (b)(2). Petitioners contend they represent the entire class of persons who are "surviving relatives" whereas Objectors argue that the class is more expansive.

It is a cardinal rule that in interpreting a will it must be construed according to the intent of the testator, *Estate of Sellers*, 344 Pa. Super. 538, 541, 496 A.2d 1237, 1238 (1985), as of the date of execution of the will. *Id.* 344 Pa. Super. at 544, 496 A.2d at 1240. The testator's intent is gathered from a consideration of the precise language contained within the four corners of the will, the scheme of distribution, the circumstances surrounding the execution of the will and other facts bearing on intent. *Estate of Houston*, 491 Pa. 339, 344, 421 A.2d 166, 169 (1980); *In Re: Estate of Macfarlane*, 313 Pa. Super. 397, 401, 459 A.2d 1289, 1291 (1983). Only if the will is ambiguous or conflicting or the testator's intent does not appear with reasonable certainty will the courts resort to canons of construction to assist in determining intent. *Houston*, *supra.*, 491 Pa. at 344, 421 A.2d at 169; *In Re: Estate of Wainwright*, 417 Pa. Super. 335, 338, 612 A.2d 509, 511 (1992); *Estate of Sykes*, 477 Pa. Super. 254, 257, 383 A.2d 920, 921 (1978).

If extrinsic evidence is offered it must only relate to the meaning of ambiguous words in the will and cannot be received as evidence of the testator's intent independent of the express words used. *In Re: Estate*

of Baker, 495 Pa. 522, 526, 434 A.2d 1213, 1215 (1981). In other words, an ambiguity must be found without reliance on extrinsic evidence and extrinsic evidence is only used to resolve, not to create, ambiguities. Macfarlane, supra., 313 Pa. Super. at 401, 459 A.2d at 1291.

Unfortunately, Decedent did not clarify what he intended by the phrase "my surviving relatives". This is in sharp contrast to other parts of the will where he specifically identified who fit within a particular class of beneficiaries. In Paragraph Sixth he bequeathed \$1,000 "a piece to my first cousins herein named" and identified six individuals.¹ In Paragraph Seventh he bequeathed \$1,000 "to my second cousin, Steve Hemler ..."² In Paragraph Eighth he bequeathed \$500 "a piece to my closest second cousins herein named" and identified 15 individuals.³ In Paragraph Ninth he bequeathed \$1,000 "a piece to my nieces and nephews" and named 14 persons. In Paragraph Tenth he bequeathed certain sums "to my sisters" specifically naming four persons. Decedent did not, however, limit the class of "surviving relatives" by expressly naming persons as he did earlier in the will or by specifically incorporating those persons named in Paragraphs Sixth through Tenth. The Court must, therefore, look for assistance in ascertaining Decedent's intent.

In order to clarify the interpretation of testamentary documents the Pennsylvania legislature enacted 20 Pa. C.S.A. §2514 entitled "Rules of Interpretation". In Re: Estate of Dex, 408 Pa. Super. 391, 395, 596 A.2d 1143, 1145 (1991). The preamble of that section and a relevant subsection provide, in pertinent part:

In the absence of a contrary intent appearing therein, wills shall be construed as to real and personal estate in accordance with the following rules:

...

(4) Meaning of "heirs" and "next of kin", etc.; time of ascertaining class. A...bequest of...personal estate, whether directly or in trust, to the testator's..."relatives" ...shall mean those persons, including the spouse, who would take under the intestate laws if the testator...were to die intestate at the time when such class is to be ascertained...

¹ Four of these six are Objectors.

² Mr. Hemler is one of the Objectors.

³ Ten of these fifteen are Objectors.

Section 2514 creates a statutory presumption which must be applied when construing testamentary language unless the testator has expressed a contrary intent within his will. *Dex, Id.*, 408 Pa. Super. at 397, 596 A.2d at 1146. Thus, the statute provides that wills must be construed in accordance with the rules set forth therein unless a contrary intent appears in the will. A contrary intent can be express or implied from other aspects of the will. *Sellers, supra.*, 344 Pa. Super. at 543, 496 A.2d at 1239. Generally, however, the intention of the testator to render the statute inoperative must be plainly indicated or shown with reasonable certainty. Here, the burden would be on Respondents to demonstrate that contrary intent. *Dex, supra.*, 408 Pa. Super. at 397, 596 A.2d at 1146.

While our resolution may or may not reap a result intended by Decedent, the law appears to clearly support Petitioners' position. There is nothing in Decedent's will which expressly or by necessary implication indicates plainly or with reasonable certainty that Decedent intended to disregard §2514(4). Despite the fact that Decedent styled his own will it is clear that he was careful to identify persons fitting within a particular class. Without indicating in some fashion that the term "relatives" was to be more expansive than provided for in §2514(4) we must presume that he intentionally and intelligently intended to give that technical term its legal meaning and effect. *Macfarlane, supra.*, 313 Pa. Super. at 402, 459 A.2d at 1291. Thus, Objectors have not been able to satisfy their burden.

Therefore, there being no ambiguity, the Court is not authorized to receive any extrinsic evidence which might suggest that Decedent intended a meaning for "relatives" different than that set forth in §2514(4).

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 1st day of May, 1995, in consideration of the Petition For Rule To Show Cause Why Stipulation Should Not Be Accepted filed February 10, 1995, and the Petition For Review filed with the Court at hearing on March 27, 1995, it is hereby ordered and decreed that the proposed Stipulation is approved and will be accepted upon filing of the original executed by all intestate heirs of the Decedent.

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 RALPH B. BUTT, SR., DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executor: PNC BANK, N.A., formerly The Gettysburg National Bank, 10 York Street, Gettysburg, PA 17325
 Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF RUTH F. DUTTERA a/k/a RUTH PAULINE DUTTERA a/k/a RUTH FEISER DUTTERA, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executors: John W. Duttera, Jr., 200 East High Street, New Oxford, PA 17350; Shirley D. Black, 4375 Carlisle Road, Gardners, PA 17324
 Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF M. OPHELIA GROSS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Co-Executrices: Deanna I. Snyder, 2246 Daisy Road, Woodbine, MD 21797; Marilyn Sue Becker, 2225 Mill Creek Rd., Dover, PA 17315

ESTATE OF ROBERT J. SCHROM, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executrix: Roberta R. Schmidt, 6205 Lone Oak Drive, Bethesda, MD 20817
 Attorney: Robert E. Campbell, Campbell, White & George, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF HELEN M. ZENTZ, DEC'D
 Late of Cumberland Township, Adams County, Pennsylvania

Executor: Robert E. Zentz, 727 Chambersburg Road., Apt. K, Gettysburg, PA 17325
 Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF HAROLD F. KRAMER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executrix: Mildred L. Kramer, Hanover Station, 1157 Eichelberger St., Hanover, PA 17331
 Attorney: Douglas H. Gent, Esquire

ESTATE OF MARTHA LILLIAN OBENSTINE, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executor: James W. Obenstine, c/o McNees, Wallace & Nurick
 Attorney: McNees, Wallace & Nurick, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108

ESTATE OF HIRAM E. REX, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania
 Executors: Keith E. Rex, 575 Guernsey Road, Aspers, PA 17304; Janet L. Stegner, 148 Henry Road, Enola, PA 17025
 Attorney: Snelbaker & Brenneman, P.C., 44 West Main Street, P.O. Box 318, Mechanicsburg, PA 17055-0318

ESTATE OF HARRY E. SCOTT, a/k/a HARRY E. SCOTT, JR., DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Administrators: John H. Scott, 31 Barlow Street, Gettysburg, PA 17325; Carol A. Proctor, 455 Ewell Drive, Gettysburg, PA 17325
 Attorney: Larry W. Wolf, Esquire, 215 Broadway, Hanover, PA 17331

ESTATE OF VIOLET MAE SHOWERS, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania
 Executors: Anthony L. Showers, 640 Coon Rd., Gardners, PA 17324; MaryAnn S. Washington, Box 115, Springtown, PA 18081

ESTATE OF RICHARD W. WHITE, DEC'D

Late of Butler Township, Adams County, Pennsylvania
 Administrator: Robin L. Romero, 1743B Center Mills Road, Aspers, PA 17304
 Attorney: Ralph D. Oylar, Esquire, 31 S. Washington Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF MARVIN E. HEINDEL, DEC'D

Late of Reading Township, Adams County, Pennsylvania
 Co-Executrices: Barbara Price, 2328 Golf View Lane, Hampstead, MD 21074; Violet Myers, 116 Linden Avenue, Hanover, PA 17331; Judy DeVore, 665 Annette Drive, York, PA 17403; Janet M. Heindel, 135 Carnival Drive, Taneytown, MD 21787
 Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

ESTATE OF MARY K. OVERBAUGH, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executor: Steven A. Bankert, c/o Samuel A. Gates
 Attorney: Samuel A. Gates, Esquire, Gates & Mooney, 250 York Street, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 93-S-102 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of November, 1995, 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 of the following lots situate in Liberty Township, Adams County, Pennsylvania:

AD 1 AD 2 AD 3 AD 4 AD 14
AD 60 AD 117

All portions of the parcel shown as "Park Area" in Section AD.

The survey description of the lots in Section AD appears on a plan of lots labeled "Section AD, Charnita," dated January 12, 1970, prepared by Evans, Hagan & Holdefer, and recorded in Adams County Plat Book 1 at page 93, incorporated herein by reference.

The real estate from which lots 1, 2, 3, 4, and 14 were surveyed was conveyed to Charnita, Inc., by Louis S. Morgan and Betty Joyce Morgan, husband and wife, by their deed dated October 15, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 278 at page 676.

The real estate from which lots 60 and 117 were surveyed was conveyed to Charnita, Inc. by Robert Morgan and Willa June Morgan, his wife, and Louis S. Morgan and Betty Joyce Morgan, his wife, by their deed dated December 17, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 280 at page 941.

The Park Area is more particularly described:

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

BEGINNING at a point in Valley Trail at corner of Lot No. 102 of Section AE and Lot No. 85 of Section AD; thence in said Valley Trail and by said Lot No. 85 of Section AD North 67 degrees 3 minutes 45 seconds East, 38.31 feet to a point; thence continuing in said Valley Trail and by said lot and by Lots 86, 88 and 89 North 32 degrees 46 minutes 00 seconds East, 577.35 feet to a point; thence continuing in said Valley Trail and by said Lot No. 89 North 16 degrees 34 minutes 54 seconds West, 97.72 feet to a point; thence continuing in said Valley Trail and by said lot North 65 degrees 55 minutes 46 seconds West, 81.28 feet to a point at Lot No. 45; thence by said lot North 24 degrees 4 minutes 14 seconds East, 275 feet to a point; thence continuing by said lot North 65 degrees 55 minutes 46 seconds West, 100 feet to a point at Lot No. 46; thence continuing by said lot and by Lot No. 47 North 59 degrees 8 minutes

12 seconds West, 201.42 feet to a point at Lot No. 48; thence continuing by said lot and by Lots 49 and 50 North 71 degrees 2 minutes 1 second West, 259.28 feet to a point at Lot No. 51; thence by said lot and by Lots 52 and 53 North 44 degrees 9 minutes 47 seconds West, 226 feet to a point at Lot No. 54; thence by said lot North 26 degrees 00 minutes 47 seconds East, 100 feet to a point in Bullfrog Road; thence in said Bullfrog Road the following nine courses and distances: (1) South 72 degrees 00 minutes 17 seconds East, 204.04 feet to a point; (2) South 83 degrees 54 minutes 15 seconds East, 207.89 feet; (3) South 68 degrees 7 minutes 27 seconds East, 189.27 feet; (4) South 54 degrees 39 minutes 37 seconds East, 401.52 feet; (5) South 37 degrees 56 minutes 2 seconds East, 121.64 feet; (6) South 17 degrees 44 minutes 48 seconds East, 201.11 feet; (7) South 6 degrees 49 minutes 49 seconds East, 246.99 feet; (8) South 13 degrees 26 minutes 49 seconds East, 178.08 feet; and (9) South 29 degrees 22 minutes 41 seconds East, 122.17 feet to a point in Kemp Trail at Lot No. 31; thence in said Kemp Trail and by said lot South 53 degrees 5 minutes 18 seconds West, 286.93 feet to a point in said Kemp Trail at Lot No. 16; thence continuing in said Kemp Trail and by said lot and by Lots 15 and 14 South 32 degrees 46 minutes 6 seconds West, 424.17 feet to a point at lands now or formerly of Eugene Bostwick; thence by said lands North 9 degrees 2 minutes 17 seconds West, 150 feet to a point; thence continuing by said lands and by lands now or formerly of Chas. Weishaar North 69 degrees 40 minutes 46 seconds West, 194.63 feet to a point at Lot No. 102 of Section AE and Parcel C of Section AD; thence continuing by said Lot No. 102 of Section AE and Parcel C of Section AD North 57 degrees 14 minutes 00 seconds East, 285.98 feet to the place of BEGINNING. CONTAINING approximately 10 acres.

The foregoing description was taken from a plan of lots labeled "Section AD Charnita" dated January 12, 1970, prepared by Evans, Hagan & Holdefer, and recorded in Adams County Plat Book No. 1 at page 93, and from a plan of lots labeled "Section AE Charnita" dated March 3, 1970, prepared by Evans, Hagan & Holdefer, and recorded in Adams County Plat Book No. 1 at page 95.

Being part of the same which Robert Morgan and Willa June Morgan, his wife, and Louis S. Morgan and Betty Joyce Morgan, his wife, by their deed dated December 17, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 280 at page 941, sold and conveyed unto Charnita, Inc., and being part of the same which Louis S. Morgan and Betty Joyce Morgan, husband and wife, by their deed dated October 15, 1969, and recorded in the office of the Recorder of

Deeds of Adams County, Pennsylvania, in Deed Book 278 at page 676, sold and conveyed unto Charnita, Inc.

AE 5 AE 31

All portions of the Park Area in section AE.

The survey description of the lots in Section AE appears on a plan of lot labeled "Section AE, Charnita," dated March 3, 1970, prepared by Evans, Hagan & Holdefer, and recorded in Adams County Plat Book 1 at page 95, incorporated herein by reference.

The real estate from which lots 5 and 31 were surveyed was conveyed to Charnita, Inc., by Charles M. Weishaar and Annie R. Weishaar, his wife, by their deed dated December 30, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 280 at page 992.

The Park Area is described above.

The real estate from which the Park Area was surveyed was conveyed to Charnita, Inc., by Robert Morgan and Willa June Morgan, his wife, and Louis S. Morgan and Betty Joyce Morgan, his wife, by their deed dated December 17, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 280 at page 941.

Seized and taken into execution as the property of Charnita, Inc., and to be sold by me.

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
September 28, 1995.

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 11, 1995, 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.

10/6, 13, 20

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Vol. 37

October 20, 1995

No. 21, pp. 105-108

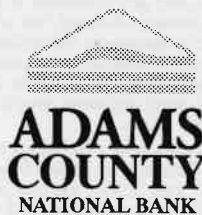
IN THIS ISSUE

HAGERICH ESTATE

VS.

CSX TRANSPORTATION, INC.

Quality Customer Service.
Our promise to you every day.



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. Oylor, Esq., Editor and Business Manager.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 112 Baltimore Street, Gettysburg, PA 17325.

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NOTICE

In Re: Estate of Ima R. Shaffer, an incapacitated person - Adams County Orphans' Court No. OC-33-95.

NOTICE IS HEREBY GIVEN that Adams County National Bank, plenary guardian of the above estate, has filed a petition requesting permission to sell the incapacitated person's real estate located at 256 Peakview Road, Latimore Township, Adams County, Pennsylvania, at public sale. The Orphans' Court of Adams County, by decree dated September 28, 1995, has authorized the plenary guardian to expose the real estate for public sale through C. David Redding, Auctioneer, at 12:30 p.m. on October 21, 1995 at the premises. The Conditions of Sale will be read immediately prior to the sale. If no objections are filed to the decree of the Court, or objections made to the sale, and the real estate is struck down as sold, a return of public sale will be made to the Court and the Court will be asked to approve and confirm the sale on November 20, 1995 at 9:00 a.m. in Courtroom No. 1 of the Adams County Courthouse, Gettysburg, Pennsylvania.

Teeter, Teeter & Tester
108 West Middle Street
Gettysburg, PA 17325
Attorneys for the Guardian

10/6, 13, 20

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, Harrisburg, Pennsylvania, for the purposes of obtaining a certificate of incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended. The name of the corporation is POWERS JEWELRY, INC.

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

10/20

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on October 4, 1995 the Petition of Charlene K. Warren was filed in the Court of Common Pleas of Adams County, Pennsylvania praying for a decree to change her

name to Teague Shar Haven. The Court fixed November 20, 1995 at 9:00 a.m. in Court Room 1 as the time and place for the hearing of said Petition when and where all persons interested may appear and show cause, if any they have, why the prayer of said Petition should not be granted.

Katherman & Heim, P.C.
Attorney for Petitioner

10/20, 27 & 11/3

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, October 30, 1995, at 9:00 a.m.

BUCKLEY—Orphans' Court Action Number OC-117-95. The First and Final Account of George C. Fissel and Betty Fissel, Executors of the Last Will and Testament of Lewis L. Buckley, deceased, late of Cumberland Township, Adams County, Pennsylvania.

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deceased, late of the Borough of York Springs, Adams County, Pennsylvania.

SHAFER—Orphans' Court Action Number OC-121-95. The First and Final Account of Frederick N. Shafer, Sr., Administrator of the Estate of William Harry Shafer, Jr., deceased, late of the Borough of Arendtsville, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

10/20, 27

HAGERICH ESTATE VS. CSX TRANSPORTATION, INC.

1. Plaintiffs claim against Defendant Railroad for failure to maintain adequate warning devices at a crossing was not pre-empted by federal law.
2. Federal regulation does not relieve railroads from any common law duty to take reasonable precautions to maintain grade crossing safety.
3. Under Pennsylvania law a railroad company is generally under a duty to maintain a public crossing in a good state of repair and in an unobstructed condition which general body of law is not pre-empted by federal regulation.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 92-S-745, BLAINE HAGERICH AND WANDA SMITH, INDIVIDUALLY AND AS CO-EXECUTORS OF THE ESTATE OF CHAD E. HAGERICH, DECEASED VS. CSX TRANSPORTATION, INC.

Todd Berkey, Esq., for Plaintiff
John T. Pion, Esq., for Defendants

OPINION ON DEFENDANT'S PRELIMINARY OBJECTIONS

Kuhn, J., May 4, 1995.

Plaintiffs file this action as co-executors of the Estate of Chad E. Hagerich who was killed on December 6, 1991, while operating a vehicle in a southerly direction on Swift Run Road in Adams County when his vehicle collided with Defendant's train traveling in a westerly direction at a railroad crossing. They claim that Defendant was negligent in numerous respects. Defendant filed Preliminary Objections in the nature of a demurrer as to 12 of those allegations of negligence with specific request that those allegations be stricken.

All of the allegations of negligence appear in Paragraph 14 of the Complaint and those subparagraphs at issue generally allege that Defendant was negligent in:

- (a) failing to properly construct and maintain the railroad crossing;
- (b) failing to properly construct and maintain the railroad crossing in accordance with industry standards;
- (d) failing to inspect and discover substandard grade crossing warning devices;

- (g) failing to identify the dangerous sight conditions at the crossing caused by dense woods and in providing inadequate warnings;
- (h) failing to erect a visible or audible warning system;
- (i) failing to erect a proper warning system;
- (j) failing to remove the dense wooded area to allow sufficient sight distance;
- (k) failing to comply with applicable governmental regulations or standards respecting a warning system;
- (m) failing to see Decedent and stop before a collision;
- (n) failing to stop the train before a collision;
- (q) operating the train at an excessive speed at the crossing;
- (s) failing to clear the wooded area or implement a proper warning system.

Defendants contend that the allegations of liability set forth in Paragraph 14(a), (b), (d), (h), (i), (j), (k), (q), and (s) are pre-empted by federal law and that allegations of liability set forth in Paragraphs 14(m) and (n) do not conform with law.

The case of *CSX Transportation, Inc. v. Easterwood*, 507 US ___, 113 S. Ct. 1732, 123 L.Ed. 2d 387 (1993) resolves several of the issues raised. That case involved a claim by a widow that a railroad company was negligent in causing her husband's death caused when a vehicle he was operating collided with the defendant's train at a crossing in that the defendant, under Georgia law (1) failed to maintain adequate warning devices at the railroad crossing, and (2) that the train was operating at an excessive speed. On the railroad's motion for summary judgment wherein it raised the issue of federal pre-emption, the Supreme Court held that any claim for failure to maintain adequate warning devices was not pre-empted but that the claim for operating at an excessive speed was pre-empted.

Therefore, preliminary objections as to Paragraphs 14 (d), (h), (i) and (k) dealing with Plaintiffs' allegations of an inadequate warning system is denied.¹

¹ Defendant did not object to Paragraph 14(o) which also addressed an inadequate warning system. However, in light of our decision, that failure is irrelevant.

With regard to the allegations of excessive speed set forth in Paragraph 14(q)² one would conclude, at quick glance, that Easterwood requires sustaining the preliminary objections on the basis of federal pre-emption. However, in Easterwood it was conceded that the train was traveling at a speed less than the maximum speed authorized for that track by federal regulations. Those regulations establish not only a maximum speed but preclude a common law negligence claim for speeds at less than the maximum. The Court was not addressing a claim of speed in excess of that authorized by federal regulation. Before our court is Defendant's demurrer. We have no information with respect to the authorized or the actual speed of the train. It is possible that the train was exceeding the speed authorized for the track where the accident occurred. Therefore, we must deny preliminary objections relating to speed until more information is before the Court.

The next set of allegations involve construction and maintenance of the grade crossing as well as establishment of proper sight lines and include Paragraphs 14 (a), (b), (g), (j) and (s). We treat these allegations as dealing with matters of safety aside from warning devices. Although Easterwood did not specifically deal with this subject, there is sufficient suggestion that federal regulation does not relieve railroads from any common law duty to take reasonable precautions to maintain grade crossing safety.

Under Pennsylvania law a railroad company is generally under a duty to maintain a public crossing in a good state of repair and in an unobstructed condition. 30A P.L.E. Railroads §222. Easterwood suggests that this general body of law is not pre-empted.

Finally, the allegations relating to failure to see Decedent and to stop before a collision occurs is certainly not a subject of federal pre-emption. General law relating to a duty of railroad personnel to see persons on or near its tracks and to stop is based upon the circumstances. 30A P.L.E. Railroads §226. These allegations do not support the granting of a demurrer.

²Defendant did not object to Paragraph 14(t) which makes an allegation of excessive speed.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 4th day of May, 1995, Defendant's Preliminary Objections in the nature of a demurrer are denied. Defendant is granted thirty (30) days from the date of mailing of this Order to file its Answer and/or other responsive pleading.

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 KATHLEEN M. BALTOZER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325

Attorney: Donald G. Oyler, 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF BETTY R. BISH, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Charmaine B. Windlinx, 4509 Pinewood Tr., Middletown, MD 21769

Attorney: John M. Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF BLANCHE E. BURDIS, DEC'D

Late of Columbia, Howard County, Pennsylvania

Executor: John D. Grigsby, Esquire, Shumaker Williams, P.C., P.O. Box 88, Harrisburg, PA 17108

Attorney: John D. Grigsby, Esquire, Shumaker Williams, P.C., P.O. Box 88, Harrisburg, PA 17108

ESTATE OF THOMASE FELTCH, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executrix: Mary R. Feltch, 867 York Road, Gettysburg, PA 17325

Attorney: Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331-3192

ESTATE OF VATUS EMMA PAULINE GRIMES a/k/a VATUS EMMA GRIMES, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Donald G. Oyler, 112 Baltimore Street, Gettysburg, PA 17325

Attorney: Donald G. Oyler, 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ROBERT R. HARTMAN a/k/a ROBERT RAY HARTMAN, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: B. Josephine Seemann, 128 W. York Street, Biglerville, PA 17307

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

ESTATE OF LELA B. LAMBERSON, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Betty J. Detter, 6791 Detters Mill Road, Dover, PA 17315; Harry J. Lamberson, 6740 Detters Mill Road, Dover, PA 17315

Attorney: Stonesifer and Kelley, 209 Broadway, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF RALPH B. BUTT, SR., DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: PNC BANK, N.A., formerly The Gettysburg National Bank, 10 York Street, Gettysburg, PA 17325

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

ESTATE OF RUTH F. DUTTERA a/k/a RUTH PAULINE DUTTERA a/k/a RUTH FEISER DUTTERA, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: John W. Duttera, Jr., 200 East High Street, New Oxford, PA 17350; Shirley D. Black, 4375 Carlisle Road, Gardners, PA 17324

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

ESTATE OF M. OPHELIA GROSS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executrices: Deanna I. Snyder, 2246 Daisy Road, Woodbine, MD 21797; Marilyn Sue Becker, 2225 Mill Creek Rd., Dover, PA 17315

ESTATE OF ROBERT J. SCHROM, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Roberta R. Schmidt, 6205 Lone Oak Drive, Bethesda, MD 20817

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

ESTATE OF HELEN M. ZENTZ, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Robert E. Zentz, 727 Chambersburg Road., Apt. K, Gettysburg, PA 17325

Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF HAROLD F. KRAMER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Mildred L. Kramer, Hanover Station, 1157 Eichelberger St., Hanover, PA 17331

Attorney: Douglas H. Gent, Esquire

ESTATE OF MARTHA LILLIAN OBENSTINE, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: James W. Obenstine, c/o McNeese, Wallace & Nurick

Attorney: McNeese, Wallace & Nurick, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108

ESTATE OF HIRAM E. REX, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Executors: Keith E. Rex, 575 Guernsey Road, Aspers, PA 17304; Janet L. Stegner, 148 Hentry Road, Enola, PA 17025

Attorney: Snelbaker & Brønneman, P.C., 44 West Main Street, P.O. Box 318, Mechanicsburg, PA 17055-0318

ESTATE OF HARRY E. SCOTT, a/k/a HARRY E. SCOTT, JR., DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administrators: John H. Scott, 31 Barlow Street, Gettysburg, PA 17325; Carol A. Proctor, 455 Ewell Drive, Gettysburg, PA 17325

Attorney: Larry W. Wolf, Esquire, 215 Broadway, Hanover, PA 17331

ESTATE OF VIOLET MAE SHOWERS, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executors: Anthony L. Showers, 640 Coon Rd., Gardners, PA 17324; MaryAnn S. Washington, Box 115, Springtown, PA 18081

ESTATE OF RICHARD W. WHITE, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Administrator: Robin L. Romero, 1743B Center Mills Road, Aspers, PA 17304

Attorney: Ralph D. Oyler, Esquire, 31 S. Washington Street, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 93-S-102 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of November, 1995, 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 of the following lots situate in Liberty Township, Adams County, Pennsylvania:

AD 1 AD 2 AD 3 AD 4 AD 14
AD 60 AD 117

All portions of the parcel shown as "Park Area" in Section AD.

The survey description of the lots in Section AD appears on a plan of lots labeled "Section AD, Charnita," dated January 12, 1970, prepared by Evans, Hagan & Holdefer, and recorded in Adams County Plat Book 1 at page 93, incorporated herein by reference.

The real estate from which lots 1, 2, 3, 4, and 14 were surveyed was conveyed to Charnita, Inc., by Louis S. Morgan and Betty Joyce Morgan, husband and wife, by their deed dated October 15, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 278 at page 676.

The real estate from which lots 60 and 117 were surveyed was conveyed to Charnita, Inc. by Robert Morgan and Willa June Morgan, his wife, and Louis S. Morgan and Betty Joyce Morgan, his wife, by their deed dated December 17, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 280 at page 941.

The Park Area is more particularly described:

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

BEGINNING at a point in Valley Trail at corner of Lot No. 102 of Section AE and Lot No. 85 of Section AD; thence in said Valley Trail and by said Lot No. 85 of Section AD North 67 degrees 3 minutes 45 seconds East, 38.31 feet to a point; thence continuing in said Valley Trail and by said lot and by Lots 86, 88 and 89 North 32 degrees 46 minutes 00 seconds East, 577.35 feet to a point; thence continuing in said Valley Trail and by said Lot No. 89 North 16 degrees 34 minutes 54 seconds West, 97.72 feet to a point; thence continuing in said Valley Trail and by said lot North 65 degrees 55 minutes 46 seconds West, 81.28 feet to a point at Lot No. 45; thence by said lot North 24 degrees 4 minutes 14 seconds East, 275 feet to a point; thence continuing by said lot North 65 degrees 55 minutes 46 seconds West, 100 feet to a point at Lot No. 46; thence continuing by said lot and by Lot No. 47 North 59 degrees 8 minutes

12 seconds West, 201.42 feet to a point at Lot No. 48; thence continuing by said lot and by Lots 49 and 50 North 71 degrees 2 minutes 1 second West, 259.28 feet to a point at Lot No. 51; thence by said lot and by Lots 52 and 53 North 44 degrees 9 minutes 47 seconds West, 226 feet to a point at Lot No. 54; thence by said lot North 26 degrees 00 minutes 47 seconds East, 100 feet to a point in Bullfrog Road; thence in said Bullfrog Road the following nine courses and distances: (1) South 72 degrees 00 minutes 17 seconds East, 204.04 feet to a point; (2) South 83 degrees 54 minutes 15 seconds East, 207.89 feet; (3) South 68 degrees 7 minutes 27 seconds East, 189.27 feet; (4) South 54 degrees 39 minutes 37 seconds East, 401.52 feet; (5) South 37 degrees 56 minutes 2 seconds East, 121.64 feet; (6) South 17 degrees 44 minutes 48 seconds East, 201.11 feet; (7) South 6 degrees 49 minutes 49 seconds East, 246.99 feet; (8) South 13 degrees 26 minutes 49 seconds East, 178.08 feet; and (9) South 29 degrees 22 minutes 41 seconds East, 122.17 feet to a point in Kemp Trail at Lot No. 31; thence in said Kemp Trail and by said lot South 53 degrees 5 minutes 18 seconds West, 286.93 feet to a point in said Kemp Trail at Lot No. 16; thence continuing in said Kemp Trail and by said lot and by Lots 15 and 14 South 32 degrees 46 minutes 6 seconds West, 424.17 feet to a point at lands now or formerly of Eugene Bostwick; thence by said lands North 9 degrees 2 minutes 17 seconds West, 150 feet to a point; thence continuing by said lands and by lands now or formerly of Chas. Weishaar North 69 degrees 40 minutes 46 seconds West, 194.63 feet to a point at Lot No. 102 of Section AE and Parcel C of Section AD; thence continuing by said Lot No. 102 of Section AE and Parcel C of Section AD North 57 degrees 14 minutes 00 seconds East, 285.98 feet to the place of BEGINNING. CONTAINING approximately 10 acres.

The foregoing description was taken from a plan of lots labeled "Section AD Charnita" dated January 12, 1970, prepared by Evans, Hagan & Holdefer, and recorded in Adams County Plat Book No. 1 at page 93, and from a plan of lots labeled "Section AE Charnita" dated March 3, 1970, prepared by Evans, Hagan & Holdefer, and recorded in Adams County Plat Book No. 1 at page 95.

Being part of the same which Robert Morgan and Willa June Morgan, his wife, and Louis S. Morgan and Betty Joyce Morgan, his wife, by their deed dated December 17, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 280 at page 941, sold and conveyed unto Charnita, Inc., and being part of the same which Louis S. Morgan and Betty Joyce Morgan, husband and wife, by their deed dated October 15, 1969, and recorded in the office of the Recorder of

Deeds of Adams County, Pennsylvania, in Deed Book 278 at page 676, sold and conveyed unto Charnita, Inc.

AE 5 AE 31

All portions of the Park Area in section AE.

The survey description of the lots in Section AE appears on a plan of lots labeled "Section AE, Charnita," dated March 3, 1970, prepared by Evans, Hagan & Holdefer, and recorded in Adams County Plat Book 1 at page 95, incorporated herein by reference.

The real estate from which lots 5 and 31 were surveyed was conveyed to Charnita, Inc., by Charles M. Weishaar and Annie R. Weishaar, his wife, by their deed dated December 30, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 280 at page 992.

The Park Area is described above.

The real estate from which the Park Area was surveyed was conveyed to Charnita, Inc., by Robert Morgan and Willa June Morgan, his wife, and Louis S. Morgan and Betty Joyce Morgan, his wife, by their deed dated December 17, 1969, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 280 at page 941.

Seized and taken into execution as the property of Charnita, Inc., and to be sold by me.

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
September 28, 1995.

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 11, 1995, 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.

10/6, 13, 20

Adams County Legal Journal

Vol. 37

October 27, 1995

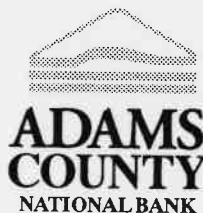
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ANNOUNCEMENT OF CONTINUING LEGAL EDUCATION PROGRAMS

1. *Representing Residential Landlords & Tenants*. December 12—8:45 a.m. Room 207B, Adams County Courthouse—4 C.L.E. credits in substantive law and 0 C.L.E. credit in ethics. Registration through P.B.I.
2. *Hot Issues in Custody*. January 17—8:45 a.m. Room 207B, Adams County Courthouse—5 C.L.E. credits in substantive law and 1 C.L.E. credit in ethics. Registration through P.B.I.

Commitment:

The philosophy upon which
Adams County National Bank is
founded and upon which we are planning
for your future financial needs today.



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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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, October 30, 1995, at 9:00 a.m.

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Peggy J. Breighner
Clerk of Courts

10/20, 27

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on October 4, 1995 the Petition of Charlene K. Warren was filed in the Court of Common Pleas of Adams County, Pennsylvania praying for a decree to change her name to Teague Shar Haven. The Court fixed November 20, 1995 at 9:00 a.m. in Court Room 1 as the time and place for the hearing of said Petition when and where all persons interested may appear and show cause, if any they have, why the prayer of said Petition should not be granted.

Katherman & Heim, P.C.
Attorney for Petitioner

10/20, 27 & 11/3

CHANGE OF NAME IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

NOTICE IS HEREBY GIVEN that on the 12th day of October 1995, the Petition of Suzette R. Lechene was filed in the Court of Common Pleas of Adams County, Pennsylvania, praying for a decree to change her name from Suzette R. Lechene to Suzette R. Love.

The Court has fixed the 15th day of December, 1995, at 9:00 A.M. in Courtroom No. 1 of the Adams County Courthouse as the time and place for hearing of said Petition when and where all persons interested may appear and show cause, if any they have, why the prayer of said petition should not be granted.

By: Ralph D. Oyler, Esquire
Attorney for Petitioner
31 S. Washington Street
Gettysburg, PA 17325

10/27

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of a Fictitious Name was filed with the Department of State, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania, on October 11, 1995, pursuant to the Fictitious Name Act of 1982, as amended, setting forth that Thomas L. Walls, Sr. and Dorothy E. Walls, 1746 York Road, Gettysburg, Pennsylvania, are individuals engaged in a business, the character of which is the dealing in used cars, and that such business will be conducted under the name of WALLS USED CARS AND PARTS and have a principal office or place of business located at 1746 York Road, Gettysburg, PA 17325.

Catherine J. Gault, Esq.
Countess Gilbert Andrews

10/27

FICTITIOUS NAME NOTICE

On October 17, 1995, an application to conduct business with the fictitious name of SHAWMUT LOCOMOTIVE, with a principal office of 307 Oak Lane, Gettysburg, Pennsylvania 17325, was filed by Thomas Robert Landrigan with the Department of State pursuant to the Fictitious Names Act (54 Pa.C.S.A. §301 et seq.). The purpose of the business is the maintenance and repair of locomotives and railcars.

Wendy Weikal-Beauchat
Attorney for Applicant

10/27

COMMONWEALTH VS. POWELL

1. It is proper to delay ruling on a motion for a change of venue or venire until the time for jury selection.

2. On the issue of the ineffectiveness of trial counsel for failure to call witnesses Defendant was required to show: 1) identity of witnesses; 2) that counsel knew of their existence prior to trial; 3) that the witnesses would have provided material evidence at trial; and 4) how that testimony would have been helpful.

3. Facts establishing probable cause do not necessarily have to be admissible at trial and the uncorroborated confession of a co-defendant which implicates Defendant may establish probable cause.

4. Normally, retrials are permitted when mistrials result from defense motions, even if provoked by prosecutorial conduct and the only exception is if the misconduct was deliberate, undertaken in bad faith and done with the specific intent to deny Defendant a fair trial.

5. The mere mentioning of a person as a witness does not result in prejudice when the person is not called.

In the Court of Common Pleas, Adams County, Pennsylvania,
Criminal No. CC-383-93 and CC-418-93, COMMONWEALTH OF
PENNSYLVANIA VS. TERRY ROBERT POWELL.

Martha Duvall, Esq., District Attorney
Robert Chester, Esq., for Defendant

OPINION ON POST-VERDICT MOTIONS

Spicer, P.J., May 4, 1995.

We deal with post-verdict motions in the above captioned cases. Although trials occurred at different times and involved different counsel, issues somehow became connected and procedure entwined. Although factual circumstances and verdicts are similar, each case involves some issues peculiar to that case. Nevertheless motions can be addressed at the same time.

In each case, a jury found defendant guilty of robbery and in each case, defendant faces a mandatory five year minimum sentence. These are the second and third convictions for robberies committed in commercial establishments while defendant wore sunglasses and a hooded sweatshirt, with the hood pulled tightly around his chin. In all three cases, defendant was identified by victims. Initial arrests resulted from information obtained from Timothy Moody, an alleged accomplice, whose confession was suppressed because of police assurances that Moody's cooperation would be brought to the atten-

tion of the District Attorney. In each case, defendant has been represented by several lawyers.

This court might suggest that, should appeals be taken, counsel should make some effort to put together a cohesive record. Because of the large number of files involving this defendant, there are documents which appear in one case but not in another. While it is true that references appear which may lead the reader to the appropriate file, unless all cases are available, it is sometimes difficult to correlate the records.

With that having been said, we will discuss each case separately.

CC-383-93

This case involved a robbery at Howard Johnsons Hotel on March 30, 1993. Phyllis Morelock, who was on duty during the morning hours, said that defendant came into the establishment, pointed a gun at her and said "give me your damn money". (Trial, p. 9) When defendant left, taking between \$60.00 and \$99.00, Ms. Morelock used striping on a wall to accurately estimate his height, at 6'1".

When cross-examination suggested that Ms. Morelock might have earlier described the robber as being clean shaven, Commonwealth introduced testimony of Larry Weikert, a member of the Gettysburg Borough Police Force, who repeated a description given immediately after the incident. It included a dark mustache, trim build, 150 to 160 pounds, 6'1" tall, dark mustache, blue jeans, dirty sneakers, and a yellow and black striped hooded sweat shirt. (Trial, p. 24) Although Ms. Morelock needs glasses to see accurately, she was wearing them.

Ms. Morelock's identification was certain, consistent and positive.

After defendant entered a plea of not guilty and requested a jury trial May 27, 1993, trial counsel filed a notice of alibi (August 23, 1993) and a motion for a change of venue or venire (August 24, 1993). The court reserved this latter issue for trial (August 25, 1993). We notice that jury selection proceedings have not been transcribed, and will order this to be done for purposes of an appeal that is certain to follow.

It is proper to delay ruling on a motion for a change in venue or venire until the time for jury selection. Commonwealth v. O'Kicki,

408 Pa.Super. 518, 597 A.2d 152 (1991). This is true because, even if pretrial publicity is deemed prejudicial, its effects can be dissipated by a cooling off period. *Commonwealth v. Carter*, __Pa.__, 643 A.2d 61 (1994). The effects of a cooling off period is generally measured by what jurors say during voir dire. *Commonwealth v. Crews*, 536 Pa. 508, 640 A.2d 395 (1994). Even assuming prejudicial publicity, if voir dire shows no effect, the motion is properly refused. *Commonwealth v. Bowser*, 425 Pa.Super. 24, 624 A.2d 125 (1993); *Commonwealth v. Leighow*, 413 Pa.Super. 372, 605 A.2d 405 (1992).

In this case, there was no showing that publicity was pervasive, inflammatory and, therefore, prejudicial.¹ Voir dire showed no prejudice. There was sufficient delay between the arrest (March 30, 1993) and trial (November 16, 1993) to dissipate any prejudice, assuming there was any.

At trial, defendant presented an alibi defense through testimony of Theodore Lundy. (see Trial, p. 26 et seq.) An alibi instruction was given. (Trial, p. 52)

Trial counsel filed post-verdict motions in accordance with rules applicable at the time. Two issues were presented. We have already discussed the rejected motion for change of venue. The other issue raised was that the verdict was against the weight of evidence. This also must be rejected. Ms. Morelock's identification was certain, positive and consistent. Nothing about the guilty verdict shocks this court's sense of justice. Inconsistencies were minor and hardly enough to allow us to say the verdict was based upon mere surmise or conjecture. *Commonwealth v. Moore*, __Pa.Super.__, 648 A.2d 331 (1994). Any arguments to the contrary must be rejected as relating strictly to the jury's function to assess credibility. *Commonwealth v. Thompson*, __Pa.__, 648 A.2d 315 (1994). We cannot say, as a matter of law, that no probability of factual guilt can be drawn from the evidence in this case. *Commonwealth v. Owens*, __Pa.Super.__, 649 A.2d 129 (1994).

¹ Factors shifting the burden, enumerated in *Carter*, supra., include: 1) publicity is sensational, inflammatory and slanted toward conviction rather than factual and objective; 2) refers to prior convictions, confessions, reenactments and; 3) derived from police and prosecuting officer reports.

Following verdict, the Commonwealth gave notice that it intended to seek the mandatory sentence for possession of a firearm, 42 Pa. C.S.A. § 9712.

On December 6, 1993, defendant raised, pro se, the ineffectiveness of trial counsel. This was considered a part of post-verdict motions, even though mistakenly referred to as a PCRA petition on occasion. (See e.g. order dated February 22, 1994) New counsel was appointed, who filed (February 18, 1994) a "Notice of PCRA Issues". These issues related to the alibi, the time of crime, failure to object to a prior consistent identification and failure to request cautionary instructions about Ms. Morelock's identification.

Between this filing and a time for hearing (June 21, 1994), new counsel appeared on the scene.

Commonwealth initially objected to considerations of PCRA issues but the court ruled that claims of ineffectiveness should be raised as early as possible and the hearing proceeded.

It was, at that point, defendant's burden to show that his claims were of arguable merit; that counsel's action or inaction was not grounded on any reasonable basis designed to effectuate defendant's interest; and that the commission or omission so undermined the truth determining process that the verdict is unreasonable. *Commonwealth v. Pierce*, 515 Pa. 153, 527 A.2d 973 (1987).

At the hearing, defendant argued that trial counsel failed to call witnesses to testify on defendant's behalf. Defendant was required to show: 1) identity of witnesses; 2) show that counsel knew of existence prior to trial; 3) show that witness would have provided material evidence at trial; and 4) show how testimony would have been helpful. *Commonwealth v. Mason*, 427 Pa.Super. 243, 628 A.2d 1141 (1993).

Witnesses were said to be maintenance men who may have seen something (Ms. Morelock testified at trial that a maintenance man was in no position to and did not see anything) and police officers who reportedly told defendant he did not fit the description of the robber. There was no showing that maintenance personnel saw anything and could provide testimony helpful to defendant. There was no suggestion that the police officers talked to and obtained descriptions from Ms. Morelock.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-556 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of December, 1995, 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 those certain two (2) tracts of land:

TRACT NO. 1: ALL that certain lot of land situate, lying and being in Hamilton Township, Adams County, Pennsylvania, known and numbered as Lot No. 5 on a Plan of Lots hereinafter referred to, bounded and described as follows:

BEGINNING at a point in the center of Township Road T-529, also known as Forest Drive, at the westernmost corner of Lot No. 4 on said Plan of Lots hereinafter referred to; thence along said Lot No. 4 and through a reference iron pin set back 25 feet from the Beginning of this course, South 44 degrees 52 minutes 10 seconds East, 583.86 feet to an iron pin at lands now or formerly of George Lillich; thence along said lands now or formerly of George Lillich, South 45 degrees 07 minutes 50 seconds West, 162.70 feet to an iron pin; thence along same, North 55 degrees 31 minutes 40 seconds West, 670.08 feet through a reference iron pin set back 25 feet from the center of said Forest Drive to an iron pin in the center of said Forest Drive, also known as Township Road T-529; thence in a centerline of said Forest Drive, North 59 degrees 43 minutes 50 seconds East, 269.19 feet to a point in the center of said Forest Drive, the place of BEGINNING. Containing 3.150 acres.

The above description was taken from a final plan of Lots prepared by Adams County Surveyors on December 3, 1976, revised on February 1, 1977, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 14, Page 37.

IT BEING the same premises which David Forbes, Sr. and Myrtle Forbes, his wife, by their Deed dated September 12, 1985, and recorded in the Recorder's Office in and for Adams County, Pennsylvania, in Deed Book 408, Page 539, granted and conveyed unto Jack Forbes and Carol Elizabeth Forbes, his wife.

UNDERAND SUBJECT to easements, covenants, reservations, restrictions and rights-of-ways of record.

TRACT NO. 2: ALL that certain tract of land with the improvements thereon, situate, lying and being in Hamilton Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point at a railroad spike located in the right-of-way of a public road identified as Legislative Route 01037, known as Brough Road, and at lands now or formerly of Craig J.

Mosebrook; thence through and across a portion of Legislative Route 01037 and through an iron pin located twenty-five (25) feet from the point of Beginning and along lands now or formerly of Craig J. Mosebrook, South fifty-three (53) degrees thirty-one (31) minutes thirty (30) seconds West, one hundred thirty-two (132) feet to an iron pin at lands of the same; thence along lands of the same, North sixty-one (61) degrees twenty-eight (28) minutes thirty (30) seconds West, four hundred thirty-eight and nine hundredths (438.09) feet to an iron pin at lands of the same; thence along lands now or formerly of Craig J. Mosebrook and along lands now or formerly of Carson C. Lamberson, South thirty-four (34) degrees fifty-three (53) minutes fifty (50) seconds West, one thousand six hundred thirty-five and sixty-five hundredths (1635.65) feet to an iron pin at lands now or formerly of John W. Schlaline; thence along lands now or formerly of John W. Schlaline and through and along the right-of-way of a public road identified as Township Road 547, known as Rolling Lane, South sixty (60) degrees forty-three (43) minutes zero (0) seconds West, seven hundred eighty-seven (787) feet to a railroad spike located five-tenths (.5) feet South of the center line of the aforementioned Township Road 547 and at lands now or formerly of John W. Schlaline; thence through and across a portion of Township Road 547 and through an iron pin located twenty-five (25) feet from said point and along lands now or formerly of John W. Schlaline, North forty-five (45) degrees fifty-one (51) minutes fifteen (15) seconds West, one thousand four hundred eighty-one and seventy-nine hundredths (1481.79) feet to an existing concrete monument at lands now or formerly of Gerald R. Richardson; thence along lands now or formerly of Gerald R. Richardson, North forty-seven (47) degrees fifty-five (55) minutes zero (0) seconds East, four hundred eighty-three and fifty-five hundredths (483.55) feet to an existing iron pin at lands of the same; thence along lands now or formerly of Gerald R. Richardson and through an iron pin located twenty-five (25) feet from the center line of Township Road 529, known as Forest Drive, and through and across one-half (1/2) of Township Road 529, North forty-two (42) degrees twenty-seven (27) minutes fifty (50) seconds West, eight hundred forty-four and eighty hundredths (844.80) feet to a railroad spike located in the center of the right-of-way of Township Road 529, known as Forest Drive; thence through and along the center of Township Road 529, North fifty-nine (59) degrees forty-three (43) minutes forty-five (45) seconds East, two hundred ten and fifty hundredths (210.50) feet to a point in the center line of Township Road 529; thence through and along the center line of Township Road 529, North sixty-six (66) degrees twenty-three (23) minutes zero (0) seconds East, four

hundred twenty-nine and seven hundredths (429.07) feet to a railroad spike in the center of Township Road 529 and at lands now or formerly of Jack Forbes, Sr.; thence through and across one-half (1/2) of Township Road 529 and through an iron pin located twenty-five (25) feet from said point and along lands now or formerly of Jack Forbes, Sr., South forty-seven (47) degrees twenty-four (24) minutes thirty (30) seconds East, six hundred seventy and eight hundredths (670.08) feet to an iron pin at lands now or formerly of Jack Forbes, Sr.; thence along lands now or formerly of Jack Forbes, Sr., James R. Eisenhart, Raymond Gladfelter, C. Mitchell Snider, Eugene Laughman and William C. Lockner and through an iron pin located forty-nine and two hundredths (49.02) feet from a point in the center of the aforementioned Township Road 529, North fifty-three (53) degrees fifteen (15) minutes zero (0) seconds East, nine hundred eleven and seventy-two hundredths (911.72) feet to a point in the center of the aforementioned Township Road 529, known as Forest Drive; thence through and along Township Road 529, Forest Drive, South sixty-two (62) degrees forty-three (43) minutes thirty (30) seconds East, one hundred twenty-seven and five hundredths (127.05) feet to an iron pin at Tract No. 1 of the hereinafter referred to Plan; thence along Tract No. 1 and through and across one-half (1/2) of the aforementioned Township Road 547, known as Rolling Lane, South thirty-six (36) degrees eight (8) minutes five (5) seconds East, six hundred twenty and ninety-one one-hundredths (620.91) feet to a railroad spike located in the center of Township Road 547; thence through the center of Township Road 547, North forty (40) degrees nine (9) minutes zero (0) seconds East, two hundred eighty-five and ninety hundredths (285.90) feet to a railroad spike in the middle of Township Road 547; thence along the middle of Township Road 547 and through a portion of the aforementioned Pennsylvania Legislative Route 01037, North fifty-two (52) degrees zero (0) minutes zero (0) seconds East, three hundred ninety-two and seventy hundredths (392.70) feet to a railroad spike located in the intersection of Township Road 547 and Pennsylvania Legislative Route 01037, known as Brough Road; thence through and along Pennsylvania Legislative Route 01037, known as Brough Road, South forty-three (43) degrees eighteen (18) minutes thirty (30) seconds East, eight hundred ninety-nine and sixty hundredths (899.60) feet to a railroad spike located in the center line of Pennsylvania Legislative Route 01037, Brough Road, and at lands now or formerly of Craig J. Mosebrook, the place of BEGINNING. Containing 91.010 acres.

The above description has been prepared in keeping with a survey and plan rendered by George M. Wildasin, Professional Land Surveyor, dated June 21,

1986, and identified as Field Book 27-60.

IT BEING the same premises which Jerry R. Lillich, Harold A. Lillich and Diane C. Leonard, Executors under the Last Will and Testament of Raymond M. Lillich, by Deed dated June 8, 1987, and recorded in the Recorder's Office in and for Adams County, Pennsylvania, in Deed Book 459, Page 684, granted and conveyed unto Jack Forbes and Carol E. Forbes, husband and wife.

SEIZED and taken into execution as the property of JACK FORBES and CAROL E. FORBES and to be sold by me.

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
October 17, 1995.

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 2, 1996, 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.

10/27 & 11/3, 10

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 HERBERT L. GREEN, DEC'D

Late of 22 West Street, Fairfield, Pennsylvania 17320

Executrix: Mary Minor, P.O. Box 1146, Hanover, PA 17331

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

ESTATE OF PAULINE E. GROFT, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrices: Genevieve C. Bolin, 227 S. Fifth Street, McSherrystown, PA 17344; Rose M. Weaver, 624 North Street, McSherrystown, PA 17344

Attorney: Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF VIRGINIA M. WISOTZKEY, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Thomas L. Wisotzkey, 110 Kinsey Drive, Gettysburg, PA 17325; David G. Wisotzkey, 494 Barlow-Greenmount Road, Gettysburg, PA 17325

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

SECOND PUBLICATION

ESTATE OF KATHLEEN M. BALTOZER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325

Attorney: Donald G. Oyler, 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF BETTY R. BISH, DEC'D

Late of the Borough of Littletown, Adams County, Pennsylvania

Executrix: Charmaine B. Windlinx,

4509 Pinewood Tr., Middletown, MD 21769

Attorney: John M. Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF BLANCHE E. BURDIS, DEC'D

Late of Columbia, Howard County, Pennsylvania

Executor: John D. Grigsby, Esquire, Shumaker Williams, P.C., P.O. Box 88, Harrisburg, PA 17108

Attorney: John D. Grigsby, Esquire, Shumaker Williams, P.C., P.O. Box 88, Harrisburg, PA 17108

ESTATE OF THOMAS E. FELTCH, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executrix: Mary R. Feltsch, 867 York Road, Gettysburg, PA 17325

Attorney: Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331-3192

ESTATE OF VATUS EMMA PAULINE GRIMES a/k/a VATUS EMMA GRIMES, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Donald G. Oyler, 112 Baltimore Street, Gettysburg, PA 17325

Attorney: Donald G. Oyler, 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ROBERT R. HARTMAN a/k/a ROBERT RAY HARTMAN, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: B. Josephine Seemann, 128 W. York Street, Biglerville, PA 17307

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

ESTATE OF LELA B. LAMBERSON, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Betty J. Detter, 6791 Detters Mill Road, Dover, PA 17315;

Harry J. Lamberson, 6740 Detters Mill Road, Dover, PA 17315

Attorney: Stonesifer and Kelley, 209 Broadway, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF RALPH B. BUTT, SR., DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: PNC BANK, N.A., formerly The Gettysburg National Bank, 10 York Street, Gettysburg, PA 17325

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

ESTATE OF RUTH F. DUTTERA a/k/a RUTH PAULINE DUTTERA a/k/a RUTH FEISER DUTTERA, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: John W. Duttera, Jr., 200 East High Street, New Oxford, PA 17350; Shirley D. Black, 4375 Carlisle Road, Gardners, PA 17324

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

ESTATE OF M. OPHELIA GROSS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executrices: Deanna I. Snyder, 2246 Daisy Road, Woodbine, MD 21797; Marilyn Sue Becker, 2225 Mill Creek Rd., Dover, PA 17315

ESTATE OF ROBERT J. SCHROM, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Roberta R. Schmidt, 6205 Lone Oak Drive, Bethesda, MD 20817

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

ESTATE OF HELEN M. ZENTZ, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Robert E. Zentz, 727 Chambersburg Road., Apt. K, Gettysburg, PA 17325

Attorney: Bigham & Raffensperger, Attorneys at Law, 16 Lincoln Square, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-776 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of December, 1995, 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. 400 on a Plan of Lots of LAKE MEADE SUBDIVISION, duly entered and appearing of record in the office of the Recorder of Deeds of Adams County, in Plat book 1, Page 4, and subject to all legal highways, easements, rights-of-way, and restrictions of record.

Being the same which Lois K. Brownwell, unmarried, and Beverly G. Staub and Luther F. Staub, II, her husband, by their deed dated February 13, 1989, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 515 at page 916, sold and conveyed unto Melanie J. Dissinger, the Defendant herein.

TOGETHER WITH the rights and SUBJECT TO the restrictions, reservations, conditions and/or covenants in Adams County Deed Book 301 at page 467.

IMPROVED WITH DWELLING.

SEIZED and taken into execution as the property of **MELANIE J. DISSINGER** and to be sold by me.

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
October 11, 1995.

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 22, 1995, 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.

10/27 & 11/3, 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-454 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of December, 1995, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being along the south side of Main Street in the Borough of Fairfield, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point along Main Street at corner of land now or formerly of Howard Sanders; thence along land of Howard Sanders, South 37 1/2 degrees East, 254 feet to an alley; thence along said alley adjoining land now or formerly of John E. Brown, South 52 1/2 degrees West, 75 feet to a point; thence along other land now or formerly of Fairfield Mennonite Church, North 37 1/2 degrees West, 254 feet more or less, to a point along said Main Street; thence along said Main Street, North 52 1/2 degrees East, 75 feet to a point, the place of BEGINNING.

Being the same real estate conveyed to Richard Sterling Keckler and Kimberly Mae Valentine by deed of Alfred A. Potteiger and Martha G. Potteiger, husband and wife, dated June 2, 1986 and recorded in Adams County Record Book 426, Page 650. Kimberly Mae Valentine is now known, by marriage, as Kimberly Mae Keckler.

IMPROVED with a one and one-half story frame and aluminum siding dwelling and having a street address of 138 W. Main Street, Fairfield, Pennsylvania 17320.

SEIZED and taken into execution as the property of **RICHARD STERLING KECKLER** and **KIMBERLY MAE KECKLER** and to be sold by me.

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
October 12, 1995.

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 22, 1995, 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.

10/27 & 11/3, 10